



Appeal Decision

Inquiry opened on 23 October 2013

Site visit made on 13 December 2013

by Richard Clegg BA(Hons) DMS MRTPI

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

Decision date: 6 May 2014

Appeal Ref: APP/R0660/A/13/2192130

Waterworks House, Dingle Lane, Sandbach, Cheshire, CW11 1FY

- 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 The Waterworks Trust against the decision of Cheshire East Borough Council.
 - The application Ref 12/1650C, dated 26 April 2012, was refused by notice dated 28 November 2012.
 - The development proposed is the demolition of the existing two-storey dwelling, removal of water treatment storage and settlement tanks, construction of 12 two-storey detached dwellings, together with associated car parking and landscaping works, closure of the vehicular access onto Dingle Lane and formation of a new access onto Tiverton Close.
 - The inquiry sat for four days: 23 & 24 October, and 5 & 6 December 2013.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing two-storey dwelling, removal of water treatment storage and settlement tanks, construction of 12 two-storey detached dwellings, together with associated car parking and landscaping works, closure of the vehicular access onto Dingle Lane and formation of a new access onto Tiverton Close, at Waterworks House, Dingle Lane, Sandbach, Cheshire, CW11 1FY, in accordance with the terms of the application, Ref 12/1650C, dated 26 April 2012, subject to the conditions in the attached schedule.

Application for costs

2. At the Inquiry an application for costs was made by the Appellant against the Council. This application is the subject of a separate Decision.

Procedural matter

3. A planning obligation in the form of a unilateral undertaking was submitted by the Appellant (Document 12). The obligation provides for the use of land adjacent to the appeal site and within the Appellant's control as open space and ecological habitat under the oversight of a management company, and for greenspace, play provision and ecology financial contributions.
4. The Council had originally intended to be represented by three witnesses at the inquiry, including the Head of Strategic & Economic Planning (Mr Fisher) who had prepared a proof of evidence covering housing land supply. The inquiry was adjourned on 24 October to enable consideration to be given to the

implications for housing land supply of three recent appeal decisions in respect of sites in the Borough (Documents 1-3)¹. The Council subsequently advised that it would not be presenting evidence on housing land supply, and it withdrew Mr Fisher's proof of evidence. A revised supplementary statement of common ground was submitted which refers to a 4 to 4.2 years' supply of housing land in the Borough (Document 24).

Main Issues

5. I consider that the main issues in this appeal are:

- (i) The effect of the proposed development on nature conservation interests.
- (ii) The effect of other considerations, including housing land supply, on the overall planning balance.

The proposal

6. The appeal site has previously been used as a water treatment works. There are several redundant underground storage and settlement tanks, and in the north-east corner is a dilapidated house and out-building. These structures would be removed, and the site would be redeveloped with twelve houses, served by a new access taken from Tiverton Close to the north. The existing access onto Dingle Lane would be closed to vehicles.

Planning policies

7. The Development Plan includes the saved policies of the Congleton Borough Local Plan First Review. The appeal site lies within the settlement zone line for Sandbach: Policy PS4 explains that there is a general presumption in favour of development within the settlement zone line, provided that it is in keeping with the town's scale and character and that it does not conflict with other policies of the Local Plan. On the Local Plan Inset Map for Sandbach, the site is included within a wildlife corridor and a protected area of open space, both of which extend beyond the land at Waterworks House to the south-west and the north-east. Policy NR4 is concerned with non-statutory sites of nature conservation or geological importance, including wildlife corridors. Proposals which would result in the loss of or damage to such sites should only be allowed if there are overriding reasons and no suitable alternatives. Where unavoidable loss or damage is likely, mitigation and compensation measures are required to ensure no net loss of environmental value. The explanation to Policy NR4 refers to mitigation, enhancement and compensation being required where there are avoidable harmful consequences. The Council contended that there is a typographical error in the text and that it should refer to unavoidable harmful consequences. There is a clear inconsistency between the policy itself and the supporting text. If harmful consequences were avoidable, mitigation and other measures would not be necessary, and I therefore give greater weight to the policy text.
8. Protected areas of open space are covered by Policy RC2, which specifies that development for an alternative use should only be permitted where, amongst other matters, the open space has no significant local value in relation to an existing or proposed linear amenity area such as a wildlife corridor.

