
Appeal Decision

Inquiry held on 28-31 January and 24 and 25 February 2014

Accompanied site visit made on 30 January 2014

by M Middleton BA(Econ) Dip TP Dip Mgmt MRTPI

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

Decision date: 11 April 2014

Appeal Ref: APP/R0660/A/13/2196044

Elworth Hall Farm, Dean Close, Sandbach, Cheshire, CW11 1YG

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Rowland Homes Ltd against the decision of Cheshire East Council.
 - The application Ref 12/2426C, dated 20 June 2012, was refused by notice dated 22 February 2013.
 - The development was described as the erection of 96 dwellings together with associated works, including the creation of approximately 10 hectares of open space and recreation land (phase 2), and the amendment of Plots 16 and 17 previously approved under reference 10/2006C (Phase 1).
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Decision

1. The appeal is allowed and planning permission is granted for the erection of 94 dwellings together with associated works, including the creation of approximately 10 hectares of open space and recreation land (phase 2), and the amendment of Plots 16 and 17 previously approved under reference 10/2006C (Phase 1) at Elworth Hall Farm, Dean Close, Sandbach, Cheshire, CW11 1YG in accordance with the terms of the application, Ref 12/2426C, dated 20 June 2012, and the plans submitted with it, subject to the conditions in the attached schedule.

Procedural matters

2. Whilst the Council were considering the application, the Appellant agreed to redesign the part of the layout that affected plots 69 to 72, as defined in the submitted application. This had the effect of reducing the number of dwellings by one. At the Inquiry the appellant agreed that if I came to the conclusion that the construction of a dwelling on Plot 49 would have an adverse effect on the impact of the development, when viewed from the countryside and weighed heavily against the proposal, then that dwelling should be omitted. As discussed in paragraph 53 below I came to the conclusion that it would adversely prejudice views of the site from the public footpaths to the north-west. As a result, the number of dwellings approved is 94.
3. As well as on an accompanied site visit on 30 January 2014, I visited the appeal site and its locality, Sandbach town centre and its railway station and the surrounding countryside unaccompanied on 27 January, 23 and 27 February 2014.

4. Although, when it made its decision, the Council considered there to be a five year supply of housing land within Cheshire East, it subsequently decided that there was not. It maintained this position until the Inquiry. On the second day it announced that it considered that it had a five year supply of housing land and was about to publish a document that demonstrated this. I allowed a document that set out the Councils revised five year land position to be submitted to the Inquiry.
5. To give the Appellant an opportunity to examine this document and if necessary to afford it an opportunity to submit contrary evidence, no evidence was heard with respect to housing land supply during the next two days. This time was spent considering all of the other evidence and representations, including potential conditions and the proposed Section 106 Agreement. The Inquiry was adjourned until 24 February, when evidence on the five year land supply was heard. The Inquiry also sat on 25 February to complete the presentation of this evidence and to conclude other outstanding matters.
6. The Appellant submitted a signed and sealed Agreement made under Section 106 of the Town and Country Planning Act 1990 between itself, its bank, a mortgagee and Cheshire East Borough Council. In this document the Appellant agrees, if planning permission is granted, to provide twenty nine of the dwellings, to be constructed as a part of the development, as affordable housing and to make financial contributions towards the provision of improvements to local education facilities and highways. It also agrees to provide public open space in accordance with details to be approved and to establish a management company to be responsible for the future maintenance of such parts of this open space as are not transferred to other bodies.
7. I discuss the details of the matters proposed in the Agreement and their appropriateness in the body of my decision letter. The Deed includes a clause that says that the covenants and obligations shall not apply or be enforceable, if I state in the decision letter that such obligations are unnecessary or otherwise fail to meet the relevant statutory tests. However, I am satisfied that the measures, as set out and commented on below, comply with the provisions of Circular 05/2005: *Planning Obligations*, are necessary to make the development acceptable in planning terms and meet the *Community Infrastructure Levy Regulations* (CIL) 2010.

Planning Policy

8. The Development Plan (DP) now consists of the *Congleton Borough Local Plan First Review 2005* (CBLP). This made provision for development within the part of Cheshire East Borough, covered by the former Borough of Congleton, until 2011. A replacement plan, *Cheshire East Local Plan*, is now being prepared. Consultation took place on a Pre Submission Draft of the *Local Plan Core Strategy* (CS) at the end of 2013. Revisions to this have now been approved by the Council. It is anticipated that this part of the LP will be submitted to the Secretary of State for examination later this year. Adoption is not expected before 2015 at the earliest. The timetable for the *Site Allocations and Development Policies* document is longer, with adoption not anticipated before 2016. I was told that there is a considerable weight of opposition to the relevant CS policies. In such circumstances this plan attracts very limited weight in the context of its development strategy and options for development.

9. The thrust of the CBLP development policies is to concentrate new development within or on the edge of defined towns and villages of which Sandbach is one. Settlement zone lines (SZLs) were defined within which there is a presumption in favour of development. Outside SZLs is open countryside, where development is to be restricted. CBLP Policy PS8, which has been saved, defines the purposes for which development in the open countryside will be permitted. CBLP Policy H6, which is also saved, sets out the circumstances in which new residential development will be allowed in the open countryside. Although adjacent to the existing built up area, the proposal is not within the development limits of Sandbach as currently defined by the SZL or for any of the purposes listed in Policy PS8 or the categories listed in Policy H6. The proposal is therefore contrary to these Development Plan policies.
10. The SZLs were defined in order to allow for sufficient growth to meet future land use needs for the plan period. Thus the development limits of Sandbach were last defined in the context of the development needs until 2011. LP paragraph 2.53 specifically says that the SZL is not intended as a long term boundary. In a post 2011 situation, this boundary constrains development at Sandbach, including housing. A blanket opposition to all development in the countryside not permitted under CBLP Policies PS8 and H6 is clearly time expired and can attract little weight in this context, particularly as it was agreed that the establishment of a new SZL is essential if land for further development at Sandbach is to be proposed in the emerging plan.
11. Nevertheless, as LP paragraph 2.52 explains, the SZL's were also defined to protect the character of settlements and important views of the surrounding countryside, as well as to protect the countryside from development in order to preserve its intrinsic character and beauty. The thrust of LP Policies PS8 and H6 is consequently to protect the countryside from unnecessary development, which is expressly recognised in the Framework at paragraph 17. I therefore consider this aspect of the policies to be in conformity with the Framework and capable of attracting significant weight.
12. However, given the acceptance that greenfield land is required for future development, it is clearly inappropriate to rigidly apply Policies PS8 and H6 to every part of the countryside as previously defined and refuse planning permission for all proposals within this area just because they do not meet the criteria in Policies PS8 and H6. In a period when the housing supply policies are not up-to-date, the degree of harm to the countryside's character and appearance, the importance of affected views of and from the countryside and the impact of a particular proposal on settlement character need to be assessed when considering the appropriateness of sites for development.
13. Paragraph 14 of the Framework says that where the relevant DP Policies are out of date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or specific policies in the Framework indicate that development should be restricted. The DP Policies that regulate the supply and location of housing at Sandbach are time expired and out of date. I have not been referred to any specific restrictive policies.

