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## Appeal Decision

Inquiry held on 29 and 30 April and 1 and 2 May 2014

Site visit made on 2 May 2014

**by Karen L Baker DipTP MA DipMP MRTPI**

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

**Decision date: 29 July 2014**

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**Appeal Ref: APP/R0660/A/13/2203282**

**Land to the west of Close Lane and north of Crewe Road, Alsager, Cheshire ST2 2TJ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Muller Property Group against the decision of Cheshire East Council.
  - The application Ref. 13/1305N, dated 25 March 2013, was refused by notice dated 21 June 2013.
  - The development proposed is a mixed residential scheme to provide affordable, open market and over 55s sheltered accommodation, open space and new access.
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### Procedural Matters

1. The planning application was made in outline with all matters reserved for subsequent approval, with the exception of access. However, during the course of the Council's consideration of the application, access was also reserved for subsequent approval. I have, therefore, considered the appeal on this basis.
2. The planning application was considered on the basis of the following plans: Location Plans<sup>1</sup> (Drawing No. LP-01 Rev. I); Development Framework<sup>2</sup> (Drawing No. DF-01 Rev. L); Topographical Survey<sup>3</sup> (Drawing No. 6579/01); and Illustrative Masterplan<sup>4</sup> (Drawing No. MP-01 Rev. L). As part of the appeal process the appellants submitted 2 further plans: a revised Illustrative Masterplan<sup>5</sup> (Drawing No. MP-01 Rev. O); and Proposed Site Access and Highway Improvement Scheme<sup>6</sup> (Drawing No. SCP/12270/F02 Rev. F). These plans relate to on and off site footpath provision and improvements. The Council and third parties present at the Inquiry confirmed that they had no objections to these plans being considered as part of this appeal. Indeed, given the nature of the amendments, I am satisfied that to do so would not prejudice the Council's position, nor the interests of third parties.
3. Although the decision notice sets out 2 reasons for refusal, it was confirmed at the Inquiry that, at the Strategic Planning Board held on 18 March 2014, the

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<sup>1</sup> Core Document E4

<sup>2</sup> Core Document E6

<sup>3</sup> Core Document E7

<sup>4</sup> Core Document G6

<sup>5</sup> Core Document J2

<sup>6</sup> Core Document J1

Council resolved<sup>7</sup> to withdraw that part of the reason for refusal which relates to locational sustainability and car borne travel. Furthermore, at the same Committee, an identical planning application (Ref. 13/4150N) was refused and it was resolved to adopt the single reason for refusal given in that decision at this Inquiry as follows:

*The proposed residential development is unsustainable because it is located within the open countryside involving the loss of Grade 2 agricultural land within the open countryside contrary to Policies NE.2 and RES.5 of the Crewe and Nantwich Replacement Local Plan 2011, Policy PG5 of the emerging Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework (The Framework) which seek to ensure development is directed to the right location and open countryside and Grade 2 agricultural land is protected from inappropriate development and maintained for future generations’ enjoyment and use. As such it creates harm to interests of acknowledged importance. The local planning authority can demonstrate a 5 year supply of housing land in accordance with The Framework; consequently the application is premature to the emerging Development Strategy since there are no material circumstances to indicate that permission should be granted contrary to the development plan.*

However, it was stated in evidence<sup>8</sup> and confirmed at the Inquiry that the Council’s current position is not to pursue prematurity matters.

4. At the Inquiry the appellants submitted draft Unilateral Undertakings<sup>9</sup>. Following the close of the Inquiry, the Council and appellants submitted further representations relating to the validity of the Unilateral Undertakings. The appellants then submitted a completed Unilateral Undertaking<sup>10</sup> following the close of the Inquiry, which was considered valid by the Council. This includes the provision of 30% affordable housing, a Neighbourhood Equipped Area for Play (NEAP), public open space and a wildlife area within the scheme, along with the setting up of a Management Company and a Management Plan for their future management, maintenance, repair and renewal, the provision of an off site pedestrian link, and financial contributions towards a new local bus service (£250,000) and education (£151,848). I shall have regard to this Unilateral Undertaking during my consideration of this appeal.

## **Decision**

5. The appeal is allowed and outline planning permission is granted for a mixed residential scheme to provide affordable, open market and over 55s sheltered accommodation, open space and new access on land to the west of Close Lane and north of Crewe Road, Alsager, Cheshire ST2 2TJ in accordance with the terms of the application, Ref. 13/1305N, dated 25 March 2013, subject to the conditions in Appendix 1.

## **Planning Policy**

6. The development plan for the area is the Borough of Crewe and Nantwich Replacement Local Plan 2011<sup>11</sup>, adopted in February 2005. This made

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<sup>7</sup> Document 12/Core Document I6

<sup>8</sup> Paragraph 1.1 of Mr Stock’s Proof of Evidence

<sup>9</sup> Documents 32 and 37

<sup>10</sup> Document A5

<sup>11</sup> Core Document A14

provision for development within that part of Cheshire East covered by the former Borough of Crewe and Nantwich up to the year 2011. A new plan which will cover the whole of Cheshire East, the Cheshire East Local Plan, is now being prepared. Consultation on the Local Plan Strategy: Submission Version<sup>12</sup>, March 2014, took place between 14 March and 25 April 2014. However, no details of any representations made during this latest consultation period were available at the time of the Inquiry, although I understand that there has been a significant level of objection in previous consultation periods to this part of the emerging Local Plan. Given that the Plan is yet to be publicly examined by an Inspector, along with the unknown extent of any unresolved objections, I have afforded it limited weight, having regard to paragraph 216 of The Framework. A Site Allocations and Development Policies Document is yet to be prepared by the Council.

7. One of the objectives of the Replacement Local Plan was to allocate sufficient good quality housing sites, primarily in or on the edge of Crewe and Nantwich, with a target of providing land for about 7,600 dwellings to be built between 1996 and 2011. In addition to the allocation of housing sites within the Replacement Local Plan, settlement boundaries were defined on the Proposals Map around Crewe and Nantwich and some villages, within which there would be some development potential, where the development of land for housing would be acceptable, provided that it would not harm the character and appearance of the settlement.
8. The settlement of Alsager was not included within the Replacement Local Plan as it fell within the former Congleton Borough Council administrative area. At the Inquiry, some of the third parties referred to the history of development restraint within the town, which was promoted to support the urban regeneration of the Potteries area. Therefore, in Alsager a low rate of housing growth to meet local needs only was proposed in the Congleton Borough Local Plan First Review<sup>13</sup>, adopted in January 2005. The Borough Local Plan also allocated sites for housing, including the Manchester Metropolitan University (MMU) Campus at Alsager, up to 2011 and included Settlement Zone Lines (SZLs) around settlements, including Alsager, within which residential development on land not allocated for such purposes would be permitted, subject to several criteria. The Borough Local Plan confirms<sup>14</sup> that the SZL is not intended as a long term boundary and has, therefore, been reviewed and modified to reflect current circumstances and new allocations for the plan period to 2011. Although the appeal site abuts the settlement of Alsager it is, however, located within the former Borough of Crewe and Nantwich. As such, it is the Replacement Local Plan which forms the development plan for the appeal site.
9. Policy NE.2 of the Replacement Local Plan says that all land outside the settlement boundaries defined on the Proposals Map will be treated as open countryside, with only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area being permitted. It goes on to say that an exception may be made where there is the opportunity for the infilling of a small gap with one or 2

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<sup>12</sup> Core Document A22

<sup>13</sup> Core Document A16

<sup>14</sup> Paragraph 2.53 of the Congleton Borough Local Plan First Review

dwelling in an otherwise built up frontage. Policy RES.5 says that outside settlement boundaries all land will be treated as open countryside, with new dwellings restricted to those that meet the criteria for infilling contained in Policy NE.2; or are required for a person engaged full time in agriculture or forestry, subject to several criteria. Finally, Policy NE.12, says that development on the best and most versatile agricultural land (Grades 1, 2 and 3A in the Ministry of Agriculture Fisheries and Food Classification) will not be permitted unless the need for the development is supported in the Local Plan; it can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non agricultural land; or other sustainability considerations suggest that the use of higher quality agricultural land is preferable to the use of poorer quality agricultural land.

10. Policy PS4 of the Borough Local Plan identified Alsager as a town and defined it by a SZL on the Inset Map, within which there is a general presumption in favour of development provided it is in keeping with the town's scale and character and appropriate to its locality in terms of use, intensity, scale and appearance. Paragraph 2.62 of the reasoned justification to this policy indicates that the boundaries of the SZL will allow for sufficient growth to meet future land use needs for the plan period. Policy PS8 says that development in the open countryside will only be permitted if it is for one or more of a number of defined purposes.
11. The settlement boundaries and SZLs, within the Replacement Local Plan and the Borough Local Plan respectively, were defined in order to allow for sufficient growth to meet future land use needs for the plan period, which, in terms of the settlements within the former Boroughs of Crewe and Nantwich and Congleton, including Alsager, was up to 2011. As such, post 2011, these settlement boundaries and SZLs would have the effect of constraining development, including housing, within these settlements. The restrictions imposed upon development within the open countryside, outside the settlement boundaries, within Policies NE.2 and RES.5 of the Replacement Local Plan, are therefore clearly time expired and should be considered out of date. Furthermore, it is apparent from the emerging Local Plan Strategy<sup>15</sup>, that although it confirms that the settlement boundaries for each of the settlements in Policy PG 6 within this document, which sets out the spatial distribution of development, are as defined in the saved policies of the Replacement Local Plan and Borough Local Plan, as well as the Macclesfield Local Plan, as amended by the sites detailed within the emerging Local Plan Strategy, it also acknowledges that further amendments to settlement boundaries will be undertaken through the Site Allocations and Development Policies Document.
12. It is apparent, therefore, that Policies NE.2 and RES.5 of the Replacement Local Plan have a dual purpose. As well as containing built development within existing settlements, they also seek to protect the open countryside from development in order to safeguard its character and amenity. One of the 12 core planning principles set out in paragraph 17 of The Framework includes recognising the intrinsic character and beauty of the countryside. In my opinion, the aspect of these Replacement Local Plan policies which seeks to safeguard the character and amenity of the open countryside is generally

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<sup>15</sup> Paragraph 8.76 of the Local Plan Strategy Submission Version, March 2014

consistent with The Framework and should therefore be afforded significant weight.

13. From the evidence before me, it is clear that some greenfield land within the open countryside, outside the currently defined settlement limits, will be required for future development. It was agreed at the Inquiry that policies for the supply of housing are out of date and I consider that this should include those elements of Policies NE.2 and RES.5 which seek to contain built development within the defined settlement limits. However, although it would be inappropriate to rigidly apply Policies NE.2 and RES.5 to the open countryside and refuse planning permission for all proposals within this area because they do not meet the criteria set out within these policies, it would be necessary to assess any proposed development in terms of its impact on the character and appearance of the countryside and the settlement, when considering whether or not it would be appropriate for the development proposed.
14. Paragraph 14 of The Framework says that at its heart is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. For decision taking this means where the development plan is absent, silent or relevant policies are out of date, granting planning permission 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.

## **Main Issues**

15. The main issues in this appeal are:
  - a) whether or not a 5 year supply of deliverable housing land can be demonstrated;
  - b) the effect of the proposed development on the character and appearance of the open countryside;
  - c) whether or not the loss of the best and most versatile agricultural land would be acceptable; and,
  - d) whether or not the proposed development would represent a sustainable form of development, having regard to local and national policy.

