



Appeal Decision

Inquiry opened on 7 May 2014

Hearing session held on 13 May 2014

Site visits carried out on 15 May (accompanied) and 4 July 2014 (unaccompanied)

by Frances Mahoney DipTP MRTPI

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

Decision date: 7 January 2015

Appeal Ref: APP/R0660/A/13/2204723

Land west of Audlem Road, Audlem, Cheshire CW3 0HE

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
 - The appeal is made by Gladman Developments Ltd against Cheshire East Council.
 - The application Ref 13/2224N, is dated 24 May 2013.
 - The scheme proposed comprises residential development of up to 120 dwellings, highway works, public open space and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for a residential development of up to 120 dwellings, highway works, public open space and associated works on land west of Audlem Road, Audlem, Cheshire CW3 0HE in accordance with the terms of the application, Ref 13/2224N, dated 24 May 2013, subject to the conditions set out at Annex A to this decision.

Application for costs

2. At the Inquiry, an application for costs was made by Gladman Developments Ltd against Cheshire East Council. That application is the subject of a separate Decision.

Preliminary matters

3. The Inquiry sat on 7, 8, 9, 13, 14, 15 & 16 May 2014. The appeal related to an outline application with all matters other than access reserved for future consideration. Along with the site location plan (5192-L-01-red line plan), the application was accompanied by a development framework plan (5192-L-02 rev E). This, in schematic terms, shows the location of the proposed main access onto Audlem Road. Proposed access arrangements are also shown on dwg nos 1321/15 Rev A and 1321/05 Rev B. Whilst some aspects of the access layout do differ between the plans, the location of the access point remains constant. I have considered the appeal on this basis, particularly taking into account, that conditions requiring the submission of further details regarding layout and construction of the access would be required, were the appeal to succeed.
4. This appeal is against the failure of the Council to determine the planning application for the proposed development. Following the submission of the

appeal (3 September 2013) the Council went on to consider the proposal on the 9 October 2013 and identified seven putative reasons for refusal¹. In these circumstances I have treated this 'decision' as that which the Council would have made had it been empowered to do so.

5. In essence the areas of concern in relation to the impact of the proposal centred on the following:

- 1) *The proposal represents unsustainable development in the countryside, harming its open character and appearance. In the absence of a need for the development, the Council demonstrating a five year housing land supply, the countryside should be protected for its own sake;*
- 2) *In the absence of a demonstrated need for the development, it would result in the loss of the best and most versatile agricultural land;*
- 3) *The development would result in the unjustified loss of an 'important' hedgerow, which wherever possible should be incorporated into landscaping schemes;*
- 4) *The proposal does not provide for the retention and protection of existing trees;*
- 5) *The scheme does not demonstrate that it would provide for a sufficiently high quality of design for buildings and public spaces which would add to the overall quality of the area;*
- 6) *The proposal does not show that an adequate standard of amenity for existing and future occupiers would be provided; and*
- 7) *The proposals fails to make adequate medical provision, the need for which arises directly as a consequence of the development.*

6. However, following the lodging of this appeal a revised planning application was submitted to the Council². This amended the scheme currently before me. Additional information was submitted to demonstrate the following:

- separation distances between the proposed dwellings and those existing neighbouring properties (in the interests of residential amenity)³;
- separation distances between the proposed buildings and existing mature trees (in the interests of residential amenity and the long term well-being/retention of the surrounding trees)⁴; and
- testing layouts and other design information to show an adequate standard of urban design and layout could be achieved. This design appraisal concluded that the number of dwellings on the site should be reduced to 115 units⁵. The appellant company indicated at the Inquiry its willingness to reduce the number of units proposed from 120⁶ to

¹ Planning Officer's report to the Strategic Planning Board dated 9 October 2013/Minutes of meeting.

² Application number 13/3746N considered by the Strategic Planning Board on 5 March 2014.

³ Deals with paragraph 5. 6) of this decision.

⁴ Deals with paragraph 5. 4) of this decision.

⁵ This reduced number of units could be secured by means of a planning condition.

⁶ As per the description of development set out within the appeal bullet pointed banner heading.

115⁷ should it be considered to be a more appropriate number to be accommodated on the site⁸.

7. The Council confirmed that the additional information submitted⁹, along with the reduction of the scheme to 115 units, would be sufficient to overcome their concerns in relation to these specific aspects of the impact of the proposed scheme. Therefore, the Council did not defend putative reasons for refusal 4, 5, and 6¹⁰.
8. The appellant company has been working to address a number of matters relating to the securing of the provision of infrastructure related to the development. A signed and completed unilateral planning obligation under section 106 of the Town and Country Planning Act¹¹ (UU) was submitted at the Inquiry dealing with the following matters;
 - the provision of open space;
 - the formation of a management company providing means and administrative devices to manage and maintain the open space;
 - commuted transport contribution;
 - commuted education sum towards the provision of secondary education places;
 - commuted healthcare contribution; and
 - provision and maintenance of a footpath link from the appeal site to Footpath No 13.
9. On the basis of the identified commuted sum for healthcare the Council also confirmed they would not defend putative reason for refusal 7. However, notwithstanding the terms of the submitted UU the appellant company, whilst not calling into question the calculation of the contributions, does dispute the necessity for those relating to education and healthcare¹². I return later to the provisions secured by the UU, which is a material consideration in this case.
10. Following the close of the Inquiry the Council then produced a revised Five Year Housing Land Supply Position Statement with a base date of 31 March 2014 (the revised Housing Position Statement), but which reflects the Council's promoted position as of September 2014¹³. This document was made available to the appellant company for comment¹⁴.
11. I intend to deal with the evidence as it was presented to me at the Inquiry and then consider the effect of the revised Housing Position Statement.

⁷ They would accept a condition, the terms of which would secure their proffered reduction in unit numbers.

⁸ Deals with paragraph 5. 5) of this decision.

⁹ Relating to the revised application 13/3746N.

¹⁰ Position of the Council decided upon on 5 March 2014.

¹¹ Inquiry Doc 13.

¹² Taking into account the evidence of both parties and supplementary planning guidance in this regard, I similar have no reason to question the calculation of the contributions.

¹³ Inquiry Doc 49.

¹⁴ Inquiry Doc 50.

Main issues

12. I have considered the submitted evidence relating to the matters no longer in contention between the main parties as set out above. The evidence of Mr Rech is such as to assure me that, whilst this appeal is in outline, in conceptual terms, it would be possible to accommodate the proposed development on the appeal site without unacceptably harming the living conditions of residents, both existing and future; the long-term well being of trees within the appeal site; and that it would be possible to achieve a standard of design which would be in keeping with the quality of the area. Therefore, I consider the main issues in this case to be the effect of the appeal proposal on:

- the character and appearance of the open countryside, having regard to national and local planning policy on the location and provision of new housing;
- the historic, ecological and amenity value of the important hedgerow;
- the supply of the best and most versatile agricultural land; and
- the provision of healthcare and education facilities.

