



Appeal Decision

Hearing held on 28 February and 1 March 2018

Site visit made on 1 March 2018

by A J Mageean BA (Hons) BPI PhD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 10th April 2018

Appeal Ref: APP/R0660/W/17/3176449

Land west of New Road, Wrenbury CW5 8BF

- 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 Gladman Developments against the decision of Cheshire East Council.
 - The application Ref 16/6028N, dated 13 December 2016, was refused by notice dated 8 March 2017.
 - The development proposed is the erection of up to 46 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point from New Road. All matters reserved except means of access.
-

Decision

1. The appeal is dismissed.

Procedural Matters

2. The outline planning application seeks approval for access only with all other matters reserved for consideration at a later stage. In addition to the application plans the appellant has provided two further drawings for illustrative purposes¹ and I have considered them on this basis.
3. The decision notice includes three reasons for refusal, the second and third of which relate to flood risk and insufficient information to assess agricultural land quality. A further outline application relating to this site (17/1666N), which reduced the number of dwellings proposed from 46 to 41, has also been considered by the Council. Whilst this was refused on 9 August 2017, the second and third reasons for refusal relating to the appeal scheme were not included.
4. The Council has confirmed in the Statement of Common Ground (SoCG) that the amended scheme presented in the most recent application would address flood risk concerns, and that the loss of agricultural land is not a concern. The appellant therefore has requested that this appeal be determined on the basis of 41 dwellings and the Council has confirmed that if this were to be the case it no longer wishes to defend the second and third reasons for refusal. Specifically, in relation to flood risk, this would be subject to a condition which would limit the number of dwellings to 41, and on the basis of the development being moved away from the south western boundary. It is clear to me that this

¹ 7027-L-02 rev K (Development Framework Plan) and 7027-L-03 rev C (Illustrative Masterplan)

amendment would not prejudice interested parties and so I have considered the appeal on this basis.

5. The Cheshire East Local Plan Strategy 2010-2030 (CELPS) was adopted on 27 July 2017, following the decision on the outline planning application in this case. The appeal is therefore considered in relation to the relevant policies of the CELPS, along with the relevant saved policies of the Crewe and Nantwich Replacement Local Plan 2005 (CNRLP).
6. The Council is also preparing a Site Allocations and Development Policies Document (SADPD) which will include additional non-strategic housing sites (of less than 5 hectares in size or up to 150 dwellings) and will review settlement boundaries. Consultation on an issues paper took place in spring 2017 and a full draft plan is currently under preparation to be published in the summer of 2018. However, little weight can be attached to this emerging plan. Similarly the Wrenbury Neighbourhood Plan is currently at an early stage in its preparation and therefore carries very little weight.
7. The appellant submitted a signed unilateral undertaking following the close of the hearing. This provides a financial contribution for secondary education. It also provides for 30% of the dwellings to be affordable housing. Additionally it sets out arrangements for the implementation and management of both an open space scheme, including a play space, and a sustainable drainage scheme.

Main Issues

8. The main issues are:

- The effect of the proposed development on the Open Countryside, including the landscape character of the site and surrounding area; and,
- Whether the Council is able to demonstrate a five year supply of deliverable housing sites.

Reasons

Open Countryside and landscape character

- i. Open Countryside location

9. The site is located outside the settlement boundary of Wrenbury, a village identified as a local service centre (LSC). It is therefore within the area defined as Open Countryside. Policy PG 6 of the CELPS seeks to protect the Open Countryside from urbanising development, a principle objective of the development plan. As such, only development which is essential to local needs and the rural economy is permitted under this policy. Saved Policy RES.5 of the CNRLP places similar restrictions on development. These provisions are in accordance with the National Planning Policy Framework (the Framework) in terms of recognising the intrinsic character and beauty of the countryside and supporting thriving communities within it. The appeal proposal does not meet any of the limited exceptions to these policy provisions. The conflict with the policies identified is not altered by the absence of reference to Policy PG 2 which relates to the settlement hierarchy.

