



Appeal Decision

Inquiry held on 6 & 7 November and 11-14 November 2014

Site visit made on 14 November 2014

by **B.S.Rogers BA(Hons) DipTP MRTPI**

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

Decision date: 12 January 2015

Appeal Ref: APP/P3420/A/14/2218530

Land at Baldwin's Gate Farm, Baldwin's Gate, Newcastle-under-Lyme, Staffs, ST5 5ES

- 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 Richborough Estates Ltd against the decision of Newcastle-Under-Lyme Borough Council.
- The application Ref: 13/00426/OUT, dated 23 August 2013, was refused by notice dated 10 March 2014.
- The development proposed is an outline application for up to 113 no. dwellings and associated works.

Summary of Decision: The appeal is allowed, subject to conditions.

Preliminary Matters

1. The application is in outline with all matters except access being reserved for later submission. The application is accompanied by a Design and Access Statement, which contains a Proposed Indicative Masterplan. This indicates the general form and layout that the appellants envisage for the site.
2. At the inquiry, it was agreed that the description of the proposed development should be amended to include reference to the proposed temporary construction access, which formed part of the proposal that was determined by the Council.
3. The appellants submitted a signed and sealed Unilateral Undertaking dated 14 November 2014, made under S106 of the Town and Country Planning Act 1990. In brief, this provides for the provision of affordable housing, the maintenance of public open space, the funding of a travel plan and an education contribution. I comment on this Undertaking in paras. 65 & 66 below.
4. Prior to the Inquiry, the Council withdrew reason for refusal no.7 relating to flood risk, although this matter was raised by local residents.
5. Two Statements of Common Ground (SOCG) were submitted to the inquiry. The SOCG (Planning) was agreed between the appellants and the Council on 15 August 2014. The SOCG (Highways) was agreed between the Council and the Staffordshire County Highway Authority on 12 August 2014.

Application for costs

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

Main Issues

7. The main issues in this case are:
 - i. the impact of the proposal on the Council's housing strategy and whether this is a sustainable location for housing; this will include the impact on the form, character and rural setting of Baldwin's Gate and whether the loss of agricultural land is justified;
 - ii. the impact on the safety and convenience of highway users in the locality;
 - iii. the adequacy of the proposed affordable housing provision; and
 - iv. whether the proposal would give rise to undue flooding of neighbouring properties.

The Development Plan

8. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise. The development plan comprises the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy (CSS), adopted 2009 and the saved policies of the Newcastle-under-Lyme Borough Local Plan (LP), which covered the plan period to 2011. A new local plan is being prepared in conjunction with Stoke-on-Trent City Council but a consultation draft will not emerge until 2017 and it can therefore have no relevance to the present case.
9. Local residents have referred to the Whitmore Parish Plan of 2005 but this has not been adopted by the Council and appears to have no formal development plan status. Furthermore, it does not appear to be consistent with the National Planning Policy Framework (the Framework).

Reasons

Housing Strategy/ Sustainable Development

10. The appeal site comprises some 5.6 ha of agricultural land which abuts the NW edge of the village of Baldwin's Gate. The site is outwith the village envelope defined on the LP proposals map, beyond which new housing would be resisted by Policy H1 (save for exceptions which do not apply here). CSS Policy SP1 seeks to support the Housing Market Renewal Strategy and would direct new housing primarily to sites within the inner urban core and other significant urban centres. Priority is given to previously developed land where it can support sustainable patterns of development and provide access to services and service centres by foot, public transport and cycling.
11. Within the Rural Area, CSS Policy ASP6 provides for a maximum of 900 net additional dwellings, primarily located on sustainable brownfield land within the village envelopes of the key Rural Service Centres, namely Loggerheads,

Madeley and the villages of Audley Parish. These are intended to meet identified local requirements, in particular the need for affordable housing. Baldwin's Gate is identified as a Village, where no further growth is planned, albeit that efforts will be made to ensure that existing services and activities within villages are protected. The proposal would therefore conflict with the provisions of the development plan.