Planning Policy

13. In preparation is a new local plan, Cheshire East Local Plan. At the time of the Inquiry the plan had been through a period of consultation and was awaiting submission to the Secretary of State for examination. On 19 May 2014, shortly after the close of the Inquiry, the Local Plan in its submission version (Cheshire East Local Plan Strategy-Submission Version (CELP)) was presented for examination. Hearing sessions took place in late September and early October 2014. These timings are generally in accordance with the Local Development Scheme 2014-2016 dated April 2014¹⁵. That document anticipates adoption of the plan by the end of 2014. However, following the adjournment of the hearings in October 2014 the Development Plan Inspector has provided his interim views on the soundness of the submitted CELP¹⁶. Indications are that further amendment/review may be required. Therefore, it is reasonable to suppose there may be some slippage in the promoted date for adoption. In addition, a Site Allocations and Development Policies Document has yet to be produced by the Council.

14. The CELP includes a number of strategic locations identified by the Council as possible allocated sites, along with an assessment of the Green Belt. This has resulted from an acceptance by the Council that there will be a reliance on greenfield sites to provide some of the land required for future growth.

15. It is acknowledged that it is highly desirable that local planning authorities should have an up-to-date plan in place. The Council are working towards achieving this goal and progress is being made.

16. Nonetheless, in such circumstances, the emerging CELP attracts limited weight in the consideration of this appeal proposal, although it does represent a body

¹⁵ Inquiry Doc 41.

¹⁶ Inquiry Doc 51.

of recent evidence¹⁷. At the Inquiry, the Council confirmed it was not relying on any prematurity argument in this appeal¹⁸.

17. Following the revocation of the North West of England Regional Spatial Strategy (RS) in May 2013, the Council has relied upon the relevant policies of the development plan, which includes the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP). Adopted in February 2005, it was drafted to cover the period to 2011. The plan period has long since passed but that does not necessarily mean that all of the policies of the LP are out-of-date.
18. The appeal site lies outside the settlement boundary for Audlem as set out on the proposals map which accompanied the LP¹⁹. The specified village settlement boundary would have been fixed having regard to the need to accommodate development planned over the plan period²⁰. Logically then, post 2011, these boundaries would have the effect of constraining development, including housing, within these settlements.
19. LP policies NE.2 and RES.5 are relevant to development within the open countryside. These seek to restrict development and residential development respectively in such areas, unless it is for one of a number of specified categories²¹. The specified categories do not encompass development of the kind proposed. Those policies have been saved. Their overall objective is to protect the character and amenity of the countryside. No case was promoted that the appeal site did not form part of the countryside setting of the village and I have considered it accordingly. In addition, the appellant company acknowledge that the proposed development is contrary to the terms of LP policies NE.2 and RES.5 in respect of it being development within the countryside not recognised by policy²².
20. However, whilst this policy approach is consistent with one of the core planning principles of the National Planning Policy Framework (the Framework) namely that of recognising the intrinsic character and beauty of the countryside²³, it is inextricably linked with the constraining effect of the settlement boundaries on the LP housing requirement. Therefore, I consider LP policies NE.2 and RES.5 are relevant policies for the supply of housing within the meaning of paragraph 49 of the Framework and I shall appraise the weight to be afforded to them accordingly²⁴.
21. A further consideration to be weighed into the balance of my decision is that of paragraph 14 of the Framework which says that, at its heart²⁵, 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 granting planning permission, where the development plan is absent, silent or relevant policies are out of date, unless

¹⁷ Particularly in relation to the evidential documents which support the CELP and upon which it is based.

¹⁸ Haywood proof of evidence/In cross examination/Statement of Common Ground.

¹⁹ Will be treated as open countryside.

²⁰ LP period ending 2011.

²¹ The categories do include an exception where there may be an opportunity for the infilling of a small gap with one or two dwellings in an otherwise built up frontage. However, such infill is not promoted as a significant or determinative contributor to housing growth.

²² Confirmation in various locations, including Water's proof paragraphs 2.1.3 and 6.2.1. The disagreement between the parties is whether there are other material considerations associated with this proposal, which would outweigh the policy objection (Statement of Common Ground).

²³ Paragraph 17, bullet point 5 of the Framework.

²⁴ Appeal decision APP/R0660/A/13/2195201 – Quashed.

²⁵ The Framework.

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.

Reasons

Character and appearance

22. Audlem is an attractive village with a medieval core, centred on 'The Square', including the 13th century church standing high on a stone walled grass mound²⁶. Over time, more modern development, predominantly residential, has expanded the settlement. However, on my visits to Audlem, I experienced a sense of the vibrancy of the community here, where the character of a traditional rural village remains evident.
23. The setting of the village is one of an open undulating landscape. Dispersed woodland and mature hedgerows, juxtaposed with green meadows and arable fields presents a verdant pastoral countryside character. This is enhanced by the tightly meandering River Weaver, strongly contrasting with the predominantly north/south linear nature of the Shropshire Union Canal²⁷.
24. Audlem Road is the northern gateway into the village, defined by mature roadside hedgerows and trees, affording panoramic views across the river valley. It establishes the verdant nature and open, green character of the village setting for those approaching and leaving Audlem. This is continued into the village where the low density, peripheral northern edge development of Daisy Bank Crescent, Cheshire Street and Little Heath Barns, serve as a soft built edge, extending the verdancy of the surroundings into the built up area of the village.
25. The appeal site lies outside the built up area of Audlem, forming part of the northern edge of the settlement location. It is made up of two fields²⁸ bounded by mature hedgerows and trees characteristic of its countryside location. A well developed hedgerow dissects the appeal site into two distinct fields, both in active arable use²⁹. The frontage field is bounded to the south by the gardens of neighbouring houses; to the east by a low native hedge along Audlem Road³⁰; and to the north the hedge becomes increasingly open and fragmented.
26. The outer limits of the back field of the appeal site, other than a small section of common boundary with Daisy Bank Crescent, bounds open countryside. The hedgerow and trees of the outer western boundary of the appeal site are easily discernible from various viewpoints along the towpath³¹, as well as from canal boats³². In some places distant views of buildings within the northern section of the village can be seen. However, these are dispersed and softened by their distance from the ridge and the extent of the intervening vegetation. Buildings within Daisy Bank Crescent and Audlem Road have very little prominence.

²⁶ The historic areas of the village are, in the main, designated as Conservation Areas.

²⁷ Audlem forms part of landscape character type 10: Lower Farms and Woods (Cheshire Landscape Character Assessment) Doc 5. The Audlem Village Design Statement and Landscape Character Assessment also applies.

²⁸ Appellant company suggests 3 fields.

²⁹ Small section close to the terrace of houses accommodates some live stock (small holding).

³⁰ Paragraph 2.7 of the Landscape and Visual Assessment.

³¹ Including and in particular from the area of the Marina.

³² I have no doubt.