Main Issues

14. Draft issues were circulated before the Inquiry and were discussed and amended at its beginning. In the above context and from all that I have read, heard and seen I consider the main issues to be
- a) Whether Cheshire East now has a five year housing land supply.
 - b) Whether the proposal is sustainable development within the meaning of paragraph 7 of the National Planning Policy Framework and if so
 - c) Whether the benefits of the proposal are significantly and demonstrably outweighed by any harm to the character and appearance of the local countryside, highway safety within Elworth and any other harm attributable to the development such that the presumption in paragraph 14 of the Framework to favourably consider applications for sustainable development is outweighed.

Reasons

15. The appeal site is located at the north-eastern edge of Elworth, which is now a large urban area within Sandbach Parish. The part proposed for residential development abuts earlier residential development, along its southern and western boundaries, that was mostly constructed in the latter part of the twentieth century but some as recently as 2013. To the north and east it is adjacent to the open countryside. A substantial area in the northern and eastern parts of the site would be laid out as informal open space with landscape and ecological enhancements. Vehicular access would be taken from Wrenmere Close and pedestrian/cyclist access from that road and Dean Close. Wrenmere Close joins Lawton Way, from where there are a number of routes to the A533 Middlewich Road. This leads to the centre of Sandbach as well as to other destinations.

Housing land supply

16. The Council's revised Position Statement on housing land supply, submitted to the Inquiry, suggests that there was either a 5.86 or a 5.13 years supply depending upon whether or not a 5% or a 20% buffer is included in the calculations. The Appellant disagreed, considering 3.95 and 3.45 years to be more accurate.
17. The parties are agreed that the North West Regional Strategy (RS) housing requirement for Cheshire East (1150 dwellings per annum) is still the only rigorously tested evidence base to establish need. The calculations on the backlog and available supply are complicated by the facts that the completions information is up to 31 December 2013, whereas the five years do not begin until 1 April 2014. Nevertheless, in the overall context there is little difference and the Appellant accepted that on the Council's analysis there would still be more than a five years supply. It is agreed that the backlog should be incorporated into the five year need calculation.
18. The Framework says at paragraph 47 that in addition to a five year supply of specific deliverable sites, sufficient to provide five years worth of housing against housing requirements, an additional buffer of 5% should be provided to ensure choice and competition in the market for land. Where there has been a

record of persistent under delivery of housing, local planning authorities should increase the buffer to 20%.

19. The area that now comprises the administrative area of Cheshire East has not met its housing targets since 2008/9. That is almost six years, during which time there has been persistent under delivery that now amounts to over 3,000 dwellings. The former Congleton Borough, in whose area Sandbach is located, also failed to meet its housing target in 2006/7 and 2007/8. The fact that the former Borough of Crewe and Nantwich, which was promoting economic growth policies, had a housing surplus that in a Cheshire East analysis masked this under delivery is not a basis for arguing that there was not under delivery. In the context of this appeal site's location there has been persistent significant under delivery of housing for some time. The Framework is clear that where there has been a persistent record of under delivery then the buffer should be 20%.
20. I am aware that some of these years of shortfall coincided with the recession but I am not persuaded that an unavailability of sufficient housing land for a considerable period of time has not been the major cause of the under delivery within Cheshire East. Historically the Borough of Congleton was subject to housing restraint policies and this is a relevant consideration. However, whilst the moratorium could have contributed to the under performance in 2006/7, it was abundantly clear by 2007, when the Examination in Public into the North West Regional Strategy 2006 was held that this was coming to an end. Despite this, no action was taken to boost the supply of housing for a number of years. I also note that in his decision on the land off Abbey Road and Middlewich Road Sandbach appeal (October 2013), (Document 38), the Secretary of State said that "an additional 20% buffer to reflect persistent under delivery over the last 5 years, accords more closely with the Framework requirement to boost significantly the supply of housing".
21. Using the Council's figures there is a 5.13 years supply of housing land or a surplus of about 86 dwellings. However, on the supply side the Council has changed its assumptions concerning build rates and lead in times from those used in its 2012 assessment. Lead in times have been reduced by a year and the annual rates of dwellings delivered on sites accommodating more than 500 dwellings increased. At my request the Council analysed the lead in times and build rates on large sites given planning permission since 2000. The experience at a number of sites does show that short lead-in times are possible. However, for the most part these sites had a history and in a number of instances the starting point of the analysis was a renewed or revised planning permission rather than the original grant of permission. Overall it is difficult to conclude from this information that average lead in time is not similar to that assumed in the 2012 analysis. If this were the case then there would not be a 5 years supply with a 20% buffer.
22. There are no historic sites that have delivered more than 500 dwellings and although I agree that large sites are likely to be built out by more than one developer, each attempting to supply a different part of the overall market, without more evidence, the proper course of action in circumstances where there is no indication of widespread building industry support for the Council's new position, would have been to take a cautious and conservative approach on build rates. Paragraph 03-0020 of the National Planning Practice Guidance

(Guidance) says that the advice of developers and local agents will be important in assessing lead-in-times and build-out rates by year.

23. Additionally about 40% of the houses that are assumed to be delivered within five years do not have planning permission. These dwellings would be built at strategic sites, sites awaiting legal agreements and windfalls. I accept that there is evidence that justifies the inclusion of windfalls in later years. However, although some development may be achieved on strategic sites, if the Council takes a liberal view in granting planning permission in advance of the adoption of the Core Strategy, their early development is by no means a certainty. Given the level of objections to some of them, legal challenges cannot be ruled out and significant infrastructure requirements will undoubtedly cause delays at some sites.
24. There was a distinct lack of credible hard evidence to justify the projections for some of these sites and consequently it would be unwise to place too much reliance on the potential for delivering a significant amount of the housing requirement from such sources. About half of these sites are not yet the subject of planning applications and matters such as Environmental Impact and traffic assessments have still to be determined at some of them, not withstanding the need to relocate existing occupiers from more than one of the sites. 18% of the dwelling requirement is meant to come from this source. I am not persuaded that the evidence confirms that such optimism is justified.
25. Whilst I note that the Council intends to improve the delivery of legal agreements that are necessary to enable planning permissions to be granted, until this begins to happen there is no certainty that nearly 20% of the five year supply could be delivered from this source. In any event legal agreements will only be executed speedily if all parties wish them to be and that is not always the case.
26. The 2012 analysis was prepared in full consultation with the development industry. It appears to have been less involved with the more recent analysis. There was a workshop held for members of the Housing Market Partnership in December 2013 but the minutes suggest that it fell far short of approving the Council's revised approach. Unlike the position in 2012, the Housing Market Partnership does not appear to have endorsed the methodology and conclusions of the updated Strategic Housing Land Availability Assessment and the Five Year Housing Land Supply Position Statement. This further undermines the confidence that I have in the findings.
27. Following a consultation on the publication of the Planning Practice Guidance (Guidance), the Council pointed out that at paragraph 3-037 the guidance introduced accommodation for older people into the supply of housing. The Council suggests that six residential institutions (use class C2) granted planning permission since 2012 would accommodate about 360 elderly persons, although it does not suggest how many households this accommodation would replace. The Appellant questioned the legitimacy and deliverability of some of these schemes, some of which were initially granted planning permission before 2012. There is also no information as to how this group was treated when the RS was establishing future housing requirements. However, such is the likely overall shortfall that I am not persuaded that even if 360 beds were to be provided in residential care homes over the next five years and that provision resulted in a similar reduction in the overall dwelling

requirement, there would be a five year supply. I conclude that the Council has not demonstrated a five year supply of deliverable housing sites. Paragraph 49 of the Framework says that in such circumstances relevant policies for the supply of housing should not be considered up-to-date.