¹ Two of the appeal decisions (refs 2189733 & 2195201 – Documents 2 & 3) have been challenged. This did not alter the Council's stance not to present evidence on housing land supply.

9. The Council is preparing the Cheshire East Local Plan. The Pre-Submission version of the emerging Core Strategy was published in November last year. Policy SE 3 is concerned with the natural environment. Areas of high biodiversity and geodiversity value are to be protected and enhanced: enhancement measures include linking up existing areas of high value habitat to create 'ecological stepping stones', 'wildlife corridors' and 'nature improvement areas'. Development proposals which would be likely to have a significant adverse impact on designated wildlife corridors, amongst sites with other regional or local designations, should not be permitted except in exceptional circumstances where the reasons for the development clearly outweigh the value of the ecological feature adversely affected and where there are no appropriate alternatives. At this stage, prior to examination, the emerging Core Strategy carries only limited weight.
10. National policy of relevance is in the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG). The Government published PPG on 6 March 2014, and cancelled certain previous guidance, after the inquiry had closed. The content of the PPG includes guidance on biodiversity, which reflects the policy in the NPPF. The Appellant and the Council were given the opportunity to submit comments with regard to the PPG, and representations were received from the Appellant (Document 26).

Reasons

Nature conservation

11. The Local Plan does not specify the role of wildlife corridors, but the Council's nature conservation witness explained that the Sandbach Corridor links two areas of high ecological value, Arclid Quarry to the north-east of the town and the Wheelock disused railway, the Trent and Mersey Canal and the River Wheelock to the south. It also supports habitats of nature conservation value and it provides a means for the movement of wildlife. The corridor is not continuous: to the north-east of the site it is severed by the M6 motorway, and, within Sandbach itself, High Street and the roundabout junction of the A533 and the A534 provide further interruptions. The Council referred to a culvert under the motorway, but no details were available, and it is not clear to what extent this enables wildlife movement to occur. Immediately to the east of the appeal site, the corridor is shown on the inset map continuing across the A534. This is a busy road, and the Council was not aware of any measures to facilitate wildlife movement.
12. Waterworks House lies between existing residential development and the A534. The construction of the proposed houses would not, however, break the continuity of this part of the wildlife corridor, since the appeal site is set back from Arclid Brook and the main road. Here, the Appellant's land outside the appeal site itself would remain as a planted area, maintaining a physical link from Dingle Lane to the north-east of the proposed houses. Moreover, there is a footpath and planted strip on the north and west sides of the appeal site, which would be crossed by the access road into the site, but which would otherwise remain in its existing form.
13. During the inquiry a revised phase 1 habitats map was submitted on behalf of the Appellant (Document 19). The Council pointed out that the area of scrub alongside the southern boundary of the site had been removed and referred to the presence of an additional small area of bare ground towards the south-west

corner. Otherwise it was agreed that the plan accurately represented the habitats present². There are hedgerows along the western, northern and north-eastern boundaries of the appeal site: the Council referred to the status of hedgerows as biodiversity action plan priority habitats and expressed concern that cutting back of hedgerows would reduce their value as a habitat for birds and invertebrates, as a food source for wildlife more generally, and as a navigational feature for bats. Part of the species rich length of hedgerow would be removed to allow for the access road. The Appellant's nature conservation witness suggested that additional lengths of hedgerow could be planted alongside the access road. Whilst there would remain a break in the hedgerow this would be relatively modest, and a landscape and ecological management plan, which could be the subject of a condition, could specify the height of the hedgerows.