27. The Design and Access Statement (DAS) identifies that the steeper valley sides to the west of Audlem are highly visible from the East Cheshire Lowland Plain and wider context to the west, and are consequently of higher landscape sensitivity. The western section of the appeal site lies at this high point of the valley, affording it considerable visual prominence when viewed from the adjacent public footpath No 13, the wider plain, and from the canal towpath³³.
28. Whilst, the appeal site itself may only attract low to medium sensitivity in any landscape analysis, its valley side location, with high point prominence from westerly and north westerly viewpoints, justifies considerable weight being ascribed to any negative impact on the character and appearance of the open countryside.
29. As a gateway location to the village, development on the appeal site has the potential to alter the character and appearance of the village edge, where the grain of development is comparatively low density, with a transitional informality between the surrounding countryside and the built up, suburban area of the village.
30. The appeal is in outline, but an illustrative masterplan within the DAS does indicate how a development could be accommodated on the site³⁴. It is proposed that the scheme could retain, manage and enhance existing boundary vegetation, as well as introducing informal open spaces and green corridors to create visual buffers.
31. A combination of design character areas are promoted as one design response to establishing the development's urban structure and form³⁵. The development edge is shown as being detached dwellings facing out across the valley, set back from the site boundary edge with some intervening planting and the necessary access roadway. Even with a set back into the site and landscape enhancement, the scale and massing of the new dwellings as an overall development, along with activities associated with residential development³⁶, would be visible along the top of the valley edge. This would be a considerably more intense built up edge to the village than is currently discernible from the more sensitive viewpoints to the west.
32. However, the Council chose not to defend their reasons for refusal relating to design, accepting, subject to the suggested reduction from 120 to 115 units that it would add to the overall quality of the area. The evidence of Mr Rech³⁷ deals with how such a development could be accommodated. That said, this appeal proposes 120 units. A significant percentage of which would be detached dwellings. Overall, I am not convinced that the suggested reduction in the number of units is necessary: with a different balance of dwelling type, I am satisfied that it would be possible to accommodate 120 units on the site without compromising the principles of good design.
33. The removal of part of the frontage hedgerow to create the proposed access point from Audlem Road would create a significant break in the otherwise continuous nature of this part of the hedgerow. However, as part of a housing

³³ The towpath is well used by walkers and the Audlem run of locks and the facilities within the village make it a popular stopping off point for those enjoying the canal.

³⁴ I am aware this shows 120 units and that the appellant has indicated a willingness to reduce the scheme down to 115.

³⁵ Audlem Road Audlem Testing Layout Document – Rech appendices

³⁶ Particularly vehicular movements close to the development edge.

³⁷ Illustrative masterplan.

development, this natural boundary would no longer be a field hedgerow. Rather, it would allude to its bygone origins and, with appropriate replanting, even taking into account any necessary re-location, the overall character of the hedgerow could be maintained.

34. Paragraph 17 of the Framework sets out that planning, as a core principle, should, as part of the need to take account of the different roles and character of different areas, recognise the intrinsic character and beauty of the countryside³⁸.
35. There is no definition of 'valued landscape' in the Framework (paragraph 109). In this case the appeal site is clearly valued by the villagers³⁹. The lack of a specific landscape designation is not a reason to conclude that a landscape is not of value in itself. I find the visual prominence of the appeal site from the wider valley, plain and public footpath, to be a persuasive factor in the assessment of the potential resultant quantity of harm caused in this instance.
36. The appeal proposal would reduce the amount of greenfield countryside. It would also erode the open nature of the village's rural setting. Both of these factors are relevant to any assessment of the environmental role of sustainable development, namely to protect the natural environment, addressed later in this decision.
37. Therefore, in weighing all of these factors together in relation to the impact of the proposal on the character and appearance of the countryside⁴⁰, I find its open nature would be eroded causing material harm to its verdant, green, pastoral character and appearance. This would be contrary to the identified objectives of LP policies NE.2 and RES.5, in so far as they relate to the protection of the countryside. In this way the intrinsic character and beauty of the countryside would not be protected, which, as a planning principle identified within the Framework, carries significant weight in my consideration of this appeal.

Impact on the hedgerow - historic, ecological and amenity

38. Much of the boundary hedgerow dates back to the early part of the 19th century. The tithe map of Audlem, surveyed in 1842, shows the appeal site divided into 5 fields. Whilst much of the internal hedgerows have long since been removed, lengths of the original hedgerow line are still discernible around the site boundary⁴¹.
39. The remaining boundary hedgerow is not continuous around the site. It varies in quality, much being dense. It is likely to provide shelter and foraging for wildlife, but the proximity of the frontage hedge to the road would make this section less attractive to wildlife than the wider field hedgerow and trees.
40. The early 19th century origin of the field boundary hedge is the main factor which leads to its classification as an important hedgerow under the terms of the Hedgerow Regulations 1997.

³⁸ In a ministerial statement delivered by Nick Boles MP on the 6 March 2014, he confirmed the Government's commitment to ensuring that countryside protections continue to be safeguarded.

³⁹ Evidence of Mr Seddon.

⁴⁰ A concern defended by the Parish Council.

⁴¹ Road frontage hedgerow; that which runs along part of the northern boundary; and an L shaped section on the southern boundary, turning the field corner to run up along the lower part of the western boundary.

41. The proposed development, whilst in outline, does not promote the unjustified removal or significant diminishing of the overall hedgerow. Any detailed design of layout at the reserved matters stage, could take into account the need to safeguard the hedgerow.
42. However, the proposed access onto Audlem Road would require the removal of a length of hedgerow in the order of 30 metres⁴². The Development Framework plan shows that additional tree and hedge planting on the frontage would form part of the overall landscaping strategy for the development. This could include the consolidating of other parts of the hedgerow where gaps exist. This would enhance the appearance of the hedgerow and could be secured by condition.
43. Further, whilst having the appearance of being managed in recent years, the important hedgerow would benefit from a proactive hedgerow management plan, to safeguard its long term wellbeing and encourage its development as a habitat. This could also be secured by condition and would be a positive factor in favour of the development.
44. The section of the frontage hedgerow proposed for removal comprises a relatively small part of the overall extent of the important hedgerow. Its removal would not diminish the historic line of the hedgerow, which would still be discernible, following the line of the road and still traceable in the landscape.
45. Therefore, the likely effects of the proposed development could be mitigated against, as well as securing an enhancement to the existing landscape feature both in terms of ecology as well as amenity. In this way the terms of LP policy NE.5, which seeks to afford appropriate protection to features of nature conservation, where possible securing their enhancement, would not be compromised.

Loss of agricultural land

46. Paragraph 112 of the Framework identifies that the economic and other benefits of the best and most versatile agricultural land (BMVAL) should be taken into account. Significant development of agricultural land, where demonstrated to be necessary, should utilise areas of poorer quality land in preference to that of a higher quality. LP saved policy NE.12 is in the spirit of the terms of the Framework in this regard. It sets out that development on the BMVL (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.
47. It is common ground that 53% of the appeal site is classified grade 3a, with the remainder being grade 2. Therefore, the land is BMVL and the appellant company accepts that the resultant loss of BMVL is a matter that weighs against the scheme. There would be an obvious conflict with LP policy NE.12 in this regard, as well as with the terms of the Framework.

⁴² Chadwick proof paragraph 4.5.