## **Reasons**

### ***Housing Land Supply***

16. Government guidance in paragraph 47 of The Framework says that local authorities should boost significantly the supply of housing and should identify and update annually a supply of specific deliverable sites sufficient to provide 5 years worth of housing against their housing requirements with an additional buffer of either 5% or 20% depending on previous delivery.
17. Paragraph 49 of The Framework says that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites.

18. The Council published its 5 Year Housing Land Supply Position Statement<sup>16</sup> in February 2014. This document, which has a base date of 31 December 2013, concluded that the Council could demonstrate 5.95 years supply (applying a 5% buffer) or 5.21 years supply (applying a 20% buffer). However, following 4 Section 78 Inquiries during February and March 2014, the Council made a small number of changes to the site details. As such, the Council provided an updated position in its evidence to the Inquiry<sup>17</sup>, which indicated that it could demonstrate 5.80 years supply (applying a 5% buffer) or 5.07 years supply (applying a 20% buffer), excluding older persons' and student accommodation. The Council considers, therefore, that it can demonstrate a 5 year supply of deliverable housing sites in this case.
19. The appellants, on the other hand, are of the view that the Council is unable to demonstrate a 5 year housing land supply. They indicated in their evidence to the Inquiry<sup>18</sup> that only 2.76 years supply (with a 20% buffer) can be demonstrated, excluding older persons' and student accommodation. This would amount to 3.16 years supply (with a 5% buffer). The proposed development would provide around 76 family dwellings and around 56 dwellings for the over 55s.
20. Although both the Council and the appellants agree that the Sedgefield approach is the most appropriate method for dealing with any backlog, there are disagreements between the parties relating to the housing requirement, the appropriate buffer, the inclusion of elderly persons' and student accommodation and the housing supply. I therefore consider each of these matters below.

### *Housing Requirement*

21. There is a dispute between the Council and the appellants as to the appropriate figure to use to determine the housing requirement within Cheshire East. The Council's approach is to use the figure of 1,150 dwellings per annum (dpa) included in the revoked North West of England Plan Regional Spatial Strategy<sup>19</sup> (RS) to 2021, adopted in September 2008. The appellants' approach is to use the figure of 1,350dpa included in the Council's emerging Local Plan Strategy.
22. In terms of the Council's approach, Table 7.1 of the RS sets out the distribution of regional housing provision 2003-2021 and sets annual average rates of housing provision (net of clearance replacement) of 300 for the former Congleton Borough, 400 for the former Macclesfield Borough and 450 for the former Crewe and Nantwich Borough, which gives the figure of 1,150dpa for Cheshire East, which incorporates these 3 former districts. The Council considers that, whilst the RS no longer forms part of the development plan, as it was revoked in May 2013, the 5 year requirement from the RS has consistently been agreed to be the most recently tested, objectively assessed consideration of housing land need by Inspectors determining appeals in the Borough during 2013 and 2014. Furthermore, the RS requirement has been consistently agreed with parties to appeals for the purposes of calculating the 5 year housing land supply, including, until recently, the appellants.

<sup>16</sup> Appendix 15 to Mr Stock's Proof of Evidence

<sup>17</sup> Table 6.1 in Mr Stock's Proof of Evidence

<sup>18</sup> Table 13 in Mr Wedderburn's Proof of Evidence

<sup>19</sup> Core Document A9

23. In respect of demographic data, the Council refers to the 2013 Office for National Statistics (ONS) projections to the year 2020, which indicate a requirement of 1,050dpa. Furthermore, if a longer time horizon is employed, the Council points to its own demographic modelling over the period 2010-2030, which suggests a requirement for 1,180dpa. The Council considers, therefore, that this demonstrates that the RS requirement sits comfortably alongside current demographic projections.
24. The appellants have submitted a document<sup>20</sup> prepared by Edge Analytics which provides a review of the Council's approach to the development of demographic evidence to support its objectively assessed housing need. This document was prepared and submitted to support the appellants' representations to the emerging Local Plan Strategy. As well as including an assessment of the Council's choice of key forecasting assumptions: migration rates, household formulation rates, the unemployment rate, the commuting ratio and economic activity rates, the document presents a number of alternative scenarios which consider the impact of key assumptions on dwelling growth outcomes. Table 8 in this document gives a summary of the scenarios. The document advises that the Council should consider the ONS Sub National Population Projection (SNPP) 2010 as a better reflection of its long term trend projection, which would suggest a dwelling requirement of 1,409 per year.
25. The appellants consider that the RS target was a constrained figure that did not meet the objectively assessed housing need for Cheshire East. In support of this view they refer to Table 4.17 of The North West Plan Submitted Draft Regional Spatial Strategy for the North West of England – Technical Appendix<sup>21</sup>, published in January 2006, which indicates the comparison of distribution of regional housing provision 2003-2021 with alternative scenarios. This table shows the Draft RS total maximum housing provision 2003 – 2021 (net of clearance replacement) as being 20,700 dwellings for Cheshire East (made up of 5,400 for the former Congleton Borough, 7,200 for the former Macclesfield Borough and 8,100 for the former Borough of Crewe and Nantwich). This figure was taken forward and adopted within the RS. The table also gives the figures for the long term trend of economic growth/medium economic activity rate scenario and the recent trend of economic growth/medium economic activity rate scenario as 32,459 dwellings (8,021 + 14,218 + 10,220) and 41,158 dwellings (9,719 + 18,531 + 12,908) respectively.
26. Although the overall housing figure of 411,160 for the North West shown within Table 4.17 is between the overall figures for the long term trend scenario (325,403) and the recent trend scenario (459,302), this is not the case in respect of Cheshire East, where a much smaller figure has been included, with significantly larger provision being associated within the areas of Manchester/Salford, Liverpool/Knowsley and Greater Preston. Paragraph 4.74 of the Technical Appendix indicates that as well as taking into account the housing need/demand information, in determining the overall scale and distribution of the housing provision, the RS also had regard to supporting economic growth, objectives and sustainable development principles embodied in the Draft RS; the housing land supply and urban potential; the impact on urban regeneration and housing markets, including the Housing Market

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<sup>20</sup> Appendix B2 to Mr Wedderburn's Rebuttal Proof of Evidence

<sup>21</sup> Document A4

Renewal Pathfinders; and, the need to provide sufficient affordable housing. Furthermore, paragraph 4.78 makes it clear that the most realistic and achievable housing provision figures represented a compromise between the long term trend and recent trend scenarios.

27. With regards to the appellants' approach, Policy PG 1 of the emerging Local Plan Strategy sets out the overall development strategy for Cheshire East which includes a requirement to provide sufficient land to accommodate the full objectively assessed needs for the Borough of at least 27,000 homes between 2010 and 2030, which would equate to around 1,350dpa over the plan period. However, Policy PG 1 states that these dwellings would be delivered as follows: 2010/11 to 2014/15 (1,200dpa); 2015/16 to 2019/20 (1,300dpa); 2020/21 to 2024/25 (1,400dpa); and 2025/26 to 2029/30 (1,500dpa).
28. Paragraph 8.8 of the reasoned justification to Policy PG 1 says that as a minimum, the Plan aims to meet the full objectively assessed need for an additional 27,000 dwellings that is predicted to arise in Cheshire East over the 2010-2030 period. It goes on to say that this need is based on forecasting work using the latest Government projections and also factors in the Council's aspirations for employment led growth, which seek to deliver additional housing to enable a rate of jobs growth that averages 0.4% a year. This is necessary it states as, given that the aging population of the Borough is reducing the proportion of residents of working age, and the generally low levels of unemployment, such an increase in jobs would create more in-commuting unless housing is provided at a level to match the employment growth.
29. Paragraph 2a-015 of the Planning Practice Guidance (PPG) states that the household projections published by the Department for Communities and Local Government should provide the starting point estimate of overall housing need. The household projections are trend based, ie they provide the household levels and structures that would result if the assumptions based on previous demographic trends in the population and rates of household formation were to be realised in practice. They do not attempt to predict the impact that future Government policies, changing economic circumstances or other factors might have on demographic behaviour. The 2011-based Interim Household Projections only cover a 10 year period, so the PPG advises at paragraph 2a-016 that plan makers would need to assess likely trends after 2021 to align with their development plan periods.
30. Paragraph 8.10 of the emerging Local Plan Strategy states that the 2011-based Interim Household Projections suggest that the total number of households in Cheshire East is expected to increase annually by an average of around 1,050 over the 10 year period. It goes on to say that the Council has undertaken demographic forecasting work based on these interim projections, continuing them forward to 2030 using the same assumptions as the official projections and using the 2021 household formation rates from these official projections. This would result in an average annual increase in dwellings of 1,180 over the whole Plan period. Paragraph 8.11 says that the scenario that models an annual average jobs growth rate of 0.4% equates to a net average increase of 1,365dpa or around 27,300 overall, a labour supply increase of around 17,300 people and an increase of around 14,800 jobs to 2030. This is considered attainable and consistent with Cheshire East's previous long term economic performance. Paragraph 8.12 says that this suggests that the medium growth



strategy of providing around an additional 1,350dpa, identified in the Council's Issues and Options Paper, would best match the expected future household growth in Cheshire East and the Council's economic growth aspirations.

31. It was apparent from evidence presented to the Inquiry that representations have been made to the emerging Local Plan Strategy and this document is yet to be examined by an independent Inspector. Furthermore, the figure of 1,350dpa, while based on the ONS 2011-based Interim Household Projections, includes additional housing to support the Council's aspirations for employment led growth. Given that this jobs-led growth strategy, along with the additional housing required to support it, has not yet been tested at a Public Inquiry, I have afforded it limited weight in my consideration of this appeal.
32. Although the RS has been revoked and, as such, no longer forms part of the development plan for the area, the housing targets within it remain the only housing figures which have been tested through the scrutiny of the examination process. I acknowledge the appellants' concerns that the RS target was a constrained figure that did not meet the objectively assessed housing need for Cheshire East. However, notwithstanding the revocation of the RS, the housing targets set within it, along with the evidence base which underpins them, remain the only housing figures which have been subject to public scrutiny. Furthermore, the 2011-based Interim Household Projections, projected forward to 2030, indicate that an average annual increase in dwellings of 1,180 over the whole Plan period would be required. This is not dissimilar to the figure of 1,150dpa in the RS. As such, despite the appellants' concerns, I consider that the figure of 1,150dpa is representative of the objectively assessed housing needs within Cheshire East at the present time, given the current status of the emerging Local Plan Strategy, and I have afforded it significant weight in my consideration of this appeal.
33. I consider, therefore that a 5 year requirement of 5,750 dwellings (1,150 x 5) should be applied in this case.

#### *Appropriate Buffer*

34. The appellants and the Council also differ on the appropriate buffer to be used in the housing land supply calculations. The Council considers that a buffer of 5% should be applied, whereas the appellants are of the view that the Council has a record of persistent under delivery of housing and, as such, a buffer of 20% would be more appropriate.
35. Tables 1 and 2 of the Council's Position Statement, set out the completions within Cheshire East over the periods from 2003/04 and 1996/97 to 2012/13 respectively. Table 1 also includes the completions between 1 April and 31 December 2013. The completions are set against the development plan target for each year. In respect of Table 1, this was the RS target of 1,150dpa for each year, with a proportionate figure of 864 used for the period between 1 April and 31 December 2013, and within Table 2 this was the 1996 Cheshire Structure Plan (1996/97 – 2005/06), the 2006 Cheshire Structure Plan (2006/07 – 2007/08) and the RS (2008/09 – 2012/13), which had targets of 1,060dpa, 700dpa and 1,150dpa respectively.
36. Table 1 shows that the RS target was exceeded during the first 5 years between 2003/04 and 2007/08, but was not met in the last 5 years between 2008/09 and 2012/13, with the trend continuing in the first 9 months of the

most recent year 2013/14. Although the cumulative total did not show a shortfall until 2010/11, due to the surplus in the first 5 years, the completions within the last 5 years have fallen significantly short of the annual target. When assessed against the development plan targets in Table 2, completions were substantially higher than the targets in 11 out of the first 12 years, between 1996/97 and 1999/2000 and between 2001/02 and 2007/08, but the target was not met in each of the last 5 years between 2008/09 and 2012/13. Despite this, however, the cumulative total indicates that there has been a cumulative oversupply of 1,356 dwellings during this period.

