



Appeal Decision

Inquiry Held on 31 October – 3 November 2017

Site visit made on 3 November 2017

by Mike Hayden BSc DipTP MRTPI

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

Decision date: 04 January 2018

Appeal Ref: APP/R0660/W/17/3168917

Land to the south of Park Road, Willaston, Cheshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Stretton Willaston Ltd against Cheshire East Council.
 - The application Ref 16/4318N, is dated 2 September 2016.
 - The development proposed is up to 100 residential dwellings to include access.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted in outline with matters relating to layout, scale, appearance and landscaping reserved for subsequent approval. Access was the only detailed matter fixed for determination as part of the appeal. An overall masterplan was submitted with the application, which the appellant confirms is illustrative, indicating the broad extent of built development, open space and landscaping proposed. I have dealt with the appeal on this basis.
3. At the inquiry a legal agreement under S106 of the 1990 Act was submitted by the appellant. The agreement comprises obligations to secure the provision on site of public open space and 30% of the proposed dwellings as affordable housing, together with a financial contribution towards secondary and special education facilities off site. The deed was signed by the landowner, appellant and the Council, and certified. For the reasons I explain below in relation to its provisions, I am satisfied that the agreement meets the necessary legal and policy tests set out in paragraph 204 of the National Planning Policy Framework (the Framework) and Regulation 122 of the Community Infrastructure Regulations 2010 (as amended). Therefore, I have taken it into account in reaching my decision.
4. Following the close of the Inquiry, I was notified of an appeal decision in Cheshire East, for a development of 400 dwellings at White Moss in Barthomley¹, which dealt with evidence on housing land supply similar to that discussed at the inquiry into this appeal. Accordingly, I invited the main parties to comment on the relevance of that appeal decision and have considered the responses of both parties in reaching my decision below.

¹ Reference APP/R0660/W/17/3166469

Development Plan

5. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. The statutory development plan for this appeal is the Cheshire East Local Plan Strategy 2010-2030 (CELPS) adopted on 27 July 2017, the saved policies of the Crewe and Nantwich Replacement Local Plan 2011 (CNRLP) adopted in February 2005, and the Willaston Neighbourhood Development Plan (WNDP), which has been made following a referendum held on 7 December 2017.
6. A legal challenge has been made against the adoption of the CELPS by a party unrelated to this appeal, on grounds concerning air quality data. However, the lodging of a challenge does not change the legal status of the plan, which should be presumed to have been lawfully adopted unless or until the plan is quashed by the Court.
7. The Council is also bringing forward a Site Allocations and Development Policies Development Plan Document (SADPDPD), which amongst other things will allocate non-strategic housing sites (of less than 150 units) and review settlement, open countryside and green gap boundaries. Consultation on an issues paper and a call for sites took place in February to April 2017, but to date a draft plan has not been published. Although paragraph 215 of the Framework indicates decision-makers may give weight to emerging plans, given its early stage of preparation, little weight if any can be given to the SADPDPD for the purposes of this appeal.

Main Issues

8. The appeal site comprises approximately 6.21 hectares of arable farm land on the south-western edge of Willaston. It is common ground² that the site is located within an area of Open Countryside and forms part of the designated Strategic Green Gap between Wistaston and Nantwich, as defined in the development plan.
9. The site was the subject of a previous appeal³ for a development of up to 175 dwellings, which was dismissed in March 2016 on the basis of the harm it would cause by the erosion of the Green Gap, to the character and visual amenity of the area and through the loss of best and most versatile agricultural land. The application the subject of this appeal comprises a development of up to 100 dwellings, on a reduced footprint, with larger areas of open space offering more scope for landscaping buffers.
10. Following the submission of this appeal against non-determination, the Council resolved that it would have been minded to refuse the application on three grounds. The first two relate to the location of the site within Open Countryside and the effect of the development on the erosion of the Green Gap and the visual character of the landscape. The third reason relates to the loss of the best and most versatile agricultural land. It is common ground between the main parties that the loss of agricultural land would amount to a negative impact of the proposal to be weighed in the planning balance, but that it would not of itself be a determinative issue⁴. Accordingly, this does not form a main issue in this appeal, but I have dealt with it as part of my reasoning on other matters below.

² Paragraph 2.2 of the Statement of Common Ground (Document 2 submitted at the inquiry)

³ APP/R0660/W/15/3011872

⁴ Paragraph 4.10 of the Statement of Common Ground (Document 2)

11. Whether or not the Council can demonstrate a 5 year supply of deliverable housing sites is one of the main issues in this case. It affects whether or not the appeal falls to be determined under the 'tilted balance' in the fourth bullet point of paragraph 14 of the Framework. At the time the appeal was submitted the Council stated that it could not demonstrate a 5 year supply of deliverable housing sites. However, following the adoption of the CELPS, it is the Council's case that it can now demonstrate a 5 year housing land supply. This is disputed by the appellant.
12. Therefore, in view of the above, and having regard to everything else I have read, heard and seen, the main issues in this appeal are:
 - the acceptability of the proposed development within the Open Countryside, taking account of local and national policy and its effect on the character and visual amenity of the appeal site and the surrounding landscape;
 - the effect of the proposal on the effectiveness of the Strategic Green Gap between Willaston and Nantwich in which it would be located; and
 - whether or not the Council is able to demonstrate a 5 year supply of deliverable housing sites.

Reasons

Open Countryside and Landscape Effect

13. The appeal site is located outside of the settlement boundary of Willaston and within the Open Countryside, as defined in Policy PG6 of the CELPS. Policy PG6 seeks to protect open countryside in Cheshire East from urbanising development. It recognises the intrinsic character and beauty of the countryside, which is consistent with one of the core planning principles in paragraph 17 of the Framework. To this end Policy PG6 of the CELPS, and saved Policy RES5 of the CNRLP in respect of housing, only permit development in the Open Countryside for certain essential or limited purposes appropriate to the rural area. The appeal proposal does not fall within any of those limited exceptions. On this basis the proposed development is not an acceptable form of development within the Open Countryside and as such does not conform to the expectations of Policies PG6 and RES5.
14. However, in determining the degree of conflict with the development plan on this issue and therefore the extent of harm the proposal would cause to the Open Countryside, two further matters require consideration. Firstly, whether the settlement boundary around Willaston and therefore the spatial extent of the Open Countryside in the location of the appeal site is up to date. And secondly, the effect of the proposed development on the character and visual amenity of the countryside in this location.
15. Dealing with settlement boundary first. Footnote 34 in the CELPS confirms that settlement boundaries will be reviewed and defined in the SADPPD and neighbourhood plans. Until then they will follow the boundaries defined in the saved policies and proposals maps of existing local plans, amended to include sites allocated for development. The CELPS Inspector's report⁵ endorsed this as an appropriate and effective approach, given the strategic nature of the CELPS. For Willaston the relevant existing local plan is the CNRLP.

⁵ Paragraph 111 of CELPS Inspector's Report, June 2017

16. Whilst, for the time being, the settlement boundaries and extent of the Open Countryside in the CNRLP as amended continue to carry weight as part of the development plan, there is clearly an acceptance in Footnote 34 and the CELPS Inspector's report that they will be subject to further change. This may be to accommodate non-strategic sites allocated for development as part of the SADPPDP or where planning permissions have been granted for development beyond existing boundaries or in the light of other criteria yet to be defined. To this extent the current boundaries cannot be considered to be fully up to date.
17. There is little evidence at this stage to suggest that the settlement boundary in the vicinity of the appeal site will be subject to change as part of the SADPPDP review. However, the SADPPDP is at an early stage and the review of settlement boundaries will be a matter to be tested through the process of consultation on and examination of the DPD. Therefore, for the purposes of this appeal and without prejudice to the SADPPDP process, in order to establish the extent of conflict with Policies PG6 and RES5 in seeking to protect the open countryside on the appeal site, it is necessary to consider the second matter, namely the effect of the proposal on the landscape character and visual amenity of the site and the surrounding countryside.
18. The appeal site is an open, agricultural field. It sits within the countryside between Willaston and Nantwich to the west. It is bordered by residential development to the east and north at Beech Close and along Park Road respectively, which form the south-western edge of the built-up area of Willaston and from where there are views across the site. It is bounded on its southern side by a railway line beyond which is further farmland. Its western edge is marked by a public footpath (FP10) that runs from Park Road to a footbridge over the railway line and into the countryside to the south. There are views from FP10 eastwards across the site. To the west of FP10 is another field, alongside which is the A51 Nantwich by-pass, which largely screens more distant views of the site from further west. Beyond the by-pass to the west is further open farmland forming part of the countryside between Willaston and Nantwich.
19. In terms of its landscape character, the site is located within the Lower Farms and Woods Landscape Type 10 (LT10) and the Barthomley Character Area (LFW7), as defined in the Cheshire Landscape Character Assessment (2008). The key characteristics of LT10 are its low lying gently rolling topography, hedgerow boundaries and standard trees in reorganised fields, horsiculture and medium settlement density. The description of LFW7 also notes the influence of urban development and the communications network on the character of the area, including major roads and railways lines.
20. The landscape of the appeal site exhibits a number of these features. Its topography is undulating, with a gentle gradient from Park Road down to the railway line. A dense field hedge runs the length of its northern boundary with Park Road, with intermittent hedgerows and trees along its other boundaries. The presence of the A51, the railway line and urban development on the edge of Willaston all have an influence on the landscape character of the site.
21. The Inspector for the previous appeal described the site as an 'unremarkable' field. In the sense that there is nothing particularly remarkable about it as an agricultural field, which is typical of the surrounding landscape character type, I agree with this. It is also common ground that the site is not part of a 'valued'