48. BMVL is a finite resource and the Framework makes it clear that the economic and other benefits of such land must be weighed in the balance. The Council has already indicated that, in meeting their housing need, it is likely that greenfield sites, including agricultural land⁴³, will have to be developed particularly in respect of settlements such as Audlem⁴⁴, which the CELP anticipates as providing locations for new housing development. In the case of Audlem the development of BMVL would be almost inevitable due to its location within an area of high quality agricultural land.
49. The loss of the BMVL would, at worst, be modest, taking into account the general quality of agricultural land across the county. Nonetheless, it would be a disbenefit of the proposal that must be weighed into the overall balance of the decision, although in these circumstances I would afford it only limited weight.

Other considerations

Housing need

50. To boost significantly the supply of housing, Framework paragraph 47 identifies that Councils should ensure that their local plans meet the full, objectively assessed needs (OAN) for market and affordable housing in the housing market area, as far as is consistent with the policies of the Framework. The judgement of Mr Justice Hickinbottom in *Gallagher Estates Ltd v Solihull MBC*⁴⁵ sets out that full OAN for housing is the objectively assessed need for housing in an area, leaving aside policy considerations⁴⁶. It is therefore closely linked to the relevant household projection, but is not necessarily the same. The judgement also clarifies that the requirement to meet full OAN equally applies when considering development control decisions. Consequently, it is reasonable to consider the OAN in the context of the policies within the Framework as material considerations in the balance of this decision.
51. The housing requirement was also defined by Mr Justice Hickinbottom as the figure which reflects not only the assessed need for housing, but also any policy considerations that might require that figure to be manipulated to determine the actual housing target for an area.
52. *Gallagher Estates Ltd v Solihull MBC* also clarifies that, where there is no local plan, then the housing requirement for a local authority (for the purposes of paragraph 47 of the Framework) is the full OAN⁴⁷.
53. The Council accept that the housing requirement within the LP is out of date.
54. At the Inquiry the Council relied upon their Five Year Housing Land Supply Position Statement with a base date 31 December 2013 (the Position Statement). The Position Statement identified that a target is required upon which to base the assessment of the five year housing land supply. Despite the

⁴³ Some of which may be BMVL.

⁴⁴ A Local Service Centre identified in the emerging CELP.

⁴⁵ Case no: CO/17668/2013 – Between Gallagher Homes Limited & Lioncourt Homes Limited and Solihull Metropolitan Borough Council, before Mr Justice Hickinbottom.

⁴⁶ The Court of Appeal supported this position - Case No: C1/2014/1702 dated 17 December 2014 - Judges: Laws LJ; Patten LJ; Floyd LJ.

⁴⁷ The Court of Appeal supported this position - Case No: C1/2014/1702 dated 17 December 2014 - Judges: Laws LJ; Patten LJ; Floyd LJ

- revocation of the RS the Council had based their target on the RS housing figure (1150 dwellings per annum) dating from prior to 2008⁴⁸, on the basis that it had been objectively assessed and tested through the RS examination process.
55. The RS housing figure resulted from the application of policy and plan objectives. These included an urban focus and promoting the growth of major conurbations. Accordingly, growth was not generally directed to adjoining shire areas⁴⁹, although housing requirements in the Borough were increased in the 2008 RS. Previous housing moratoriums meant that the emphasis of the strategy still limited development in the shire areas in favour of the urban centres. Therefore, it is reasonable to conclude that the RS housing figure, applicable to Cheshire East, resulted from an overall policy of the promotion of growth in urban centres with a consequential limiting of growth in the shires. The RS figure undoubtedly reflected the spatial distribution policy choices made within the region, at that time, to accommodate the then appropriate need (policy-on approach).
56. The Government's Planning Practice Guidance (planning guidance) identifies that considerable weight should be given to housing requirement figures in adopted local plans, which have successfully passed through the examination process, unless significant new evidence comes to light⁵⁰. It also recognises that evidence which dates back several years, such as that drawn from revoked regional strategies, may not adequately reflect current needs. This is of particular relevance in this case as the planning guidance introduced accommodation for older people in the supply of housing. There is no clear evidence of whether this group was included when the RS was establishing future housing requirements.
57. Whilst the RS target promoted by the Council is the only evidence based figure which has been through a process of testing and examination it has, with the passage of time⁵¹, become historic, as is the evidence upon which it was based⁵². Moreover, the RS technical paper was published in 2006 and was based on data from 2002/2003 and the 2001 Census.
58. In supporting their advancement at the Inquiry of the RS as the only credible candidate to be considered as full OAN for the Borough, the Council considered it to be closely aligned to the outcome of the 2011 Office of National Statistics (ONS) household projections⁵³, the RS providing the higher of the two figures. They contended that the congruency with the 2011 data provides a contemporary relevance to the RS, which overcomes any issues in relation to its age.
59. The planning guidance advises that, to establish the need for housing, household projections should provide the starting point for an estimate of overall housing need⁵⁴. ONS household projections for the Borough (2010-

⁴⁸ However, the RS housing figure (The annualised average figure), in itself, was not a requirement. The figure did not have to be met in each or any given year - source paragraph 1.16 of the Council's Housing Position Statement.

⁴⁹ Such as the Borough of Crewe and Nantwich.

⁵⁰ PPG Housing and economic land availability assessment - ID 3-030.

⁵¹ The RS was published in 2008.

⁵² Some of which dates back to the early part of the last decade.

⁵³ RS figure 1150 homes per annum v ONS figure 1050 households per annum.

⁵⁴ The household projections are produced by applying projected household representative rates to the population projections published by the Office for National Statistics. The household projections are trend based. They do

2020)⁵⁵ stand at 1050 households per annum. This is a policy neutral approach (policy-off approach). In addition, the ONS projections simply assess total population regardless of living situation.

60. However, whether these two figures are readily comparable is debateable. Firstly, as already established, the RS figure represents a policy-on approach, whilst the ONS figure has not been subjected to any similar policy application. The base data of the ONS projections is comparatively contemporary evidence, which the Council have used in the formulation of the strategies within the emerging CELP. The RS figure, on the other hand, whilst coming from a now revoked plan (based on a limiting policy approach to development, which no longer forms part of the development plan) is based on evidence, the relevance of which has not been established as being up to date to instil confidence that it represents a credible assessment of full OAN. The fact that the RS figure and the ONS household projections are similar does not, in my judgement, afford the former a greater sense of integrity or pertinence as an expression of the full OAN in this case.
61. Whilst the revocation of the RS does not expunge the evidence base or the resultant housing target from the past, its use to ascertain the OAN is a question of judgement for the decision maker. The Framework makes it clear⁵⁶ that the development plan is the starting point for decision making. The revocation of the RS⁵⁷ means that this can no longer be given any weight in policy considerations and that the use of the housing figure derived from this revoked plan, even as a proxy for what the local plan process may produce eventually, is not an approach I am persuaded to adopt.
62. In recent appeal decisions, including that at Elworth Hall Farm⁵⁸, Inspectors have settled on the RS housing requirement being the only rigorously tested evidence base to establish need. In the main, in such cases the parties were in agreement on this point. I have determined this appeal on the basis of the evidence put before me which I do not find, in the circumstances of this case and for the reasons set out above, support a conclusion in the same vein.
63. The appellant company, in rejecting the RS housing figure as being credible as an expression of the full OAN within the Borough, promoted its own assessment and resultant figure (2050 dwellings per annum)⁵⁹. The demographic requirements of need; future economic needs and expected employment growth; market signals, particularly in relation to affordability; and the housing need across the relevant housing market area, were all factors considered as part of that assessment. In my judgement the assessment considers the consequences for housing requirements of pursuing a policy aspiration of boosting employment supply.
64. This is not far removed from the objective of the emerging CELP. However, the assumptions made within the appellant company's assessment have not been tested, consulted upon or examined. They are subjective, albeit that they may be well intended⁶⁰. They lack the benefit of wider debate, embracing different

not attempt to predict the impact that future government policies, changing economic circumstances and other factors might have on demographic change - PPG ID 2a-015.