10. The footnote to Policy PG 6 confirms that settlement boundaries will be reviewed through the production of the SADPD and neighbourhood plans. Until then the spatial extent of settlement boundaries are those defined in the CNRLP, amended to include sites allocated for development in the CELPS. Whilst these boundaries were drawn up having regard to housing requirements up to 2011, the age of these provisions does not undermine their status. Furthermore, the local plan Inspector expressed support for this approach, referring to the strategic nature of the CELPS and the fact that an 'appropriate and effective approach' would be to address the detailed extent of specific settlement boundaries through the SADPD.
11. Whilst the CELPS does not make any specific allocation to any of the 13 LSCs, 3500 dwellings were allocated to them. The position at 1 April 2017, as set out in the Housing Monitoring Update (HMU) was that, on the basis of existing completions and commitments, 764 units remain to be allocated at LSCs over the rest of the plan period. Therefore, whilst a methodology for apportioning growth to these settlements has not yet been identified, and the Urban Potential Study 2015² only found capacity for a further 353 dwellings in LSCs, this has not prevented commitments to addressing housing need being made. For example, in Wrenbury itself the appeal site is located directly adjacent to two recent housing developments: St Margarets Close and Marbury Meadows. These schemes are located outside the settlement boundary, but were considered acceptable on the basis that they 'rounded off' the village.
12. Evidence relating to the capacity of the LSCs to accommodate additional growth indicates that, with the exception of Wrenbury, all are constrained in some way. However, accepting that details of further non-strategic site allocations are not yet available, it does not follow that settlement specific constraints will restrict growth options to the extent that housing requirements will not be met. For example the Council confirmed the possibility that the 6 LSCs within the Green Belt could be the subject of further allocations to support local services. The fact that Wrenbury is a relatively unconstrained and well-connected village with a good range of local services and facilities cannot be a basis for presuming future allocations. Furthermore the general position and limitations of the other LSCs does not mean that further housing is needed now at Wrenbury by means of compensation.
13. Therefore, on the basis of progress to date, the interim solution identified by the local plan Inspector has not undermined the plan-led approach. Whilst it is apparent that settlement boundaries have not kept pace with recent change, and that they will be subject to further change to reflect the future needs of these settlements, they nonetheless remain the starting point for decision making. I therefore find that there is conflict with Policies PG 6 and RES.5 which seek to protect the Open Countryside in which the appeal site is located. Consideration of the second matter, the effect of the scheme on the landscape character of the site and surrounding area, will establish the extent of this conflict.

² Cheshire East Local Plan Strategy: Assessment of the Urban Potential of the Principal Towns, Key Service Centres and Local Service Centres and Possible Development Sites Adjacent to those Settlements

ii. Landscape character

14. CELPS Policy SE 4 refers to the fact that all development should conserve landscape character and quality. Whilst landscaping considerations are reserved for consideration at a later stage, it is nevertheless appropriate to consider the principle of the development in terms of its landscape and visual impacts, including the effectiveness of any suggested mitigation measures, at this stage.
15. The appeal site is currently an open field which at the time of my site visit was in use as grazing land. It is located to the south west of the village, with recent housing development bordering the site to the north west. The south east boundary is defined by New Road, which is part of National Cycleway 45. This is a single track lane bound by mature hedgerow and trees, beyond which are agricultural fields. The south western boundary is defined by the River Weaver, beyond which is a relatively open landscape of arable fields and grassland. The South Cheshire Way (SCW) footpath passes through these fields some 300m from the appeal site on a broadly east to west trajectory. To the north west the 'country park' associated with the Marbury Meadows development is taking shape, beyond which is the Shropshire Union Canal.
16. The appeal site is not a 'valued' landscape in the terms referred to by paragraph 109 of the Framework. The Landscape Character Assessment 2008 identifies this area as Landscape Character Type 7: East Lowland Plain which covers a large portion of the Cheshire landscape. More specifically the appeal site is located in the south western part of Character Area ELP1: Ravensmoor, which is noted for its almost flat topography, fields of varying size and shape defined by hedgerows and hedgerow trees, and tranquil rural character. The assessment also notes that this area has the greatest settlement density of the whole of the East Lowland Plain with a number of nucleated villages such as Wrenbury. The landscape of the appeal site generally reflects these elements, though whilst its north eastern portion is at the same level as the housing development and village beyond, there is a gradually falling gradient across the site down to the River.
17. The overall character of the appeal site is typical of this wider area but unremarkable. As such, in terms of its effect on the Ravensmoor Landscape Character Area as a whole, its development would have a minor adverse impact falling to negligible/minor at year 10.
18. Looking at its local landscape value, this field forms part of the rural setting of the village. Furthermore as it is mostly bound by hedges and hedgerow trees it retains its character as a relatively small field unit on the village edge. This contrasts with the more open field patterns further south. My view is that in these localised terms this site is of medium landscape value.
19. Turning to consider the landscape impacts of this development, whilst the illustrative 'Development Framework' suggests that most of the existing hedges and trees would be retained, the open rural character of this field would be irreversibly lost if the proposed development of 41 houses took place. Mitigation measures would include a substantial landscape buffer along the south western boundary and additional planting adjacent to the New Road frontage. The main visual effects of the development and mitigation measures would be experienced by public users of three well used local routes: New Road, the SCW footpath, and the Canal towpath.