landscape, which paragraph 109 of the Framework seeks to protect and enhance. Nevertheless, the site is open and undeveloped. Notwithstanding the surrounding urban features, it has a pleasant rural character and forms part of the countryside at the edge of Willaston. It is evidently valued by local residents, in particular those living around the site and users of FP10, for its open landscape character and the visual and recreational amenity this offers.

22. The proposed development would profoundly alter the character of the appeal site, changing it from rural to urban. Although the footprint of the development would be around one third less than the previous appeal scheme, it would nevertheless occupy the majority of the site. The indicative landscaped offsets from the western and northern boundaries would help to mitigate its impact. However, the development would still have a strongly urbanising effect on the existing open, rural character of the appeal site. This is confirmed by the photomontage visualisations submitted as part of the appellant's evidence.
23. Given the relative containment of the site, particularly by the A51 to the west, it is acknowledged by the Council that the effects on landscape character would be limited to the site and its immediate setting. However, due to the magnitude and permanence of the change and the intrinsic character and local value of the site's open landscape, I concur with the Council's assessment that the proposed development would have at least a moderate adverse impact on the landscape character of the site and its rural setting. I could see little evidence from the photomontage visualisations that this impact would reduce significantly over time. I recognise that the Inspector at the previous appeal concluded that the development of 175 dwellings would have only a slight adverse effect on the landscape character of the area. However, I do not have the full details of the evidence that was before the Inspector in that appeal. I have reached my conclusion on this matter based on the evidence which was before me.
24. Turning to visual impacts, the appeal site is experienced largely at a local level most notably from FP10, by residents of Beech Close from the rear of their properties and by residents and users of Park Road. Walkers on FP10, on leaving Park Road, currently pass through an open and relatively tranquil, rural landscape along the length of the western boundary of the site. At the point where FP10 crosses the footbridge over the railway line, there are elevated views across the site to the east. From here the houses in Beech Close and Park Road are a distant backdrop to the open farmland in the foreground. The proposed development would fundamentally change this view.
25. Even with the setback of open space and landscaping shown in the indicative masterplan, the view would be of an urban development nearby, as shown in the photomontage from viewpoint 7. Similar to the previous appeal scheme, footpath users would no longer experience a walk in open countryside away from the urban area. As such it would have a substantial adverse visual impact on a well-used public footpath, which the photomontage visualisations do not suggest would reduce significantly over time.
26. Along the Park Road frontage the existing mature hedgerow would be retained and houses would be set back from the road by 23-26 metres, allowing room for supplementary landscaping. The development would still be visible in places through the hedge, particularly at gaps created by the proposed footpath and road accesses, in winter months and above the hedge line. However, the sensitivity of this view for users of Park Road is already reduced by the presence

of houses on the north side of the street. Accordingly, whilst there would be an adverse impact, this would be moderate, rather than substantial as suggested by the Council.

27. For residents of the properties on Park Road and in Beech Tree Close, I recognise that they would experience a significant change to their current views over open fields. This would be particularly so for the occupiers of the bungalow at 80 Park Road, who currently enjoy an uninterrupted view from their main living room windows over the appeal site. However, planning operates principally in the public interest and not to protect private views. I have considered the impact of the proposal on the outlook of the occupiers of neighbouring properties as part of my assessment of living conditions below.
28. However, on the basis of the scale of the adverse impacts on the landscape character of the site and its setting and on views from FP10 and Park Road, I find that the proposal would result in an unacceptable level of harm to the rural character and visual amenity of the appeal site and the surrounding landscape. Accordingly, whilst I acknowledge that the settlement boundaries defined in the CNRLP may be subject to future change, I conclude that the proposed development would conflict to a significant degree with Policy PG6 of the CELPS and saved Policy RES5 of the CNRLP, in terms of their designation of the site as Open Countryside and their purpose in protecting the countryside from urbanising development. The proposal would also be contrary to paragraph 17 of the Framework in failing to recognise the intrinsic character and beauty of the countryside.

Green Gap

29. The appeal site is located within the Strategic Green Gap (SGG) between Willaston, Wistaston, Nantwich and Crewe as defined in the Policy PG5 of the CELPS. Green gaps have formed a key element of planning policy in the Crewe and Nantwich area for a number of years. The CELPS Inspector's report recognises them as necessary in addition to the Open Countryside policy, to protect against the coalescence of settlements, ensure the separate identity of settlements and retain the existing settlement pattern by maintaining the openness of land⁶. To this end Policy PG5 restricts the construction of new buildings within the SGGs which would result in the erosion of physical gaps, adversely affect the character of the landscape, significantly affect the undeveloped character of the Green Gap or lead to coalescence between settlements. This is reinforced in Willaston by Policy GG1 of the WNDP, which contains similar criteria to Policy PG5 for the Green Gap (GG) around Willaston, but in addition emphasises the importance of maintaining the visual gap between settlements and avoiding visual coalescence.
30. Policy PG5 defines the broad extent of the SGGs by reference to the map in figure 8.3 of the CELPS. The detailed boundaries of the SGGs are to be reviewed and defined through the SADPPDP. Until then paragraph 8.63 of the CELPS states that the GG boundaries, as defined in saved Policy NE4 and the Proposals Map of the CNRLP, will remain in force, except where they have been updated to reflect new developments, allocated sites or planning permissions.
31. The appellant makes the argument that given the detailed boundaries of the SGGs rely for the time being on boundaries in the CNRLP which were originally

⁶ Paragraphs 106-107 of CELPS Inspector's Report, June 2017

drawn up over 17 years ago, they are out of date. Therefore, it is argued that the important test is the degree to which the proposal breaches the GG policies, rather than the simple fact of the site's location within the SGG. I acknowledge that the detailed boundaries of the SGGs are long standing and agree that the extent to which the proposal breaches Policy PG5 needs to be tested against the criteria of the policy, which I consider below. However, the CELPS does provide a clear and up to date definition of the extent of the SGGs in the form of the map in figure 8.3, which has been updated from the boundaries defined in saved Policy NE4. From this it is evident that the appeal site lies within the SGG, on which there is no dispute.

32. In this regard the evidence before me is different to that which was available at the time of the Cheerbrook Road appeal⁷. The approach of relying on the detailed boundaries of the GGs defined in the CNRLP, pending the publication of the SADPPDP, has since been found sound by the CELPS Inspector as a practical interim solution for development management purposes. The weight to be attached to the site's status as part of the SGG should only be diminished for the purposes of this appeal if there is clear evidence that this is likely to change as part of the forthcoming review. There is no evidence before me to suggest that the appeal site's status within the SGG will change as a result of the review of boundaries in the SADPPDP.
33. However, I recognise that the SADPPDP is at an early stage and, as with Open Countryside and settlement boundaries, the review of the detailed boundaries of the SGGs will be a matter to be tested through the process of consultation on and examination of the DPD. Therefore, for the purposes of this appeal and without prejudice to the SADPPDP process, in order to establish the degree of conflict with the development plan on this point, it is necessary to consider the effect of the proposed development on the effectiveness of the SGG by reference to the criteria in Policy PG5, saved Policy NE4 and Policy GG1 of the WNDP.
34. There is some overlap between the relevant criteria in these three policies. I have considered the effects on landscape character and visual amenity above. There is no suggestion in evidence that the proposed development would cause coalescence in and of itself. Therefore, the key criterion which features in all three Policies PG5, NE4 and GG1 is whether the proposal would result in the erosion of a physical gap between the settlements, in particular in this case that between Willaston and Nantwich. In addition Policy GG1 seeks to restrict development which will diminish the visual gap between settlements. So both the physical and dimensional erosion of the SGG are important, but also the visual or perceived erosion, as also noted by the Inspector for the previous appeal⁸.
35. In terms of the physical gap, the Willaston/Wistaston/Nantwich/Crewe SGG is at its narrowest in the area between Willaston and Nantwich. At this point the width of the gap between the eastern edge of Nantwich and the western edge of Willaston varies from 550 metres and 1110 metres (m)⁹ as the urban area boundaries of the two of the settlements step in and out. The appeal site sits within the widest part of the gap between Willaston and Nantwich at this point, but nevertheless, from the western boundary of Willaston across the appeal site,

⁷ Appeal reference: APP/R0660/W/15/3136431

⁸ Paragraph 23 of appeal ref; APP/R0660/W/15/3011872

⁹ Based on dimensions in Plan 7 to John Berry's PoE

the distance to Nantwich measures only between 890 m and 1110 m. The proposed development would extend the western boundary of Willaston up to 230 m into the gap at this point, reducing the width of the SGG by up to 24%¹⁰.