37. I note the revised Tables C2/7, C2/8 and C2/9<sup>22</sup> submitted by the Council at the Inquiry, which provide updated versions of Table 1 from the Council's Position Statement and include Use Class C2 completions (minus 20%) and student completions, with discounts of one third, one half and two thirds applied, respectively. I also acknowledge the revised Tables C2/10, C2/11 and C2/12<sup>23</sup> which provide updated versions of Table 2 from the Council's Position Statement and include Use Class C2 completions (minus 20%) and student completions, with discounts of one third, one half and two thirds applied, respectively.
38. The updated versions of Table 1 all indicate that the RS target was exceeded during the first 5 years between 2003/04 and 2007/08, but was not met in the last 5 years between 2008/09 and 2012/13, with the trend continuing in the first 9 months of the most recent year 2013/14. Although the cumulative total did not show a shortfall until 2012/13, in revised Table C2/7, and 2011/12, in the revised Tables C2/8 and C2/9, due to the surplus in the first 5 years, the completions within the last 5 years have fallen significantly short of the annual target. When assessed against the development plan targets in Table 2, in the revised Tables C2/10, C2/11 and C2/12, completions were substantially higher than the targets in 11 out of the first 12 years, between 1996/97 and 1999/2000 and between 2001/02 and 2007/08, but the target was not met in each of the last 5 years between 2008/09 and 2012/13. Despite this, however, the cumulative total indicates that there has been a cumulative oversupply during this period of 2,668, 2,554 and 2,433 respectively.
39. Table 1 in the Council's Position Statement indicates that in the period 2003/04 to 2012/13 there was a cumulative undersupply of 1,763 dwellings. However, when this period is extended to 31 December 2013 the cumulative undersupply is stated as being 2,130 dwellings, given the completion of 497 dwellings between 1 April 2013 and 31 December 2013, against a target of 864 dwellings. At the Inquiry, the Council submitted completion figures<sup>24</sup> for Use Class C2 accommodation, with a discount of 20% applied, and student accommodation, with discounts of one third, one half and two thirds applied each year between 2003/04 and 2012/13, along with the number of completions between 1 April 2013 and 31 December 2013. These figures show that, when Use Class C2 accommodation (with a 20% discount) and student accommodation (with a one third discount applied) are included, the cumulative undersupply is reduced to 781 dwellings.
40. I acknowledge the moratoriums which were in place in the former Boroughs of Congleton and Macclesfield during the early 2000s, which adopted a policy of

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<sup>22</sup> Document 49

<sup>23</sup> Document 49

<sup>24</sup> Tables C2/7, C2/8 and C2/9 of Document 49

constraint in relation to housing provision in parts of Cheshire East. I have also had regard to Government advice in paragraph 3-035 of the PPG. However, I am concerned about the dramatic fall in the number of completions that has occurred in the period following the lifting of these moratoriums and that this has been sustained for a number of years and appears to be continuing.

41. Paragraph 47 of The Framework advises that where there has been a record of persistent under delivery of housing, the 5 year target for housing land supply should be increased by the addition of a 20% buffer. Given the performance within Cheshire East over the last 5 years, whether or not the Use Class C2 and student accommodation completions are included, when compared against the RS targets, I consider that it amounts to a persistent under delivery of housing. As such, the requirement for a 20% buffer applies in this Borough. This approach would, in my opinion, reflect Government guidance in The Framework which seeks to boost significantly the supply of housing, by providing a realistic prospect of achieving the planned supply and ensuring choice and competition in the market for land.

#### *Use Class C2/Student Accommodation*

42. Government guidance in paragraph 3-037 of the PPG says that older people have a wide range of different housing needs, ranging from suitable and appropriately located market housing to residential institutions (Use Class C2). It goes on to say that local planning authorities should count housing provided for older people, including residential institutions in Use Class C2, against their housing requirement.
43. Following the publication of the PPG in March 2014, the Council updated its assessment of residential completions to include Use Class C2 units in past supply. I note that sheltered housing schemes, in which couples or individuals inhabit a standard apartment with its own bathroom and kitchen facilities, but are able to access car provision if needed, are already monitored and included in the housing land supply. However, the Council has examined care home and extra care accommodation planning permissions and completions, since 2003 and included these within its calculations. Table C2/1<sup>25</sup> indicates that, since 2003, 690 additional bed spaces have been built out of a total of 734 with planning permission. Table C2/2<sup>26</sup> indicates that, in respect of extra care accommodation, 407 units have been constructed since 2003.
44. Paragraph 3-037 of the PPG does not set out how local planning authorities should count housing provided for older people against their housing requirement. It does state, however, that the approach taken, which may include site allocations, should be clearly set out in the Local Plan. No such approach is set out in the existing development plan or the emerging Local Plan Strategy. The appellants submitted a Housing Vision Advice Note – Older People<sup>27</sup>, prepared by Edge Analytics, to the Inquiry which advises that it cannot be assumed that C2 accommodation bed spaces release housing on to the housing market on a 1:1 basis as residents may well retain their home, either with the intention of returning there or as an investment. It goes on to say that they are not aware of any data source on the level of retention of housing by people in residential care and that this would require telephone

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<sup>25</sup> Appendix GCS R3 of Mr Stock's Rebuttal Proof of Evidence

<sup>26</sup> Appendix GCS R3 of Mr Stock's Rebuttal Proof of Evidence

<sup>27</sup> Appendix C2 to Mr Wedderburn's Rebuttal Proof of Evidence

interviews with scheme managers. At the Inquiry the Council put forward updated versions<sup>28</sup> of Table 1 from its Position Statement all of which included Use Class C2 completions, minus 20%. However, I am not satisfied that substantial evidence has been provided to support such a reduction or that this approach has been adequately tested. While I concur with both the Council and the appellants that housing provided for older people, including residential institutions in Use Class C2, should be counted against the housing requirement, the approach to be taken should be determined as part of the Local Plan process.

45. Government guidance in paragraph 3-038 of the PPG says that all student accommodation, whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus, can be included towards the housing requirement, based on the amount of accommodation it releases in the housing market. It goes on to say that notwithstanding, local authorities should take steps to avoid double counting.
46. Following the publication of the PPG in March 2014, the Council updated its assessment of residential completions to include student accommodation in past supply. The Council has examined student accommodation planning permissions and completions, since 2003 and included these within its calculations. Table C2/3<sup>29</sup> indicates that, since 2003, 713 additional bed spaces have been built out of a total of 941 with planning permission.
47. Paragraph 3-038 of the PPG says that local planning authorities should include student accommodation towards their housing requirement, based on the amount of accommodation it releases in the housing market. It does not state, however, how this should be calculated. The appellants submitted a Housing Vision Advice Note – Student Populations<sup>30</sup>, prepared by Edge Analytics, to the Inquiry which indicates the difficulties in estimating the release of general market housing and the need for the Council to carry out a comprehensive assessment of student accommodation in the area and its impact on the wider housing stock. At the Inquiry the Council put forward updated versions<sup>31</sup> of Table 1 from its Position Statement, which include student accommodation completions, with a discount of one third, one half and two thirds. However, I am not satisfied that substantial evidence has been provided to support any of these suggested reductions or that these approaches have been sufficiently tested. While I concur with both the Council and the appellants that student accommodation should be counted against the housing requirement, the amount of accommodation it releases in the housing market should be comprehensively assessed and tested as part of the Local Plan process.
48. I conclude, therefore, that although Use Class C2 and student accommodation should be counted against the Council's housing requirement, there is no substantial evidence before me to support the level of such provision to be included in any calculation of housing land supply.

### *Supply*

49. A number of matters remain in dispute between the main parties. These relate to lead-in times, build rates, number of developers, strategic sites, whether a

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<sup>28</sup> Tables C2/7, C2/8 and C2/9 of Document 49

<sup>29</sup> Appendix GCS R3 of Mr Stock's Rebuttal Proof of Evidence

<sup>30</sup> Appendix C2 to Mr Wedderburn's Rebuttal Proof of Evidence

<sup>31</sup> Tables C2/7, C2/8 and C2/9 of Document 49

site is available now, whether a site is viable and how student and Use Class C2 accommodation ought to be dealt with. I shall deal with each of these matters in turn.

50. The Council sets out in Table 6.2<sup>32</sup> its local experience of lead-in times on sites of a range of sizes, in the control of various developers. It states that this indicates that a range of developers are able to begin works within weeks of the grant of the relevant full planning permission. Full details of the lead-in times across all sites in the Borough over 20 units since 2003 are included in the Council's evidence<sup>33</sup> which, it says, support the lead-in times adopted within the Council's Position Statement. This document sets out the lead-in times for deliverable and developable sites, across a range of site sizes/number of dwellings with full planning permission/reserved matters, outline planning permission and sites without permission.
51. In terms of the rate of delivery, the Council sets out in its evidence<sup>34</sup>, that it has undertaken detailed work to assess the average build rates of developments within Cheshire East. It states that this has led to a slight increase in the average build rates, compared to those used in the Strategic Housing Land Availability Assessment<sup>35</sup> (SHLAA) 2012. The Council says that evidence shows that since 2003 (to 2012/13) sites of between 10 and 49 dwellings have been built at an average rate of 13dpa; sites of between 50 and 100 dwellings have been built at an average rate of 26dpa; and sites of over 100 dwellings have been built at an average rate of 30dpa. Furthermore, the Council's Position Statement sets out the build rates for deliverable and developable sites, across a range of site sizes/number of dwellings on site that are under construction as well as those with full planning permission/reserved matters, outline planning permission and sites without permission.
52. The appellants do not consider that the lead-in times and build rates included within the Council's Position Statement are objective. Indeed, they refer to the last version of the Build Rate table included within the SHLAA, which they consider reflects industry advice and experience. When compared to this earlier document, the Council's Position Statement now includes shorter lead-in times for sites of less than 50 dwellings with full planning permission and outline planning permission and for sites of over 50 homes sets out a range of build out rates from 30-200dpa, rather than the simple average rate of 25dpa favoured by the housebuilding industry. The appellants say that build rates will depend on the type of site, the size of dwellings and the strength of the market. I also note that the larger the dwellings, the slower the build and that the level of reservations is particularly important as it drives completions.
53. I acknowledge the comments made by the Home Builders Federation (HBF)<sup>36</sup>, in respect of the Cheshire East SHLAA Update Methodology, which says that the use of standardised build rates and lead-in times are in principle considered acceptable, providing they are based upon a robust analysis of local conditions. Rather than setting static assumptions, it is advised that the Council considers average build rates and lead-in times over the preceding 5 years to provide a proxy for future delivery.