20. When viewed from the existing edge of the village to the north east of the site, the enclosed nature of New Road combined with views of the fields beyond clearly mark the edge of the village. This would be eroded by the addition of built form and some loss of frontage hedgerow. This would to a small degree be moderated by the fact that the Development Framework suggests that built form would not fill the full depth of the field along New Road, and additional planting could in time filter views when travelling south west along New Road. Built form in this location would also be an intrusive addition to views when travelling from the south west of the appeal site towards the village. However, the fact that built development would not extend fully down the slope towards the River Weaver Bridge, and there would be a landscape buffer to soften the southern edge, would mean that this harm would be moderate in nature.
21. The lower level of the south western edge of the appeal site relative to the SCW footpath means that there is currently little screening of views from the Smeaton Hall section of the footpath towards the village. As such these views are already dominated by the built edge of the Marbury Meadows development. The gable ends of the two rows of properties on St Margarets Close are also prominent, though the gap between them enables views through, including to the village church beyond. The 10m landscape buffer included in the Development Framework would take some time to mature and provide any significant degree of screening. However, when viewed from this angle, the built form of this scheme would moderately extend the built form of the village and in time the adverse effect on such views would be minor in nature.
22. Whilst this extension to the village would be visible from the Canal towpath to the north west, views would be filtered by a range of intervening vegetation. As such the presence of this scheme would be more noticeable in winter months when the harm would be moderate/minor in nature. As time passes and vegetation associated with the parkland landscape of the 'country park' matures, albeit at a slightly lower level, this harm would diminish to become minor/negligible in nature. Users of the Country Park would also be affected through the creation of an additional built edge, though as this would be seen as an extension to the Marbury Meadows scheme in time this harm would not be significant.
23. The number of residential visual receptors would be relatively small. However, this scheme would be prominent for the residents of those dwellings on New Road, St Margarets Close and the Marbury Meadows development which are close to the site, adding to the harm found to a small degree.
24. Finally, it is relevant to consider the effect of this scheme in the context of recent residential developments in the village. Of the 8 sites having recently gained planning permission around Wrenbury, I have made reference to the two which have a direct visual relationship with the appeal site. I understand that these schemes were guided by the extent of pre-existing built form along the south eastern side of New Road. Looking at the present proposal, whilst the River Weaver might reasonably be viewed as a natural landscape boundary, this scheme would represent a piecemeal intrusion into the rural landscape to the south west of the village and would have an unbalancing effect on its form overall.

iii. Conclusion

25. In summary, whilst the landscape of the appeal site is not of significance in its own right, the local landscape character would be irreversibly harmed by the urbanising effect of this development. The further incursion of built form into what is a typically pleasant green field, providing part of the rural setting of this side of Wrenbury, would have a harmful effect on some significant local viewpoints. Specifically there would be harm to the public users of New Road and to lesser degrees the SCW footpath and the Canal towpath, as well as some residential receptors. Whilst the wide landscape buffer would to some degree mitigate this harm it would not significantly diminish the effect of the visual intrusion into an open field, the overall effect of which would be moderately adverse.
26. I therefore conclude that the proposed development would have a harmful effect on the Open Countryside, including the landscape character of the site and surrounding area. In this regard it would conflict with the CELPS Policy PG 6 and the CNRLP saved Policy RES.5 which seek to protect the Open Countryside, and the provisions of CELPS Policy SE 4 in relation to the conservation of landscape character. There would also be conflict with those aspects of CELPS Policies SD 1 and SD 2 which seek to protect the landscape character of the area.