12. The Framework is a significant material consideration in this case. In para.14, it sets out the presumption in favour of sustainable development and goes on to indicate that, where the development plan is absent, silent or relevant policies are out of date, planning permission should be granted except in 2 instances. These are where any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole or where specific policies in the Framework indicate development should be restricted.
13. It is not in dispute that the housing policies in the LP have been out of date since 2011, which was the end of the Plan period. Nevertheless, I am content that the broad principles of directing development to the most sustainable locations and prioritising the use of brownfield land within the LP and the CSS are broadly consistent with the principles of sustainable development set out in the Framework. It is plain that not all the housing supply in the area can be met on brownfield land and that some greenfield development is necessary.
14. However, the Framework seeks in para.47 to boost significantly the supply of housing by a number of means, including the need for local planning authorities to identify and update annually a supply of specific, deliverable sites sufficient to provide 5 years worth of housing against their housing requirements. To this should be added a 5% buffer, or 20% where there has been a record of persistent under-delivery. Para.49 states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites. The argument by Whitmore Parish Council that the future supply of housing should be reduced, based on Census data trends, is not consistent with the aims of the Framework.
15. Although the Council agreed in the SOCG (Planning) that it could only demonstrate a 3.12 year supply of housing land and that the 20% buffer should apply, this was not the position of the Council's planning witness, Mr Bridgwood, who submitted to the inquiry that the Council could demonstrate a 5.29 year supply, based on a 5% buffer. His analysis was based on a re-appraisal of a number of sites excluded from the Council's April 2014 Annual Assessment but which he now considers should have been assessed by the Council as being deliverable. Indeed, he was able to show that some of the sites which he subsequently identified had gained planning permission since April 2014 and therefore, applying hindsight, ought to have been assessed as deliverable in April 2014.
16. This is an unusual situation in which the Council's official position (which appears to be unchanged in a very recent committee report) differs from that of its witness. However, I find it unnecessary to examine in detail either Mr Bridgwood's claimed additional supply of deliverable housing land or the appellants' counter-argument that the housing requirement should be increased to reflect the full, objectively assessed needs for affordable and

market housing. This is because, even accepting all of Mr Bridgwood's assertions regarding land supply and housing requirement, he himself accepts that, if the 20% buffer is applied, the 5 year supply can not be met.

17. In assessing the correct buffer to apply, it is good practice to look at the Council's housing delivery figures over a significant period of time to iron out short-term fluctuations. The Council's own evidence is that the CSS target of 285 dwellings per annum has been met in only 2 of the last 8 years. Even though the Council can demonstrate a surplus in the last 2 published years, and Mr Bridgwood submits that the current year appears to be on a similar upward trajectory, the fact remains that there is a large cumulative deficit of some 303 dwellings, which amounts to more than a full year's requirement. To my mind, the evidence clearly demonstrates persistent under-delivery, thereby requiring a 20% buffer to be applied.
18. On this basis, the Council can not demonstrate a 5 year housing supply and, therefore, the relevant policies for the supply of housing (LP Policy H1 and CSS Policies SP1 and ASP6) should not be considered up-to-date. The weight given to them, and to the defined village envelope, should therefore be significantly reduced.
19. Although the appellants are not themselves house builders, there appears to be no obvious reason why housing delivery should not take place on the appeal site within the latter years of the 5 year period. The Council accepts that this is in a high value rural market with a very high likelihood of delivery.
20. At the heart of the Framework is a presumption in favour of sustainable development, defined as having 3 dimensions: economic, social and environmental.
21. Although housing development itself is excluded from the definition of economic development in the Framework, there would be tangible economic benefits arising from the proposal. It is forecast to generate over 90 full-time equivalent construction jobs per annum over the anticipated 3 year construction period and the new residents are forecast to support around 8 public sector jobs and to inject around £1.4 million per annum spending into the local economy. The development would contribute some £1.1 million to the Council by way of the New Homes Bonus. The envisaged range of good quality housing should help support the local labour market. Whilst I accept that some of the above benefits would occur wherever in the District the housing was located, they still amount to a significant economic benefit for the locality.
22. There would also be social benefits. The provision of both market and affordable housing in a District that lacks the minimum 5 year supply will contribute to meeting the housing needs of present and future generations, helping to create a mixed and inclusive community. The education contributions in the UU should ensure this could take place without undue detriment to local primary and secondary schools. The provision of public open space and play facilities on site should benefit the whole village. The influx of new residents should help support local services organisations and contribute to the vitality of this rural community, as envisaged in para.55 of the Framework.
23. Although Baldwin's Gate is not one of the 3 defined Rural Service Centres, and does not benefit from the same level of local services, it nevertheless has a

significant range of facilities within walking distance of the appeal site, including a primary school, a village hall, a church, a public house, 2 shops, a doctor's surgery and a petrol filling station. There are additional services, albeit not within convenient walking distance, at nearby Whitmore. Baldwin's Gate is described in the Council's 2008 Rural Services Survey as 'reasonably well served' and the Officer's Report on this application makes reference to recent appeal decisions in which fellow Inspectors have regarded Baldwin's Gate as a 'sustainable location'.