⁵⁵ Published 2013.

⁵⁶ At paragraphs 2 and 12.

⁵⁷ This refers specifically to the policies and text of the RS document itself.

⁵⁸ APP/R0660/A/13/2196044 (Inquiry Doc 30)

⁵⁹ Proof and rebuttal proof of Mr Nicol – Regeneris.

⁶⁰ The professionalism and expertise of Mr Nicol is not questioned in this regard.

- ideas, views, assumptions and projections from individuals, interested groups and organisations.
65. The appellant company highlight that their assessment figure would fall within the range of the annual requirement identified in Table 4.17 of the RS Technical Appendix⁶¹ (1803-2286 per annum). This compares the final RS figures with alternatives, reflecting two economic assumptions or scenarios built into the analysis. These assumptions were intended to support economic growth, as a conscious policy direction, and underlying objective of the RS.
66. However, these alternative figures to the promoted RS housing figure were derived at a different time for a different purpose, coloured by the economic objectives which underpinned the RS preparation. Whilst the appellant company's assessment figure falls within that range, I am not persuaded that it should be elevated to constituting full OAN in this case.
67. The parties accept that the LP is out of date in respect of a definitive assessment of an up to date figure of full OAN.
68. This leaves only one further identified candidate to consider⁶², that within the CELP⁶³. The Pre-Submission version of the plan, which identified the annual housing target as being 1,350, changed in approach through its later CELP submission version published in March 2014⁶⁴. As already highlighted, the CELP is now at examination stage. There have been a significant number of objections to the emerging local plan, which is unsurprising considering it includes a number of strategic sites, some of which are greenfield, along with a Green Belt assessment.
69. The CELP⁶⁵ proposes a step change in the annual target over the plan period, although the plan still promotes at least 27,000 homes as being the full OAN for the Borough over the period of 2010 to 2030⁶⁶. This basic provision would be phased over the plan period, ranging from an average of 1,200 to 1,500 dpa⁶⁷. The target and approach taken within the CELP is in the process of being tested.
70. As a result of this change in approach the Council, in advance of the adoption of the emerging Local Plan, has used the average annual increase in dwellings over the whole plan period at 1,180, identified in the CELP⁶⁸, as the full OAN for the basis of their revised Housing Position Statement dated September 2014⁶⁹. The Council consider this version of the full OAN to be a 'policy off' calculation. Nonetheless, it is noted that the identified OAN figure is little different from the constrained level of provision adopted in the originally promoted RS figure⁷⁰.

⁶¹ Page 76 – dated January 2006

⁶² This was an option raised by the Inspector at the Inquiry. Both parties addressed this option through evidence at the Inquiry, in Closings and in the later exchange of evidence following the close of the Inquiry.

⁶³ The emerging CELP sets out an overall development strategy of providing over the CELP period (2010-2030) sufficient land to accommodate at least 27000 homes.

⁶⁴ The CELP still identifies the average net increase in dwellings per annum as 1,350 using an overall housing need target of 27,000 dwellings for the Borough over the Plan period.

⁶⁵ Submitted for Examination on the 19 May 2014.

⁶⁶ CELP Policy PG1 – This overall level of housing is considered necessary and appropriate to meet the Council and Government's growth agenda - CELP paragraph 8.18.

⁶⁷ From 2020/21 to 2029/30 an average of 50 homes each year, in addition to those meeting the full OAN of the Borough, will be delivered to assist with meeting the needs of High Peak Borough.

⁶⁸ CELP paragraph 8.19.

⁶⁹ Inquiry Doc 49.

⁷⁰ See paragraphs 54-62 of this decision.

71. The revised Housing Position Statement indicates a movement away from the previously promoted RS annual housing target. It sets out the Council's assessment of the housing land supply position on the base date of 31 March 2014 using data up to 31 August 2014.
72. The purpose of the revised Housing Position Statement is to present an interim identification of what the Council consider to be a deliverable and achievable five year housing supply. However, the determination of the full OAN requires an assessment of whether the assumptions and judgements made are soundly based. To treat a hybrid version of the full OAN in isolation, outside of the context of its evidential and strategic base, in the circumstances of this appeal would, in my judgement, be to pre-judge the outcome of the local plan process, particularly in relation to the assessment of housing need. This is not a matter for me.
73. The Council needs to have a full understanding of housing needs in their area, as required in paragraph 159 of the Framework, and to meet it fully, as required in paragraph 47. The SHMA 2013 identifies affordable housing need as being 1,400 units per annum, a figure in excess of both the CELP housing figure and that of the RS. Mr Fisher, in cross examination, suggested that the affordable housing figure was aspirational and not one the Council realistically thought they could achieve, due to the fact that there would not be sufficient supply-side opportunities through which this would be able to be addressed. Therefore, the identified annual net shortfall of affordable homes was not a target for delivery within the CELP⁷¹. In my view, this does not instil confidence in either the CELP figure, the RS figure nor that promoted by the Council in the revised Housing Position Statement as an appropriate expression of OAN, merely adding weight to the following conclusion.
74. Taking all of the factors set out above into account, I find that none of the proffered candidates for the title of full OAN are completely credible. As a section 78 appeal Inspector, it is not for me to seek to carry out some sort of local plan process as part of determining this appeal, so as to arrive at an appropriate housing requirement figure⁷². In the consideration of the appellant company's assessment figure (range) and that within the CELP/revised Housing Position Statement this is exactly what I would have been required to do. In the circumstances of this Inquiry, I am unable to undertake any rounded assessment similar to the local plan process.
75. Therefore, in my view, there is a development plan policy vacuum in relation to housing development in the Borough, following the revocation of the RS, the antiquity of the LP, and the current stage of the emerging CELP.
76. The interim views of the Development Plan Inspector, currently examining the CELP, adds significant weight to my conclusion in this regard. He identifies *'there are shortcomings in the Council's objective assessment of housing needs, both in terms of establishing an appropriate baseline figure and failing to specifically take into account and quantify all relevant economic and housing factors, including market signals and the need for affordable housing'*.

⁷¹ Paragraph 12.42 of the CELP Submission version March 2014.

⁷² City and District of St Albans v Hunston properties Ltd & SOSCLG (2013) – Judgement of Sir David Keene, Lord Justice Maurice Kay & Lord Justice Ryder – dated 12 December 2013.

77. He continues '*Some of the supporting evidence is unclear and confused*⁷³'. He indicates that the 1,180 dpa may have been the subject of uplift to reflect market signals and economic forecast⁷⁴. This does not reflect the Council's alleged 'policy-off' approach in the calculation of the full OAN figure promoted within the revised Housing Position Statement.