Housing land supply

i. Housing requirement

27. The CELPS sets out the annual requirement of 1,800 dwellings per annum, with an overall housing requirement of 36,000 over the plan period (2010-2030). Whilst the parties make reference to the Government consultation proposals for a standardised approach to assessing housing need which would reduce the required figure for Cheshire East substantially, this carries little weight at this stage.
28. Against the annual requirement it is agreed that the shortfall since April 2010 is 5,365 dwellings. The local plan Inspector supported the 'Sedgepool 8' approach to addressing this backlog. This was based on the figures in the Housing Supply and Delivery Topic Paper which had a base date of 1 April 2016.
29. The appellant challenges this approach, stating that it has no support in policy or guidance. In this respect the preferred approach set out in the Planning Policy Guidance (PPG) is that any undersupply be addressed within 5 years 'where possible'³. The local plan Inspector found that such an approach would be unrealistic and undeliverable in Cheshire East, requiring an acceleration in the rate of completions out of balance with economic growth, as well as increasing pressure on green belt and high quality agricultural land. On the other hand the Liverpool approach, which would have spread the previous backlog over the whole plan period, would not have been ambitious enough.
30. Where a shortfall cannot be addressed within the first 5 years of the plan period, the PPG refers to the need to work with neighbouring authorities under the duty to cooperate. The evidence before me does not indicate whether or

³ Reference ID 3-035-20140306

how such work was undertaken. Nevertheless, the compromise solution represented by Sedgepool 8 is a well-reasoned and proportionate approach to this situation and I see no reason to depart from the local plan Inspector's conclusions in this regard.

31. The updated figures presented in the Council's HMU have a base date of 1 April 2017, which in effect rolls forward the 8 year period by a year and is a reasonable 'starting point' in this appeal. Whilst the Council argues that the 8 year period is a rolling requirement, this would have the effect of continuing to defer the redressing of the shortfall. In the same way that the PPG refers to the need to aim for any undersupply to be addressed within the first five years, the local plan Inspector also refers to the intention to fully meet past under delivery 'within the next 8 years of the Plan period'. The Housing Trajectory set out at Appendix 5 of the CELPS appears to have been prepared on this basis.
32. However, the Council has factored in the shortfall for 2016/17 into the calculation of the current 5 year requirement (2017-2022). Noting that the CELPS is less than a year old, this is not an unreasonable adjustment to make and so does not fundamentally depart from the Sedgepool 8 approach.
33. In reaching a conclusion on the housing requirement, it is also agreed that it is necessary to apply a 20% buffer, reflecting the Council's record of persistent under-delivery against the housing requirement. Therefore, for the purposes of this appeal, I have based my consideration of supply on the five year housing requirement of 14,824 dwellings.

ii. Supply of specific deliverable sites

34. The Council submits that it can demonstrate a supply of deliverable housing sites to provide 15,908 dwellings within the 5 year period, amounting to a 5.37 years supply. The appellant's position is that a lesser figure of 13,807 dwellings could be delivered, giving a 4.66 years supply. These differences are due largely to different approaches to the concept of 'deliverability' and, linked to this, the application of lead in times and build rates to specific sites.
35. Sites allocated in a development plan or with planning permission are considered deliverable unless there is clear evidence that schemes will not be implemented within 5 years. Whilst allocation or planning permission are not prerequisites for a site to be considered deliverable, where included in a 5 year supply local planning authorities will need to provide robust, up to date evidence to support the deliverability of such sites.
36. Sites which are deliverable are therefore those with a realistic prospect of being developed within a five year time frame. The key point is whether they are capable of delivery and can therefore be included in supply figures. For those sites with planning permission or allocated in a development plan this means that an assessment of deliverability, including whether or not there is a realistic prospect that this will happen within five years, will have been undertaken as part of the local plan examination and/or the process of gaining planning approval.