24. There is an hourly bus service along the A53, which runs through the village, linking the towns of Newcastle, Hanley, Market Drayton and Shrewsbury. This does not run very early in the morning or late at night and is limited at weekends. Its deficiencies, pointed out by both the Council and by local residents, are reflected in its present low level of use for commuting. Nonetheless, it still provides the opportunity for the use of public transport for some work and/or leisure trips. There is also a dedicated school bus service to the local secondary school. I accept that the A53 is not an attractive cycle route due to its width, alignment and high traffic flows. It is common ground that there would inevitably be a high level of dependence on the use of the private car. Whilst I accept that the thrust of strategic policy is to direct most development towards the main urban areas, this is not a remote, rural location and the journey distances to higher order settlements and facilities are fairly short.
25. The submitted Travel Plan, which would be financed under the terms of the Unilateral Undertaking, demonstrates the appellants' intention to mitigate the impact of the proposal. In summary, it would encourage sustainable transport modes and help increase highway safety. I consider this an essential feature of the proposal. However, I have some misgivings about the stringency of the present wording and consider that a detailed travel plan ought to be the subject of a planning condition.
26. In considering the environmental impact, I turn first to the effect on the form, character and rural setting of Baldwin's Gate. CSS Policy CSP1 requires new development to be well designed to respect the character, identity and context of the area. The Council has adopted Supplementary Design Guidance (SPD) on Urban Design which reflects the need to respond to local character. It seeks to locate new development in village envelopes, where possible, and to minimise the impact on local landscape character. One of its key aims is to create a strong green edge for rural settlements where the existing landscape character is not already high quality. Although this is an outline application with all matters reserved, apart from access, the Design and Access Statement indicates key design principles which are envisaged to form part of the proposed development.
27. Save for a small number of older buildings, the development of Baldwin's Gate has largely taken place in the form of small to medium sized post-War housing estates on either side of the A53. These contain predominantly detached houses and bungalows, in a variety of sizes and styles. Although the densities vary between around 9 to 22 dph, the predominant characteristic is of frontage development; in places dwellings are very closely built together. The size of the appeal site is not greatly dissimilar to the combined area of the Gateway Avenue/Sandy Fields developments, which it abuts, particularly if the proposed area of open space, which amounts to over 20% of the site area, is excluded.

The proposed development of up to 113 dwellings would result in a density of up to 26 dph in the developable area and c.20 dph overall, when the proposed open space is included. This appears to me to strike an acceptable balance between reflecting the character of the village housing and making efficient use of housing land.

28. In any event, density alone is not a good indicator of the character or appearance of a development. The Council would have control over the detailed design, form and materials of the development at reserved matters stage and I have no reason to doubt that a development of suitably high design quality could be achieved, so long as the principles set out in the Design and Access Statement are followed. This is a matter that could be controlled by way of a planning condition.
29. CSS Policies CSP1 and CSP4 require regard to be had to the landscape and natural assets of the area. Supplementary Planning Guidance to the former Staffordshire and Stoke-on-Trent Structure Plan identified the site as being within an area of 'Ancient Redlands', characterised by landscapes of mixed arable and pasture farming with a rolling landform and woodlands often located on higher ground. It indicated that incongruous features include an expanding urban edge and that the potential value of new planting is very high. The site is identified as an Area of Landscape Restoration under LP Policy N21, which aims to restore the character and improve the quality of the landscape; development should not further erode the character or quality of the landscape.
30. There can be little doubt that the proposal would be a significant encroachment of the village into what is presently open countryside. The site itself is a very gently sloping grassed field, in the valley bottom, bounded to the SE by the edge of the Gateway Avenue/ Sandy Fields development, to the NE by the West Coast main railway line and to the other boundaries by hedges with 2 trees along the SW boundary. Its main role in the landscape appears to be its openness as a foreground to distant views of the hills, when looking outward, and to the village when looking inward.
31. Landscape and Visual Impact Assessments (LVIA) were carried out on behalf of the appellants and the Council. These included photo-montages of the impact of the development and the indicative mitigatory planting, as it might develop for up to 15 years. This is in accordance with best practice and accords with the principle in para.58 of the NPPF that development should function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. I have carefully examined the LVIA's and also viewed the site myself from all the vantage points suggested by the main parties and by local residents.
32. A public footpath runs within the site, alongside the railway line which here is in a shallow cutting but with very obtrusive overhead gantries. The site is also visible from a number of more distant public vantage points in the low hills that contain the valley. It is, of course, visible from Gateway Avenue, Hillview Crescent and Sandyfields and from a number of dwellings adjoining the site boundary. It was very clear at the Inquiry how much the local residents valued the landscape surrounds of their village.
33. Looking out from the village, the proposal would result in a considerable impact on the private views from the adjoining dwellings. However, the indicative layout shows that breaks in the built development could maintain visual

corridors to extend the public views from the 4 culs-de-sac that lead to the site boundary out into the countryside beyond. Those walking northward out of the village along the public footpath would lose the experience of being in agricultural surroundings for the first 90m or so of entering the site but this would be mitigated to a considerable degree by the proposed landscaped area through which the footpath would pass.