14. Much of the western part of the site and a section close to the southern boundary are semi-improved grassland. These areas would be lost to the development. The Council describes them as contributing to the general biodiversity of the corridor and providing foraging habitat for a variety of species. A number of grassland indicator species are present, but the information before me does not indicate that the semi-improved grassland is of particular intrinsic value distinct from contributing to the biodiversity and range of habitats in the corridor as a whole.
15. Alongside the southern boundary is an area of scattered trees. The arboricultural survey identifies four of the trees as in poor condition and recommends that they be felled, or in two cases allowed to coppice. Tree planting is proposed as part of a landscaping scheme. The Council was critical of tree planting shown on the landscape plan within part of the area of semi-improved grassland, since the latter was considered to have greater nature conservation value. However approval is not sought for this specific landscape plan, and there is scope for additional tree planting to take place without encroaching on the semi-improved grassland. Provision for tree planting could be included in a landscaping scheme, secured by means of a condition. Accordingly, I do not consider that tree cover would be adversely affected by the proposed development.
16. Around the existing buildings and on the north-west part of the site are two areas of tall ruderal vegetation. The Council acknowledges that this habitat has relatively limited nature conservation value, a view which is consistent with the presence of a number of common plant species and associated invertebrates. Due to the loss of semi-improved grassland within the site itself and the formation of a gap in the species-rich hedgerow, I consider that the proposal would have a limited adverse effect on the habitat value of the Appellant's land.
17. I turn now to consider fauna. Specific reference was made in the ecological reports submitted in support of the planning application³ and in the evidence to the inquiry to use made of the appeal site by three species; bats, badgers and common toads. It is common ground between the main parties that there are no roosting opportunities for bats on the site. Surveys undertaken on behalf of the Appellant record use of the land by pipistrelle bats for foraging and noctule bats for commuting. I have read that the semi-improved grassland is likely to

² The Council submitted a note on the revised habitats map which is Document 20.

³ Report on Ecological Issues April 2012 and Addendum on Ecological Issues September 2012.

- provide a source of invertebrate prey, and this habitat would be lost within the site itself. Although an area of semi-improved grassland could be retained adjacent to the south-east part of the site, this area is close to the A534, and the addendum ecology report makes the point that there is probably little bat activity along the southern part of the site due to the proximity of the road.
18. The Council expressed concern that hedgerows could be cut back as future occupiers may seek more formalised and domesticated boundary features. However the height of the hedgerows could be specified in a management plan (above, para 13), safeguarding their role as a food source and navigational feature. Moreover the hedgerow along the western side of the Appellant's land and on an adjacent part of the northern boundary was at a low height at the date of my visit. I anticipate that future residents would prefer a taller hedgerow here to provide some screening from the adjacent footpath, and this would be of greater value to bats. As there is no evidence of bats roosting on the site, at present they would need to cross to the hedgerow from the nearby housing estate or from elsewhere in the wildlife corridor, and I do not consider that the gap which would result from formation of the access road would be likely to deter movement on the site or along the corridor.
19. The addendum ecological report referred to the presence of a disused or inactive badger sett on the site. At the inquiry, the Appellant's nature conservation witness advised that the position of the sett was incorrectly given in the report, as the sett lies to the south of the appeal site⁴. Whilst both main parties acknowledged the possibility that the sett could be re-used, the Appellant's witness advised that the sett had not been used during the previous two seasons and that its condition had deteriorated, a view which was not disputed by the Council. The evidence before me does not point to the likelihood of badger activity associated with this sett. Insofar as use of the site is concerned, the addendum report mentioned that badgers did not appear to forage there. In his evidence the Appellant's nature conservation witness suggested that foraging is more likely to occur in Sandbach Park and on shorter swards along Dingle Lane. He pointed out that short grass was preferred. For its part the Council considered that the site was potential foraging habitat, although its witness agreed that it was easier for foraging to take place on mown than on long grass. On my site visit I noted that, in addition to the park, there are areas of mown open space to the north-east which are within and/or accessible from the wildlife corridor. In urban areas the territory of a badger clan could be about 5ha whereas in the countryside it could extent to 30-50ha. It was implied that in this location, constrained by the built-up area and the nearby main road, the loss of 0.5ha would have a greater effect and would be likely to reduce the carrying capacity of the territory. However the effect of the development of open land on carrying capacity will be dependent upon the suitability of that land for badger use in the first place. The evidence before me indicates that the appeal site is not the most suitable type of land for foraging in the locality, and I note that the Council expressed the view that the proposal would not result in the loss of the badger clan. Accordingly I consider that the proposal would have no more than a limited effect on badgers, which would not cause material harm.
20. Common toads were found on the appeal site during survey work for the April 2012 report. Whilst the Council suggested that the semi-improved grassland

⁴ A plan showing the location of the sett is at Document 11.

would provide some opportunity for foraging it also agreed with the Appellant that the hedgerow bottoms would be likely to provide more interest for this species, and there would be no loss of breeding habitat. The effect on common toads would, I consider, be limited and would not be materially harmful.