36. Whilst I acknowledge that this would not reduce the physical gap between Willaston and Nantwich beyond its current narrowest point, it would nevertheless represent a significant erosion of the existing physical gap between the two settlements. The harm is greater here because it falls within the narrowest part of the overall Willaston/Wistaston/Nantwich/Crewe SGG. The reduction in the scale of the proposed development from the previous appeal does little to reduce the physical erosion of the SGG which would result.
37. I was referred to the Cheerbrook Road scheme to the south east of the appeal site, which was allowed on appeal within the Green Gap. However, that decision made specific mention of the Park Road appeal, stating that the proposal would not have a similar narrowing effect to the Park Road scheme due to the considerably greater width of the gap at the Cheerbrook site¹¹. The Cheerbrook Road scheme will extend up to the western boundary of Willaston formed by Beech Tree Close. Notably the proposed development in this appeal would extend development well beyond this line, which would as such represent an evident incursion at a narrow point in the gap. I recognise that the proposed development would not extend the built limits of Willaston beyond the current westernmost edge of the houses in Park Road and to the north. However, at this point the SGG is almost at its narrowest, at less than 600 m wide, and this should not be seen to represent a precedent for the overall width of the SGG.
38. In terms of the visual gap, I acknowledge that there is limited intervisibility between the edges of Nantwich and Willaston at the appeal site, due to presence of the A51 bypass and intervening landscape features. However, when travelling along roads and footpaths in the area, there are points where the gap can be seen and, as observed by the Inspector for the previous appeal, it is perceived as considerably narrower than the measured distances between main parts of the urban areas of Nantwich and Willaston.
39. To the south of the appeal site, the urban edge of Cheerbrook extends up to the A51 roundabout, from where the distance to the edge of Nantwich is just 550 m. However, the perception of the gap at this point is affected by buildings either side of Newcastle Road, including Cheerbrook Farm and Brook Bank, which give the impression of a narrow gap between urban areas. Travelling northwards from the Cheerbrook roundabout along FP10, the gap widens to the east to include the appeal site and the fields either side of it. However, the gap to the west is visually diminished by the presence the buildings at Cheerbrook Farm seen immediately to the other side of the A51 bypass.
40. To the north of the appeal site, travelling along the A534 Crewe Road, the presence of the nurseries, hotel and public house north of the A534 between the edge of Nantwich and the Peacock roundabout give the impression that the Green Gap begins to the east of the roundabout. From there it is less than 400 m to the western edge of Willaston along Park Road and Crewe Road. Again at this point the appeal site makes an important visual contribution to the Green Gap as it widens out. This is particularly so for users of Park Road and FP10.

¹⁰ Based on the Q-R measurement in Plan 7: 220m/930mx100

¹¹ Paragraph 17 of appeal Ref: APP/R0660/W/15/3136431

41. Given the perceived and actual intervisibility between Willaston and Nantwich north and south of the appeal site and the narrowness of the SGG at these points, the presence of the gap provided by the appeal site as part of the open countryside and farmland between these two points makes an important contribution to the overall function of the SGG in maintaining the actual and perceived separation between settlements. The erosion of the SGG which would be caused by the proposed development at this point, therefore, would be all the more harmful to its purposes and effectiveness.
42. On this basis, I find that the proposed development would result in a significant erosion of the physical and visual gap between Willaston and Nantwich. Consequently, it would be contrary to Policy PG5 of the CELPS, saved Policy NE4 of the CNRLP and Policy GG1 of the WNDP.

Housing Land Supply

43. A statement of common ground (SoCG) on housing land supply (HLS) was submitted by the Council and the appellant at the inquiry¹². It confirms that the housing requirement side of the land supply calculation is agreed between the main parties. The 5 year supply that must be demonstrated totals 14,824 dwellings over the period 1 April 2017 to 31 March 2022. This is based on the annual housing requirement in the CELPS of 1,800 dwellings/annum, multiplied by 5, plus the backlog arising from under delivery against the housing requirement since the start of the plan period, and a 20% buffer to allow a realistic prospect of achieving the 5 year requirement given the record of persistent under delivery up to this point.
44. The accumulated backlog due to under delivery against the annual housing requirement between 1 April 2010 and 31 March 2017 is 5,365 dwellings. The SoCG confirms agreement between the parties that the backlog is to be addressed over an 8 year period (called the Sedgpool 8 method), rather than over the first 5 years of the plan period (known as the Sedgfield method) as set out in the Planning Practice Guidance¹³ (PPG).
45. The Sedgpool 8 method was agreed by the examining Inspector for the CELPS on the basis that the backlog would be met within the next 8 years of the plan period from 1 April 2016. I note the appellant's concern that applying Sedgpool 8 from April 2017 effectively rolls the backlog forward another year. However, the CELPS Inspector agreed to vary the Sedgfield method because delivering the backlog over 5 years in Cheshire East would result in an unrealistic and undeliverable annual housing requirement. Dealing with a shortfall in housing delivery since the start of the plan period is a rolling requirement in the calculation of the 5 year housing requirement at any point in the plan period. The Council has factored the backlog for 2016-17 into the calculation of the current 5 year requirement. It would be unreasonable at such an early stage in the life of the new CELPS to depart from the Sedgpool 8 approach, given the basis for it in Cheshire East. To do so would in effect impose a further variant of the Sedgfield and Liverpool methods outside of the local plan examination process. Therefore, for the purposes of this appeal, I have based my assessment of supply on the 5 year housing requirement of 14,824 dwellings which was agreed in the SoCG.

¹² Document 3 submitted at the inquiry

¹³ PPG Paragraph: 035 Reference ID: 3-035-20140306

46. The Council's position is that it can demonstrate a supply of deliverable housing sites sufficient to provide 16,042¹⁴ dwellings within the 5 year period, which amounts to a 5.41 years supply. The appellant contends only 13,792 dwellings could be realistically delivered, giving 4.65 years supply. The main reasons for the difference between the two supply calculations are a combination of 'in principle' and site specific differences between the Council and the appellant about the lead in times for sites to commence delivery and the resultant yield in the number of dwellings which could realistically be built within the 5 year period.
47. In considering these differences, I have taken account of the findings of the Court of Appeal in the St. Modwen judgement¹⁵ on the distinction to be drawn between 'deliverability' and 'delivery' in assessing the 5 year housing land supply. I acknowledge, as stated in the St. Modwen judgement, that proving the 'deliverability' of the housing land supply does not require certainty that sites will be developed within the 5 year period, particularly given the range of market factors affecting housing delivery, which can be difficult to predict and are subject to change over time.
48. However, the likelihood and rate of 'delivery' are part of the assessment of the 'deliverability' of the supply, as set out in the Framework and the PPG. Footnote 11 to the Framework is clear that for a site to be considered deliverable there should be a 'realistic prospect' that housing will be delivered on the site within five years. Paragraph 3-031 of the PPG, in its guidance on what constitutes a deliverable site for housing, expects local authorities to provide robust, up to date evidence to support the deliverability of sites and to consider the time it will take to commence development on site and build out rates to ensure a robust 5-year supply¹⁶.
49. These matters are considered in both the Council's and the appellant's approach to assessing the deliverability of sites. They are reflected in the Council's housing trajectory, as presented in the Housing Monitoring Updates (HMUs). I acknowledge that the HMU and trajectory are prepared at a point in time and that changes in the progress of sites will take place throughout the year. However, in order to assess whether there is a deliverable 5 year housing land supply for the purposes of this appeal, it is necessary to test the robustness of the assumptions on which the trajectory is based and the progress on sites, against the current available evidence as submitted to the inquiry.
50. Dealing with the 'in principle' differences between the parties first. The Council applies a standard methodology to predict the lead in timescales for site delivery and build rates for both strategic and non-strategic sites, based on past experience. For strategic sites without planning permission, the standard methodology assumes an average of 2.5 years to the point of completion of the first dwellings. Adjustments are made using information from site promoters or agents where there is evidence to support a site coming forward more quickly or if there is slippage. In the most recent HMU, published in August 2017, but with a base date of March 2017, the Council provided a summary of any comments received from site promoters or agents in respect of delivery rates for the strategic sites.