37. The findings of the Court of Appeal in the St Modwen judgement⁴ confirms that where a site is regarded as deliverable this does not mean that it must necessarily be certain or probable that housing will in fact be delivered upon it within five years. A distinction is made between the assessment of deliverability, which is required to illustrate the expected rate of housing delivery, and the actuality of delivery with reference to the fact that, for various financial and commercial reasons outside the control of the local planning authority, the landowner or housebuilder may choose to hold the site back. The Framework policy recognises this fact and the test of deliverability is defined accordingly.
38. This distinction was recognised by the CELPS Inspector. Whilst the Inspector stated that the Council had 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', it was also recognised that 'much will depend on whether committed and proposed housing sites come forward in line with the anticipated timescale'. On this point the Inspector's view was that whilst 'there may be some slippage or advancement in some cases, I am satisfied that, in overall terms there are no fundamental constraints which would delay, defer or prevent the overall implementation of the housing strategy'.
39. The CELPS was adopted less than a year ago, based on an examination process that cannot be replicated in the course of determining individual applications and appeals⁵. As such the conclusions reached by the local plan Inspector should only be departed from where there is clear substantive evidence that circumstances have materially changed since the examination.
40. In the present case both parties have presented additional evidence relating to the supply of deliverable sites which I consider further below, firstly in terms of the methodology underpinning the housing trajectory and secondly the information relating to the progress of the disputed sites.
41. The Housing Trajectory, which is updated to a base date of 31 March 2017 in the HMU, is based on the application of estimated build rates and lead in times to both strategic and non-strategic sites. I understand that these standard rates, as set out in Appendix 5 of the HMU, have evolved over time to reflect past experience and feedback from stakeholders. This methodology, which the Council acknowledges is used as the default position when assessing sites, indicates that deliverable strategic sites without planning permission are expected to start delivering at year 3 from the base date of 31 March 2017, and deliverable strategic sites with outline or full planning permission are expected to start delivering at year 2.
42. Whilst the Council's approach to build rates is accepted, the appellant challenges lead in times following an assessment of 26 strategic sites. This indicates that the average time that sites with planning permission have taken from the submission of the first application to the approval of reserved matters is three years. This is reduced to 17.5 months where a full rather than outline application is submitted at the outset. An assessment is also made of the length of time from permission to the date of the first recorded completions on sites of between 50 and 100 dwellings, and also those over 150 dwellings,

⁴ St Modwen Developments Ltd v SoSCLG [2017] EWCA Civ 1643

⁵ Reference ID 3-033-20150327

- which were under construction on 31 March 2017. This indicates that after approvals are in place there is an average period of 13 months before the first dwelling is delivered.
43. This evidence indicates that it has taken an average of between 3 and 4 years for strategic sites without planning permission to start delivering dwellings, significantly longer than the rates underpinning the Council's Housing Trajectory.
44. This point was considered by the Inspectors in the White Moss⁶ and Park Road⁷ appeals, with the Council's methodology criticised due to a lack of transparent evidence base. In both cases the appellants' more up to date data was preferred. Furthermore, the appellant in the present case considers that the methodology underpinning the HMU should have been revisited to take into account completions achieved in 2016/17.
45. In response the Council has provided evidence relating to the analysis of 16 sites of varying size on which development has commenced between April and December 2017. This demonstrates that the median time between the date of outline permission and the date of first construction is 1.47 years, and from the date of detailed permission and the start of construction is 0.43 years. When compared with the delivery expected when using the standard methodology, this indicates that 7 of the sites are ahead of schedule and 9 are on target. Whilst this is a relatively small sample it does have value in its currency. It indicates that the assumptions underpinning the Council's Housing Trajectory are not fundamentally over-optimistic.
46. The reality is that lead in times are influenced by a range of factors including both the efficiency with which planning applications and associated requirements are processed, and the capability of the housing development industry to mobilise and deliver on site as expected. On the first of these points the appellant refers to the length of time it takes to negotiate and sign section 106 agreements. It is suggested that this can take an average of 10.6 months for strategic sites with outline planning permission and 7.75 months on sites where a full planning application was made. Reference is also made to the Council's recently adopted design guidance causing delays with reserved matters applications. However, once developers become familiar with the design guidance this will be unlikely to hold up applications, and over the 5 year period its introduction is unlikely to make a significant difference.
47. On the other hand, securing delivery on the ground involves factors beyond the Council's control such as the availability of finance, the marketing and sale of non-developer owned sites and the build programmes of housebuilders.
48. More generally, the recent direction of travel is positive. The HMU indicates that over 20,000 dwellings had planning permission or resolution to grant planning permission at 31 March 2017, a significant commitment to housing delivery. The completion figures for 2016/17 at 1,762 were below that forecast, falling a little short of the 1,800 requirement and making no inroads into the shortfall. Nevertheless this was a 20% increase on completions in the previous year. Completions in the first three quarters of the current year were at 1,509, suggesting that total completions will exceed the previous year.