21. The proposal would have no direct effect on bats, badgers or toads, and in particular there is no evidence of interference with breeding or resting places. With mitigation measures involving the additional lengths of hedgerow and the maintenance of hedgerow height I do not consider that there would be an adverse effect on bats. Bats are a European protected species and development which would result in a breach of their protection must satisfy the tests of the Habitats Regulations. It is common ground between the main parties that these tests do not apply in this case. The loss of the existing open space on the appeal site would not prevent the movement of badgers and toads within the corridor and, on the information before me, it would be unlikely to interfere to an appreciable degree with foraging activities. I consider that the development would not have an adverse material effect on these species.
22. Whilst the proposed development would not interrupt the continuity of the wildlife corridor, nor act as a barrier to the movement of wildlife, there would be a limited adverse effect on habitats on the site. This would cause some small-scale damage to the corridor. However, taking account also of my findings in relation to wildlife species (above, para 21), I do not consider that the proposal would cause significant harm to the wildlife corridor, and consequently there would be no conflict with paragraph 118 of the NPPF or Policy SE 3 of the emerging Local Plan. Policy NR4 does not identify a threshold level of loss or damage beyond which development is only acceptable if certain tests are satisfied. As there would be some damage to the wildlife corridor, albeit small-scale, it is necessary to consider whether there are overriding reasons for allowing the development and whether there are no suitable alternatives: I address these matters below (paras 40 & 26).
23. The measures envisaged in respect of hedgerows (above, paras 13 and 18) would provide adequate mitigation in respect of this habitat, but semi-improved grassland within the site would be lost. However the planning obligation would provide for a financial contribution towards the enhancement of wildlife habitats in Sandbach, and the Council identified opportunities for such work in or adjacent to the corridor at Wheelock disused railway and Sandbach Park. The Council's nature conservation witness expressed the view at the inquiry that there would be a loss of environmental value in the corridor arising from the proposed development. However, he also commented that there would be no net loss of biodiversity taking account of the ecological contribution, and this is consistent with his second and third consultation responses on the planning application⁵. In the second consultation response, he indicated that the adverse effect of the development upon the wildlife corridor could be offset by means of a financial contribution towards habitat creation works elsewhere, and in the third response he explained that such a contribution should ensure that the impacts of the development would be fully addressed. I note that the sum of £5,646.50 included in the planning obligation as a contribution towards ecological works is the amount sought by the Council for this purpose, and I consider that appropriate compensation

⁵ These consultation responses are at Appendices 11 and 12 to Mr Gascoigne's proof of evidence.

would be provided through this mechanism. Taking account of the mitigation and compensation measures, I conclude that the proposed development would have no overall material adverse effect on nature conservation interests and that it would not result in any net loss of environmental value.

Other considerations

Housing land supply

24. During the inquiry, the main parties reached agreement on the position concerning housing land as set out in the revised supplementary statement of common ground (Document 24). It is common ground that the demonstrable supply of housing land for the purposes of this appeal would be sufficient for between 4 and 4.2 years, and the revised supplementary statement of common ground indicates that this level of supply relates to a five years requirement for 9,000 dwellings. In accordance with paragraph 49 of the NPPF, the Council accepts that in this situation its policies for the supply of housing cannot be considered to be up-to-date.
25. The appeal proposal would provide an additional 12 dwellings. Whilst this is a relatively modest number, given the shortfall of 1,440-1,800 dwellings (0.8-1 year) it is important that appropriate sites are brought forward irrespective of size to contribute to boosting significantly the supply of housing in accordance with the objective of paragraph 47 of the NPPF and to ensure that a five years supply is established at the earliest opportunity. The appeal site is located within the settlement zone line for Sandbach, within which Policy PS4 of the Local Plan provides a general presumption in favour of development. Provisos that development is in keeping with the scale and character of the town and that it does not conflict with other policies of the Local Plan are addressed elsewhere (below, paras 31 and 40). I also note that the statement of common ground (Document 4) records that the site is in an accessible location, within walking distance of shops, bus services and schools. The contribution of the appeal site in increasing the supply of housing land in an accessible location carries considerable weight.
26. Part of the test in the first part of Policy NR4 concerns the non-availability of suitable alternative sites. The 4-4.2 years supply of housing land would accommodate at least 7,000 dwellings, within which I anticipate there will be a number of smaller sites. To be properly recognised as suitable alternatives, it seems to me that other sites should not only be capable of accommodating a residential development of similar size and type, but that they should also offer comparable locational characteristics. Whilst the Council suggested that alternative provision for residential development could be made outside wildlife corridors, no detailed evidence to this effect was considered at the inquiry⁶. Consequently, on the information before me, it is not possible to reach a definitive view as to the availability of suitable alternative housing sites.