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<sup>32</sup> Page 16 of Mr Stock's Proof of Evidence

<sup>33</sup> Appendix GCS 20 to Mr Stock's Proof of Evidence

<sup>34</sup> Paragraph 6.30 of Mr Stock's Proof of Evidence

<sup>35</sup> Core Document A31

<sup>36</sup> Core Document A33

54. The appellants refer to a table<sup>37</sup> circulated by the Council at 3 recent planning appeal Inquiries (Refs: APP/R0660/A/13/2198461, 2197532 and 2196044) which it suggested underlaid its approach to its Position Statement. The appellants do not consider that this table is representative of average lead-in times or build rates, which, in any event, they say does not support the lead-in times or build rates included in the Council's Position Statement. Indeed, the appellants say that it is apparent that the short lead-ins and higher build rates applied by the Council are not supported by local evidence. As such, they consider that lead-in periods in the equivalent SHLAA table and a build rate of 25-30dpa per site would be a more reasonable starting point.
55. The Council considers that if the site is large enough then it would be likely that there would be 2 developers on site and therefore the build rate could be increased to reflect this. The appellants dispute this and suggest that their experience is that where the site is very good, a single developer would keep it. However, if the site is large, it may be that an additional developer constructs part of it, particularly if targeting a different part of the market.
56. I note the strong recommendation made by the HBF<sup>38</sup>, in respect of more than one developer working upon a site at the same time, that the Council bases any uplift upon the experience from previous sites or evidence from the appropriate developers. In any event, the HBF says that the uplift should only be applied to large sites, usually in excess of 250 dwellings, and that consideration be given to issues of market saturation in areas where a number of SHLAA sites are in close proximity. I also acknowledge the Council's report to the Strategic Planning Board<sup>39</sup> on 30 April 2014, which states that in response to the findings of the Inspector in a recent appeal, that the Council's build rates and lead-in times were overly optimistic, (Ref APP/R0660/A/13/2196044) officers have been reworking the supply figures using longer lead-in times, and on build rates which do not assume that on large sites there would be 2 or more developers, except where there is actual site specific evidence.
57. Government guidance in paragraph 3-023 of the PPG says that the local planning authority should use the information on suitability, availability, achievability and constraints to assess the timescale within which each site is capable of development. This may include indicative lead-in times and build out rates for the development of different scales of sites. It goes on to say that on the largest sites, allowance should be made for several developers to be involved and that the advice of developers and local agents will be important in assessing lead-in times and build-out rates by year.
58. Prior to the publication of the Council's Position Statement, the Council arranged for members of the Housing Market Partnership (HMP) to attend a half day workshop on 19 December 2013 to inform the methodology underpinning the revised SHLAA. The main points raised at the meeting by the attendees<sup>40</sup> and in the written representations made by 11 organisations included the use of standard build rates and lead-in times, with recommended rates varying from 25-35dpa.

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<sup>37</sup> Core Document A26

<sup>38</sup> Core Document A33

<sup>39</sup> Document 50

<sup>40</sup> Core Document A37

59. Although it would appear that the Council's approach set out in its Position Statement accords with the guidance in the PPG in that it includes indicative lead-in times and build out rates for the development of different scales of sites and makes an allowance on the largest sites for several developers to be involved, I am concerned that, on the basis of the evidence before me, these figures are not supported by local evidence of past lead-in times and build out rates or on substantial evidence of the involvement of 2 or more developers on larger sites, or by the experience of the local housebuilding industry. Indeed, in my opinion, they would appear to be a little over optimistic. Indeed, I consider that the lead-in times and build rates, put forward by the appellants would more accurately reflect past trends and those anticipated by the housebuilding industry. Furthermore, I concur with the appellants' view that the inclusion of a higher build rate to reflect the presence of 2 or more developers on a site should only be applied where there is substantial evidence that this would be the case.
60. With regards to strategic sites, the Council has included 12 sites<sup>41</sup> from within the emerging Local Plan Strategy in the supply, where it is satisfied that they would positively contribute to supply and there is a clear evidential basis for their inclusion. The sites, along with the number of dwellings included within the Council's 5 year housing land supply figures are: Basford East (125 units); Basford West<sup>42</sup> (175 units); Leighton West (140 units); South Macclesfield Development Area (216 units); Former MMU Campus (175 units), Giantswood Lane to Manchester Road (80 units); Parkgate<sup>43</sup> (125 units); Glebe Farm (155 units); Kingsley Fields<sup>44</sup> (240); Stapeley Water Gardens (150 units); Old Mill Road/Junction 17 (aka Capricorn) (200 units); and Adlington Road (135 units). This gives a total of 1,741 dwellings from 11 strategic sites (excluding Basford West, which is included elsewhere).
61. The appellants, however, consider that not all of these strategic sites would be deliverable and each case should be assessed on a fact sensitive basis, with objections to each site being taken into account. Although the full extent of the objections to these sites is not yet known, the appellants stated at the Inquiry that objections are likely to be extensive and widespread across the strategic sites at issue. The appellants have pursued an approach of including strategic sites where planning permission has been granted or applications have been made. On this basis, 6 such sites have been included by the appellants within the 5 year housing land supply. However, each of these sites has been assessed as having a reduced contribution, given the lead-in times and build rates assumed by the appellants. The sites included by the appellants, along with their contribution to the 5 year housing land supply, on the basis of the appellants' lead-in times and build rates, are as follows: Parkgate (75 units); Glebe Farm (60 units); Kingsley Fields (100 units); Stapeley Water Gardens (14 units); Old Mill Road/Junction 17 (aka Capricorn) (75 units); and Adlington Road (75 units). This gives a total of 399 units from 6 strategic sites.
62. At the time of the Inquiry, the extent of any objections made to the strategic sites in the emerging Local Plan Strategy was unknown. I acknowledge,

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<sup>41</sup> Appendix GCS 19 to Mr Stock's proof of Evidence

<sup>42</sup> This site is now included under sites with planning permission, following the signing of the Section 106 Agreement in February 2014

<sup>43</sup> This site has a resolution to grant planning permission dated March 2014

<sup>44</sup> This site has a resolution to grant planning permission dated February 2014

however, that it is likely that such objections have been made and would be subject to examination at the forthcoming Inquiry into this plan. I consider, therefore, that an assessment of these sites should be undertaken to establish the likelihood of them coming forward within the next 5 years and I note the comments made by the Council and the appellants in this respect. In my opinion, given that the extent of any objections to these strategic sites in the emerging plan is not yet known, it would be reasonable to only include those sites with the benefit of planning permission or a resolution to grant planning permission, as this would increase the likelihood of these sites coming forward within the next 5 years. Given that I concur with the use of the appellants' lead-in times and build rates, I am satisfied that a total of 399 dwellings from the strategic sites is the most appropriate figure to be included within the 5 year housing land supply.

63. In terms of sites being available now, the appellants have identified 9 sites<sup>45</sup> included in the Council's 5 year housing land supply in which availability is contested. These sites, along with the number of dwellings included in the housing land supply, are as follows: land adjacent to 97 Broughton Road, Crewe (11 dwellings); Victoria Mills, Macclesfield Road, Holmes Chapel (120 dwellings); Woodend, Homestead Road, Disley (10 dwellings); Chelford Cattle Market (125 dwellings); and, Irlam/Eddie Stobart, Chelford (50 dwellings); along with 4 strategic sites from within the emerging Local Plan Strategy, namely Basford East, Crewe (125 dwellings); Leighton West (140 dwellings); Former MMU Campus, Alsager (175 dwellings); and Giantswood Lane South, Manchester Road, Congleton (80). I have considered the strategic sites above. I shall therefore address each of the remaining 5 sites below.
64. The Council states that development commenced on site on land adjacent to 97 Broughton Road, Crewe on 11 November 2013. The appellants stated at the Inquiry that they cannot understand why this site is considered to be under construction as this was not the case prior to the Inquiry and they understand that the developer is unable to build out the scheme as it does not control part of the access. There is no evidence before me to support the commencement of development on this site.
65. The site at Victoria Mills, Macclesfield Road, Holmes Chapel is currently in active commercial use, with a fine décor business employing 200+ people on this site. The Council states that the occupier has identified a move to Winsford as being required to serve its business needs, with the proposed premises owned by the same landowner as its current site. Although the Council says that it is aware that the move is planned, I am concerned that, having regard to footnote 11 to paragraph 47 in The Framework, this site is not available now, given that it is currently occupied by an active commercial use.
66. Planning permission (Ref. 10/2889M) granted on 19 November 2010 for residential development at Woodend, Homestead Road, Disley, has now lapsed and a subsequent planning application for 11 dwellings (Ref. 13/4530M) has been submitted to the Council. I note the Council's view that although this planning application is awaiting determination, it would be likely to be viewed positively, given that there has been no change in planning circumstances. Nevertheless, given the lack of a current planning permission and the failure to implement the previous planning permission within the statutory time limit, I

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<sup>45</sup> Document 45



- am concerned that this site is not available now and there is not a realistic prospect that housing would be delivered on this site within 5 years.
67. The Council states that the Chelford Cattle Market is to be relocated to Middlewich as part of the 'Cheshire Fresh' development, which was granted planning permission in March 2014. The lease expires in 2015 for the Cattle Market in Chelford. However, I acknowledge that this site continues in an active commercial use. A resolution to grant planning permission for residential development on the site was issued in December 2010. However, I note the appellants' statement that there has been no progress since then. In my opinion, given the particular circumstances of this site, it should not be considered to be available now.
68. The Irlam/Eddie Stobart site, Chelford, was acquired by Eddie Stobart as part of the wider J Irlam portfolio. The Council states that Eddie Stobart does not see this as a transport site and therefore wishes to redevelop it for housing. Furthermore, the Council says that the relocation of the existing business on this site would not be an issue in operational terms. I note the discussions that have taken place between the Council and the agents for Eddie Stobart and the proposed scheme consisting of 60 residential units, with employment uses to the rear. I also acknowledge that there was a resolution to grant planning permission in 2010. However, given that there is an existing active commercial use on this site, along with the lack of progress in relation to the proposed housing development, I consider that this site should not be considered as available now.
69. In the light of the above, I concur with the appellants' view that these sites are not deliverable as they are not available now and should be excluded from the Council's 5 year housing land supply.
70. In terms of the viability of sites, the appellants identify 9 sites<sup>46</sup> included in the Council's 5 year housing land supply calculations which, in the context of The Framework, they consider would not be deliverable as they are not viable. These sites, along with their contribution to the housing land supply, are as follows: Albion Chemicals (125 units); Park Green Mill, Macclesfield (90 units); Alma Mill (12 units); Church Farm, Chester Road, Acton (11 units); Walled Garden, Welsh Row, Nantwich (8 units); Wheelock Corn Mill (40 units); Lowther Street, Bollington (10 units); Bedells Lane, Wilmslow (25 units); and EARS Garage, Buxton Road, Macclesfield (10 units). I consider the viability of each of these sites below.
71. The Albion Chemicals site had a resolution to approve planning permission (Ref. 09/2083C) subject to a legal agreement in April 2011. I note the appellants' statement that this site has abnormal development costs and is currently not viable. However, the Council says that the residential part of the site (as distinct from the mixed use/commercial element) is greenfield and the suggested constraints raised by the appellants have not been raised as issues that would prohibit development. I also acknowledge that the site owner has now negotiated a deal with a national housebuilder and is pressing hard for the Section 106 Agreement to be completed. Nevertheless, given the long period of inactivity associated with this site, along with the lack of a completed Section 106 Agreement and some doubt as to the viability of the scheme, in my opinion, it should not be considered as deliverable.