⁶ APP/R0660/W/17/3166469

⁷ APP/R0660/W/17/3168917

There have also been improvements in the timeliness of processing planning applications, at a time when Cheshire East ranks third in England in terms of the number of planning applications received.

49. Turning to the matter of the disputed sites, many of these were assessed as part of the Local Plan Examination and were also considered by the Inspectors in the Park Road and White Moss inquiries. Whilst the Council has made some concessions to delivery on a small number of sites, there remain differences between the parties in terms of expected delivery relating to 34 sites.
50. In reviewing the circumstances of each of the disputed sites, I have been mindful of the requirement to consider their deliverability and that, unless there is evidence to the contrary, it is reasonable to apply the standard lead in time and build rate methodology. As such I find from the evidence before me that in 18 cases the application of the standard methodology is realistic and that delivery is likely to occur in line with its expectations⁸.
51. I also find that whilst a further 13 of the sites are deliverable, the application of the Council's standard lead in time and build rate methodology is questionable, and could be over-optimistic⁹. In these cases the Council has assumed that the nature of the site suggests that they will have more than one outlet delivering, whereas the methodology states at footnote 3 that there will need to be sufficient evidence to support this. However, the PPG also states that on the largest sites allowances should be made for several developers to be involved¹⁰. As 7 of these sites are for 500 units or more it is reasonable for the Council to assume a higher build rate. Nevertheless, because the forecasted build out rates for the remaining 6 sites do not reflect the standard methodology, I have deducted 181 units¹¹ relating to the sites of less than 500 units from the number of dwellings regarded as deliverable within the 5 year period.
52. Of the remaining 3 sites, two of these (4302 and LPS14) relate to the Kings School in Macclesfield. The first of these is currently the site of the school and its playing fields, the second, land off Fence Avenue, Macclesfield is also part of the school estate. Timescales for the move of the school to a new site have been provided and it is possible that some of the sports pitches could be released early. However for a site to be deliverable in the terms set out in the Framework Footnote 11, the site is required to be 'available now'. As such, and noting that the Council have already amended their trajectories for these sites, the lower figures suggested by the appellant are more realistic in these cases. Similarly site 406, Victoria Mills in Holmes Chapel, is still in employment use and therefore not available now. Whilst the Council states that new premises have been found to enable relocation to take place, the deliverability of this site is not clear and therefore the lower delivery figure suggested by the appellant is more realistic. As a result of these alterations I have deducted a further 150 units.
53. 93 small sites with planning permission are also included in the supply figures and together account for 152 dwellings. I understand that these were recorded as 'under construction' in the Strategic Housing Land Availability Assessment 1

⁸ Sites: 1934, 5899, 5672, 2612, 5709, 4725, 2896, 4572, LPS2B, LPS4B, LPS9, LPS11, LPS17, LPS28, LPS36B, LPS38, LPS43, LPS57.

⁹ Sites: 3175, LPS5, LPS2A, LPS37, LPS42, LPS4A, LPS6, LPS8, LPS13, LPS27, LPS29, LPS33, LPS36A.

¹⁰ Reference ID 3-023-20140306

¹¹ Deductions: 3175 11 units; LPS2A 20 units; LPS37 30 units; LPS42 20 units; LPS6 45 units; LPS36A 55 units.

April 2012, and that no progress has been made in the past 5 years. However, the Inspector in the Park Road inquiry heard evidence that 27 of these units have been completed but not recorded. As such, and without evidence to the contrary, the remaining sites are deliverable and should therefore form part of the supply.

54. Overall, whilst it is clear that there are a range of factors influencing actual delivery, I see no reason to depart from the principles set out in both government policy and the Council's lead in time and build rate methodology. Furthermore, the appellant has not presented clear evidence that these sites are not deliverable. On this basis I conclude that in total 331 units should be deducted from the Council's supply figure, reducing it to 15,577.