The condition of the appeal site

27. Both the Council and the Appellant described the house on the appeal site as derelict, and I saw on my site visit that it is in an extremely dilapidated condition. A large part of the roof is missing, and I have read that the building has been subject to vandalism and fire damage. A series of tanks are set into

⁶ Mr Fisher's proof of evidence concerning housing land was withdrawn by the Council, and there was no dispute by the main parties that the proof and its appendices should not be treated as inquiry documents.

- the ground across much of the rest of the site. The Appellant has received advice that the tanks, which are about 100 years old, are decaying, and it was suggested that they had a design life of 30-40 years. They are over 3m deep and contain water⁷. I heard that there had been instances of inspection hatches being removed, and concern was expressed that they represent a potential hazard. The Council queried the condition of the tanks, and there is no substantive evidence on their structure before me. I accept, however, that over time, without maintenance and repair work, they are likely to deteriorate.
28. The Appellant's planning witness pointed out that it was becoming increasingly difficult to obtain public liability insurance in respect of these structures, and he referred to an estimate of about £110,000 for the removal of the tanks and remediation of the site. Whilst the redevelopment of the site would facilitate this work, no detailed financial evidence was submitted and at the inquiry the Appellant did not maintain that the appeal proposal offered the only means to deal with this situation.
29. Policy NR6 of the Local Plan supports the reclamation of contaminated, derelict or previously developed land where certain tests are met. There is insufficient information to determine whether the tanks, in addition to the house, are derelict. The ground investigation report, which accompanied the planning application, identifies the presence of certain contaminants, but it does not suggest that the site as a whole is contaminated. Insofar as previously developed land is concerned there was debate at the inquiry about previous use as a market garden and allotment and whether or not there was previously a mixed use of the site or these activities occurred within a residential curtilage. Of greater relevance in this case is the physical nature of the land. That part of the site occupied by the house and outbuilding is previously developed land. In places the tanks are raised somewhat above ground level, and I am satisfied that in these locations they comprise fixed surface infrastructure which was associated with the permanent structure of the house. The definition of previously developed land in Annex 2 to the NPPF excludes land where the remains of fixed surface infrastructure have blended into the landscape. Here there is semi-improved grassland and tall ruderal vegetation over much of the tanks, but they remain intact, and as such the exclusion relating to remains does not apply. Accordingly I am satisfied that much of the site comprises previously developed land.
30. Turning to the criteria of Policy NR6, the removal of the dilapidated house would bring about an improvement to local amenity (criterion ii), and housing is one of the after-uses listed in criterion iii. However as the house has been boarded up and concrete caps placed on the inspection hatches, there is no clear evidence that at the present time the site presents a hazard to life, health or the environment (i), and, irrespective of compliance with other relevant policies of the Local Plan (iv), I do not find that the proposal would be fully consistent with the provisions of Policy NR6. Notwithstanding this finding I am in no doubt that the removal of the dilapidated house would improve the appearance of the area and that the removal of the tanks would avoid a potential future hazard. These are important benefits associated with the appeal proposal.

⁷ The ground investigation report gives details of the depths of three tanks and the water therein.

Character and appearance

31. Local residents are concerned that the proposal would detract from the character and appearance of the area. However, the removal of the dilapidated house would provide a clear benefit to the locality (above, para 30), and the site is situated between the edge of a modern residential development and a main road. Due to the presence of tree cover within the wildlife corridor and the proximity of existing housing the development would not be prominent, and I do not consider that the proposal would have an adverse effect on the character and appearance of this part of Sandbach.

Open space

32. Although the site is identified as part of a protected area of open space under Policy RC2 of the Local Plan, such land may be developed in certain circumstances. The site is an area of private unused land, and the Council confirmed that the proposal would have no effect on the quantity, range and accessibility of recreational facilities or amenity open space (i). Criterion (ii) refers to local value in various other circumstances, including in relation to a wildlife corridor. As part of the wildlife corridor the site has significant local value, and consequently there is conflict with Policy RC2 in this respect.