34. Walking back along the public footpath towards the village from the open countryside, the present village fringe is a mix of garden vegetation, interspersed with the hard built form of dwellings adjoining the boundary and timber fences. The indicative scheme shows a landscaped perimeter around the proposed dwellings of between 20 to 50m in depth. There was much debate at the Inquiry as to the extent of woodland planting and the degree of screening. However, it appears to me that the Council would be in a position at the reserved matters stage to ensure that a landscaping scheme of appropriate character to the area was designed and implemented. Clearly it would take time for the landscaping to become effective but, in due course the proposal should lead to a more attractive village fringe than at present, consistent with the aims of the SPD.
35. From the more distant elevated vantage points to the NE and SW, the visual intrusion of the development would appear to me moderate or slight when the impact of the landscape mitigation is taken into account.
36. Accordingly, whilst there would be considerable short term visual harm caused by the new development and the temporary construction access, the proposed mitigatory planting would help to integrate the proposed development into the wider landscape without undue harm to the rural surrounds of the village.
37. Furthermore, to some degree offsetting the visual harm would be the potential improvement to the biodiversity of the site by creating more varied habitat and the provision of play facilities, with access for the whole village.
38. Turning to agricultural land quality, the Framework indicates the need to take into account the economic and other benefits of best and most versatile agricultural land (BMVAL). Where significant development of agricultural land is necessary, the use of poorer quality land should be sought in preference to that of a higher quality. The appeal site comprises some 5.6 ha of mainly Grade 2 but with an area of Grade 1 in the NE corner. Its loss would not appear to have undue consequences for the agricultural viability of Baldwin's Gate Farm, which extends to some 254 ha.
39. Whilst BMVAL is an important national resource, I have no information as to whether the Council is aware of deliverable housing sites that could contribute to the shortfall in the 5 year housing supply which are on lesser quality land. Although only required to consult Natural England on the loss of BMVAL of 20 ha or more, the Council carried out a consultation in this case and no objection was raised. Nonetheless, the loss of BMVAL weighs against the proposal.
40. In conclusion, the lack of a 5 year supply of housing land is an important material consideration which leads me to view the housing policies in the development plan, including the definition of the village envelope, as having significantly reduced weight. Although Baldwin's Gate performs less well than other, larger settlements in terms of accessibility and range of facilities, it can be regarded as a reasonably sustainable location. The intrusion into the

countryside and the loss of BMVAL are negative aspects of the proposal but there are economic, social and environmental benefits, most notably related to increasing the supply and variety of housing, which outweigh any harm to the aims of the development plan.

The safety and convenience of highway users in the locality

41. The Statement of Common Ground (Highways) indicates that Staffordshire County Council as Highway Authority has no highway objections to the proposal. Nonetheless, the Council has raised 3 issues in its highways reason for refusal: the inadequate width of Gateway Avenue, the inadequacy of its junction with the A53 and the inadequacy of the junction of the proposed construction access with the A53.
42. The site would have pedestrian and vehicular access from Gateway Avenue, with an emergency vehicular access from Hillview Crescent that would also serve as an alternative pedestrian access. Gateway Avenue is a residential cul-de-sac with a width which varies between 4.8 and 4.9m. This is wide enough to allow 2 cars to pass safely and for a car to pass a refuse vehicle at low speeds, save at the point in the road where there is a very gentle bend. At present the refuse lorry and other large vehicles reverse along the road due to the lack of a turning head but such a manoeuvre would be unnecessary with the indicative new road layout.
43. As with any normal residential access road, parked cars would inhibit traffic flow but all the present frontage dwellings have adequate driveway parking and the level of on street parking appears generally low.
44. Having regard to the submitted Transport Assessment (which assessed 130 dwellings, rather than the 113 proposed), the road has sufficient capacity to accommodate the projected traffic flows. Although the road is fairly straight, and would be extended further into the appeal site, it appears to me that the limited width and presence of occasional parked cars make it most likely that traffic speeds would remain low. The occasional overrun of the footway by impatient drivers can not be ruled out but this is likely to be infrequent and at low speed, thereby minimising the risk to pedestrians.
45. The A53 through Baldwin's Gate is a primary route, albeit not a trunk road. It is heavily trafficked but the accident record does not appear to be unusually high for a village of this type. Residents pointed to a number of unrecorded traffic incidents and the ensuing disruption which they caused but to take undue account of 'unofficial' statistics would not allow a fair comparison to be made nationally.
46. Crucial to the question of the adequacy of the Gateway Avenue junction is whether the visibility standards set out in Manual for Streets (MfS) or those in Design Manual for Roads and Bridges (DMRB) should apply. The junction meets the standards of the former but not the latter. Whilst it would be appropriate to apply the DMRB standards on the A53 generally, where it is a strategic inter-urban road, this does not appear to be the case here, where it is passing through a built up area with a 30 mph speed limit in force. MfS2 indicates that the application of MfS advice to all 30 mph speed limits should be the starting point and a place-sensitive approach should be used to take account of local circumstances. Here, traffic surveys indicate that vehicle speeds on the A53 are not excessive and there is a Community Speed Watch

programme in place which, along with other measures set out in the Travel Plan, should ensure this remains the case.