¹⁴ The Council's HLS figure in the Housing SoCG less 30 dwellings to be removed from the trajectory for land to the east of Fence Avenue, Macclesfield (LPS14) conceded at the round table session

¹⁵ St Modwen Developments Ltd v SoSCLG [2017] EWCA Civ 1643

¹⁶ PPG Paragraph: 031 Reference ID: 3-031-20140306

51. The appellant on the other hand provides an analysis of lead in times for strategic sites in Cheshire East with planning permission at March 2017. The evidence shows that it has taken on average 3 years from initial registration of an outline application to the grant of an unreserved planning permission. This reduces to 18 months where a full rather than outline application is submitted at the outset. From there the evidence shows that it takes on average 13 months from the grant of an unreserved planning permission to the first completion on site. This represents an average of between 3 and 4 years for strategic sites without planning permission to commence delivery of dwellings, which is a significant difference to the Council's 2.5 year assumption.
52. The Council did not dispute the stage by stage data included in the appellant's lead in time analysis for strategic sites, but explained that the historically slower progress on such sites had been due to the uncertainties of the planning process prior to the adoption of the CELPS. However, the data on which the Council relies for its 2.5 year lead in time assumption is also based on past analysis, some of which inevitably will be drawn from the same period of pre-adoption uncertainty. It is unfortunate, therefore, that the evidence to support Council's lead in time assumptions both on the standard methodology and the strategic site specific summaries in the HMU was not before the inquiry. Overall, I find the appellant's lead in time analysis to provide convincing and up to date evidence of the actual delivery performance of the strategic sites which underpin the Council's 5 year land supply.
53. I acknowledge that the CELPS Inspector's Report endorsed the Council's methodology and evidence on lead in times to support a 5-year supply. However, that was on the basis of the evidence available to him at that time¹⁷. The CELPS Inspector did not have before him the appellant's evidence of lead in times on strategic sites which was before this inquiry. His conclusions on housing land supply were also based on evidence with a base date of March 2016¹⁸. The Secretary of State's decision in respect of the Gorstyhill appeals¹⁹ to which I was referred and which endorsed the CELPS Inspector's assessment of supply also drew on the same evidence base date.
54. The CELPS Inspector's report was clear that much will depend on whether the committed and proposed sites come forward in line with the anticipated timescale in the housing trajectory²⁰. Since March 2016 there has been slippage in the anticipated timescales for delivery of a number of the strategic sites when comparing the March 2017 HMU with the March 2016 position²¹. Delivery in 2016/17 of 1,762 dwellings also fell short of the anticipated trajectory of 2,955 dwellings and in 2017/18 a first quarter delivery of 380 dwellings compares with a predicted delivery of 3,373 dwellings.
55. I also recognise the positive signals that delivery has been increasing year on year in Cheshire East since 2013/14, that the Council granted or resolved to grant planning permission for over 5,000 dwellings in the last 12 months and that the number of commitments stands at 20,441 dwellings as at 31 March 2017. The adoption of the CELPS and the formal release of a number of sites from the Green Belt will inevitably provide more certainty, which should

¹⁷ CELPS Local Plan Inspector's Report – paragraph 69

¹⁸ Housing Supply and Delivery Topic Paper, August 2016

¹⁹ APP/R0660/W/16/3150968 and APP/R0660/Q/16/3157808

²⁰ CELPS Local Plan Inspector's Report – paragraph 68

²¹ Appendix 18 to Ben Pycroft's proof of evidence

accelerate further the grant of permissions, the deliverability of sites and the delivery of dwellings.

56. However, from the updated table of commitments provided during the inquiry²² of the 20,441 committed dwellings at 31 March 2017, only 12,950 are counted as contributing to the 5 year supply. The remaining 3,092 dwellings of the Council's estimated deliverable supply of 16,042 dwellings rely on allocated sites without planning permission coming forward in time. Of these at least 1,874 would need to be realistically deliverable within the 5 year period to ensure the 5 year requirement of 14,824 dwellings is provided.
57. Therefore, notwithstanding the recent adoption of CELPS on the basis of a deliverable 5 year supply, given the slippage in the progress of strategic sites since March 2016, the ongoing shortfalls in delivery, the appellant's evidence on lead in times and the reliance on sites without planning permission, for the purposes of this appeal it is necessary to assess whether the Council's evidence and judgements on the deliverability of its 5 year supply are robust. The SoCG on housing land supply provided a table of 32 sites for which their contribution to the 5 year supply is disputed between the main parties. I recognise that this is only a small proportion of the overall number of sites making up the Council's housing land supply. However, they account for some 3,220 dwellings, which is around 20% of the Council's estimated 5 year supply. I was not provided with evidence to indicate that any of the other sites in the 5 year supply might progress more quickly or slowly than forecast.
58. Beginning with the *land off Dunwoody Way, Crewe (ref 1934)*, although the site is under construction with 53 units complete, no completions have been recorded since 2013/14. The Council confirmed at the round table session that the site had stalled due to financial difficulties. Although it is possible that the remaining 29 units could be built within the next 5 years, in the absence of any evidence of ongoing discussions with potential developers to take the site forward, there appears no realistic prospect at this stage of the site being completed. Accordingly these 29 units should be deducted from the supply.
59. The *Chelford Cattle Market site (3175)*, listed for 86 units, does not yet have planning permission. Although discussions are ongoing with a national housebuilder and the Council anticipates a full application being submitted shortly, there is little evidence to suggest delivery of 30 units could be achieved in 2019/20. The Council's standard methodology assumes a start on site at the beginning of year three for sites of between 51-100 units without planning permission. From this point in time that would suggest a start on site at the beginning of 2020. Given that it is a brownfield site, allowance would also need to be made for site clearance and preparation. Realistically delivery before 2020/21 appears unlikely. A discount of 30 units should therefore be applied.
60. The *Elmbank House site in Sandbach (5899)* is currently used for warehousing. It has a resolution to grant planning permission for 50 dwellings subject to a S106 agreement, which is signed awaiting completion. For sites of up to 50 dwellings with a resolution to grant the Council's standard methodology assumes at best a start in 12 months' time with 15 dwellings a year from there onwards. With reserved matters and conditions discharge to be completed and site clearance and preparation, the appellant's suggestion of commencement in

²² Revised Table 5.1 to Adrian Fisher's proof of evidence (Document 24)

18 months' time would be more realistic. Therefore, a deduction of 13 dwellings from the 5 year supply would be justified.