Footpaths

33. The path which runs past the northern and western sides of the site, together with the short links to Adlington Drive and Tiverton Close are not public footpaths. However for the most part they are on land owned by the Council⁸, and local residents refer to their public usage over many years. The road into the development from Tiverton Close would cross the footpath, but it would not represent an obstruction to pedestrian movement, and it would remain possible to walk through the wildlife corridor past the appeal site. The proposed development would not interfere with the ability to use local footpaths.

Highway safety

34. Concerns have been expressed by local residents about highway safety due to the additional traffic generated by the development. I anticipate that the number of additional vehicular trips arising from a development of 12 dwellings would be relatively modest, and I note that the Highways Officers have raised no objection to the proposal. Tiverton Close is a short road, and the additional length of highway would leave the existing turning head at what would become a bend and follow a curvilinear alignment into the site. Given the configuration of the access road and its relationship with Tiverton Close, vehicles would be likely to be travelling at low speeds, and I do not consider that the proposal would reduce highway safety on the existing road network or cause conflict with pedestrian usage of the footpath past the site.

Living conditions

35. There is a strip of trees and bushes between the footpath and housing to the west and to the north of the site. Given the overall separation distance between existing and proposed properties and the presence of the intervening trees and bushes, I do not consider that existing residents would suffer any

⁸ Document 16 is a plan of land in the vicinity of the site which is owned by the Council. A narrow strip of land adjacent to Tiverton Close is shown as outside the Council's ownership.

loss of privacy as a result of the construction of houses on the appeal site. I would not expect the activity associated with additional houses to be materially different to that in the existing residential area, and there is no reason to believe that the development would give rise to problems of noise and disturbance. In particular, the headlights from vehicles turning into and out of the access road would have no materially different effect from vehicles using the existing turning head, and the level of additional movements would be relatively modest.

The planning obligation

36. The planning obligation would provide contributions of £7,356.44 towards amenity greenspace and £16,772.51 towards children's and young persons' play facilities within 800m of the appeal site. A Community Infrastructure Levy (CIL) Regulations compliance statement (Document 17) submitted by the Council refers to a deficiency in the quantity of open space and play facilities in the locality, with the latter also in need of improvements in terms of quality. Whilst there are no details about the extent of deficiency, family housing is proposed on the appeal site, and it would give rise to additional demand on existing recreational facilities. I am satisfied that the payments towards amenity greenspace and play facilities within the locality are necessary to mitigate the effect of the appeal proposal in line with Policies GR19 and GR22 of the Local Plan.
37. Land adjacent to the north-west corner and the southern boundary of the site would be included in a landscaping scheme, and the planning obligation would require the establishment of a management company to maintain these areas. It is necessary that this land is managed appropriately to safeguard this part of the wildlife corridor. Additionally, a contribution of £5,646.50 would be paid towards the creation or enhancement of wildlife habitats in the Sandbach area. I have already found that this measure would ensure that the proposal would not cause a net loss of environmental value (above, para 23) as required by Policy NR4 of the Local Plan.
38. I am satisfied that all of the provisions of the planning obligation would be necessary to make the development acceptable in planning terms, would be directly related to the development, and would be fairly and reasonably related in scale and kind to the development. The statutory tests in Regulation 122 of the CIL Regulations are, therefore, met and the planning obligation is a material consideration which carries weight in the appeal decision.

Conditions

39. I have already referred to requirements by means of condition for a landscaping scheme and a landscape and ecological management plan. Conditions restricting construction work during the bird nesting season and requiring the introduction of features for birds and bats are also important to safeguard and enhance nature conservation interests. To ensure that the development would be in keeping with its surroundings, details of materials, boundary treatment, and ground levels should be submitted for approval. Trees intended to be retained should be safeguarded for the same reason. The living conditions of neighbours require approval of details of any pile-driving and a restriction on the hours of construction. Similarly, a phase II contamination study and a scheme of protection from traffic noise are necessary in the interests of future residents of the site itself. To ensure that

the development is satisfactorily drained, a scheme should be submitted for approval, and finally, it is important that the development is carried out in accordance with the specified plans for the avoidance of doubt and in the interests of proper planning.