47. It is not in dispute that the junction has the design capacity to accommodate the traffic it is projected to serve. However, the Council has indicated that a right turn lane would also be necessary because of the likelihood that traffic waiting on the A53 to turn right into Gateway Avenue would inhibit the free flow of through traffic. However, this appears unnecessary, given the projected turning movements, and contrary to best practice as it would make it harder for pedestrians to cross the road.
48. The proposed pedestrian crossing, a short distance to the east of the junction, appears beneficial to the safety of both future and existing residents, particularly as the primary school and both shops are on the opposite side of the road to the proposed development. Moreover, it would be an additional feature helping to moderate traffic speeds on the A53. There appears to be sufficient footway width for its efficient operation. I recognise that the presence of the zig zag lines could create difficulties for adjoining frontagers but I am led to believe that there is some flexibility as to the extent of such lines, should particular problems arise.
49. The proposed construction access appears to have adequate visibility splays for its location and measured traffic speeds. There is a potential hazard in the event that 2 large vehicles were to meet at the entrance but, as this is likely to be rare and the drivers would each have elevated driving positions with good forward visibility, it is unlikely to give rise to a highway safety problem.
50. The Framework indicates that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe. That does not appear to be the case here. I conclude that the proposal would not unduly harm the safety and convenience of highway users, contrary to the aim of CSS Policy CSP1.

The affordable housing provision

51. The CSS indicates that the identification and provision of appropriate levels of affordable housing is a key strategic priority. In the rural areas, CSS Policy CSP6 seeks the provision of 25% affordable housing on sites of this size. The Council seeks to have the whole of the affordable housing provision on site to provide a balanced and well functioning housing market. The appellants seek a hybrid approach with 16% provided on site and the balance made up by a commuted sum for provision elsewhere in the Borough. The Unilateral Undertaking makes provision for either of the 2 approaches to proceed.
52. The Framework indicates that, where it has been identified that affordable housing is needed, it should be provided on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified. The Council's Developer Contributions SPD is consistent with this approach. It suggests that one of the circumstances where off-site provision may be appropriate is where the Council considers that the provision of completed units elsewhere would enable it to apply the contribution more effectively to meet the Borough's housing need.
53. The appellants submitted an Affordable Housing Delivery Plan which considered local need and supported the hybrid approach. The Council has no up-to-date

needs survey for Baldwin's Gate to justify the 25% on-site provision and acknowledges the high level of need for such housing in other areas of the Borough. Accordingly, I am of the view that the appellants' hybrid approach is entirely appropriate for this site, as provided for in Schedule 2 of the Unilateral Undertaking. The Council is content that the commuted sum for off-site provision would be of an appropriate amount.

Flood risk.

54. The Environment Agency states that the site is in Flood Zone 1, which is an area of low risk of flooding. Local residents say that the site regularly contains standing water and they have pointed out the very shallow gradients in the area which, coupled with a high water table, give great concern about the impact of the proposed development on the neighbouring dwellings. Some properties presently suffer from run-off from the appeal site and incidents of rising ground water and of overflowing sewage have been recorded and photographic evidence provided.
55. A flood risk assessment has been carried out by the appellants to seek to address the surface water issue and the intention is to incorporate a sustainable drainage system to limit surface water run-off in storm events. The Environment Agency is content that this matter can be suitably addressed and I have to trust that the statutory authority is competent in its own field and, having been made aware of the local problems, can ensure that the issue will be properly addressed. Planning conditions could ensure that a suitably efficient and effective scheme is installed. In terms of the proposed dwellings, control over finished floor levels should ensure no undue harm.
56. Both statutory undertakers responsible for sewage disposal are content that a suitable scheme of foul drainage can be accommodated.
57. I note that the Council has withdrawn its reason for refusal relating to flood risk and I conclude on this issue that, subject to the design and installation of suitable drainage systems, there would be no undue additional risk of flooding to neighbouring dwellings.