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<sup>46</sup> Document 45

72. The Council confirmed at the Inquiry that the site at Park Green Mill now has planning permission (Ref. 11/3347M), with the first 36 units to be delivered by a registered social landlord (Peaks and Plains). The Unilateral Undertaking was completed on 27 March 2014 and the developer has the necessary funding available which must be used in this financial year. It is clear that this site is deliverable and, as such should be included within the Council's 5 year housing land supply. Given that funding is available for the registered social landlord this financial year, I do not consider it appropriate to include the appellants' lead-in times and build rates for this site. As such, the number of dwellings within the 5 year housing land supply should remain at 90 units.
73. The proposed development at Alma Mill is a scheme to convert a listed building into 12 apartments. The resolution to permit (11/1383M) is a time extension of a previous application in 2008 and no progress has been made since that time. Although I note that talks are still ongoing and the application does not expire until the end of 2015, given the lengthy delays in bringing this site forward, I am satisfied that it should not be considered as deliverable.
74. The planning application (Ref. 12/1023N) for the proposed development at Church Farm, Chester Road, Acton, benefits from a resolution to permit subject to the completion of a Section 106 Agreement. I note that this has been progressed by external solicitors employed by the Council and has been agreed, but is awaiting the applicant's completion. Given the lack of a completed Section 106 Agreement and no indication of when this would be likely to be finalised, in my opinion, this site should not be considered as deliverable.
75. The site at the Walled Garden, Welsh Row, Nantwich, benefits from a resolution to grant planning permission, subject to a Section 106 Agreement, in 2009. I acknowledge the issues around the ownership of the wall and the Council's acceptance at another Inquiry (Ref. 2197532) that this site should be deleted from the supply. Given this, I concur with the appellants' view that the proposal is not currently viable and as such is not deliverable.
76. The Council agreed with the appellants at the Inquiry that the sites at Wheelock Corn Mill and Lowther Street, Bollington, should be omitted from the housing land supply, given that these sites were allocated in a plan adopted in 2005 and no progress has been made on either site since.
77. Similarly the site at Bedells Lane, Wilmslow was allocated in a plan adopted in 2005. The Council owns this site and it states that it is in advanced discussions relating to the sale of this land. Given that the sale of this site has not yet occurred and that no planning permission is yet in place, there is no substantial evidence to support its development within the next 5 years. As such, I consider that it is not deliverable.
78. Finally, the development of 10 dwellings at EARS Garage, Buxton Road, Macclesfield is included within the Council's 5 year housing land supply. However, I note that this site has planning permission for a Use Class C2 development of 47 units. As such, I concur with the appellants' view that the 10 dwellings should be deleted from the figures as they are not deliverable. However, I note the Council's view that the Use Class C2 units should be included within the supply. This matter I will consider in more detail below.

79. Although I concur with the appellant's view in respect of the viability of the majority of these sites, I consider that no reduction to the supply should be made in respect of Park Green Mill. As such, an overall reduction in the level of supply of 241 units should be applied (331 – 90).
80. With regards to student and Use Class C2 accommodation, the appellants state that the RS figure does not make provision for either, nor do the existing and emerging Local Plans. The Council, on the other hand, say that the RS was based on projections which apply to the whole population and the RS figures therefore include the needs of the whole population. Although now revoked, the RS made it clear<sup>47</sup> that local authorities should develop an understanding of local and sub-regional housing markets by undertaking Strategic Housing Market Assessments (SHMAs) in order to adopt a concerted and comprehensive approach to, amongst other things, influence housing supply across all types, sizes, tenures and values to achieve a better match between supply and need, and ensure the needs of the wider population are met, including students and older people. Furthermore, it recognised<sup>48</sup> that demographic trends would mean considerable increases in the proportion of older people by 2021 and that, coupled with the complexity associated with changing lifestyle and housing aspirations, this means that there would be a need for specialist provision such as extra care homes, amongst other things. I am satisfied, therefore, from the evidence before me, that the RS had regard to the needs of the whole population in establishing the housing requirement for the north west.
81. Paragraph 3-037 of the PPG makes it clear that the approach to be taken in respect of the provision of housing for older people should be clearly set out in the Local Plan. Furthermore, paragraph 3-038 says that student accommodation can be included, based on the amount of accommodation it releases in the housing market. Although the Council does not clearly set out in its Local Plan the approach to be taken within Cheshire East, in respect of housing for older people, I acknowledge the work undertaken by the Council in respect of Use Class C2 and student accommodation, in respect of both completions and supply and the impact that this would have on housing land supply. It is likely, however, that this approach will be tested at the forthcoming examination into the emerging Local Plan Strategy. Indeed, I note the evidence presented to the Inquiry by the appellants in respect of their concerns relating to the Council's approach.
82. In my opinion, it is necessary for an element of Use Class C2 and student accommodation to be included towards the housing requirement. However, at this time, there is not an approach before me which has been sufficiently tested at a public examination and found to be robust. Nevertheless I concur with the appellants' view that it would not simply be a case of each care home bed space freeing up a dwelling, given the many reasons and circumstances that older people enter such an establishment. Indeed, some may well leave a partner in the family home, where that spouse is capable of living independently but not capable of looking after a partner with dementia or other illness at home. Also, there are some institutions which offer convalescent/respite/rehabilitation care, following which a return home to live independently may be possible. I note the appellants' statement that if a care

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<sup>47</sup> Policy L 2 of the RS

<sup>48</sup> Paragraph 7.9 of the RS

home closes it does not necessarily re-open, in particular if it has been closed because of inadequate facilities and that the Council's additions only approach, which does not take account of any closures at all is flawed. In my opinion, in assessing supply, regard should also be had to the likelihood of a closed care home re-opening. Similarly, there is no evidence before me to indicate the amount of accommodation that student accommodation releases in the housing market.

83. The Council has applied past completions of Use Class C2 and student accommodation within its housing land supply calculations. The appellants dispute this approach as they consider the delivery figures, absent of much needed further work on methodology, are unsafe, with no allowance made for closures of care homes; the use of Use Class C2 figures as a 1:1 Use Class C3 replacement; and the lack of information relating to the number of dwellings freed up by the provision of halls of residence. At the Inquiry, the Council put forward the use of Use Class C2 and student accommodation with a 20% and one third reduction respectively as an appropriate way forward. To my mind, for the purposes of this Inquiry and in the absence of an alternative robustly tested approach, such allowances would be appropriate.
84. In conclusion, in terms of the 5 year housing land supply calculation I consider that the former RS 5 year target of 5,750 dwellings should be used. The shortfall against this target, excluding any allowance for Use Class C2 and student accommodation completions, is 2,130 dwellings (1 April 2003 – 31 December 2013). Therefore, the requirement added to the shortfall would equate to 7,880 dwellings. A buffer of 20% would amount to a further 1,576 dwellings, giving a total requirement, including the buffer, of 9,456 dwellings. In terms of supply, I concur with the appellants figure, with the exception of the site at Park Green Mill, so an additional 90 dwellings should be added to the appellants' supply figure of 6,444 dwellings, which would give a total supply of 6,534 dwellings, or 3.45 years ( $6,534 \div 9,456 \times 5$ ), excluding Use Class C2 and student accommodation.
85. Notwithstanding the disputes between the parties in relation to their inclusion and the site specific comments made by the appellants, I have also assessed the housing land supply in respect of the inclusion of the Council's figures for Use Class C2 and student accommodation completions and permissions, with a 20% discount for the former and a one third reduction applied to the latter. The figures for completions included in Table C2/7<sup>49</sup>, which is an updated version of Table 1 from the Council's Position Statement, indicate that 841 units (net minus 20%) of Use Class C2 accommodation were completed between 1 April 2003 and 31 March 2013, with a further 37 units completed between 1 April 2013 and 31 December 2013, and 471 units of student accommodation (net, with one third discount applied) were completed over the same period, making a total of 1,349 units. Table GCS R2/2<sup>50</sup>, which is an update summary, including older persons and students, from the Council's Position Statement, states that the supply of Use Class C2 and student accommodation is 372 units (with a one third reduction to student accommodation and a deduction of 20% to Use Class C2 units).
86. Applying these figures, the 5 year housing target would remain 5,750 dwellings. The shortfall would be reduced to 781 dwellings (2,130 – 878 –

<sup>49</sup> Document 49

<sup>50</sup> Document 49

471), giving a requirement plus the shortfall of 6,531 dwellings (5,750 + 781). A buffer of 20% would equate to 1,306 dwellings (6,531 ÷ 5), giving a total requirement of 7,837 dwellings (6,531 + 1,306). With regards to supply, this would equate to 6,906 dwellings (6,534 + 372), or 4.41 years (6,906 ÷ 7,837 x 5).

87. I conclude, therefore, that irrespective of whether or not Use Class C2 and student accommodation is included within the housing land supply, a shortfall is still evident. The Council cannot therefore demonstrate a 5 year supply of deliverable housing land. I have afforded this matter substantial weight in my consideration of this appeal.

### ***Character and Appearance***

88. The appeal site is located to the west of Close Lane, adjacent to the western edge of the settlement of Alsager, within open countryside. To the east of the appeal site, on the other side of Close Lane, is residential development along Close Lane, Windsor Drive, Spencer Close and Cranberry Lane. Further residential properties are sited to the south of the appeal site, along Delamere Court, Kensington Court and Nursery Road, with the latter being beyond an area of woodland. To the west and north of the appeal site is predominantly open countryside, with sporadic dwellings located within it, including Yew Tree Farm, adjacent to the north west. The appeal site is gently undulating and is currently mostly used for the grazing of horses, with an unmanaged area of scrub and woodland located within the south western corner.
89. Local residents are concerned about the impact of the proposed development on the character and appearance of the area. The Council considers that the adverse visual impacts of the proposed development on neighbouring properties and the Public Right of Way (PROW Haslington 48), whilst not regarding this issue as a reason for refusal in itself, is a material consideration which counts against the proposed development in the balance.
90. The appellants state that, as the appeal site is located on existing green fields and situated on the periphery of a settlement, in terms of visual impact, the most sensitive receptors would be the residential properties along Delamere Court and Kensington Court to the south of the appeal site, the dwellings along Close Lane to the east, Moss End Farm, Roseheyes and Orchard Cottage to the west and Yew Tree Farm at the north western corner of the appeal site; along with the users of the public footpath network. In terms of the properties that would experience the greatest degree of change, the appellants consider that these would be the houses on Close Lane which face the appeal site and Kensington Court/Delamere Court that back directly onto the appeal site, as well as the Yew Tree Farm complex. The appellants say that the outlook from these houses currently extends to mid distance views of green fields but within an established residential context. They go on to say that on completion of the proposed development, new housing would be prominent within the majority of rear outlooks, although filtered from daylight rooms by established boundary vegetation. I note their opinion that the development is considered as being visually characteristic, but that it would be brought closer to a small number of properties.