Backlog

78. It was common ground between the parties that in assessing any shortfall of homes delivered from the plan period to date, as compared with the base figure requirement, this should be added to the total for the next five years (the Sedgefield approach). Such an approach is in the spirit of the Framework to significantly boost housing supply. There is a difference between the parties, however, in their calculation of the backlog. The Council initially measured the backlog against the RS based requirement, which I have already concluded was a flawed approach. In measuring any shortfall in supply, the revised Housing Position Statement uses, firstly, the RS requirement and in more recent years the 1,180 dpa figure promoted as their full OAN. Having taken the view that 1,180 is an untested, unreliable expression of the OAN outside of the CELP process of examination, I do not find the identified shortfall of 2,370 to be credible. The development Plan Inspector identifies that the under-supply would be in excess of 2,500⁷⁵. The appellant company has come to their own assessment (with the lower end of their range being 3,019) and I consider it is likely the actual under-supply would be somewhere between the two figures.

Buffer

79. A further factor to be added into any overall calculation of need is an additional percentage buffer, moved forward from later in the plan period to ensure choice and competition in the market for land⁷⁶. There is dispute over whether this should be 5% or a 20% buffer. A 20% buffer would be applied where there has been a record of persistent under delivery of housing.

80. The planning guidance requires a longer term view to be taken in addressing this issue, as such an approach would be likely to take account of the peaks and troughs of the housing market cycle⁷⁷.

81. Historically, the development plan targets, which have changed over time, have been, in the main, consistently met until 2008/09. From here to date there has been an under provision⁷⁸. Even taking into account the addition of the C2 completions, an undersupply has been evident in the last few years. However, a policy of constraint (housing moratorium) in relation to housing provision/completions in the mid years of the last decade, and the delivery rate before and after this period, are legitimate considerations in reaching a judgement on this aspect of the assessment of the housing need⁷⁹.

⁷³ Inquiry Doc 51 – paragraph 39.

⁷⁴ Inquiry Doc 51 – paragraph 39.

⁷⁵ Inquiry Doc 51 - Paragraph 58.

⁷⁶ Paragraph 47 of the Framework.

⁷⁷ PPG ID 3-035.

⁷⁸ Measured against both the Council's original RS target figure of 1,150 and the more recent Position Statement figure of 1,180.

⁷⁹ Ministerial letter dated 6 January 2011 from Nick Boles MP.

82. The moratorium was lifted in 2008 in response to the RS and is not expected to occur again. This period of restraint may explain some historic under provision. The recession, too, is undoubtedly a further contributing factor.
83. The introduction of the Framework and its requirements, specifically relating to housing provision, was in response to the effects of the recession and the objective aim of boosting the supply of housing. The Council has responded through the promotion of its CELP housing target. In addition, it has not been slow in granting permission where considered appropriate. A number of planning permissions have been granted on greenfield countryside sites. I consider the current undersupply should be considered alongside the historic and cumulative robust long term record of delivery.
84. In this context, an additional buffer of 5% is reasonable and justified.
85. My conclusion in this regard runs counter to a number of other appeal decisions drawn to my attention⁸⁰. However, I have carefully considered the relevant guidance within the PPG alongside the Framework and on the balance of the evidence before me my conclusion is justified.

Supply

86. At the Inquiry, the Council indicated they had a deliverable housing land supply of 9,897 dwellings as of 31 December 2013⁸¹. This is made up from a number of sources, including sites under construction; sites with full planning permission; sites with outline planning permission; sites awaiting section 106 agreements; strategic sites⁸²; sites in the adopted LP; small sites; and windfall allowances.
87. That figure does not include C3 and C2/student accommodation as advocated by the planning guidance. At the Inquiry, attempts were made to adjust the housing supply figures to take account of this additional source of supply, although the evidential base for such an adjustment was superficial. However, the Council then applied this to their preferred OAN option (RS figure) which has already been identified as not necessarily including a C2/student accommodation requirement. This strikes me as trying to compare apples with pears. This approach does not facilitate a reasonable and transparent evaluation of supply against need.
88. Therefore, whilst acknowledging that the planning guidance sets out that housing provided for older people should be counted against the housing requirement, as can student housing, in circumstances where I favour none of the proffered OAN figures I propose to continue with a consideration of supply without the inclusion of the C2/student accommodation element⁸³.

⁸⁰ In particular APP/R0660/A/10/2141564 & APP/R0660/A/13/2189733

⁸¹ Council's Housing Position Statement base date 31 December 2013.

⁸² Some of which do not have planning permission.

⁸³ The Housing Position Statement dated September 2014, whilst acknowledging the advice in the planning guidance, similarly does not include Class C2 Units in the calculation of supply. This approach does not facilitate a reasonable and transparent evaluation of supply against need.

89. At the Inquiry, a considerable amount of the assumed supply was from sites without planning permission⁸⁴. These sites included some development proposed to be delivered on strategic sites identified in the CELP. These sites have yet to be considered through the local plan examination process and I am aware that there has been opposition to some of the allocations. I appreciate that the inclusion of these sites in the CELP shows some sense of commitment on the part of the Council, to taking them forward to fulfil the future needs of the Borough. It seems premature though, to place such a considerable emphasis on such sites in the calculation of housing supply. This is particularly so, as the anticipated time scale for the adoption of the CELP may be optimistic. Therefore, I consider there is insufficient clear evidence to convince me, in the circumstances of this appeal, that the inclusion of the uncommitted strategic sites in the deliverable housing supply is justified.
90. The LP sites' allocation is historic and progress towards delivery has not happened. The submitted evidence explaining why they have lain dormant for so long is sketchy, but does indicate some limited progress. However, I consider it insufficient to make them credible candidates for inclusion in a five year land supply.
91. In addition, on some sites, the Council has assumed a greater developer activity than may factually be the case⁸⁵, although I accept this may change overtime. Nonetheless, the number of developers on site affects the rate of delivery. That one developer was active, when the involvement of more was anticipated, does cast doubt on the realistic prospect that the housing would be delivered in the five years. This would slow down the assumed rate of delivery overall.
92. In addition, lead-in times and build rates for these strategic sites, as well as for allocated sites may also be overly hopeful. The lead-in times and build rates promoted by the Council in relation to their SHLAA and the Position Statement were the subject of consultation with the Housing Market Partnership (HMP). Paragraph ID 3-023 of the planning guidance says that the advice of developers and local agents will be important in assessing lead-in times and build out rates. The Council, in rebuttal⁸⁶, set out that whilst such involvement provides an industry view, it is not an impartial one, as those involved may have much to gain from talking down the supply figures. This is an unhelpful attitude to take, without evidence or justification. It also presents the possibility that such an approach has coloured the weight the Council has given to the input of the HMP in a less than positive way. It is certainly not in the spirit of the planning guidance.
93. The Council has, overtime, reduced lead-in times from those initially considered by the HMP. If unjustified, these reductions would have the effect of overstating the potential of such sites to deliver. Using the evidence within the SHLAA 2012, SHLAA 2013 and the Housing Position Statement, there has, on average, been a reduction in lead-in times by one year from the 2012 figure to that of 2014. Whilst I accept that the economy may have grown recently, this in itself is not conclusive evidence of a steady recovery and a normalisation of

⁸⁴ Footnote of The Framework sets out that to be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable.