Other matters

58. Mr Gould spoke of the very plausible scheme to re-open the village railway station, following the completion of the HS2 line, a short distance to the east. He submitted that the appeal site was the only feasible location for a car park to serve this envisaged new transport hub. However, there appears to be no published scheme at this time, even in draft form, and therefore I have no indication of its viability, its support by the relevant bodies or its prospect of advancement.
59. Residents of Gateway Avenue are concerned about noise and disturbance arising from the additional traffic flow. There would undoubtedly be a noticeable change in the noise environment. However, the frontage dwellings in Gateway Avenue are set fairly well back from the road and, even in the am and pm peak hours, when the highest traffic flows would be expected, I consider the additional noise and disturbance would be tolerable. My attention was drawn to an appeal at Spode Close, Stone (Ref: APP/Y3425/A/14/2220297) where access via a short cul-de-sac was deemed unacceptable because of noise and disturbance. I have visited that site and note that the

Inspector also found a number of other deficiencies with the access. However, it differs from Gateway Avenue in having a much steeper gradient, with pinch points on the road which would have given rise to noise from braking and accelerating vehicles.

60. Noise and disturbance from the construction phase can be addressed by requiring a Construction Method Statement to be approved and implemented. This could be controlled by way of a planning condition.
61. I have taken into account all other matters raised but have found none to be of sufficient weight to alter my conclusion below.

The Planning Balance and Conclusion

62. The proposal is not in conformity with the development plan in respect of LP Policy H1 and CSS Policies SP1 and ASP6. However, the weight I can attribute to those policies is significantly reduced by the failure of the Council to demonstrate a 5 year supply of developable housing land.
63. Whilst I have had careful regard to the representations and evidence put forward by the Baldwin's Gate Action Group, Whitmore Parish Council, local residents and their elected representatives, the Framework reflects Government policy to achieve a step change in housing delivery. To my mind, this proposal accords with the aims of the Framework. The policy background is greatly different from that which was current when the previous planning appeal was dismissed on the site in 1965.
64. The test of para.14 of the Framework is whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole. The loss of an area of countryside, which is BMVAL, and the likelihood of a high level of private car use are factors weighing against the proposal. However, the benefits of contributing to the shortfall in housing, including affordable housing and the diversification of the housing stock, of contributing to the local economy and to the support of local facilities are matters of greater weight and lead me to the conclusion that the appeal should succeed.

Conditions & Planning Obligation

65. I have considered the submitted Unilateral Undertaking (UU) in the light of the Framework, para.204, and the statutory tests introduced by Regulation 122 of the Community Infrastructure Levy (CIL) Regulations, 2010. The UU is accepted by the Council as being legally sound and in compliance with the CIL Regulations.
66. I have commented above on the need for affordable housing, to be provided both on- and off-site, on the need for an education contribution to offset the impact on the local primary and secondary schools, on the need for public open space on-site and on the need for a Travel Plan. I am satisfied that these matters meet the tests set out in the Framework and in the CIL Regulations.
67. Without prejudice to its case, the Council has agreed with the appellants a draft list of 26 conditions. I have considered these in the context of the Framework and PPG advice.

68. The first 3 conditions deal with time limits and reserved matters. It is important to my decision that the reserved matters details should accord with the principles set out in the Design and Access Statement.
69. The provision of a pedestrian crossing is necessary for the safety of future residents. Condition 7 requires the submission and implementation of a Travel Plan, which I consider necessary and which would be funded under the terms of the UU.
70. Conditions 6, 22 and 24-26 relate to the necessary provision of the construction access, a construction traffic management plan to control its use and other relevant traffic management measures and its ultimate reinstatement. Condition 23 ensures that the removal of the hedgerow to enable its formation could not take place in the bird nesting season.
71. Conditions 8-12 are important to ensure that any contamination that may exist on site is dealt with so that the site is fit for human habitation.
72. Conditions 13 and 20 deal with the protection of the proposed dwellings from noise from the adjoining main railway line and the protection of existing residents from the impact of the construction process.
73. Landscaping of the site is a reserved matter but condition 14 is necessary to ensure existing trees are protected.
74. A suitable boundary treatment is an integral part of ensuring the site respects its context and condition 15 requires details to be submitted and implemented.
75. Condition 16 seeks to ensure any features of archaeological significance that may arise during construction are properly treated.
76. Conditions 17-19 are important to ensure that foul and surface water drainage and any run-off from the site are properly dealt with.
77. Condition 21 provides for the provision of play equipment in the proposed public open space and is important to ensure adequate facilities for future residents and for the present villagers.

Formal Decision

78. The appeal is allowed and outline planning permission is granted for up to 113 no. dwellings and associated works, including the formation of a temporary construction access on land at Baldwin's Gate Farm, Baldwin's Gate, Newcastle-under-Lyme, Staffs, ST5 5ES in accordance with the terms of the application, Ref: 13/00426/OUT, dated 23 August 2013, and the plans submitted with it, subject to the 26 no. conditions set out in the schedule below.