Sustainable development

28. At Paragraph 7 the Framework points out that there are three dimensions to sustainable development: economic, social and environmental. The three roles are mutually dependent and should not be taken in isolation. As portrayed, sustainable development is thus a multi faceted, broad based concept. The considerations that can contribute to sustainable development are not always positive and it is often necessary to weigh relevant attributes against one another in order to arrive at a balanced position. The situation at the appeal site in this respect is no exception. Whilst the distribution of employment, services and facilities and the need to travel to them, is a major influence on the establishment of a sustainable pattern of development, in the context of the definition put forward by the Framework, such environmental considerations are not necessarily paramount.
29. Development contributes to the building of a strong and competitive economy, creating local jobs in the construction industry as well as business for and jobs in the building supply industry. This is particularly important in times of economic austerity and is emphasised in paragraph 17 of the Framework, which supports sustainable economic development to deliver the homes, business and infrastructure that the country needs. Whilst such jobs and business could be generated by development anywhere and in the context of Cheshire East there may well be locations that are more sustainable than the appeal site that is not the issue. At the present time this Borough is falling far short of its requirements in terms of housing construction and building land is in short supply. In such circumstances, the availability of any site that could contribute to house building and economic development, in the short term, should attract weight. Unless any adverse impacts of the development significantly and demonstrably outweigh the benefits then it should be given planning permission.
30. The appeal site is available. A well established building company with a track record of delivering a significant number of new dwellings in a short period of time has acquired the site. There is no evidential reason to doubt their stated intention to commence construction as soon as site preparation allows, assuming planning permission is obtained. The development does not require the provision of off-site infrastructure and although significant site remediation is required, there is no evidence to suggest that this would unduly delay the development. There is no insurmountable reason why this site could not be built out within five years, thereby making a significant contribution to housing supply in the short term. The Appellant is content for the time limitation conditions to be adjusted to encourage this and this contribution to the economic dimension of sustainability attracts further weight.
31. Sandbach centre serves the surrounding rural catchment, as well as over 18,000 persons who live in the parish itself. Consequently, for its size, it has a very good range of retail and service facilities that includes two supermarkets, a frozen food store, a wide range of independent shops, eating and drinking establishments, a library and health facilities. There are also two smaller

supermarkets in Elworth itself. At the times of my site visits, Sandbach centre showed all the visual signs of a vital and viable centre. The town also has schools and justified financial contributions from the development would facilitate the necessary expansion required to accommodate pupils from the additional housing. In these contexts Sandbach is and would remain a very sustainable location for new development.

32. However, not all of the facilities are within easy walking distance of the appeal site, the town centre being about 2 km away. Nevertheless, even the Council's assessment that is based on the North West Sustainability Checklist (Document 25) and more pessimistic than that put forward by the Appellant, suggest that the site meets the minimum standard in half of the categories used to assess accessibility. It also says in its committee report that the site is sustainably located in respect of facilities such as shops, schools, bus routes and the railway station and concludes that the site is locationally sustainable. Additionally, paragraph 38 of the Framework identifies primary schools and local shops as key facilities that should be located within walking distance of most residential properties. They are both within easy walking distance of this site. In these contexts, the appeal site is a sustainable location for development. These environmental considerations give further weight to the sustainability credentials of the appeal site.
33. The bus routes that pass along Middlewich Road are close to but not above the limits of most people's walking distance to bus services and an hourly in-town service that operates in the day time, traverses the adjacent housing estate and passes close to the appeal site. An appropriate condition would ensure that the proposed Travel Plan is prepared and successfully implemented. This should further increase the use of public transport and its overall viability in the context of Sandbach.
34. However, despite their quality, the facilities in Sandbach are not sufficient to totally sustain the local population. Consequently, most residents travel elsewhere for some elements of comparison shopping and some visit larger supermarkets elsewhere. Crewe being the most popular destination. Many residents would be likely to make these journeys by car. In such circumstances it would not be easy to tempt residents of the new development away from this mode of travel by the initiatives that could result from the Travel Plan. Although the use of internet shopping and home delivery is on the increase, the likelihood is that most families would travel by car to supermarkets in Sandbach or elsewhere for their major convenience shopping, as well as to other centres for comparison shopping, for some considerable time to come. This is not a sustainable outcome and weighs against any future development in this part of Elworth.
35. Paragraphs 94 and 95 of the Framework, in discussing climate change, say that local authorities should adopt proactive strategies that plan for new development in locations and ways that reduce greenhouse gas emissions. Sandbach is at least five miles from the concentrations of employment in the surrounding towns and the travel to work information suggests that aided by the excellent road transport connections afforded by the M6, some persons in employment travel much further than this to work. Nevertheless, more than half of the town's working population work within Sandbach and its immediate environs (including home based employment). Most of the remainder travel to the surrounding towns, particularly to Crewe.

36. The town's railway station is about 700 metres to the west of the appeal site. It has regular services to Manchester and Crewe. There are also regular bus services to Crewe and Northwich from Middlewich Road. Consequently, if the Travel Plan is suitably designed and implemented, there are good opportunities to encourage residents of the appeal site, working in other towns, to use public transport when travelling to work. When compared to sites to the east of Sandbach and close to the M6 motorway and from where lengthy journeys to work by car are clearly feasible, the appeal site has far more potential to encourage sustainable work journeys. In the context of the movement to a low carbon economy this site is consequently more environmentally sustainable than many other sites in and around Sandbach. Overall the locational sustainability of this site is positive.
37. Whilst paragraph 34 of the Framework says that decisions should ensure that developments that generate significant movement are located where the need to travel can be minimised and the use of sustainable transport modes can be maximised, it also says that this needs to take account of other policies set out elsewhere in the Framework. The Strategic Housing Market Assessment (2013) suggests that there is a net future need for about 1400 affordable homes each year within Cheshire East and 94 within Sandbach parish. In the past eight years an average of about 230 has actually been constructed each year within the Council's area. There clearly needs to be a step change in the delivery of affordable housing. Paragraph 54 refers to the need to plan housing development to reflect local needs, particularly affordable housing. It points out that there is a need to consider whether allowing some market housing would facilitate the provision of significant affordable housing to meet local needs. In accordance with the *Affordable Housing and Mixed Communities Supplementary Planning Document (SPD)*, the Section 106 Agreement secures the delivery of 29 (30%) affordable dwellings if planning permission is granted and the development is implemented.
38. These would contribute to the meeting of this identified need at a time when the means to create affordable housing on a large scale are limited. The ability of the site to provide affordable homes in a development of mixed house types, as well as tenures and with the affordable homes all constructed to Code for Sustainable Homes Level 3 standard, would assist in supplying the housing required to meet the needs of present and future generations at Sandbach to a good standard. These contributions to social sustainability are all encouraged by the Framework and in the context of a historic poor delivery of affordable homes attract significant weight. The intention to dispose of surface water by means of a Sustainable Drainage System if ground conditions allow and to incorporate sustainable design features into all of the dwellings, both of which could be affirmed by conditions, also adds further weight to the environmental credentials of this proposal's sustainability.
39. The Framework at paragraph 112 requires account to be taken of the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, the use of areas of poorer quality land in preference to that of a higher quality should be sought. According to an assessment undertaken for the Appellant and based on the former Ministry of Agriculture Fisheries and Food Land Classification, the land is grade 3a quality agricultural land. Saved CBLP Policy NR8 requires such land to be protected from development wherever possible.