91. The appellants submitted a Landscape and Visual Assessment<sup>51</sup> of the proposed development which was submitted with the planning application. However, at the Inquiry the appellants' Landscape Architect confirmed that at worst the residual effects upon the closest residential properties, around 12 in total, would be 'major adverse', with the remainder of residential properties sustaining a 'moderate adverse' visual impact. With regards to PROW Haslington 48 the appellants consider that the effect upon users of this footpath would be 'moderate adverse' at worst, adjusting to 'minor adverse' over time. Furthermore, the appellants' Landscape Architect confirmed at the Inquiry that there would be adverse harm to users of the new stretch of footpath proposed by the appellants along Close Lane.
92. The Council's Planning Officer's Report to Planning Committee<sup>52</sup> includes an assessment of the impact of the proposed development on the landscape. It concludes that, overall, subject to the retention of important features and consideration of the sensitive receptors within the site, such as the PROW Haslington 48, the site has the landscape capacity to accommodate future residential development of the scale indicated, providing that it is well planned and designed and takes due account of the existing landscape features of the site.
93. The appeal site has built form on 2 sides, to the south and east and is strongly influenced by the adjoining settlement. Indeed, I am satisfied that given the adjacent built up form of the settlement, the change in character of the appeal site from agricultural/equestrian to residential would be limited in visual terms in longer distance views from the west, including views from PROW Haslington 48, given the existing visible settlement backdrop. I acknowledge that the magnitude of change associated with the proposed development of the appeal site is identified as being high, however, the residual effects upon the character of the typical agricultural fringe landscape are considered to be 'minor adverse' at worst. In addition, the visual impact would be further reduced by the enhancement of boundary vegetation.
94. I acknowledge that localised 'major adverse' effects have been identified in association with private views from neighbouring residential properties. However, given the nature of the development proposed, namely the use of a greenfield site on the edge of a settlement, it would be likely that some degree of landscape harm would occur. Although the residents of these neighbouring residential properties would experience a change in their outlook and the proposed development would be visible to users of the proposed new footpath along Close Lane, I do not consider that the proposal would represent a significant visual intrusion, as it would not introduce features that would be completely uncharacteristic of the immediate area. Furthermore, I consider that, given the outline nature of the proposal, further opportunities exist for the development of the masterplan to secure an appropriate design and landscape management regime at the reserved matters stage.
95. I conclude, therefore, that the proposed development would cause some harm to the character and appearance of the area, in particular in views from neighbouring residential properties. However, given the nature of these impacts, I consider that only limited weight should be afforded to the landscape changes that would result from the proposed development.

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<sup>51</sup> Core Document E17

<sup>52</sup> Core Document I2

### ***Agricultural Land***

96. The appeal site extends to around 5.2ha, with around 2.9ha being classed as Grade 2 agricultural land, according to the Agricultural Land Classification protocol. I note that a large area, close to the unmanaged area of scrub and woodland, is classed as Grade 5 agricultural land, due to waterlogging. The Council and local residents are concerned about the loss of the best and most versatile agricultural land if the proposed dwellings are constructed.
97. Government guidance in paragraph 112 of The Framework says that local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. It goes on to say that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.
98. The appellants refer to the utilisation of this agricultural land as being very limited by practical difficulties such as small plot sizes, different ownerships, surrounding trees and its urban fringe location. I acknowledge the appellants' statement that most of the land surrounding Alsager would fall into the category of best and most versatile, along with their assessment of the percentage of best and most versatile land included within recently approved appeal proposals and the potential development sites identified within the Council's emerging Local Plan Strategy Policies Map. I also note that the proposal would not break up a viable agricultural holding or holdings.
99. Although the proposed development would lead to the loss of Grade 2 land, given the difficulties associated with its use for agricultural purposes due to its relatively small size, shape, field boundaries, ownership and urban fringe location, which is evidenced by its current use for horse grazing, in my opinion, it is currently of limited agricultural value. Given this, along with the extent of best and most versatile land surrounding Alsager and the promotion of development sites in the emerging Local Plan which include agricultural land within this category, it is apparent that some areas of agricultural land would have to be developed if the Council's housing targets are to be met.
100. I conclude, therefore, that only limited weight can be afforded to the loss of the best and most versatile agricultural land in this case.

### ***Sustainable Development***

101. Paragraph 7 of The Framework sets out the 3 dimensions to sustainable development: economic, social and environmental and paragraph 8 says that the roles performed by the planning system in this regard should not be undertaken in isolation, because they are mutually dependent. It goes on to say that, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system, which should play an active role in guiding development to sustainable solutions. At the heart of The Framework is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan making and decision taking. Paragraph 14 of The Framework says that for decision taking this means approving development proposals that accord with the development plan without delay; and, where the development plan is absent, silent or relevant policies are out-of-date, granting permission 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 development should be restricted.

102. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
103. There is no dispute between the main parties that the appeal site is sustainable in locational terms, given the distances between it and a variety of services and facilities. The appellants refer to a number of elements of the scheme which they say fulfil the sustainability objectives of The Framework. The appellants say that the provision of market and affordable housing, along with housing for the elderly would fulfil the social role. In terms of the economic role, the appellants refer to the provision of employment opportunities associated with the sheltered housing element of the scheme, along with the construction of the development, which would make a significant contribution to local employment. Finally, with regards to the environmental role, the appellants refer to the design of the proposed scheme which would achieve high levels of design quality and would include substantial areas of open space, landscaping and a biodiversity habitat. Indeed, the green infrastructure of the scheme would amount to around 38% of the total area.
104. I note the concerns of local residents that the appeal site is not locationally sustainable. However, given the proximity of local services and facilities to the appeal site, along with the proposed footpath link along Close Lane, shown on Drawing No. SCP/12270/F02 Rev. F, and the inclusion of a financial contribution towards the provision of a new local bus service to serve Close Lane for 5 years, I concur with the main parties that the site is sustainable in locational terms.
105. The proposed development would provide 76 family dwellings and 56 dwellings for the over 55s. Furthermore, the submitted Unilateral Undertaking includes an obligation to provide 30% of the family dwellings and 30% of the dwellings for the over 55s as affordable housing. I am satisfied therefore that the proposed development would go some way towards meeting the needs for such housing in this area.
106. The provision of employment within both the construction of the scheme and within the sheltered housing element of the scheme post construction would offer opportunities in both the short and long term to local people.
107. The proposal would involve the loss of an area of open countryside and agricultural land. However, I have afforded the loss of this agricultural land and the landscape changes that would result from the proposed development little weight in my determination of this appeal. Furthermore, I consider that the design quality of the proposed development, along with the inclusion of substantial elements of open space, landscaping and a biodiversity habitat, would represent an environmental gain, which, in addition to the social and economic gains detailed above, would represent a sustainable form of development.



108. I conclude, therefore, that the proposed development would represent a sustainable form of development, having regard to local and national policy.

## **Conclusions**

109. From the evidence before me I have concluded that the Council cannot demonstrate a 5 year supply of deliverable housing land. Paragraph 49 of The Framework says that relevant policies for the supply of housing should not be considered up to date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. Furthermore, it was agreed at the Inquiry that the policies for the supply of housing are out of date and, for the reasons given at the beginning of this Decision, I consider that this should include those elements of Policies NE.2 and RES.5 of the Replacement Local Plan which seek to contain built development within the defined settlement limits.
110. It is apparent that the proposal would represent a sustainable form of development. Paragraph 14 of the Framework states that at its heart is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan making and decision taking. For decision taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in The Framework as a whole; or specific policies in The Framework indicate development should be restricted.
111. Although the proposed development would lead to the loss of some Grade 2 agricultural land, given its siting on the urban fringe, along with the practical difficulties associated with it and that the proposal would not break up a viable agricultural holding or holdings, I have afforded its loss limited weight in this case. Furthermore, although some harm to the character and appearance of the area has been identified in terms of the localised 'major adverse' effects in association with private views from neighbouring residential properties, I have afforded limited weight to the landscape changes that would result from the proposed development.
112. In my opinion, the lack of a 5 year supply of deliverable housing land is a material consideration of substantial weight in this appeal. I have considered all the other matters raised by the Council and third parties including the impact of the proposed development on protected species and local ecology; the availability of brownfield sites within Alsager; the policies and proposals within the Alsager Town Strategy; the loss of a greenfield site; the cumulative impact of this development and others within the town on local services and facilities; and highway and pedestrian safety along Close Lane. However, given that the proposal would represent a sustainable form of development, along with the need to boost significantly the supply of housing in Cheshire East, I consider that this would outweigh the loss of this agricultural land within the open countryside and the limited impact of the proposal on the character and appearance of the area and the other matters raised. As such, I conclude that the appeal should be allowed.

## Conditions

113. At the Inquiry the Council submitted a list of suggested conditions<sup>53</sup>. In addition to the standard reserved matters, which it was agreed should include access, and time limit conditions, this list includes 26 conditions. I have had regard to the advice in the PPG<sup>54</sup> when considering these conditions. A condition which sets out the approved plans would not be necessary, given the outline nature of this planning permission. However, reference could be made to specific plans in the relevant conditions if necessary. Conditions relating to the discharge of surface water and the submission of a scheme to manage the risk of flooding from overland surface water would be necessary to reduce the risk of flooding.
114. The submission of details of a Sustainable Drainage System (SuDS) and any culverts to be installed, along with the requirement that the site shall be drained using a totally separate system with only foul drainage connected to the public sewer, would be necessary to safeguard the environment. A condition which requires an undeveloped buffer zone alongside the watercourses running through the site would be necessary to enable their maintenance. Although a distance of 8m was sought in the suggested condition, it was unclear whether this related to the distance either side or in total. There was also a dispute about the need for a buffer zone of that size. It was agreed at the Inquiry that the best way forward would be if details of the buffer zone could be agreed as part of the reserved matters.
115. The submission and approval of an Environmental Management Plan would be necessary to safeguard the living conditions of neighbouring residents and in the interests of highway safety. A requirement to carry out a Phase II investigation in respect of contaminated land, along with any remediation necessary, would be reasonable in the interests of safeguarding the environment. A detailed noise mitigation scheme would be necessary to ensure that future occupiers of the proposed dwellings would not suffer undue noise and disturbance from the M6 motorway. A requirement that the route of the existing public footpath across the site be maintained within the public open space would be necessary to safeguard the character and appearance of the area and to ensure continued public access along this route. The provision of a footpath link along Close Lane would be necessary in the interests of pedestrian and highway safety.
116. Conditions requiring a detailed survey of nesting birds prior to the commencement of any works between 1 March and 31 August in any year, detailed proposals for the incorporation of features into the scheme suitable for use by nesting birds and incorporation of the Reptile Mitigation Measures, would be necessary in the interests of ecology. The submission and approval of a Travel Plan for the proposed development and a scheme to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources would be necessary in the interests of a sustainable development. The submission and approval of details of boundary treatments and landscaping would be reasonable to safeguard the character and appearance of the area.

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<sup>53</sup> Document 52

<sup>54</sup> Circular 11/95: The Use of Conditions in Planning Permissions has been largely superseded by the Planning Practice Guidance, with the exception of Appendix A (Model Conditions)

117. Conditions relating to the retention and protection of trees on the site during construction would be necessary to safeguard the retained trees and the character and appearance of the area. A requirement that details of the parking provision for each dwelling be submitted would be reasonable in the interests of highway safety. The submission and approval of details of bin storage would be necessary to safeguard the environment. Finally, a condition requiring that 56 of the dwellings shall not be occupied by a person or persons over the age of 55 years would be reasonable to safeguard these properties for elderly residents.