Conclusions

40. The proposed development would have no overall material adverse effect on nature conservation interests, but it would cause some small-scale damage to the wildlife corridor. However Cheshire East does not have a five years supply of housing land: given the emphasis in the NPPF on boosting significantly the supply of housing land, and bearing in mind that the proposal would only cause limited and localised damage, I have reached the view that the absence of a five years supply of housing land is an overriding reason to support this development in the wildlife corridor. The first part of Policy NR4 of the Local Plan also requires that there are no suitable alternatives, and on the information before me, it is not possible to reach a definitive view as to the availability of suitable alternative housing sites. Accordingly, the proposal would not fully comply with the first test in Policy NR4. Conflict with Policy RC2 also arises due to the location of the site within a wildlife corridor, which is an amenity feature of value.
41. Policy NR4 adopts a markedly stricter approach to development proposals affecting local nature conservation interests than the NPPF. It requires certain tests to be satisfied where there is loss of or damage to sites of nature conservation importance, whereas paragraph 118 of the NPPF refers to the prospect of refusal of planning permission where there would be *significant* harm. Paragraph 215 of the NPPF makes it clear that, from March 2013, due weight should be given to policies in relevant plans according to their degree of consistency with the Framework. The distinct difference of emphasis between Policy NR4 and the NPPF lessens the weight I attach to the policy conflict with the Local Plan.
42. Policies in this part of Cheshire East concerning housing land are out-of-date, and the contribution to housing land supply from the proposal carries considerable weight. In addition, the removal of the dilapidated house and the tanks on the site would also represent important benefits. There would be no adverse effects on the living conditions of neighbours, highway safety or the use of the footpath past the site. The limited harm to the wildlife corridor and the conflict with aspects of Policies NR4 and RC2 does not outweigh the benefits, and the proposal would comply with the approach to sustainable development set out in paragraph 14 of the NPPF.
43. For the reasons given above, and having regard to all matters raised, I conclude that the appeal should be allowed.

Richard Clegg

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: location plan ref 1030/PL/002D, proposed site plan on drawing ref 1030/PL/004E, house floor plans and elevations on drawings refs 1030/PL/007B, 1030/PL/008D and 1030/PL/009B, and the street elevations on drawings refs 1030/PL/006A, 1030/PL/0011A and 1030/PL/0012A.
- 3) No development shall take place until details of proposed ground and floor slab levels have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 4) No development shall take place until details 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. The development shall be carried out in accordance with the approved details.
- 5) No development shall take place until a scheme of boundary treatment, including a programme for implementation, has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and programme.
- 6) No development shall take place until a scheme of landscaping and a landscape and ecological management plan have been submitted to and approved in writing by the local planning authority. The scheme of landscaping shall include identification of trees and hedgerows to be retained, and a programme for implementation. All planting, seeding or turfing comprised in the approved scheme of landscaping shall be carried out in accordance with the approved programme. The management plan shall include management aims and objectives, arrangements for the replacement of failed planting, prescriptions for the height and width at which the hedgerows will be maintained and the times of the year when cutting will take place, a specification for the cutting of areas planted with wild flowers, and a commitment to vary the management prescriptions, subject to the approval of the local planning authority, if a review finds that they are failing to achieve the objectives of the plan.
- 7) No development shall take place until a scheme for the protection of retained trees and hedgerows has been implemented in accordance with details to be submitted to and approved in writing by the local planning authority. The scheme shall be maintained until all equipment, machinery and surplus materials have been removed from the site. No excavation, storage of materials or machinery, parking of vehicles, deposit of soil or rubble, lighting of fires, or disposal of liquids shall take place within any area identified for the protection of retained trees and hedgerows in the scheme. If any retained tree or hedgerow is removed, uprooted or destroyed or dies within a period of 5 years from the completion of the development, it shall be replaced in the next planting season with

another tree or hedge plant of similar size and species unless the local planning authority gives written approval to any variation.

- 8) No development shall take place until a scheme of features for breeding birds and roosting bats has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.
- 9) No site clearance works shall take place during the bird breeding season (1 March – 31 August inclusive).
- 10) Details of the method, timing and duration of any pile-driving operations shall be submitted to and approved in writing by the local planning authority before any such works take place. Pile-driving shall only take place in accordance with the approved details.
- 11) No construction work shall be carried out or deliveries made to the site outside the following times: 0800 to 1800 hours from Monday to Friday, and 0900 to 1400 on Saturdays. No construction work shall be carried out or deliveries made to the site at any time on Sundays or public holidays.
- 12) No development shall take place until a scheme of mitigation relating to traffic noise on the A534 has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme.
- 13) No development shall take place until a contamination investigation has been carried out in accordance with a methodology which has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures before development begins. Upon completion of remediation, a validation report shall be submitted to and approved by the local planning authority confirming that the site has been remediated in accordance with the approved measures and that the site is suitable for the development hereby permitted.