40. However, much of the site has been tipped on, with subsequent capping and restoration to grazing land. Insufficient attention appears to have been paid to drainage so that there are areas where it is poor and others where the vegetation suggests that the land is waterlogged for significant periods. This must reduce the value of this land to agriculture.
41. Furthermore, much of the agricultural land in this part of Cheshire is grade 2 or 3a and it was agreed that significant areas of agricultural land would have to be developed if the Council's housing targets are to be met. The farmstead itself has already been redeveloped and apart from the appeal site, the land formerly associated with it has been built upon or is used for other purposes. Consequently, the proposal would not result in the break up of a viable agricultural holding. I therefore attach only limited weight to the loss of this site from agricultural use and its potential conflict with saved CBLP Policy NR8.
42. Additionally, there is evidence of contamination on the site and escaping gas, a consequence of organic material that was tipped on the site some years ago. In discussing the environmental role of sustainability, the Framework says that the planning system should seek to minimise waste and pollution. Prior to the implementation of this proposal, further site investigations into the extent of contamination would be undertaken and a full remedial scheme implemented, recycling and reusing most of the material on the site. This remediation would be a benefit of the scheme, both for the area's existing population and for future generations and weighs in the proposal's favour.
43. The Appellant proposes to lay out in excess of 10 hectares of land as informal public open space. Whilst not all of this land would be required to meet the needs of the development, there is an overall shortage within Sandbach. The Council's *Open Spaces Summary Report: Sandbach* concludes that there is a shortage of nearly twenty hectares of open space for outdoor sports, for teenagers and amenity greenspace. It also points out that the majority of Sandbach residents have little or no access to natural or semi-natural open space and that improved access to such areas and green corridors is important. The proposal would undoubtedly help to address these identified shortfalls.
44. At the Inquiry I expressed concerns about the uncertainties surrounding the long term management of this area. However, providing this can be satisfactorily secured and in signing the Section 106 Agreement the Council clearly considers that it can, this area of open space has the potential to become a valued recreational and ecological amenity and an asset to the town. Conditions could ensure that the area is appropriately designed and laid out from both an ecological and a recreational point of view. This aspect of the proposal clearly has the potential to provide opportunities for landscape and nature conservation enhancement. The wider benefits of this open space clearly weigh in favour of the appeal proposal and its environmental sustainability.
45. As I discuss below the proposal need not have an adverse impact on the character and appearance of the countryside or the landscape and its impact upon nature conservation would be positive. Despite the likelihood of a high use of the private car for journeys outside of Sandbach and to its town centre, particularly for shopping and the consequent adverse impact on climate change, as well as the loss of Grade 3a agricultural land, in the round I consider overall that the site is a sustainable location for residential

development in the context of the meaning within paragraph 7 of the Framework. The Council's 2013 Strategic Housing Land Availability Assessment, in identifying this site as available, achievable and developable for housing, presumably came to a similar conclusion.

Character and appearance of the local countryside

46. Sandbach is located within the Cheshire Plain, which gradually rises away from the north of the town and the appeal site. The 2008 Cheshire Landscape Character Assessment includes the site within the Winboldsley Character Area. This is described as a predominantly flat, large scale landscape with relatively few hedgerow trees or dominant hedgerows. When combined with its low woodland cover this creates an open landscape with long views in all directions to distant skylines.
47. LP Policy GR5 requires development to enhance landscape character and not to impact adversely on it or lessen the visual impact of landscape features when viewed from areas generally accessible to the public. Particular attention is to be paid to the protection of features that contribute to the setting of urban areas. The part of this character area, immediately adjacent to the appeal site, is more undulating and wooded than the landform in the wider area so that extensive views are only available from the high points. A ridge to the west of Cookesmere Lane obscures views of the appeal site and surrounding land along this public thoroughfare until north of Beech Farm. However, even north of here views of the appeal site are limited because of the undulating topography and intervening hedges. There are, nevertheless, extensive views of the northern edge of Sandbach from the central part of the public footpath that extends from Church Lane in a northerly direction, eventually terminating at Cookesmere Lane and another path that leads from this path in a westerly direction to a bridge over the Crewe to Manchester railway, which is a local high point.
48. The part of the appeal site proposed for residential development is clearly visible in south-eastern views from these footpaths at distances between about 300 and 600 metres. In these vistas it lies immediately in front of the existing built edge to Sandbach. Views of the urban edge beyond the western half of the site are filtered by an established hedge but, aided by its higher elevation; the dwellings in the Phase 1 development are clearly visible through and above the trees, even in summer when the trees and hedge are in full leaf. The more established development to the south of the eastern part of the site is better screened by the mature trees close to the Appeal site's southern boundary.
49. Being at a lower elevation, the western half of the proposed residential development would be better screened by the hedge and trees than the existing development beyond, particularly if the opportunity is taken to improve the screening potential of the hedge by management and the introduction of further evergreen hedge plants to supplement the existing holly. A landscaping condition could secure the achievement of this as well as the replacement and supplementing of the dying trees to be found in this hedgerow. Whilst the proposed location of the dwelling on plot 64 may be inappropriately close to the oak tree on its northern boundary, any conflict could be resolved by a condition that required the dwelling on this plot to be resited further away from the tree. Following the establishment of

improvements to this hedgerow, it would provide a much improved soft edge to the urban area at this point.

50. Further east the site is open when viewed from the public footpaths and the northern edge of the development could be located close to an existing high point. Without earthworks and intensive landscaping, development along this edge of the proposed development area would be visually prominent.
51. However, the site requires substantial remediation works to remove the contamination. As a part of these works the ground levels close to the development area's northern edge could be reduced and a screening bund located to the north of the proposed access that would run in front of the houses. If the site is appropriately prepared and landscaped, the planting could become established to an extent that it satisfactorily filtered views of the upper parts of the dwellings, when seen from the public footpaths. Despite the need for reclamation, my experience suggests that this could be achieved in a far shorter period than the many years suggested by the Council. I nevertheless accept that initially this part of the development would be visible from the public footpaths to the north-west.
52. The layout proposes dwellings fronting the open countryside at this point. A condition could prevent the erection of high fences, which are a negative aspect of the existing urban edge adjacent to the site and without the fences and paraphernalia associated with back gardens this edge to Sandbach could become a visual asset.
53. The development of Plot 49 would involve the removal of some prominent trees at the eastern edge of the boundary hedge referred to in paragraphs 48 and 49. These currently perform a pivotal role in screening views of the historic development on the western part of Boothsmere Close and would similarly filter views of the adjacent parts of the appeal site if retained. The western boundary to Plot 49 is also the closest location to the public footpaths that is proposed for development and there is no meaningful boundary hedge to screen the housing at this point. The removal of this plot from the development, to which the Appellant agrees, would enable the trees to be retained and an appropriate hedge and further landscaping to be implemented in this sensitive location.
54. There are no important views of the surrounding countryside that this development would obliterate or important views of the urban edge of Elworth that would be removed, indeed the proposal presents an opportunity to improve the character of this edge to Elworth when seen from the footpaths to the north-west.
55. The dwellings on Boothsmere Close would continue to look out onto open land; with groups of established trees retained between them and the new built development. Whilst the dwellings on the edge of Phase 1 would back onto the new development, they have high fences along their rear boundaries that currently restrict views of the open countryside from ground floor windows. A right to a view does not exist in planning law and I am satisfied that the impact of this development on existing neighbouring properties would not visually impact on them to an extent that there would be material harm to their living conditions.