### **Unilateral Undertaking**

118. The appellants submitted a planning obligation by Unilateral Undertaking<sup>55</sup> under Section 106 of the Town and Country Planning Act 1990, which includes a number of obligations to come into effect if planning permission is granted. I have considered these in the light of the statutory tests contained in Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010. I have also had regard to the CIL Regulations 2010 Compliance Statement<sup>56</sup>, submitted at the Inquiry by the Council.
119. Policy BE.5 of the Replacement Local Plan says that the local planning authority may seek to negotiate with developers to make adequate provision for any access or other infrastructure requirements and/or community facilities, the need for which arises directly as a consequence of that development. It goes on to say that such provision may include on site facilities, off site facilities, or alternatively payment of a commuted sum. The obligations within the Unilateral Undertaking relate to the following matters:
120. *Affordable Housing:* Policy RES.7 of the Replacement Local Plan says that affordable housing targets on windfall sites of 25 units or more, or greater than 1ha in size, will be 30%. The Council's Interim Planning Statement: Affordable Housing requires the provision of 30% affordable housing on all windfall sites of 15 dwellings, or more than 0.4ha. The SHMA 2010 identified a net requirement for 36 new affordable homes each year between 2009/10 and 2013/14 in Alsager, or 180 dwellings in total. The Council confirmed that there are currently 220 active applicants on the waiting list with Cheshire Homechoice, the Council's choice based lettings system. I note that although 81 affordable homes are anticipated due to planning approvals/resolutions to approve, none has yet been delivered in Alsager. The Unilateral Undertaking includes the provision of 30% affordable housing within the proposed development, with 30% of both the family dwellings and the elderly persons accommodation to be provided as affordable. Given the level and nature of the need for affordable housing in Alsager, I am satisfied that this obligation would pass the statutory tests.
121. *Education:* The Council considers that the proposed development of 76 dwellings would generate 14 primary and 10 secondary aged pupils. This pupil yield is based on the average number of primary and secondary aged pupils in Cheshire East Schools living in 2+ bedroom accommodation, which equates to 18 primary aged pupils and 13 secondary aged pupils per 100 dwellings. I note that there are forecast to be 48 unfilled primary school places by 2016 and 52 unfilled primary school places by 2016, with the secondary school

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<sup>55</sup> Document A5

<sup>56</sup> Document 30

showing 166 unfilled places by 2019. However, I acknowledge that these current forecasts make no allowance for additional pupils from further housing developments. The Council has referred to a number of other developments within Alsager which would be likely to generate around 65 primary school aged pupils. This would lead to a shortfall of primary school places within the town. The Unilateral Undertaking includes a financial contribution of £151,848 ( $14 \times 11,919 \times 0.91$ ) towards the provision of 14 primary school places. This figure is based on the new build multiplier for one primary school place provided by the Department for Education, which has been index linked by the local education authority during the fourth quarter of 2011 to give £11,919 and 0.91 is a regional adjustment factor for Cheshire East. Given the need for additional primary school places generated by the proposed development, along with the likely shortfall in future provision, due to other housing developments in the local area, I am satisfied that this obligation would pass the statutory tests.

122. *NEAP and Public Open Space:* Policy RT.3 of the Replacement Local Plan says that in new housing developments with more than 20 dwellings the provision of a minimum of 15sqm of shared recreational open space per dwelling will be sought. It goes on to say that where the development includes family dwellings an additional 20sqm of shared children's play space per family dwelling will be required as a minimum for the development as a whole, subject to various requirements. The Council has undertaken an assessment of the existing provision of shared recreational open space and children and young persons provision accessible to the proposed development, including local provision nearby in Hassall Road and larger town centre facilities such as Milton Park, if the development were to be granted planning permission. The Council concluded that there would be a deficiency in the quantity and accessibility of provision. The Unilateral Undertaking includes an obligation to provide public open space to include a NEAP containing at least 6 different fixed items of play equipment which would be suitable for use by children of early school age (4 – 10 years old) and 6 items of play equipment suitable for use by older children, including suitable safety surfacing, fencing and seating for supervising adults, along with formal and informal recreational areas and a wildlife area. Furthermore, the Unilateral Undertaking includes an obligation that the areas of public open space would be owned, managed and maintained by a Management Company in accordance with a Management Plan, to be approved by the Council. Given the scale and nature of the development it is likely that there would be significant demand for the use of public open space. I consider, therefore, that these obligations would pass the statutory tests.
123. *Bus Service:* Policy TRAN.1 of the Replacement Local Plan says that the Council will negotiate with developers in order to secure commuted payments towards providing or improving public transport. The Council considers that the proposed development would be likely to generate journeys for leisure, work, shopping and domestic purposes to Alsager town centre, Crewe, Sandbach and the wider area. It is seeking a financial contribution towards the cost of improving bus services in the vicinity of the site. The Unilateral Undertaking would include a financial contribution of £250,000 towards the provision of a new local bus service to serve Close Lane for 5 years. Given the nature and scale of the proposed development, which would include an element of accommodation for elderly residents, along with the limited bus service available at present, I consider that the provision of a new local bus service

would facilitate better sustainable links to Alsager town centre and train station. I consider, therefore, that this obligation would pass the statutory tests.

124. *Off Site Pedestrian Link:* The Cheshire East Rights of Way Improvement Plan (RoWIP) 2011-2026 aims to improve walking and cycling facilities in the area, for both travel and leisure purposes. RoWIP Policy H2 says that the Council will work in partnership to promote walking, cycling and horse riding as active travel options and healthy activities. Policy H3 aims to protect and enhance public rights of way and green infrastructure and endeavours to create new links where beneficial for health, safety or access to green spaces. Policies S7 and S8 say that the Council will work with stakeholders to improve facilities for walking and cycling so that it is attractive for shorter journeys. Policy TRAN.3 of the Replacement Local Plan says that proposals for new development will only be permitted where appropriate provision is made for pedestrians. It goes on to say that, where appropriate, the Council will seek to improve conditions for pedestrians through a number of measures, including creating pedestrian routes through housing areas and between existing and new open spaces and the countryside. The Council is seeking a footpath link to the public rights of way network from this proposed development. The Unilateral Undertaking includes the provision of a 2m wide footpath which would run through the north west boundary of the appeal site to provide a pedestrian link between Haslington Footpath No. 48 outside the site and a road or path within the site. Public Footpath No. 48 runs through part of the appeal site and it was apparent from my site visit and the evidence presented to the Inquiry that this is well used by local residents. Given its close proximity to the proposed dwellings, I consider that it would be highly likely that future occupiers of the development would use this public footpath for walking their dogs and general recreation. A footpath link from Close Lane, through the development, to the public footpath would provide both new and existing residents with a connection to the wider public rights of way network. I consider, therefore, that this obligation would pass the statutory tests.

*Karen Baker*

INSPECTOR

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr R Humphreys QC	Instructed by the Borough Solicitor
He called	
Mr G Stock BA(Hons)	Partner of Deloitte LLP
MA MRTPI AIEMA	

### **FOR THE APPELLANTS:**

Mr J Cahill QC	Instructed by Mr P Downes, Harris Lamb, on
Assisted by Ms V Hutton	behalf of Muller Property Group
He called	
Mr J Berry BA(Hons)	Partner at Tyler Grange LLP
DipLA AIEMA CMLI	
MArborA	
Mr D Hughes BSc(Hons)	Managing Director of David Hughes Agricultural
FBIAC	Consultancy Limited
Mr W Booker BSc(Hons)	Director of Singleton Clamp and Partners Limited
Mr M Wedderburn BSc	Planning Manager at Muller Property Group
MA MRTPI	
Mr P Downes BSc(Hons)	Director of Harris Lamb
MRICS	

### **INTERESTED PERSONS:**

Mr S Burkinshaw	Local Resident
Mr I White	Local Resident
Mrs V Beddow	Local Resident
Councillor D Longhurst	Alsager Town Council
Councillor R Hovey	Chairman, Haslington Parish Council
Honorary Alderman D Bould	President, Alsager Residents' Action Group
Councillor J Hammond	Haslington Ward Councillor
Councillor D Hough	Alsager Ward Councillor
Councillor R Fletcher	Alsager Ward Councillor

## **ADDITIONAL APPEARANCES IN RESPECT OF THE DISCUSSIONS DURING THE INQUIRY RELATING TO CONDITIONS/UNILATERAL UNDERTAKING**

### **FOR THE APPELLANTS:**

Mr Anderson	Solicitor (Unilateral Undertaking)
Mr C Davey	Muller Property Group (Conditions)

### **FOR THE LOCAL PLANNING AUTHORITY:**

Miss S Dillon	Solicitor (Unilateral Undertaking)
Mr Cullen	Solicitor (Unilateral Undertaking)
Mr B Haywood	Planning Officer (Unilateral Undertaking and Conditions)

## **DOCUMENTS SUBMITTED AT THE INQUIRY**

- 1 Representation on behalf of the appellants, submitted by the appellants
- 2 Opening Statement on behalf of the appellants, submitted by the appellants
- 3 Opening Statement on behalf of the Council, submitted by the Council
- 4 Email from Sheila Dillon, Cheshire East Council, dated 28 April 2014 at 1900hrs, submitted by the Council
- 5 Replacement Appendix GCS21 to Mr Stock's Proof of Evidence, submitted by the Council
- 6 LDF Background Report: Determining the Settlement Hierarchy, submitted by the Council
- 7 Draft as at 28 April 2014 Statement of Common Ground – Disputed Sites, submitted by the Council
- 8 Sites where build rates and lead-ins are in dispute, submitted by the Council (Superseded by Document 45)
- 9 Email from G Stock dated 28 April 2014 at 1730hrs (APP1), submitted by the appellants
- 10 Information re: student accommodation (APP2), submitted by the appellants
- 11 Information re: care home closures (APP3), submitted by the appellants
- 12 Core Document I6: Minutes of Strategic Planning Board, dated 18 March 2014, submitted by the appellants
- 13 Email from Sheila Dillon, Cheshire East Council, dated 28 April 2014 at 1900hrs, submitted by the appellants
- 14 Draft Conditions v1, submitted by the Council
- 15 Email from Paul Campbell (Richborough Estates) dated 29 April 2014 at 1530hrs, submitted by the appellants
- 16 Minutes of Strategic Planning Board held on 2 April 2014, submitted by the appellants
- 17 Statement of Mr S Burkinshaw, submitted by Mr Burkinshaw
- 18 Statement of Mr I White, submitted by Mr White
- 19 Statement of Common Ground, including a draft Unilateral Undertaking, submitted by the appellants
- 20 Statement of Councillor D Hough, Alsager Ward Councillor, submitted by Councillor Hough
- 21 Extract from Accident Records held by Cheshire East Council, submitted by the appellants
- 22 Statement of Mrs V Beddow, submitted by Mrs Beddow