B.S. Rogers

Inspector

Schedule of 26 Planning Conditions

1. Details of the appearance, layout, scale and landscaping of the development (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development hereby approved is commenced and the development shall be carried out as approved.
2. Application for approval of the reserved matters must be made to the Local Planning Authority not later than three years beginning with the date on which this permission is granted.
3. The development hereby permitted shall begin not later than the expiration of two years from the date of the last of the reserved matters to be approved.
4. Any "reserved matters" applications pursuant to this outline planning permission shall accord with the principles set out in the Nicol Thomas Design and Access Statement dated August 2013 taking into account the comments of the Highway Authority on the indicative layout received on 5th February 2014 and Pegasus drawing ref: BIR.4263_16 1 (Appendix D5). No more than 113 dwellings shall be provided on the site.
5. No development hereby approved shall commence until full details of the proposed pedestrian crossing on the A53 to the east of the junction with Gateway Avenue incorporating call loops on Gateway Avenue, illustrated on Drawing No. Figure 6.1 Rev. B, have been submitted to and approved in writing by the Local Planning Authority. The crossing shall thereafter be implemented in accordance with the approved details and be completed prior to the first occupation of the development.
6. No development shall commence until a Construction Traffic Management Plan has been submitted to and approved in writing by the Local Planning Authority detailing the management and routing of construction traffic. The submitted Construction Traffic Management Plan shall include the following details:
 - The routing of construction vehicles to and from the site ensuring such traffic does not utilise Gateway Avenue or Sandy Lane/Woodside.;
 - Parking facilities for vehicles of site personnel, operatives and visitors;
 - Arrangements for the loading and unloading of plant and materials;
 - Areas of storage for plant and materials used during the construction of the proposed development;
 - Measures to prevent the deposition of deleterious material on the public highway during the construction of the proposed development.

The Construction Traffic Management Plan shall be adhered to for the duration of the construction phase.
7. Prior to commencement of development, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan shall be implemented in accordance with the timetable set out in that plan unless otherwise agreed in writing by the Local Planning Authority. Reports demonstrating progress in promoting sustainable transport measures shall be submitted annually on each anniversary of the date of the

planning consent to the Local Planning Authority for approval for a period of five years from first occupation of the development permitted by this consent.

8. No development hereby permitted shall commence until a site investigation and risk assessment has been completed in accordance with a scheme to be agreed by the Local Planning Authority to assess the nature and extent of any contamination on the site. The investigation and risk assessment shall be undertaken by competent persons and a written report of the findings shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the development. The report of the findings shall include:-
- i. A survey of the extent, scale and nature of any contamination;
 - ii. An assessment of the potential risks to human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland, service lines and pipes; adjoining land; ground and surface waters; ecological systems; and archaeological sites and ancient monuments.
 - iii. An appraisal of remedial options and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's 'Model Procedures for the Management of Land Contamination, CLR11'

9. No development hereby permitted shall commence until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historic environment has been prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
10. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.
11. In the event that contamination is found at any time when carrying out the approved development that was not previously identified, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 8, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements

of condition 9, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority.

12. No top soil is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development. A suitable methodology for testing this material shall be submitted to and agreed by the Local Planning Authority prior to the soils being imported onto site. The methodology shall include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validatory evidence submitted to and approved in writing to by the Local Planning Authority.
13. Prior to the commencement of the development, details of the design measures, supported by an appropriate noise assessment, to be incorporated into the construction of the development to ensure the following noise levels, shall be submitted to the Local Planning Authority for prior approval. Thereafter, the approved details shall be implemented in full prior to the development becoming occupied and shall be permanently maintained in full accordance with the approved details.

Internal noise levels: (to be achieved in all habitable areas attributable to external noise sources. Where windows need to be kept shut, adequate sound attenuated ventilation provision in accordance with the current Building Regulations must also be demonstrated)

30 dBL Aeq between 0700 and 2300

30 dBL Aeq between 2300 and 0700

45 dBL AMax between 23.00 and 0700

External noise levels (to be achieved in garden areas, balconies and terraces)

50 dBL Aeq between 0700 and 2300

14. No development hereby permitted shall commence until details of tree protection measures to BS5837: 2012 for the retained trees on and overhanging the site have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken thereafter in accordance with the approved details.
15. Prior to the commencement of the development hereby permitted full and precise details of the proposed means of boundary treatments shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
16. Prior to the commencement of the development hereby permitted, a written scheme of archaeological investigation ('the Scheme') shall be submitted for the written approval of the Local Planning Authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, including post-excavation reporting and appropriate

publication. The Scheme shall thereafter be implemented in full in accordance with the approved plans.