⁸⁵ Assumptions in relation to the number of developers likely to bring sites forward.

⁸⁶ Appendix 4 to Fisher Rebuttal.

development conditions. Cautious optimism would be a more reasoned approach. I am concerned that the lead-in times may be too short and underestimate the time taken for implementable permissions to be secured and for sites to actually start yielding completions, particularly where no more than one developer is involved. The fact the Council indicate that only 324 dwellings (283 excluding extra care) were completed in the six months between 1 October 2013 and 31 March 2014⁸⁷ does not provide comfort in this regard.

94. The Council considers that windfall sites have already been accounted for in the supply calculation in the form of small sites. These are granted planning consent on the assumption that they will be substantially completed within three years⁸⁸. However, paragraph 48 of the Framework sets out that to make an allowance for windfalls in the five year supply, the Council must have compelling evidence that such sites have consistently become available in the local area and will continue to provide a reliable source of supply. Whilst evidence shows highs and lows in the net completions of such small sites⁸⁹ over the last seven years, on average 198 dwellings per annum have come from this source. In these circumstances, I consider the Council's approach to be reasonable in including windfall sites in their housing supply.
95. The revised Housing Position Statement provides an updating of the Council's deliverable supply. It indicates that since the Inquiry 1,591 dwellings have been granted planning permission. These were not included within the earlier Housing Position Statement. These sites also include a number of the selected strategic sites identified in the CELP. However, whilst the identified deliverable housing land supply has increased from 9,897 dwellings (as of 31 December 2013) to 10,562 (as of 31 August 2014), the misgivings I have expressed in the way the total has been calculated, calling into question the assumptions made, particularly in respect of lead-in and delivery rates has not changed⁹⁰.
96. I am also conscious that the Council must also allow for a further 500 homes, outside of the OAN, to assist with meeting the housing needs of High Peak Borough⁹¹. Whilst this number of homes has yet to be tested through the examination process and is not included in the Council's assessment of housing need in the Housing Position Statements, it is nonetheless a further demand on land supply. The inclusion of the C2/student accommodation element would also impact on the resultant housing position.
97. In the main, the above factors under the heading 'supply' do not reassure me that the overall assessment of land available to meet a five year housing land supply is robust and can be relied upon. The appellant company has applied a reality check to the Council's evidence and I find that to be more credible in this regard.

Conclusion on housing need and supply

98. I have found that none of the cases promoted in respect of the various versions of full OAN are convincing. I also have concerns regarding the realism and

⁸⁷ Fisher rebuttal paragraph 3.11.

⁸⁸ This may be an optimistic assumption as the planning permission only requires commencement within three years.

⁸⁹ Sites of less than 10 units.

⁹⁰ The Development Plan Inspector commented *There are serious shortcomings with the Council's objective assessment of housing need and the preferred housing provision figure* - Inquiry Doc 51 paragraph 69.

⁹¹ CELP Submission Version Policy PG1.

robust nature of the underlying assumptions and evidence base carried forward into the revised Housing Position Statement. These concerns are mirrored by the Development Plan Inspector who considers *there are shortcomings in the Council's objective assessment of housing needs, both in terms of establishing an appropriate baseline figure and failing to specifically take into account and quantify all relevant economic and housing factors, including market signals and the need for affordable housing*⁹².

99. In addition, he identifies that *there is a serious mismatch between the economic and housing strategies of the submitted plan (CELP), particularly in the constrained relationship between the proposed level of jobs and the amount of new housing*⁹³. *The proposed level of future housing provision seems inadequate to ensure the success of the overall economic, employment and housing strategy*⁹⁴. I appreciate the identified shortcomings in the CELP may be overcome by further assessment and evidence followed by detailed amendments⁹⁵. However, in respect of this appeal these are fundamental matters which undermine the credibility and robustness of the housing position promoted by the Council.
100. Therefore, I conclude that the Council, in all probability, is unable to demonstrate a five year supply of deliverable housing sites in the Borough. Framework paragraph 49 sets out that, in such circumstances, relevant policies for the supply of housing should not be considered up-to-date. Whilst a lack of a five year land supply of deliverable housing land does not provide an automatic 'green light' to planning permission, a balance must be struck. The deficiency in land supply will carry substantial weight in that balancing exercise.
101. Based on the evidence and circumstances in this case, it is reasonable to conclude that the appeal proposal would contribute to the unmet housing need within the Borough and this should weigh positively in the balance of the overall decision. In such circumstances, the Framework sets out that a presumption in favour of sustainable development applies.

Contribution to the achievement of sustainable development

102. There are three dimensions to sustainable development: environmental, social and economic. These roles should not be considered in isolation, because they are mutually dependant.

Environmental role

103. *Location* – Audlem, is identified as a Local Service Centre within the emerging CELP. The range of facilities and services in and around the village, along with ready access to public transport⁹⁶ are factors which have influenced the classification of the village by the Council as being capable of supporting new residential development. Albeit that the appeal site lies on the edge of the settlement, it is within walking distance of many of these facilities. Therefore, in respect of location and a movement to a low carbon economy, the sustainability of the appeal site is positive.

⁹² Inquiry Doc 51 paragraph 2 – bullet point 4.

⁹³ Inquiry Doc 51 paragraph 2 – bullet point 3.

⁹⁴ Inquiry Doc 51 paragraph 2 – bullet point 5.

⁹⁵ These are clearly matters for the Development Plan Inspector.

⁹⁶ Bus service.

104. *Highways* - Concern has been expressed by residents in relation to the impact of traffic generated by the proposed development on the existing highway network. However, the Council, as highway authority are satisfied that the existing road capacity is sufficient to accommodate the additional flow from the new development⁹⁷. In addition, the proposal includes improvements to the nearby bus stop along with the addition of a 'ghost island' right turn lane. The extension of the speed limit and other traffic management measures are also proposed⁹⁸. I have no reason to question the Council's approach in this regard.
105. *Living conditions of nearby residents* - The proposed site is sufficiently distant to neighbouring dwellings so as to minimise any material harm to the outlook or privacy of existing residents. The indicative layouts submitted give me confidence that a layout can be produced as part of any reserved matters application which would appropriately accommodate a new housing environment juxtaposed with that existing. The enhancement of existing boundary hedgerows and trees would also serve to soften the impact of the new dwellings.
106. *Footpath link* - This element of the scheme would provide a link from the proposed housing to existing Footpath 13. Such an improvement in the footpath network would be welcomed, but I do not consider it essential to mitigate the effects of the new development. Therefore, it is afforded only little weight in assessing the environmental role in this case.
107. *Open space* - The proposal also includes the provision of on-site open space, including a neighbourhood equipped play area, as well as enhancing the existing hedgerows and trees⁹⁹. The long term management of these areas would improve the biodiversity of the location as well as offering opportunities for recreation and improvements in individual's well-being¹⁰⁰. The UU makes provision for the management plan and all of these factors positively contribute to the overall sustainability of the appeal site.