iii. Conclusions on housing land supply

55. The Council has not been able to demonstrate a five year supply of housing land in previous years. Furthermore, many strategic sites have not progressed as quickly as those promoting them claimed they would. These facts have been accepted as a persistent record of under delivery of housing. Therefore, in line with government policy on this matter, the required 20% buffer has been applied to supply figures. This is to provide a realistic prospect of increasing housing supply and to ensure choice and competition in the market.
56. My conclusion on current supply figures is that, accepting the Sedgepool 8 approach to addressing undersupply/shortfall and a 20% buffer, the Council has demonstrated a little over five year housing land supply. The findings of the Inspectors' in the White Moss and Park Road appeals challenged the robustness of the Council's 5 year housing supply. Of note in both cases was the fact that the local plan Inspector's conclusions were based on evidence with a base date of March 2016, with the HMU only becoming available in August 2017, as well as additional evidence relating to lead in times and build rates and a review of progress with disputed sites. The Inspectors in these appeals adopted a precautionary approach on the basis that at best the five year supply was marginal, which has been similarly applied in more recent appeals determined by written representations¹². However, my view is that it is right to take account of the most recent events including what has been happening 'on the ground'.
57. Whilst I have concluded that at the present time the supply of housing land is not quite as healthy as the Council believes, there is a supply which exceeds the five year requirement. When considered along with recent facts relating to both the supply of land and delivery of housing units, I see no reason to depart from the conclusions of the local plan Inspector in finding that there is sufficient provision to ensure that local housing needs can be met.

The Planning Balance

58. Applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In this case I have found that the proposal would be contrary to CELPS policies relating to the protection of both the Open Countryside and landscape character. I have also examined evidence relating to the supply of housing

¹² APP/R0660/W/17/3177499 and APP/R0660/W/17/3185440

land and found that the Council has identified a supply of deliverable sites sufficient to provide five years' worth of housing against current requirements, with an additional 20% buffer. As such the circumstances of this case do not trigger the operation of the fourth bullet point of the Framework paragraph 14.

59. I recognise that there would be some economic and social benefits arising from the provision of additional housing in an accessible location, including 30% affordable housing. Open space would be provided, and a new footway along New Road would improve pedestrian access to the site. I also recognise that the support to local services and businesses would provide both short and longer term economic benefits. Overall I attach moderate weight to these benefits.
60. However, whilst these benefits are material considerations, even when taken together they are of insufficient weight to overcome the conflict with the development plan taken as a whole. The appeal is therefore dismissed.
61. The appellant has also submitted a properly executed unilateral undertaking. The tests in paragraph 204 of the Framework and Regulations 122 and 123 of the Community Infrastructure Regulations 2010 (as amended) apply to such contributions. However as the appeal before me is to be dismissed on its substantive merits, it is not necessary to consider this document against these requirements. The only exception is the provision of affordable housing which I have taken into consideration.

AJ Mageean

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Kevin Waters	Gladman Developments
Ben Pyecroft	Emery Planning
John Barrett	Counsel for Gladman Developments
Keith Nye	FRCR

FOR THE LOCAL PLANNING AUTHORITY:

Adrian Fisher	Cheshire East Council
Graeme Keen	Counsel for Cheshire East Council
Gareth Taylerson	Cheshire East Council
Ian Dale	Cheshire East Council

INTERESTED PERSONS:

Steve Barker	Gladman Developments
Beth Carr	Gladman Developments
Sian Gulliver	Gladman Developments
Sam Platt	Gladman Developments
Amy Watson	Gladman Developments
Pam Cunio	Cheshire East Council

DOCUMENTS SUBMITTED AT THE HEARING

- 1 Statement of Common Ground – Final
- 2 Final Statement of Common Ground on Five Year Housing Land Supply
- 3 Appellant's submission in relation to the Court of Appeal judgement in the St Modwen Developments Case
- 4 Community Infrastructure Regulations 2010 Compliance Statement, Land west of New Road, Wrenbury
- 5 Badger Survey Report
- 6 Plan relating to LPS 27, Congleton Business Park
- 7 Plan relating to LPS 11, Broughton Road
- 8 Plan relating to LPS 9, Shavington Triangle
- 9 Email dated 12 02 18 relating to LPS 2, Basford East
- 10 Email dated 28 02 18 relating to appeal decision 3177499, Shavington Villa
- 11 Appeal Decision APP/R0660/W/17/3177499
- 12 Appeal Decision APP/R0660/W/17/3185440
- 13 Cheshire East response to Gladman's submission on the St Modwen Court of Appeal judgement
- 14 Appeal Decision APP/X2220/W/17/3174842
- 15 Cheshire East Local Plan Strategy Appendix E: Housing Trajectory
- 16 Cheshire East Local Plan Strategy Section 15.22: High Speed Rail 2
- 17 Summary table on disputed sites
- 18 Table showing differences in Council and Appellant housing positions