17. No development shall commence until drainage plans for the disposal of surface water and foul sewage have been submitted to and approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details before the development is first brought into use.
18. The development hereby permitted shall be carried out in accordance with the approved Flood Risk Assessment (FRA) reference BWB/2205/FRA/Rev C dated 24th July 2014 subject to the submission and agreement by the Local Planning Authority of revisions addressing anomalies between the surface water drainage calculations and drawings submitted as Appendix G of the FRA. The following mitigation measures detailed within the FRA shall be carried out:
 - i. Limiting the surface water run-off generated by all storm events up to and including the 1 in 100 critical storm plus climate change so that it will not exceed the run-off from the undeveloped site and not increase the risk of flooding off-site.
 - ii. Finished floor levels are set 150mm above existing ground levels.The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.
19. No development shall take place until a surface water drainage scheme for the site, based on sustainable drainage principles, and an assessment of the hydrological and hydrogeological context of the development, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall also include details of how surface water runoff up to and including the 1 in 100 year event plus climate change will be retained on site and details of how any surface water drainage scheme will be maintained.
20. Prior to the commencement of any works, a Construction Method Statement shall be submitted in writing to, and approved by, the Local Planning Authority. This shall include details relating to the control of noise and vibration emissions from construction activities including groundworks and the formation of infrastructure including arrangements to monitor noise emissions from the development site during the construction phase and the control of dust including arrangements to monitor dust emissions from the development site during the construction phase. Development shall be carried out in compliance with the approved Construction Method Statement, unless otherwise agreed in writing by the Local Planning Authority.
21. No development shall commence until details of the proposed play facilities and the timing of the provision of the open space and the aforementioned play facilities have been agreed in writing by the Local Planning Authority. The development shall be undertaken thereafter in accordance with the approved details.
22. No development shall commence until full and precise details of the alignment of the construction access track within the field have been

submitted to and agreed in writing by the Local Planning Authority. The development shall be undertaken thereafter in accordance with the approved details.

- 23.No works to the hedgerow along the A53 shall be carried out during the bird nesting season (1st March to 31st July).
- 24.No development shall commence until details of the specification of the construction traffic access, including arrangements for surface water drainage, have been submitted to and agreed in writing by the Local Planning Authority. The development shall be undertaken thereafter in accordance with the approved details.
- 25.No development shall commence until details of the reinstatement of the land required for the construction traffic access once construction is complete, to include details of the timing of the reinstatement, have been submitted to and approved in writing by the Local Planning Authority. The reinstatement of the land shall be undertaken thereafter in accordance with the approved details.
- 26.Visibility splays shall be provided in accordance with the PTB Transport Planning Construction Access Plan dated 15th January 2014.

Richborough Estates

Appearances

For the Appellants:

Mr S.Choong of Counsel - instructed by Mr Lomas

He called:

Mr M.Carr - Pegasus Group

Mr A.Williams - Define

Mr P.Jones - Phil Jones Associates

Mr R.Lomas - Hourigan Connolly

For the Council:

Mr A.Fraser-Urquhart of Counsel - instructed by the Council's Principal Solicitor

He called:

Mr C.King - Wardell Armstrong

Mr D.Walpole - David Walpole Associates

Mr D.W.Bridgwood - Wardell Armstrong

Interested persons

Sir William Cash MP - MP for Stone

Mr T.Gould - Local resident

Mr W.Murray - Local resident

Cllr D.Loades - Borough and County Councillor

For Baldwin's Gate Action Group/Whitmore Parish Council:

Mr K.Lawton - Chair, BGAG

Mr I.Webb - Vice Chair, Whitmore P.C.

Mr A.Whalley - BGAG

Mr G.Wheildon - Whitmore P.C.

Mr M.Johnson - BGAG

Mrs L.Johnson - BGAG

Mrs J.Oppenheimer - BGAG

Mr A.Wilkinson - Chair, Whitmore P.C.

Mrs C.Williams - Planning consultant for BGAB/WPC

Inquiry Documents

1. Extract from Landscape Institute of Environmental Assessment GLVIA 1 1995
2. Arboricultural Advisory and Information service letter 5.7.12 re. tree growth
3. Letter of notification of the inquiry and daily attendance lists
4. Draft Unilateral Undertaking
5. Appeal decision APP/R0660/A/14/2211721 – Willaston, Cheshire
6. Appeal decision APP/R0660/A/14/2213304 – Haslington, Cheshire
7. Letter of 4.6.14 from Wardell Armstrong to the Council
8. Bus timetables
9. Housing Land Supply Table, agreed by main parties on 10.11.14
10. Planning Committee report 29.10.14 re. proposed dwelling in Betley
11. Executive Management Team's Report to the Cabinet 12.11.14
12. Letter from Mr R. Birchill dated 10.11.14
13. Note re. parking on the pavement submitted by Baldwin's Gate Action Group
14. Draft list of planning conditions agreed by the main parties
15. Signed and sealed Unilateral Undertaking, dated 14.11.14

Richborough Estates