56. With the changes discussed above, including those to levels and landscaping, this development could create an appropriate edge to built development in this part of Sandbach, improving its setting. The development would not adversely impact upon the more distant easterly views from the public footpaths and at the same time it could enhance the landscape character of this edge to Sandbach. The proposal is in accordance with saved CBLP Policy GR5 and need not cause long term harm to the character and appearance of the local countryside. In these circumstances the weight that I should attach to saved CBLP Policies PS8 and H6 must be significantly reduced.
57. In coming to this conclusion I am aware that the Inspector considering the Congleton Local Plan Review considered that development at the appeal site would represent an incursion into the countryside, but in 2003, when he was considering this matter, the development needs of Sandbach could be met by utilising brownfield and other land within the urban area, so there was not a need to allocate greenfield sites within the countryside.
58. The Inspector considering the appeal in 2011 commented that that part of the phase 1 site outside of the SLZ would represent a suburban encroachment into the open countryside that would detract from its rural character. By building houses on former farmland it was clearly encroaching into the open countryside as the development that is the subject of this appeal would be. Now that it is completed, and given its elevated location, the rear boundary fences and the paraphernalia in the adjacent gardens, resulting from that development, clearly detract from the rural character. Having an existing hedge as a part boundary and with exposed dwellings located to face the countryside, accompanied by appropriate levels changes and landscaping, there is no reason why this result should be repeated by the appeal proposal.

Highway Safety

59. Concern was expressed about the ability of the junction of Wrenmere Close with Lawton Way to safely accommodate the additional traffic from the development, particularly in the context of a cluster of elderly persons living locally and children walking past the junction on their way to school. The Appellant's Transport Assessment suggests that there is no capacity issue at this junction. However, the left sightline (Y distance) at this junction is noticeably below the minimum of 33 metres set in Manual for Streets¹ for junctions with wet weather speeds of 25 mph.
60. Nevertheless, research undertaken for Manual for Streets 2² was unable to demonstrate that road safety concerns regarding a reduced Y distance are directly associated with increased collision risk and concluded that a reduction in visibility below recommended levels will not necessarily lead to a significant problem. Unless vehicles are overtaking then they would not be on the wrong side of the road and they would be easily seen.
61. There are two junctions in close proximity at this point, as well as receding and approaching bends, so that drivers will be approaching cautiously and unlikely to be overtaking. At the moment Wrenmere Close serves about 30 dwellings. Whilst the proposal will result in the generation of about four times as much traffic, there are no instances of recorded accidents at this junction and no

¹ Manual for Streets, Department for Transport, 2007

² Manual for Streets 2, The Chartered Institution of Highways and Transportation, 2010

evidence of a likely high risk of accidents following the proposal's implementation. The evidence that I heard in the Inquiry, added to what I saw on the site visit, suggests to me that a reduction in the left visibility splay would be acceptable. Although not official government policy, in the context of the low predicted traffic flows, the advice in Manual for Streets 2 also suggests to me that I should conclude that the left visibility is nevertheless adequate.

62. In coming to this conclusion I am conscious that the Highway Authority considers that the junction would be adequate without any improvement. The Framework at paragraph 32 says that development should only be refused on transport grounds where the residual cumulative impacts of development are severe. This is unlikely to be the position at Wrenmere Close.
63. I acknowledge that the exclusion of traffic entering and leaving Abbey Road from Middlewich Road is a significant omission from the Appellant's Transport Assessment of the impact of additional traffic generated by the development on Middlewich Road between Grange Road and St Peter's Rise. I also observed that there can be obstructions to the free flow of traffic on Middlewich Road at peak periods and that the capacity of the above junctions can be compromised at these periods. The assertion of the third parties that these junctions are not free flowing at peak periods and that in consequence the use of PICADY³ to analyse junction capacity may therefore not be appropriate also has some substance.
64. However, the Highway Authority, who are responsible for the free flow of traffic and who would have to undertake improvements if the feared capacity problems occurred, has not objected to the proposal. The Appellant has entered into a legal agreement with the Highway Authority to fund various transportation improvements. Contributions towards improvements to the junctions on Middlewich Road are not included. One must conclude that the Highway Authority is satisfied that they are not needed or that the additional traffic generated by this development is by comparison to the existing flows so small that it would not make any material difference. Either way but especially as there is no highway safety issue alleged, these concerns do not justify refusing planning permission.

Other Harm

Living conditions

65. The High fence that has been erected above the retaining wall to the rear of No. 7 Boothsmere Close towers above the rear garden of this dwelling and is somewhat overbearing to its occupants when using this space. It would be inappropriate to repeat this along the side elevation to this property, where there are secondary windows and a glazed door. A condition could remove permitted development rights to erect a fence along this boundary. The site levels immediately north of the wall could be reduced as a part of the site wide reclamation proposals and an appropriate boundary hedge and other landscaping implemented to protect privacy at this dwelling. These could be made the subject of conditions. In such circumstances any adverse harm to the living conditions at this property would be minor and insufficient to justify refusing planning permission.

³ Priority Intersection Capacity and Delay:- Transport Research Laboratory software to predict capacities, queues, delays and accidents at isolated junctions

66. I note the proximity of the proposed footpath/cycleway, from the development to Dean Close, to the window at 16 Dean Close. This access already exists, although its usage would significantly increase if the development were to be implemented as proposed. However, there are no windows in the elevation that abuts the access; the bay window looks out over the property's front garden. Whilst it is close to the access, the situation is no different to that which occurs in many urban locations where there are only small gardens between windows and pavements and it is significantly better than the numerous situations where windows directly overlook pavements. Additionally, the overlooking of pedestrian accesses, by windows in close proximity, has surveillance advantages and has been shown to reduce crime and anti-social behaviour. In my view, any harm as a result of increased noise and disturbance or perceived loss of privacy, as a result of the increased use of the footpath, is not sufficient to justify refusing planning permission.