61. *Land off Church Lane, Wistaston (5672)* has outline planning permission for 300 dwellings and the interest of a national housebuilder. A reserved matters application is expected shortly. The Council has assumed delivery of 15 dwellings in 2018/19, but its standard methodology assumes for a site of this size delivery commencing at the start of year 2, with 15 dwellings in the first year. From this point in time that suggests at best delivery of units starting at the beginning of 2019. The appellant's analysis of strategic sites shows an average of 5.9 months for approval of reserved matters and 13 months from there to first completion, a total of 19 months from now. Given the need for reserved matters approval, discharge of conditions, site preparation and infrastructure to be completed, completion of the first units in anything less than 15 months' time would be unrealistic. Therefore, a reduction of 30 units in its contribution to the 5 year supply would be justified.
62. The site *south of Old Mill Road, Sandbach (2612)* has outline planning permission. The Council's trajectory assumes delivery of 30 units in 2019/2020, allowing around 17 months for reserved matters, conditions discharge and site preparation. The appellant considers a further 6 months lead in time is required to allow access issues to be resolved and the sale of the site to a developer, with 15 dwellings completed in 2019/20. From the current point in time the appellant's lead in time and trajectory would be consistent with the Council's standard methodology for a site of 200 dwellings. Therefore a reduction of 15 dwellings in the site's contribution to the 5 year supply would be justified.
63. *Land off London Road, Holmes Chapel (5709)* has outline planning permission for 190 homes and the interest of a national developer. An application for reserved matters appears to be imminent. However, the Council's trajectory assumes the completion of 15 dwellings in 2018/19 requiring a start on site in 12 months from now. This appears unrealistic given there remains a S73 application to determine first and an average lead in time of 18 months for a site of this size with outline planning permission assumed in both the Council's standard methodology and the appellant's analysis. A reduction of 15 dwellings in the site's contribution to the 5 year supply would be realistic.
64. *Land off Abbey Road, Sandbach (4725)* has outline planning permission for 190 dwellings granted on appeal in October 2016. The evidence to the appeal indicated that development would commence at the end of March 2018 and the Council now assumes a start in October 2018. However, a housebuilder has not yet been selected and a reserved matters application is awaited. Even if this were to happen imminently, the appellant's analysis indicates 6 months to secure reserved matters approval and a further 13 months from there before construction of the first units would start. Therefore, 30 units/year from 2019/20 onwards would be realistic, which would mean a reduction in the 5 year supply of 15 dwellings.
65. *Victoria Mills, Holmes Chapel (406)* is an active employment site with an outline permission granted in 2012 for residential development pending the relocation of the occupier. After a period of delay there does now appear to be progress on this site. The occupier has secured planning permission for relocation to an alternative site, which the Council confirms will take place in 2018, and discussions are underway with a housebuilder on a reserved matters scheme.

However, the Council's current trajectory assumes construction of units will start in 12 months' time, with 15 units complete in 2018/19. Allowing time for the reserved matters application to be determined and site clearance and preparation following the relocation of the current occupiers, suggests at best a start on site 2019/20. On this basis a deduction of 15 units from the 5 year supply would be reasonable.

66. *The Kings School, Westminster Road, Macclesfield (4302)* has outline planning permission for redevelopment for 150 units, pending the relocation of the school to a new site. The Council confirmed that the timescale for the opening of the new school and vacating this site has been revised to September 2020, pushing back commencement of development on this site until then. Accordingly, its revised prediction is that 15 units would be constructed on the site in the second half of 2020/21. However, allowing for site preparation and infrastructure works, realistically construction of units would be unlikely to start until the beginning of 2021/22. Whilst further land has become available at Cumberland Street, which the Council suggested could compensate for the delay on the main site, the yield from this site is uncertain given the need for listed building consent for the conversion of the old school buildings. Very little evidence was before me on which to make a reasoned judgement about the likely contribution of this site to the 5 year supply. Therefore, a reduction in the 5 year supply of 45 units from that predicted in the table attached to the SoCG would be justified for the Westminster Road site.
67. *Land to the north of Moorfields, Willaston (2896)* has outline permission for 146 dwellings with a reserved matters application awaiting determination. The Council advised that the landowner is about to select a housebuilder. On this basis a start on site in 2018 with the first units being delivered in the second half of 2018/19 would be realistic. This would also be broadly in line with the appellants' evidence on the timescale between approval of full unreserved permission and completion of the first units. For this site I agree the Council's trajectory is realistic.
68. *Land off East Avenue, Weston (4572)* has an unexpired outline permission for 99 homes, with a reserved matters application expected imminently from a known housebuilder. However, applying the Council's standard methodology from this point forward would suggest an 18 month lead in time before the first units would be delivered on site. A start on site at the beginning of 2019/20 would be realistic, resulting in a deduction of 10 units from the 5 year supply.
69. *Danebridge Mill, Congleton (4849)* had a planning permission for 14 units which has expired since the March 2017 HMU was published. The Council indicated that the site may not feature in the next HMU unless a new application is approved in the meantime. I have not been advised of any new applications imminent for this site. Accordingly, it should not be counted towards the 5 year supply.
70. *Leighton, Crewe (LPS5)* is a strategic site allocated for 500 dwellings, with a resolution to grant planning permission subject to a S106 agreement. The Council's standard methodology indicates dwellings should start to be delivered after 24 months for sites at this stage of the process. However, given that, 7 months after the base date for the March 2017 HMU assessment the S106 agreement is still awaiting completion and a developer has not yet been appointed, the prospect of 30 dwellings being delivered in 2019/20 now seems

unlikely. The appellant's evidence indicates that reserved matters applications take on average 15 months to prepare after outline permission has been granted and 6 months to determine, with a further 13 months from there before construction of the first dwellings. This suggests realistically that delivery of dwellings would be unlikely to commence until 2020/21. From there, for a site of this size, it is reasonable to expect 2 housebuilder outlets with completion of 30 dwellings in 2020/21, building up to 50 dwellings from 2021/22 onwards. However, this would mean a reduction of 50 dwellings in the 5 year supply.

71. *Phase 1 Basford East, Crewe (LPS2)* has outline planning permission for 490 units. The Council advised that the previous delay in progress on the site has now been resolved with the signing of a deed of variation to the S106 agreement. The owner has stated that the site is being marketed and a reserved matters application is expected in early 2018. Based on this and both the Council's and the appellant's evidence on lead in times, it would take 19 months before dwellings start to be delivered mid-way through 2019/20. Therefore, the completion of 15 units in 2019/20 is not unreasonable. Again 2 outlets for a site of this size is reasonable, supporting the Council's trajectory for the delivery of 30 units in 20/21 and 50 units in 2021/22. Accordingly no change is warranted in the Council's forecast of the site's contribution to the 5 year supply.
72. *Basford East Phase 2, Crewe (LPS2)* has outline planning permission for 325 dwellings. Its lies adjacent to but outside of the HS2 safeguarding zone. Although there are ongoing discussions with HS2 regarding the access to the site the Council has forecast delivery to commence in 2020/21, some 2.5 years from now, to allow scope for these to be resolved. This should also allow sufficient time for the sale of the site to a housebuilder, reserved matters and site preparation and infrastructure. On this basis, no change is warranted to the site's contribution to the 5 year supply.
73. *Parkgate Industrial Estate, Knutsford (LPS37)* has outline planning permission for 200 dwellings, although this dates from June 2015. Given the site's location within a high market value area of the district, where there has been little new housing in recent years, without any apparent constraints, the delay in progress on this site is unexplained other than the landowner taking a longer term view. The Council confirmed that discussion on a reserved matters application is underway with the landowner. Given that the outline permission expires in June 2018, it is realistic to expect a reserved matters application before then. However, to date there is no housebuilder in place and once selected they would be likely to revisit reserved matters to secure their own house types. Based on this and the appellant's evidence of an average lead in time of 18-19 months for strategic sites from the submission of the reserved matters application to delivery of the first units, a full year of completions in 2019/20 appears unrealistic at this stage. Although I accept the CELPS Inspector's view that a delivery rate of 40 dpa is reasonable in this market area once the site is underway, a deduction of 20 units should be made from the trajectory for 2019/20.
74. *Glebe Farm, Middlewich (LPS42)* had a resolution in April 2014 to grant planning permission for 450 units, but the S106 agreement has not been signed due to delays in agreeing the financial contribution towards the Middlewich Eastern bypass. The Council confirmed that the Department for Transport has now agreed funding for the by-pass, so the completion of the S106 agreement is

imminent. Based on the appellant's average lead in times it takes around 34 months to progress from the grant of outline permission to a start on site. On this basis a full year's completions in 2020/21 appears unlikely, albeit commencement of construction of the first units would be realistic half way through the year. It would be reasonable to assume 2 outlets on a site of this size from 2021/22. Therefore, a deduction of 15 dwellings from the in the site's contribution to the housing land supply would be justified.