- 23 Order of third party speakers, submitted by Mr White
- 24 Statement of Councillor D Longhurst, Alsager Town Council, submitted by Councillor Longhurst
- 25 Statement of Councillor R Hovey, Chairman, Haslington Parish Council, submitted by Councillor Hovey
- 26 Statement of Honorary Alderman D Bould, submitted by Honorary Alderman Bould
- 27 Statement of Councillor J Hammond, Haslington Ward Councillor, submitted by Councillor Hammond
- 28 Statement of Councillor R Fletcher, Alsager Ward Councillor, submitted by Councillor Fletcher
- 29 Statement of Mr RL Phipps, submitted by Mr White
- 30 The Community Infrastructure Levy Regulations 2010 Compliance Statement, submitted by the Council
- 31 Appendix 5 to The Community Infrastructure Levy Regulations 2010 Compliance Statement, submitted by the Council
- 32 Draft Unilateral Undertaking (excluding Peter Spencer Rushton), submitted by the appellants
- 33 Consent Order No. 97 D 750, between Susan Anne Rushton and Peter Spencer Rushton, submitted by the appellants
- 34 Copy of the HM Land Registry register of Title No. CH276803, submitted by the appellants
- 35 Letter from Heptonstall Conveyancing Limited, dated 1 May 2014, submitted by the appellants
- 36 Email from Sheila Dillon, Solicitor, dated 30 April 2014 (1124hrs), submitted by the Council
- 37 Draft Unilateral Undertaking (including Peter Spencer Rushton), submitted by the Council
- 38 High Court Judgement (Case No. HC 10 C 02320), submitted by the Council
- 39 Extract from the Encyclopaedia of Planning Law and Practice, submitted by the Council
- 40 Post Inquiry correspondence relating to a Further Submission on behalf of the local planning authority: Planning Practice Guidance, prepared by Deloitte, in respect of an appeal by Rowland Homes Limited on land at Elworth Hall Farm, Sandbach (Appeal Ref. APP/R0660/A/13/2196044), (Document A), submitted by the Council
- 41 Further information on behalf of the local planning authority, in respect of a number of disputed sites, (Document B), submitted by the Council
- 42 Basford East: Illustrative Masterplan E, (Document C), submitted by the Council
- 43 Schedule of Care Homes within Cheshire East, including occupancy rates, (Document D), submitted by the Council
- 44 Statement of Common Ground – Disputed Sites, (Document E), submitted by the Council
- 45 Disputed Sites Listed by Appellants’ Reasons (Document F), submitted by the Council
- 46 Care Homes and Students Schedule, including comments made by the Council, (Document G), submitted by the Council
- 47 Table GCS/R10: Update to proportion of 5 year supply which has planning permission as at 1 May 2014, (Document H), submitted by the Council
- 48 Update to Appendix GCS R5 of Mr Stock’s Rebuttal Proof of Evidence: Tables GCS R2/1, GCS R2/2, GCS R2/3, GCS R2/4, GCS R2/5 and GCS R2/6, indicating the Backlog and Update Summary including Older Persons and



- Students with a one third, one half and two thirds reductions to student accommodation, (Document I), submitted by the Council
- 49 Update to Appendix GCS R3 of Mr Stock's Rebuttal Proof of Evidence: Tables C2/7, C2/8, C2/9, C2/10, C2/11 and C2/12, being the updated versions of Tables 1 and 2 from the Council's February 2014 Position Statement: CEC Completions and RS Student accommodation discounts of one third, one half and two thirds applied, along with C2 minus 20%, (Document J), submitted by the Council
- 50 Minutes of a meeting of the Strategic Planning Board held on Wednesday 30 April 2014, (Document K), submitted by the appellants
- 51 Update to Appendix A2 of Mr Wedderburn's Rebuttal Proof of Evidence, being further illustrative 5 year supply calculations using part Council/part appellants' positions and adding Council care home and student supply completions and permissions, (Document L), submitted by the appellants
- 52 Close Lane Draft Conditions v3, submitted by the Council
- 53 Consultation response to the planning application from the Council's Principal Nature Conservation Officer, dated 19 April 2013, submitted by the Council
- 54 Consultation response to the planning application from the Environment Agency, dated 1 May 2013, submitted by the Council
- 55 Closing Statement on behalf of Cheshire East Council
- 56 High Court Judgement (Case No. CO/2334/2013), submitted by the Council
- 57 High Court Judgement (Case No. 10359/2012), submitted by the Council
- 58 Letter dated 24 February 2014, along with a copy of an Order refusing permission to appeal (Ref. C1/2013/3099), submitted by the Council
- 59 Closing Submissions on behalf of the appellants

#### **DOCUMENTS SUBMITTED AFTER THE CLOSE OF THE INQUIRY**

- A1 Letter dated 16 May 2014 from Patrick Downes of Harris Lamb, on behalf of the appellants
- A2 Email dated 16 May 2014 (1733hrs) from Sheila Dillon, on behalf of the Council, including Counsel's Advice
- A3 The North West Plan: Submitted Draft Regional Spatial Strategy for the North West
- A4 Signed Unilateral Undertaking, submitted by the appellants
- A5 Email dated 11 July 2014 (1905hrs) from Sheila Dillon, on behalf of the Council
- A6 Signed Unilateral Undertaking, submitted by the appellants

#### **PLANS CONSIDERED AS PART OF THE PLANNING APPLICATION**

- A1/1 Location Plans (Drawing No. LP-01 Rev. I)
- A1/2 Development Framework (Drawing No. DF-01 Rev. L)
- A1/3 Topographical Survey (Drawing No. 6579/01)
- A1/4 Illustrative Masterplan (Drawing No. MP-01 Rev. L)

#### **ADDITIONAL PLANS CONSIDERED AS PART OF THE APPEAL**

- B1/1 Proposed Site Access and Highway Improvement Scheme (Drawing No. SCP/12270/F02 Rev. F)
- B1/2 Illustrative Masterplan (Drawing No. MP-01 Rev. O)

## Appendix 1 – Conditions

- 1) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission. The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 3) The discharge of surface water from the proposed development shall be no greater than that which discharges from the existing site. The maximum discharge rate shall be restricted to approximately 5 litres/second, in accordance with the submitted Flood Risk Assessment.
- 4) For discharges above the allowable rate, details of attenuation for up to the 1% annual probability event, including allowances for climate change, shall be submitted to and approved in writing by the local planning authority prior to commencement of development. No development shall take place except in complete accordance with the approved attenuation scheme.
- 5) No development shall take place until details of a Sustainable Drainage Systems (SuDS) for the site 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 details.
- 6) No development shall take place until details of the undeveloped buffer zone to be provided alongside the watercourses running through the site 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 details.
- 7) A scheme to manage the risk of flooding from overland flow of surface water shall be submitted to and approved in writing by the local planning authority prior to the commencement of development. No development shall take place except in complete accordance with the approved scheme.
- 8) Prior to commencement of development details of any culverts to be installed on the site shall be submitted to and approved in writing by the local planning authority. The submitted details shall include what impact the proposed culverting would have and how compensatory works would address this, and full details of working methods and timing, treatment of bed material would be required. No development shall take place except in complete accordance with the approved details.
- 9) The site shall be drained using a totally separate system with only foul drainage connected into the public sewerage system. Surface water shall discharge directly in to the watercourse crossing the site and no surface water flows shall communicate with the public sewerage system via direct or indirect means unless it can be demonstrated that the use of SUDS is not technically feasible in respect of this site.

- 10) Prior to the development commencing, an Environmental Management Plan shall be submitted to and approved in writing by the local planning authority. The plan shall address the environmental impact in respect of air quality and noise on existing residents during the construction phase. In particular the plan shall include:
- a) the hours of construction work and deliveries;
  - b) the parking of vehicles of site operatives and visitors;
  - c) loading and unloading of plant and materials;
  - d) storage of plant and materials used in constructing the development;
  - e) wheel washing facilities;
  - f) details of any piling required including, method (best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties), hours, duration, prior notification to the occupiers of potentially affected properties;
  - g) details of the responsible person (eg site manager/office) who could be contacted in the event of complaint;
  - h) mitigation measures in respect of noise and disturbance during the construction phase including piling techniques, vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes;
  - i) waste management: there shall be no burning of materials on site during demolition/construction; and,
  - j) details of the scheme to minimise dust emissions from the development.

The approved Environmental Management Plan above shall be implemented and in force throughout the construction phase of the development.

- 11) Prior to the development commencing:
- a) A Phase II investigation shall be carried out and the results submitted to, and approved in writing by, the local planning authority.
  - b) If the Phase II investigations indicate that remediation is necessary, then a Remediation Statement shall be submitted to, and approved in writing by, the local planning authority. The remediation scheme in the approved Remediation Statement shall then be carried out.
  - c) If remediation is required, 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 use or occupation of any part of the development hereby approved.
- 12) The reserved matters shall include a detailed scheme of Noise Mitigation for proposed dwellings affected by noise from the M6 motorway. The scheme shall include a detailed plan of which dwellings will be subject to the proposed mitigation measures and the mitigation measures which have been specifically applied to that dwelling both internally and externally and the interior layout of the property. No dwelling hereby permitted, which has been identified as requiring mitigation measures,

- shall be occupied until the approved mitigation measures pertaining to that property have been implemented in full.
- 13) The reserved matters shall make provision for the route of the existing public footpath across the site to be maintained within the public open space and retained as a grass surface path.
  - 14) The proposed footpath link along Close Lane shown on the approved plan (Drawing No. SCP/12270/F02 Rev. F) being specifically referred to shall be provided prior to the first occupation of the site in accordance with detailed design/specification/drawings to be submitted to and approved in writing by the local planning authority prior to the commencement of development.
  - 15) Prior to any commencement of works between 1 March and 31 August in any year, a detailed survey shall be carried out by a suitably qualified person to check for nesting birds and the results submitted to the local planning authority. Where nests are found in any building, hedgerow, tree or scrub to be removed (or converted or demolished in the case of buildings), 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 the local planning authority before any further works within the exclusion zone take place.
  - 16) 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.
  - 17) No development shall take place except in accordance with the Reptile Mitigation Measures submitted with the application. Notwithstanding the submitted details the Mitigation shall include a pond designed to provide breeding habitat for frogs, a hibernacula and compost heap (for egg laying) and the reptile mitigation area shall be located adjacent to, but not within, the SBI.
  - 18) 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 after 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, as long as any part of the development is occupied.
  - 19) No development shall take place until a scheme (including a timetable for implementation) to secure at least 10% of the energy supply of the development from decentralised and renewable or low carbon energy sources shall be submitted to and approved in writing by the local

planning authority. The approved scheme shall be implemented and retained as operational thereafter, unless otherwise agreed in writing by the local planning authority.

- 20) No development shall commence until details of the positions, design, materials and type of boundary treatment to be erected have been submitted to and approved in writing by the local planning authority. No dwelling hereby permitted shall be occupied until the boundary treatment pertaining to that property has been implemented in accordance with the approved details.
- 21) 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.
- 22) The reserved matters shall include an Arboricultural Impact Assessment in accordance with BS:5837:2012 which shall include:
  - a) trees proposed for retention;
  - b) trees proposed to be removed;
  - c) trees to be pruned;
  - d) an evaluation of the impact of any proposed tree losses; and,
  - e) an evaluation of tree constraints.
- 23) No development shall commence (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement 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 Method Statement. Such Method Statement shall include details of the following:-
  - a) 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 including trees which are the subject of a Tree Preservation Order currently in force, or are shown to be retained on the approved layout, which shall be in place prior to the commencement of work.
  - b) Implementation, supervision and monitoring of the approved protection scheme. The approved protection scheme shall be retained intact for the full duration of the development hereby permitted and shall not be removed without the prior written permission of the local planning authority.
  - c) A detailed Treework Specification.
  - d) Implementation, supervision and monitoring of the approved Treework Specification.

- e) Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected. 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.
  - f) Timing and phasing of arboricultural works in relation to the approved development.
- 24) No development shall take place until details of a "no dig" construction method in accordance with section 7.4 of BS 5837:2012 for the access path has been submitted to and agreed in writing by the local planning authority. The path shall be constructed in complete accordance with the approved details.
  - 25) The reserved matters shall include details of the parking provision for each of the dwellings hereby permitted. No dwelling hereby permitted shall be occupied until the parking for that dwelling has been constructed in accordance with the approved details. These areas shall be reserved exclusively for the parking and turning of vehicles and shall not be obstructed in any way.
  - 26) The reserved matters shall include details of the bin storage for each of the dwellings hereby permitted. No dwelling hereby permitted shall be occupied until the bin storage for that dwelling has been provided in accordance with the approved details.
  - 27) 56 of the dwellings hereby permitted shall not be occupied except by a person or persons over the age of 55 years.