Ecology

67. There is evidence of the presence of protected species on this site. However, most of the area that is of ecological significance is outside of the area proposed for residential development. Badgers occupy a part of the site and there is evidence that they forage over much of the remainder. There have also been sightings of protected birds nesting on the site and great crested newts, water voles and bats are alleged to be present in the area. Article 12 (1) of the European Commission's Habitats Directive requires the establishment of strict protection regimes for certain animal species, prohibiting the deterioration or destruction of breeding sites and resting places. The Conservation of Habitats and Species Regulations 2010 set up a licensing regime to deal with the requirements for derogation and this is administered by Natural England. Badgers and their sets are protected under the Protection of Badgers Act 1992. Natural England is again involved in the implementation of this legislation.
68. The Regulations place a duty on decision makers to have regard to the requirements of the Habitats Directive. The implementation of the proposal will destroy some habitat and some species will require relocation. This would have to be sensitively undertaken under the terms of a Natural England license. Nevertheless, there is potential for significant habitat enhancement in the areas that are not to be built on, particularly around the pond and the stream. There is no reason why conditions could not ensure that there are overall ecological benefits resulting from this development as discussed in paragraph 44 above. Guidance in the Framework says that where necessary appropriate mitigation and enhancement should be secured by conditions. I agree with the Council and consider that on balance and subject to conditions, the successful implementation of this scheme would result in positive gains for the area's ecology and that the presence of protected species should not weigh against the proposal.

Other Appeals

69. I was referred to a number of recent appeals that dealt with similar situations where there was not an up-to-date DP or a five years supply of housing land. Whilst I have referred to one of these in my discussion on housing land supply, it is rarely the case that other appeal decisions are so similar as to significantly influence the outcome of an appeal. In my view that situation does not apply

to this appeal. I have determined it on the merits of the evidence put before me by all of the parties and have given minimal weight to the overall outcome of the other appeals referred to me.

Conclusions

70. The Proposal is contrary to saved CBLP Policies PS8 and H6. However, I have found that on balance the proposal is clearly sustainable development within the overall meaning as set out in paragraph 7 of the Framework. The Council does not have a five year supply of housing land and in such circumstances paragraph 14 of the Framework makes a presumption in favour of granting planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
71. Any potential harm to the character and appearance of the local countryside could be largely resolved by conditions requiring the improvement of the hedgerow and its trees along the northern edge of the site, recontouring and landscaping along other interfaces of the residential development with the open countryside and minor alterations to the housing layout. Consequently any harm to the countryside aspects of saved CBLP Policies PS8 and H6 would not be significant and is outweighed by the proposal's clear benefits. Any potential harm to education and highways within Sandbach could be overcome by the contributions that would be delivered through the Section 106 Agreement.
72. I do not consider the disadvantages of the scheme, including its conflict with the Development Plan, carry sufficient weight to significantly and demonstrably outweigh the presumption in favour of sustainable development set out in the Framework, when considered alongside the benefits provided for the supply of affordable and market housing in East Cheshire at an early date and the other material considerations in favour of the proposal discussed above. I therefore find for the reasons discussed above and having taken account of all of the other matters raised, including the representations that local residents put to me both at the Inquiry and in writing beforehand that the appeal should be allowed subject to conditions.

Conditions

73. The Council's twenty seven suggested conditions were considered in the context of the Framework and the advice in Circular 11/95: *The Use of Conditions in Planning Permissions* (the Circular), and rationalised, amended and expanded in discussion at the Inquiry. The latter has now been superseded by similar advice in the Guidance. All of the conditions are agreed by the principal parties. They include time limits for commencement and the submission of details, where not already provided, as well as a plans condition.
74. To enable the developments to meet Development Plan policies that seek to achieve sustainable development and protect the living conditions of the developments' and nearby residents, conditions concerning, materials, lighting, landscaping, tree and hedge protection and improvement, biodiversity protection and enhancement, flooding, sustainable construction and drainage, archaeology, a green travel plan, contamination, construction management and the timing and the construction of the vehicular accesses, parking and turning areas have been suggested and agreed.

75. I have considered the need for these conditions in the context of the six tests contained in paragraph 206 of the Framework and the advice contained in the Guidance. I have used the model conditions suggested in the Circular where appropriate. As one of the reasons for allowing this appeal concerns the site's alleged ability to provide housing within the next five years, it is appropriate to reduce the time limits for the submission of details and the commencement of development from the norm.
76. I consider these conditions to be necessary in order to ensure that the development is of a high standard, creates acceptable living conditions for existing and future residents within the development and area as a whole, is safe and sustainable and minimises the impact on the environment.

M Middleton

INSPECTOR

Richborough Estates

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than eighteen months from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans OS-0001, HT105(A)-P-111, HT107-P-110 and 111, HT107-P-210 and 211, HT108-P-110, HT108-P-111, HT108-P-112, HT117(A)-P-111, HT117(A)-P-111-2, HT117(A)-P-111-4, HT130-P-110, 111 and 112, HT147-P-113 and 114-1, HT147-P-113 and 202-38, HT147-P-115 and 116, HT147-P-115 and 202-36, HT147-P-201 and 202-1, HT149-P-111, HT157-P-110 and 111, HT161-P-111, HT162-P-111, HT163-P-111, HT163-P-112, 3890-App 1, R063-1 Rev J, R063-101, R063-102, R063-103, SD-01 Rev. A, SD-04 Rev. B, SD-05 Rev. C, SD-20 Rev. B, SD-46 Rev. A, Landscape Masterplan Rev. A, B-001 and 1675.
- 3) Notwithstanding the details shown on the approved plans, the dwelling on Plot 64 shall be resited further forward such that its front elevation falls in line with that on the adjoining dwelling to the east.
- 4) Notwithstanding the plans referred to in condition No. 2, no building shall be erected on Plot 49. Details of the landscaping to be implemented on this former plot shall be submitted in accordance with conditions 11, 12 and 13 below.
- 5) No development shall take place until an Environmental Management Plan for all construction and remediation operations has been submitted to and approved in writing by the Local Planning Authority. The plan shall address environmental impact in respect of air quality, vibration, noise, waste management, parking, loading and unloading of contractor's vehicles and the use of plant on existing residents during the remediation and construction phase. Development shall be carried out in accordance with the approved details.
- 6) No remediation / construction works or deliveries shall be undertaken at the site outside the hours of Monday – Friday 08:00 to 18:00 hrs; Saturday 09:00 to 14:00 hrs nor at any time on Sundays, Bank or Public Holidays.
- 7) Any piling operations shall be undertaken using best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties. No piling operations shall be undertaken at the site outside the hours of Monday – Friday 09:00 to 17:30 hrs; Saturday 09:00 to 13:00 hrs nor at any time on Sundays, Bank or Public Holidays.
- 8) A method statement for any necessary piling to include the following details shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of such operations:
 - Details of the method of piling,
 - Duration of the pile driving operations (expected starting date and completion date),
 - Prior notification to the occupiers of potentially affected properties,

- Details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint

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

- 9) No development shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.
- 10) No development shall take place until full details of all earthworks have been submitted to and approved in writing by the Local Planning Authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation and the surrounding landform. Development shall be carried out in accordance with the approved details.
- 11) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved. These details shall include proposed finished levels or contours: proposed ground levels and finished floor levels for the buildings hereby permitted; means of enclosure; car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting etc); proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines etc. indicating lines, manholes, supports etc.). Notwithstanding the details shown on the approved plans, the parking area within the area of public open space adjacent to the southern boundary shall be substituted for lay-by parking along the access road.
- 12) Soft landscape works shall include planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; implementation programme.
- 13) All hard and soft landscape works shall be carried out in accordance with the approved details. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the landscaping scheme die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation.
- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or as may subsequently be amended or re-enacted) no gates, walls, fences or other means of enclosure normally permitted by Class A of Part 2 Schedule 2 to that

Order shall be erected on the common boundary with 7 Boothsmere Close or on the northern boundary to plots 45-48, 50, 51 and 56-64 unless approved pursuant to condition 17 of this consent or a further planning permission has first been granted on application to the Local Planning Authority.