75. *Land off Fence Avenue, Macclesfield (LPS14)* has an outline planning permission for 250 units. It is part of the Kings School estate and along with the Westminster Road site commencement of development is constrained by the timescale for the relocation of the school to its new site in September 2020. At the round table session, the Council conceded a reduction of 30 units in the contribution of this site to the overall supply, which is already reflected in the revised figure of 16,042 dwellings. However, the revised trajectory assumes the completion of 15 dwellings in the second half of 2020/21, which would not allow any time for site preparation and infrastructure works. Realistically construction of dwellings would be unlikely to start until the beginning of 2021/22. Accordingly, a further reduction in the supply from this site of 15 units is justified.
76. *Leighton West, Crewe (LPS4)* is a strategic site allocated for 850 dwellings, but as yet without planning permission. The site has interest from two national housebuilders. The Council's trajectory assumes 35 units will be delivered on site in 2019/20, based on its standard methodology with 2 housebuilders operating from the outset, although it is unclear why 35 rather than 30 units is assumed. The March 2017 HMU on which this was based assumed an application would be submitted in September 2017. However, at this stage the SoCG advises that only screening opinions have been submitted, which suggests an application is still some time from being ready. On this basis, delivery of units in 2019/20 would be unrealistic and, at best, applying the standard methodology, could commence in 2020/21. The appellant's evidence on lead in times for strategic sites suggests it would be 2021/22 before the first units are delivered. I have no evidence to indicate that delivery of 25 units in 2021/22 could not be achieved on the land at Leighton West controlled by the Engine of the North. Taking account of this evidence a reduction of between 35-145 units in the contribution of this site to the supply would be prudent.
77. *Crewe Green (LPS6)* is a strategic site allocated for 150 dwellings, without planning permission. The site has housebuilder interest, with an application expected in the autumn of 2017 and a start on site in January 2019. Based on this, the Council predicts the completion of 40 dpa from 2019/20, albeit the rate of 40 dpa rather than a starting rate of 15 dpa as in the standard methodology has not been justified. Given the slippage in the submission of an application and the need for discharge of conditions, site preparation and infrastructure, completion of 40 dwellings in 2019/20 does not appear realistic from now. Applying the lead in time of 2 years in the standard methodology, if an application were submitted in early 2018, at best 15 units could be delivered in 2019/20. Applying the appellant's lead in times of 2.5 years from submission of a full application to completion of the first units would at best see the completion of 30 units in 2020/21. The evidence supports a reduction in the contribution of the Crewe Green site to the 5 year supply of between 25-50 dwellings.
78. *South Cheshire Growth Village, Crewe (LPS8)* is a strategic allocation for 650 dwellings. The site does not yet have planning permission and there is no

evidence from the landowner to suggest steps are being taken to bring the site forward. On this basis the Council has assumed delivery of 80 units from 2020/21 onwards with two outlets. However, given that there has been no pre-application discussion up to this point, applying the standard methodology from now would suggest a maximum of 30 units being delivered in 2020/21. Applying the appellant's lead in times from now would indicate delivery commencing in 2021/22 with the completion of 50 units from two outlets. A reduction in the contribution of this site to the supply of between 50-110 units is justified.

79. *The Shavington/Wynbunbury Triangle (LPS9)* site is allocated for 400 dwellings as part of a mixed use scheme, but has an outline planning permission limiting development to 360 units. An application has been submitted to vary the permission to allow more than 360 units to be delivered across the remainder of the site. It is under construction and on the current development trajectory there is no reason to suggest that a further 36 units could not be delivered within the 5 year period. No change to the 5 year supply is warranted for this site.
80. *Broughton Road, Crewe (LPS11)* is allocated for 175 dwellings. Planning permission has been granted for 124 units on two-thirds of the site, which are under construction with occupation of the first dwellings expected in 2018. Whilst the remaining 51 units do not yet have planning permission, based on delivery rates similar to those assumed in the standard methodology, it is a reasonable expectation that the remaining 51 dwellings will gain permission and be completed within the 5 year period.
81. *South Macclesfield Development Area (LPS13)* is allocated for 1,050 dwellings with a resolution to grant planning permission, subject to a S106 agreement which at the time of the inquiry had not been completed. There is significant site preparation and infrastructure work to be undertaken before the site is ready for the construction of dwellings, including specialist remediation, stabilisation and drainage works to deal with areas of peat deposits. Although the CELPS Inspector concluded there is a reasonable prospect that most of the site will be delivered within the plan period, he was more circumspect about the assumed lead in times and build rates, suggesting they were optimistic but could be monitored and reviewed as detailed plans are drawn up. The Council's current trajectory for the site for construction of 60 dpa from 2019/20, in just 16 months from now, remains optimistic given the need for site preparation, sale to housebuilders and reserved matters approvals before then. Assuming the S106 agreement is completed by the end of 2017, which has not been confirmed, the appellant's evidence on average lead in times for strategic sites indicates that it would take a further 3 years to progress the site to the point of delivering dwellings. This would suggest 15 units in the final quarter of 2020/21 and 60 units from two outlets in 2021/22. From the evidence before the inquiry a reduction of 105 units in the site's contribution to the 5 year supply is warranted.
82. *Gaw End Lane, Macclesfield (LPS17)* is a strategic site allocated for 300 dwellings without planning permission. The Council's current trajectory assumes construction of 115 units during the 5 year period, starting with 15 dwellings in 2019/20, increasing to 50 dpa thereafter. This is based on the involvement of a national housebuilder with a track record of delivery in the district and the expectation of a full planning application by the end of 2017. However, the appellant's evidence on lead in times suggests it would take 18 months to determine the application and a further 13 months from there before completion of the first units. This suggests that realistically delivery of dwellings would not

commence until 2020/21. Whilst I note that delivery of 50 dpa with a single housebuilder was accepted in the White Moss appeal decision, I have no other evidence to support this accelerated rate of delivery, which is otherwise equivalent to 2 housebuilder outlets in the Council's standard methodology. A rate of 30 dpa would be more consistent with the standard methodology. On this basis, the contribution of this site to the 5 year supply should be reduced by 55 dwellings.

83. *Congleton Business Park Extension and Giantswood Lane to Manchester Road (LPS27 and LPS29)* are two adjacent sites allocated for 625 and 500 dwellings respectively, the delivery of which relies on the construction of the Congleton Link Road. The link road is programmed for completion in June 2020, although this remains dependent on the outcome of a CPO inquiry for which a decision is awaited. I note that the resolution to grant planning permission on the Giantswood Lane site allows for up to 40 dwellings to be occupied in advance of the link road. However, it is more realistic to expect delivery of dwellings to commence following the completion of the link road and the associated on-site infrastructure. Consequently, the trajectory would slip one year, resulting in a reduction of 160 units from the supply.
84. *Giantswood Lane South, Congleton (LPS28)* is allocated for 150 dwellings, with a planning permission for 96 units which is under construction by a single housebuilder. The Council's trajectory assumes that the remainder of the site will also be built out during the 5 year period for a further 45 dwellings. Given its advanced stage of construction and average yields of 30 dpa from a single outlet already underway, it is reasonable to expect the remaining capacity of the site will be delivered by the end of 2021/22.
85. *North Cheshire Growth Village (LPS33)* is a strategic site allocated for 1,500 homes to be delivered as part of the Garden Village programme. The Council's programme anticipates submission of a masterplan and hybrid outline/full planning application in early 2018, with primary infrastructure works to start on site in April 2019. From there the trajectory assumes delivery of 150 dpa from 2020/21 onwards based on 4 outlets delivering at any one time. Provided that the application seeks full permission for the first phases, applying the appellant's lead in times, it is not unreasonable to expect delivery of dwellings to commence in 2020/21. However, the completion of 300 dwellings in the first 2 years of construction is optimistic based on 4 outlets and the rates of delivery assumed in the Council's standard methodology. I note that the CELPS Inspector reached a similar conclusion about a projected delivery of 325 dwellings in the first 3 years of construction of this site. In the absence of evidence to support an accelerated yield, applying the standard methodology, at best 60 dpa might be expected in 2020/21 from 4 outlets and 100 dpa from 2021/22 onwards. Therefore, a reduction of 140 dwellings in the contribution of this site to the 5 year supply is justified.
86. *Land north of Northwich Road and land west of Manchester Road, Knutsford (LPS36 A and B)* is allocated for 500 dwellings on three separate parcels of land. Delivery on parcels A and B is disputed, which have estimated capacities of 175 and 75 units respectively. An outline application has been submitted on parcel A, which the Council advised is likely to be subject to changes before determination. Pre-application discussions have commenced on parcel B. The Council expects delivery on both parcels to commence in 2019/20, which seems unlikely given the need for planning permission, negotiation of S016 agreements, reserved

matters and site opening up, preparation and infrastructure works before then. A more realistic timescale from now would be construction of units commencing in 2020/21. Applying the yields in the standard methodology would suggest 30 dpa for parcel A and 25 dpa for parcel B in 2020/21 and 2021/22. I saw no specific evidence to support either a higher yield on parcel B or more than one outlet on parcel A. Accordingly a reduction of 95 units in the contribution of this site to the supply is justified.