If, during the course of development, any contamination is found which has not been identified in the site investigation, then additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures.

- 14) No development shall take place until a scheme for the provision of foul and surface water drainage works has been submitted to and approved in writing by the local planning authority. None of the dwellings hereby permitted shall be occupied until the dwellings the drainage works have been provided in accordance with the approved scheme.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Humphreys QC	Instructed by the Council's Solicitor.
He called	
Mr J Baggaley	Principal Nature Conservation Officer.
BSc(Hons) MIEEM	
Miss S Orrell BA(Hons)	Principal Planning Officer.
Miss S H Dillon ⁹	Solicitor.

FOR THE APPELLANT:

Mr J Hunter of Counsel	Instructed by Emery Planning Partnership.
He called	
Mr D Pollard BSc(Hons)	Associate, Ascerta Consulting Ltd.
Mr R E W Gascoigne	Director, Emery Planning Partnership.
BA(Hons) MRTPI	

INTERESTED PERSONS:

Councillor B Moran	Member of the Council for Sandbach Town Ward.
Mr T Waite	Local resident and representing a group of about 60 local residents.

DOCUMENTS

- 1 Appeal decision and report concerning residential development on land off Abbey Road and Middlewich Road, Sandbach. Submitted by Mr Humphreys.
- 2 Appeal decision concerning residential development on land north of Congleton Road, Sandbach. Submitted by Mr Humphreys.
- 3 Appeal decision concerning residential development on land off Sandbach Road North, Alsager. Submitted by Mr Humphreys.
- 4 Statement of common ground.
- 5 (a) Extracts from the Local Plan, (b) Extracts from the Sandbach Insets, (c) the Local Plan saving direction and schedule. Submitted by the Council.
- 6 (a) Supplementary Planning Guidance Note 2 – Provision of Private Open Space in New Residential Developments, (b) Supplementary Planning Document 6 – Affordable Housing and Mixed Communities. Submitted by the Council.
- 7 (a) Interim Policy Note – Public Open Space provision for New Residential Development, (b) Interim Planning Statement – Affordable Housing. Submitted by the Council.
- 8 Cheshire East Local Plan Annual Monitoring Report 2011-12. Submitted by the Council.
- 9 Plan showing public rights of way in the vicinity of the appeal site. Submitted by the Council.
- 10 Letters of notification of the inquiry.
- 11 Plan showing location of badger sett. Submitted by Mr Pollard.

⁹ Miss Dillon did not give formal evidence in support of the Council's case, but contributed to the sessions on the planning obligation and conditions.

- 12 Planning obligation. Submitted by the Appellant.
- 13 Councillor Moran's statement.
- 14 Extract from the emerging Local Plan. Submitted by Miss Orrell.
- 15 Representations to the planning application referring to the footpath. Submitted by Miss Orrell.
- 16 Plan of land owned by the Council in the vicinity of the appeal site. Submitted by Miss Orrell.
- 17 The Community Infrastructure Levy Regulations 2010 – Compliance statement in respect of the appeal proposal. Submitted by Miss Orrell.
- 18 Representations to Policy SE 3 of the emerging Local Plan. Submitted by Mr Humphreys.
- 19 Revised phase one habitats map. Submitted by Mr Pollard.
- 20 Mr Baggaley's note on Document 19.
- 21 Letter dated 11 October 2013 from the Council to Mr Gascoigne concerning the acquisition of the appeal site. Submitted by Mr Humphreys.
- 22 Aerial photograph showing Waterworks House and Dingle Farm. Submitted by Mr Humphreys.
- 23 Suggested landscaping condition. Submitted by the Council.
- 24 Revised supplementary statement of common ground.
- 25 Report on the condition of Hassall Road play area. Submitted by the Council.
- 26 Letter dated 25 April 2014 from Emery Planning Partnership Ltd concerning PPG.

Richborough Estates