- 15) No development or other operations shall commence on site until a scheme (hereinafter called the approved protection scheme) which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site has been submitted to and approved in writing by the Local Planning Authority. No development or other operations shall take place except in complete accordance with the approved protection scheme, which shall be in place prior to the commencement of work. The approved protection scheme shall be complied with for the full duration of the development hereby permitted and shall not be removed without the prior written permission of the Local Planning Authority. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
- 16) No development shall commence until a Construction Method Statement (for the adoptable highway and access footways which extend within the Root Protection Areas as defined within BS5837:2012), a Tree Pruning/ Felling Specification, a Levels Survey as existing and proposed and measures for the protection of existing hedges have been submitted to and approved in writing by the Local Planning Authority. No development shall take place except in complete accordance with the approved Construction Method Statement.
- 17) No development shall take place until a scheme of boundary treatment has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the boundary treatment pertaining to that dwelling has been implemented in accordance with the approved details. The scheme shall make provision, inter alia, for post and wire fencing and native hedge planting to the north and eastern boundaries with the open space / agricultural land.
- 18) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or as may subsequently be amended or re-enacted) the hedge to the north and eastern boundaries with the open space / agricultural land shall not be replaced with any gates, walls, fences or other means of enclosure normally permitted by Class A of Part 2 Schedule 2 to that Order unless a further planning permission has first been granted on application to the Local Planning Authority.
- 19) Prior to the commencement of development details of bollards to prevent vehicular use of the pedestrian /cycle ways adjacent to plot 72 and plot 15 shall be submitted to and approved in writing by the Local Planning Authority. The approved bollards shall be permanently installed prior to the first occupation of the development hereby permitted and thereafter retained, unless otherwise agreed in writing by the Local Planning Authority.

- 20) No dwelling hereby permitted shall be occupied until the parking and vehicle turning areas associated with that dwelling have been constructed in accordance with the details shown on the approved plans. These areas shall be reserved thereafter exclusively for the parking and turning of vehicles and shall not be obstructed in any way.
- 21) No development shall take place until full details of the construction and surfacing of the access road and shared surfaces have been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the access road and shared accesses have been laid out to base course level in accordance with the approved drawings and the 95th dwelling shall not be occupied until the access road and shared surfaces have been surfaced in the approved manner.
- 22) No development shall take place until a drainage scheme for the site, in accordance with the requirements of the approved Flood Risk Assessment (Ironsides Farrah Ltd, 3890/SRG, June 2012) together with a timetable for its implementation, has been submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved drainage scheme and timetable.
- 23) No development shall take place until a scheme for the provision and implementation of a surface water regulation system has been submitted to, and approved in writing by, the Local Planning Authority. No development shall take place except in complete accordance with the approved scheme.
- 24) No development shall take place until an assessment into the potential for disposing of surface water by means of Sustainable Drainage Systems (SUDS) has been submitted to and approved in writing by the Local Planning Authority. In the event that the approved assessment identifies that the site has potential for the use of SUDS, these shall be incorporated within the scheme of drainage to be submitted pursuant to condition 22.
- 25) No development shall take place until a scheme for the management of overland flow from the surcharging of the site's surface water drainage system has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the proposed ground levels and proposed building finished floor levels. No development shall take place except in complete accordance with the approved scheme.
- 26) No development shall take place until a programme of archaeological work in accordance with a written scheme of investigation, which has been submitted and approved in writing by the Local Planning Authority, has been carried out. The work shall be carried out strictly in accordance with the approved scheme.
- 27) Prior to the development commencing, a detailed Contaminated Land Remediation scheme shall be submitted to, and approved in writing by, the Local Planning Authority (LPA). The remedial scheme shall then be carried out and a Site Completion Report, detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of any part of the development hereby approved.

28) No development shall take place until a scheme for the laying out, management and maintenance (including measures associated with the mitigation of ecology issues) of the proposed public open space, areas of wildlife habitat and the recreation area coloured pink on the plan attached to the Section 106 Agreement has been submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that the landscape within the site is managed in such a way as to protect and enhance the ecological value of the site, including the ditches and ponds and shall include, inter alia:

- the detailed extent and type of new planting (NB planting to be of native species),
- details of maintenance regimes,
- details of any new habitat created on the site,
- details of the treatment of buffers around water bodies,
- details of all management responsibilities,
- detailed design and planting specifications for habitat creation, within the open space areas, including the detailed design of the pond,
- a timetable for implementation,
- proposals to safeguard the stream,
- planting to protect the privacy of existing residents,
- no additional planting shall be undertaken along the banks of the stream;

The scheme shall be implemented in its entirety and the open space shall be laid out strictly in accordance with the approved details and in accordance with the approved timetable.

29) No development shall commence until an updated survey to record the presence of any badgers at the site has been carried out, submitted to and approved in writing by the Local Planning Authority. The survey shall be carried out by a suitably qualified person approved by the Local Planning Authority. If any evidence of badgers is found then the report shall include provisions for the timing of the approved development works, measures for the protection of badgers during development and for the retention of existing or provision of alternative habitat.

30) Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey shall be carried out to check for nesting birds and the results submitted to and approved in writing by the Local Planning Authority. Where nests are found in any, hedgerow, tree or scrub to be removed, a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a further report submitted to and approved in writing by the Local Planning Authority before any further works within the exclusion zone take place.

31) Prior to the commencement of development detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds shall be submitted to and approved in writing by the Local Planning Authority. The approved features shall be permanently installed prior to

the first occupation of the development hereby permitted and thereafter retained, unless otherwise agreed in writing by the Local Planning Authority.

- 32) Prior to the first occupation of the development hereby permitted a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall include, inter alia, a timetable for implementation and provision for monitoring and review. No part of the development hereby permitted shall be occupied until those parts of the approved Travel Plan that are identified as being capable of implementation on occupation have been carried out. All other measures contained within the approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented, in accordance with the approved scheme of monitoring and review, so long as any part of the development is occupied.
- 33) No development shall take place until a scheme of sustainable design features to be incorporated into the dwellings hereby permitted has been submitted to and approved in writing by the Local Planning Authority. No dwelling shall be occupied until the features pertaining to that dwelling have been installed in accordance with the approved scheme.
- 34) The development hereby permitted shall secure a minimum 10% reduction in energy use through a building fabric first approach (enhanced insulation or construction technologies). A report confirming the achievement of the specified design fabric shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development. The development shall be implemented in accordance with the approved details.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Richard Humphreys Queens Counsel

He called

Graham Stock BA MA

Deloitte Real Estate

FOR THE APPELLANT:

Roger Lancaster of Counsel

He called

Simon Pemberton MA

Nathaniel Lichfield and Partners

MRTPI, AIEMA

David Appleton NDH MA

The Appleton Group

CMLI

INTERESTED PERSONS:

Richard Hamilton BSc, MICE, MBA

Transport consultant to Elworth Hall Farm
Action Group

Gillian Merry

District Councillor

Paul Edwards

Local resident

Rob Brough

Local resident

David Harrison

Local resident

Laurence Sharps

Local resident

Barry Moran

District and Town Councillor

DOCUMENTS SUBMITTED TO THE INQUIRY

- 1 Signed Statement of Common Ground
- 2 Statement of Common Ground on the 5 Year Housing Land Supply, submitted by the Appellant
- 3 Inquiry Speaking Notes for Richard Hamilton concerning highway matters on behalf of Elworth Hall Farm Action Group
- 4 Attachments to Richard Hamilton's Inquiry Speaking Notes
- 5 Inquiry Speaking Notes for Paul Edwards with aerial photograph
- 6 Inquiry Speaking Notes for Rob Brough
- 7 Attachment to Rob Brough's Inquiry Speaking Notes
- 8 Inquiry Speaking Notes for David Harrison
- 9 Attachment to David Harrison's Inquiry Speaking Notes
- 10 Inquiry Speaking Notes for Laurence Sharps
- 11 Inquiry Speaking Notes for Barry Moran
- 12 Email correspondence between Simon Pemberton and Ben Haywood and Clive Mellings and Stephen Irvine concerning amendments to Plots 69-72, submitted by the Appellant
- 13 Email of 19 November 2012 from Ben Haywood to Simon Pemberton concerning outstanding matters related to the planning application, submitted by the Appellant
- 14 LDF Background Report: Determining the Settlement Hierarchy, (November 2010), submitted by the Council

- 15 Cheshire East Council, Report to Strategic Planning Board, Housing Land Supply, Position Statement, (31 December 2013), submitted by the Council
- 16 Minutes of the Housing Market Partnership Workshop held on Thursday 19 December 2013, =submitted by the Council
- 17 Analysis of progress on housing sites granted planning permission since 2000, submitted by the Council
- 18 Comparison of the Appellant's and the Council's Five Year Housing Land Supply positions, submitted by the Appellant
- 19 Council's revised position on its Five Year Housing Land Supply at the close of the Inquiry
- 20 Completions on housing sites with less than 10 units between 2007 and 2014, submitted by the Council
- 21 List of housing sites in and around Sandbach subject to planning applications since 2010, submitted by the Council
- 22 Housing sites in and around Sandbach subject to planning applications since 2010, indicating current status, submitted by the Council
- 23 Congleton Borough Council, Supplementary Planning Document 10: Housing Land Supply, (2005), submitted by the Council
- 24 Answers to the Inspector's Pre-Inquiry Sustainability questions, supplied by the Council
- 25 North West Regional Assembly, Notes for North West Sustainability Checklist for Developments, submitted by the Council
- 26 Cheshire East Local Plan, Background Paper: Population Projections and Forecasts, submitted by the Council
- 27 2011 Census, Sandbach Workplace/Residence tables, submitted by the Council
- 28 Sandbach: Open spaces Summary Report, submitted by the Council
- 29 Extract from Guidelines for Landscape and Visual Impact Assessment, (second edition), submitted by the Council
- 30 Manual Speed Survey at Lowton Way, Elworth, (6 December 2011), submitted by the Appellant
- 31 Traffic counts at the junction of Middlewich Road and Grange Way, (10 February 2011), submitted by the Appellant
- 32 Correspondence between SCP and Rowland Homes Ltd relating to visibility at the junction of Lawton Way and Wrenmere Close, submitted by the Appellant
- 33 Extract from manual for Streets 2, submitted by the Appellant
- 34 Email correspondence between Richard Walker of Elworth Hall Farm Action Group and Alison Gabbott of Cheshire Police, concerning security in relation to the appeal proposal, submitted by Elworth Hall Farm Action Group
- 35 Phase 1 Planning Application, Design and Access Statement, submitted by the Council
- 36 Phase 1 Planning Application, Supporting Planning Statement, submitted by the Council
- 37 Note and accompanying plan concerning the discharge of conditions at Elworth Hall Farm Phase 1, submitted by the Council
- 38 Secretary of State appeal decision Ref: APP/R0660/A/10/2143265, Land east of Marriott Road / Anvil Closer / Forge Fields and south of Hind Heath Road, Sandbach, Cheshire submitted by the Council
- 39 Appeal decision Ref: APP/H2835/A/12/2182431, Land at Irchester, Northamptonshire, submitted by the Council
- 40 Appeal decision Ref: APP/R0660/A/12/2170820, Land at Crewe Road, Crewe, Cheshire, submitted by the Council

- 41 Appeal decisions Ref: APP R0660/A/12/2188604 & 2188605, Land off The Moorings, Congleton, Cheshire, submitted by the Council
- 42 High Court Cases Nos. CO/8962 & 10438/2012, Tewkesbury Borough Council and the Secretary of State with others, submitted by the Council
- 43 High Court Case No. CO/12207/2012, Wainhomes (South West) Holdings Ltd and the Secretary of State, submitted by the Council
- 44 High Court Cases Nos. CO/4686 & 5546/2013, Hunston Properties Ltd and the Secretary of State with St Albans City and District Council, submitted by the Council
- 45 High Court Cases Nos. CO/3629, 3626 & 78880/2013, Cotswold District Council and the Secretary of State with others, submitted by the Council
- 46 Court of Appeal Case No, C1/2013/2734, City and District of St Albans and Hunston Properties Ltd with the Secretary of State, submitted by the Council
- 47 High Court Challenge, Cheshire East Council v the Secretary of State with others, land north of Congleton Road, Sandbach, Cheshire, submitted by the Council
- 48 Suggested conditions, submitted by the Council
- 49 Suggested conditions, submitted by Elworth Hall Farm Action Group
- 50 Suggested boundary treatment condition and comments of 24 February 2014, submitted by Rob Brough
- 51 Revised conditions agreed at the Inquiry
- 52 Signed Section 106 Agreement, submitted by the Appellant
- 53 The Community Infrastructure Levy Regulations 2010, Compliance Statement, submitted by the Council
- 54 Letters to the principle parties about the National Planning Practice Guidance
- 55 Responses from the Council
- 56 Responses from the Appellant

PLANS

- A Plan ref: R063/1, Proposed Site Layout showing original layout for Plots 69-72, submitted by the Appellant
- B Plan ref: R063/1, Proposed Site Layout illustrating the different areas of concern along the northern edge of the proposed built development, submitted by the Council
- C Extract from Congleton Local Plan, First Review (2005), Proposal Map showing development proposals and objection site at Elworth Hall Farm, submitted by the Council
- D Sites in Sandbach with recorded developer interest in housing development (January 2014)
- E Sandbach Open Space Survey, submitted by the Appellant
- F Elworth Hall Farm, plan of made ground, submitted by the Council

PHOTOGRAPHS

- 1 Seven photographs of flooding at the Appeal site, submitted by Laurence Sharps
- 2 Four photographs of planting at Eaves Green, Chorley, showing the growth of planting between 1992 and 2011, submitted by the Appellant