87. *Land south of Longridge, Knutsford (LPS38)* is a strategic site allocated for around 225 dwellings. Submission of a planning application awaits the sale of public open space land owned by the Council. A resolution to dispose of the land was passed by the Council in October 2017, but at the time of the inquiry the land had not been sold nor a planning application prepared. The Council predicts 15 dwellings being constructed in 2019/20, but there is insufficient lead in time between now and then to complete the necessary planning and site preparation stages. A 2-2.5 year lead in period is necessary for these stages before construction of the first units, based on the Council's standard methodology and the appellant's evidence. As such it would be more realistic to assume construction of units starting at the beginning of or mid-way through 2020/21. A reduction in the contribution of this site to the overall supply by 15-30 dwellings would be justified.
88. *Brooks Lane, Middlewich (LPS43)* is a strategic allocation for around 200 homes. However, planning permission for a mixed use scheme including 137 dwellings was refused in June 2017 on design and amenity grounds, in the absence of a masterplan led approach to the site. Further progress on a revised planning application awaits completion of a masterplan, which the Council expects to be in place in early 2018. On this basis the Council has pushed back delivery to commence in 2020/21. However, applying the appellant's lead in time of 2.5 years from the submission of a full planning application, which is likely to be part-way through 2018, would cause commencement of dwellings to slip to the end of 2020/21 or into 2021/22. Accordingly, a reduction of 15-30 units in the contribution from this site to the housing land supply would be justified.
89. *Heathfield Farm, Wilmslow (LPS57)* is allocated for around 150 dwellings. A full planning application for 161 dwellings was submitted in November 2017. However, the Council's trajectory assumes completion of 15 units in 2018/19 in less than 12 months' time, which is unrealistic even though it is backed by a national housebuilder. Based on the standard methodology at best the trajectory for this site should be pushed back 12 months with the loss of 30 dwellings from the supply. However, applying the appellant's lead in times and allowing 2.5 years from submission of the application to units starting on site, would suggest delivery of the first units in 2020/21, a loss of 45 units from the supply.
90. I have undertaken a thorough analysis of the disputed sites contributing to the Council's 5 housing land supply. In doing so I have taken account of both the CELPS Inspector's conclusions based on the 2016 HMU and the findings of the White Moss appeal decision on these sites, as well as the guidance in the NPPF and PPG on what constitutes a 'deliverable site'²³. Where I have reached alternative conclusions on the yield of individual sites from those of the CELPS Inspector or in the White Moss decision, I have relied on more up to date evidence submitted to this inquiry.

²³ PPG Paragraph: 031 Reference ID:3-031-20140306

91. In its response to the White Moss appeal decision²⁴ the Council supplied a number of comments from site promoters and developers which were elicited after the close of the inquiry. However, I did not invite the Council to update this evidence nor was it provided during the inquiry, to enable it to be tested by cross examination or round table discussion. For these reasons, I have not attached weight to that part of the Council's response. In any case, the evidence provided does little to persuade me of a different view on any of the disputed sites.
92. The appellant also identified a list of 93 small sites with planning permission which are recorded in the SHLAA as under construction but where there has been no development activity in the last 5 years, indicating development has stalled. These account for 152 dwellings awaiting construction/completion which are part of the 5 year supply. The Council updated the inquiry that 27 of those units have been completed, but not recorded as such. Whilst I acknowledge that the remaining permitted dwellings on these sites could be built out within the 5 year supply period, the absence of development activity in the last 5 years suggests that this is not a realistic prospect. Accordingly, the balance of 125 dwellings should be deducted from the 5 year supply.
93. Based on my analysis of the disputed sites, which is summarised in the table below, I conclude that there is a realistic prospect that between 1,181 and 1,421 dwellings included in the Council's 5 year housing land supply will not be delivered within the 5 year period.

Reduction in 5 year housing land supply on disputed sites

Site Ref	Change	Site Ref	Change	Site Ref	Change
1934	-29	4849	-14	LPS13	-105
3175	-30	LPS5	-50	LPS17	-55
5899	-13	LPS2	0	LPS27/ 29	-160
5672	-30	LPS37	-20	LPS28	0
2612	-15	LPS42	-15	LPS33	-140
5709	-15	LPS14	-15	LPS36	-95
4725	-15	LPS4	-35 to -145	LPS38	-15 to -30
406	-15	LPS6	-25 to -50	LPS43	-15 to -30
4302	-45	LPS8	-50 to -110	LPS57	-30 to -45
2896	0	LPS9	0		
4572	-10	LPS11	0	Small sites	125
Sub-Totals	-217		-224 to -419		-740 to -785
Overall Total					-1181 to -1421

94. The Council's estimated supply of 16,042 dwellings exceeds the 5 year requirement of 14,824 dwellings by 1,218 dwellings. However, based on the above analysis, the supply would be between 14,861 and 14,621 dwellings. Therefore, the range falls either side of a 5 year supply, from a surplus of 37 dwellings or 5.01²⁵ years supply to a shortfall of 203 dwellings or 4.93²⁶ years.
95. The SADPPDP will in due course allocate non-strategic housing sites for around a further 3,335 dwellings. However, the plan remains at an early stage. A draft has not yet been published and although the latest Local Development Scheme indicates the adoption of the SADPPDP by the end of 2018, this appears unlikely now. Accordingly, in the short term it will not assist in bringing forward further sites to address the potential shortfall in the housing land supply. Other than granting further permissions on unallocated sites, no other steps were identified

²⁴ Document 29

²⁵ 16042-1181=14861/2965=5.01

²⁶ 16042-1421=14621/2965=4.93

to indicate how the Council might address future shortfalls in the supply in the short term.

96. I acknowledge that the assessment of a 5-year supply is not an exact science but involves professional judgement, particularly on lead in and delivery timescales. However, notwithstanding the conclusions of the CELPS examination report in respect of a 5 year land supply and other recent appeal decisions on this issue, based on my analysis of the evidence at this appeal, I cannot be certain that the Council is able to demonstrate a robust 5 year supply of deliverable housing sites. I have found that the housing land supply position is either marginally above or slightly below 5 years. On this basis, I propose to adopt a precautionary approach to the housing land supply position and, in the light of paragraph 49 of the Framework, apply the 'tilted balance' in the determination of this appeal, as set out in the 4th bullet point of paragraph 14 of the Framework.

Other Matters

97. The proposed development would result in the loss of 6.21 hectares of the best and most versatile agricultural land, predominantly in Grade 2, but also areas of Grades 1 and 3a. As such it would be contrary to Policy SE2 of the CELPS which expects development to safeguard high quality agricultural land. It would also fail to accord with paragraph 112 of the Framework, which advises that development should use areas of poorer quality agricultural land in preference to that of a higher quality. In comparison to the overall resource of high grade agricultural land in Cheshire East, the loss would be modest, but nevertheless the harm would add to the weight against the proposal.
98. I have considered above the effect of the proposal on the views from surrounding properties in Park Road and Beech Tree Close. In terms of living conditions, the development would be set well back from the Park Road frontage so would not have an overbearing effect on the outlook from properties on the north side of Park Road. The impact on the outlook from 81 Park Road would be more marked, given that its main habitable room windows face to the west and overlook the site. However, were I to allow the appeal, conditions could be imposed to control the layout and position of the proposed dwellings at the reserved matters stage to ensure an acceptable residential relationship and avoid an overbearing impact on the outlook of the occupiers of no. 81.
99. Concerns have been raised in representations about the effect of the proposal on highway safety, particularly in terms of additional traffic on Park Road and at the Peacock roundabout. However, the appeal scheme includes proposals for a new junction onto Park Road with adequate visibility in both directions, a new off-road pedestrian and cycle path along the south side of Park Road and capacity improvements to the Peacock roundabout. It is common ground between the main parties that the site is accessible by non-car modes of transport. I have seen little other evidence to demonstrate that the effects of the development on traffic and highway safety would be severe, which is the threshold in paragraph 32 of the Framework necessary to justify dismissing the appeal on highway safety grounds.
100. Other concerns by local residents include effects on flood risk and ecology. However, the site is located in Flood Zone 1 so is at a low risk of flooding. It is common ground between the appellant and the Council that the flood risk assessment and surface water drainage strategy submitted with the application

demonstrate that the site can be adequately drained and run-off from the development managed to avoid any increase in flooding in the area. I saw little evidence to indicate otherwise.

101. With regard to ecology, there is no evidence that the proposal would affect statutory or non-statutory wildlife sites or protected habitat. Existing hedgerows and trees bordering the site would be substantially retained and the suggested conditions and S106 agreement would secure the provision of a habitat creation area within the site and other ecological enhancement and mitigation measures to ensure no material harm to biodiversity.
102. The addition of 100 dwellings to Willaston would place additional pressure on local services and facilities. Whilst reference was made to the local primary school and surgery being over-subscribed, I saw no evidence to demonstrate that the health and primary education needs of future residents of the site could not be accommodated within the area. Secondary and special education needs would be met and mitigated through an off-site financial contribution secured through the S106 agreement. The agreement would also secure on-site open space, including an equipped play area, to meet the additional needs arising from the development. The draft conditions also reserve land for the provision of a scout hut for the local community. I am satisfied that the impacts of the proposal on local infrastructure and services could be mitigated.

Planning Balance and Conclusion

103. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. An important material consideration is the presumption in favour of sustainable development in paragraph 14 of the Framework. I have not been able to come to a definitive view on the question of a 5 year housing land supply in this appeal. Therefore, I propose to adopt a precautionary approach, taking the worst case position within the range on housing land supply as I have found it, and apply the 'tilted balance' in the 4th bullet point of paragraph 14 in the determination of this case. This provides that where the development plan is silent or relevant policies are out of date, 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.
104. In terms of the adverse impacts of the proposal, the appeal site is part of the Open Countryside and a Strategic Green Gap between Willaston and Nantwich. I have concluded that the proposed development would result in an unacceptable level of harm to the rural character and visual amenity of the site and the surrounding landscape and cause significant erosion of the physical and visual gap between Willaston and Nantwich. As such it would be contrary to Policies PG5 and PG6 of the CELPS, saved Policies NE4 and RES5 of the CNRLP and Policy GG1 of the WNDP. It would also conflict with paragraph 17 of the Framework in failing to recognise the intrinsic character and beauty of the countryside.
105. Notwithstanding the fact that the boundaries to the Open Countryside and SGGs as defined in the CELPS and CNRLP are subject to review in the SADDPD, I attach significant weight to Policies PG5, PG6, NE4, RES5 and GG1 in respect of this appeal, given the visual amenity value of the site, and its contribution to

the open, rural character of the area and to the purposes of the SGG.

Therefore, I attach significant weight to the harm which would be caused to the Open Countryside and Strategic Green Gap. The proposal would also result in the loss of some of the best and most versatile agricultural land, contrary to Policy SE2 of the CELPS and paragraph 112 of the Framework. As the amount of agricultural land lost would be modest, accordingly I attach moderate weight to this harm.

106. In terms of benefits the proposed development would deliver up to 100 dwellings. The potential shortfall in the 5 year housing land supply is up to 203 dwellings, based on my analysis of the evidence. The proposal would help to reduce this by around 50%. The scheme would also include up to 30 affordable homes, which would be secured on site through the S106 agreement. There is an undisputed need for affordable housing in Cheshire East and locally within Crewe and Willaston, which the appeal scheme would help to meet. On this basis, therefore, the proposal would make a useful contribution to the supply of both market and affordable housing in Cheshire East. Given the emphasis in paragraph 47 of the Framework on boosting the supply of housing by providing a 5 year housing land supply, this is a benefit of the proposal to which I attach significant weight.
107. It is acknowledged that the development would also bring economic benefits in terms of direct and indirect employment during its construction phase, expenditure into the local economy and New Homes Bonus payments, which the appellant has quantified. However, the scale of those benefits is limited and, accordingly, I attach only a small amount of weight to them in favour of the scheme. The contributions to education and the provision of open space and off-site highway works are designed to mitigate the negative impacts of the development and therefore carry neutral weight. Although the proposal reserves land for a scout hut, there is no mechanism for its delivery. As the potential social benefit of this is not guaranteed, I attach little weight to it.
108. On balance, therefore, taking all matters into consideration, I conclude that the combination of the harm caused to the Open Countryside, the Strategic Green Gap and to agricultural land would significantly and demonstrably outweigh the social and economic benefits of the scheme. On this basis the proposal would not constitute sustainable development. It would be contrary to the development plan and to the policies of the Framework, taken as a whole. There are no other material considerations which indicate the appeal should be determined other than in accordance with the development plan.
109. For the reasons given above, therefore, even if the Council does not have a 5 year supply of housing land at this moment in time, I am satisfied on the facts in this case that the appeal should be dismissed.

M Hayden

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Graeme Keen	of Counsel, instructed by the Head of Legal Services, Cheshire East Council (CEC)
He called:	
Jan Gomulski BA (Hons) BLD MCD CMLI	Principal Landscape Architect, CEC
Richard Taylor BA (Hons) BTP MRTPI	Principal Planning Officer, CEC
Adrian Fisher BSc (Hons) M.TPL MRTPI	Head of Planning Strategy, CEC

FOR THE APPELLANT:

Paul G Tucker	Of Queen's Counsel, instructed by Shaun Taylor, Director of Satplan Ltd
He called:	
Jon Berry BA (Hons) DipLA CMLI AIEMA MArborA	Partner, Tyler Grange
Shaun Taylor BA (Hons) MCD MRTPI	Director, Satplan Ltd
Benjamin Michael Pycroft BA (Hons) DipTP MRTPI	Associate Director, Emery Planning

INTERESTED PERSONS:

Sarah Pochin	Ward Councillor for Willaston & Rope, CEC
Colin Todd	Parish Councillor, Willaston Parish Council
John Bedford-Smith	Local Resident, Park Road, Willaston
Dave Rodgers	Local Resident, Beech Tree Close, Willaston

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 List of appearances on behalf of the Appellant.
- 2 Statement of Common Ground between Stretton Willaston Ltd and CEC, signed and dated October 2017.
- 3 Statement of Common Ground re Housing Land Supply, signed and dated 31 October 2017.
- 4 Letter from Bellway Homes Limited regarding the deliverability of the appeal proposal for land to the south of Park Road, Willaston, dated 23 October 2017.
- 5 St Modwen Developments Ltd v Secretary of State for Communities and Local Government [2017] EWCA Civ 1643, dated 20 October 2017.
- 6 Opening Submissions on behalf of the appellant, from Paul G Tucker QC, dated 29 October 2017.
- 7 Opening Statement on behalf of CEC, from Graeme Keen, dated 31 October 2017.
- 8 Statement by Councillor Sarah Pochin, dated 30 October 2017.
- 9 Statement from Colin Todd, on behalf of Willaston Parish Council, submitted on 31 October 2017.
- 10 Statement from John Bedford-Smith, on behalf of Park Road residents, submitted on 31 October 2017.
- 11 Certified copy of signed S106 Planning Obligation relating to land lying to the south side of Park Road, Willaston, Nantwich, Cheshire, dated 31 October 2017.
- 12 Lidar Height Data maps of land south of Park Road, Willaston, dated November 2015.
- 13 Agreed Statement of Common Ground relating to Landscape Matters, between CEC and Stretton Willaston Ltd, signed and dated 1 November 2017.
- 14 Statement from Dave Rodgers, resident of 11 Beech Tree Close, dated 1 November 2017.
- 15 Appeal decision for Church Lane, Wistaston, Crewe, Cheshire (Reference APP/R0660/W/15/3136524), dated 20 September 2016.
- 16 Photographs of sunset over appeal site taken from 11 Beech Tree Close, provided by Dave Rodgers, submitted on 2 November 2017.
- 17 Draft conditions agreed between CEC and the Appellant, submitted on 2 November 2017.
- 18 Willaston Neighbour Plan – Referendum Neighbourhood Development Plan 2015-2030, undated.
- 19 Appendix E: Housing Trajectory from CELPS 2010-2030.
- 20 Revised Site Access and Highway Improvement Proposals plan, drawing no. SCP/14147/F01 Rev D.

- 21 OS Plan of Kings School, Macclesfield showing Westminster Road and Cumberland Street sites.
- 22 OS Plan of Leighton West Strategic Site showing land ownership.
- 23 CIL Compliance Statement for appeal ref. APP/R0660/W/17/3168917
- 24 Corrected Table 5.1 to Adrian Fisher's Proof of Evidence on Housing Land Supply Commitment as at 31 March 2017.
- 25 Photograph with view of appeal site taken from 67 Park Road, dated 4 May 2017.
- 26 Closing submissions on behalf of CEC, from Graeme Keen, dated 3 November 2017.
- 27 Closing Submissions, on behalf of the Appellant, from Paul Tucker QC, dated 2 November 2017.

DOCUMENTS SUBMITTED AFTER THE INQUIRY

- 28 Letter from Satplan Ltd, dated 16 November 2017, providing post inquiry comments on the appeal decision for White Moss, Butterson Lane, Barthomley, Crewe (Ref. APP/R0660/W/17/3166469).
- 29 Post inquiry comments from Adrian Fisher on behalf of Cheshire East Council, dated 16 November 2017, regarding the White Moss appeal decision.

Richborough Estates