Social Role

108. The CELP identifies it is vital to the overall strategy of the plan that a good range of housing that meets local needs is provided. The proposed housing would fulfil a social role by contributing to the support, strengthening and vibrancy of the local community by providing towards such a supply of housing to meet the needs of present and future generations. Affordable homes, as already identified, are part of that need with the annual requirement in the Borough, being in the order of 1400 dwellings per annum. In recent years actual output has been around 200 homes per annum. Within Audlem the Rural Housing Needs survey 2013 identified there was a potential total of 98 new households that might be required to be accommodated within the next five years, generated by the existing population. Of those, 37 households indicated the need for subsidised ownership/rentable properties. There has been no delivery of the required affordable housing in or around the village between 2009/10 and 2013/14. The Parish Council in fact were, at one stage,

⁹⁷ Based on the Transport Assessment.

⁹⁸ A highways contribution is proposed through the UU, with some measures to be secured through a S278 Agreement.

⁹⁹ Initially a skate park was promoted by the Council for inclusion in the open space. However, at the hearing it was clear that the Parish Council were of the opinion that they did not need a skate park in such a location. Taking into account what supporting evidence there was on this point I agree with the Parish Council.

¹⁰⁰ These factors cross-over with the Social Role and have been accordingly weighed into both aspects as positive benefits.

promoting the development of part of the appeal site for affordable housing. Therefore, it is reasonable to conclude that there is a significant need for affordable homes in the Borough and in Audlem. The appeal scheme would provide some 30% of the proposed development as affordable homes.

109. In combination, the provision of market housing, alongside much needed affordable housing, weigh significantly in favour of the development, particularly taking into account the huge shortfall in affordable housing provision.

*Economic Role*¹⁰¹

110. The proposal would enhance the economy of the community by the creation of jobs associated with the construction stage, and new residents are also likely to support existing local services and businesses.

111. Having sufficient land available of the right type in the right places and at the right time to support growth and innovation is part of the economic role in achieving a sustainable development. There is a good prospect that the proposed housing could be delivered on the site within five years. The appeal site would contribute positively to fulfilling the economic role.

112. *Health* – There is no doubt that the proposed development would generate a need for local health services. The existing GP surgery in Audlem is working at or close to capacity and the issue between the parties is whether the identified contribution would go directly to meeting local needs. The NHS Strategic Plan has a wider more general remit than identifying specific projects in known areas of growth. In fact at the hearing¹⁰² it became apparent that the Health Strategic Plan (SP), which is still in the early stages of formulation, is working steps behind the CELP and until the full site allocations process has been completed the localised detail of the NHS plan can not be finalised.

113. The current situation, were a local project to be promoted such as an extension to the local GP surgery, would be that a business case would be submitted to NHS England and this would be considered taking into account the priorities of the wider NHS. It would also have to be weighed against the generality of the emerging SP as it may be more efficient to provide a surgery elsewhere to increase capacity.

114. Paragraph 204 of the Framework sets out that planning obligations should only be sought where they are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. This is in accordance with Regulation 122 of the Community Infrastructure Levy (CIL) Regulations.

115. At present, there is no specified project or area of service improvement which has been identified which could be considered to be directly related to the development. In addition, there seems to be a lack of clarity about how the decision making process on potential schemes might be dealt with. There is also an issue in relation to the paying across of any capital sum which might increase capital values of premises, the subject of improvement, were that to

¹⁰¹ As distinct from economic development.

¹⁰² In the interests of making efficient use of Inquiry time the following matters were dealt with by means of a hearing session held on 13 May 2014 – Health, education, character and appearance/landscape, affordable housing, hedgerow, BMVL, sustainability, highways.

be a benefiting project; and how the appellant company might be credited for this. Therefore, with the SP progressing slowly I heard nothing that gave me confidence that the contribution requested was likely to be spent in accordance with the terms of the Framework and the CIL Regulations. For this reason I do not consider it reasonable to take this aspect of the UU into account. In reaching this view I have considered the wording of the UU that the contribution would be used for primary and community healthcare services for the residents of Audlem to be provided in the vicinity of the village. However, the lack of a NHS plan where the available funding would be appropriately targeted is a serious flaw which undermines any justification for the contribution¹⁰³.

116. *Education* - The Council contend that the Brine Leas secondary school¹⁰⁴, located some 4 miles from the appeal site, is oversubscribed¹⁰⁵. The development would only generate a demand for 16 secondary spaces. The future children of the development would apply for places in the same way as other children but being within the catchment area they would receive some priority over outside catchment area children¹⁰⁶.
117. In this case there seems to be little doubt that the effect of the introduction of new children from the development to Brine Leas would be to displace out of catchment area children wishing to come to the school.
118. However, I note that about a mile further away at Malbank School the EPDS study indicates 317 surplus places with an additional 364 extra places available at Shavington High School¹⁰⁷. However, these two schools are not as popular as Brine Leas their OFSTED performance being less favourable. As a result at Brine Leas nearly 39% of children on roll live outside the catchment area.
119. The proposed contribution is not to accommodate the 16 children from the development¹⁰⁸ but to accommodate 16 new children without impacting negatively on the existing pattern of parental preference in the area.
120. The Council has a statutory duty to comply with parental preference unless it would prejudice the provision of efficient education and the efficient use of resources and to increase opportunities for parental choice.
121. In considering applications for entry to Brine Leas, the school can assess the impact of increasing its intake on the provision of efficient education and use of resources. Some of those children applying will almost certainly live in the catchment area for the other nearby schools¹⁰⁹ where there is significant capacity.
122. Parental preference may be the responsibility of the Council but not of the appellant company. The raw data indicates Brine Leas school could overtime

¹⁰³ Case for justification of the health contribution was superficial.

¹⁰⁴ Considered to be the catchment area school for Audlem.

¹⁰⁵ This is contrary to the EPDS Education Contributions Position Statement v1-2 dated 12 May 2014 which sets out that Brine Leas has a surplus of places of 44 as of Oct 2013. The historic nature of data and the fact the Council have excluded 6th form places from their figure may explain this discrepancy.

¹⁰⁶ Taking into account other priority admission policy groups such as siblings or cared for children.

¹⁰⁷ 5.45 miles away.

¹⁰⁸ These would be within catchment.

¹⁰⁹ Malbank and Shavington schools being only a further mile on from the appeal site than Brine Leas, does not, to my mind, seem an unreasonably distant.

accommodate the 16 children generated by the development¹¹⁰. Presumably the Council are working to improve standards at the other two nearby schools which would seem to be the obvious solution to changing parental preference. This would utilise available school places without the need for children to travel to schools outside of their own catchment area.

123. Therefore, it is for this reason that I consider it has not been shown that the contribution towards education is necessary or justified to mitigate the effects of the new development in accordance with Regulation 122 of the Community Infrastructure Levy Regulations. Consequently, it is not reasonable to take this aspect of the UU into account.

Overall conclusion on sustainability

124. Sustainable development is about change for the better. The appeal proposal would assist in the provision of much needed housing in the local area; the Borough; as well as nationally.

125. It would also have a social and economic role to play in achieving positive growth now and into the future. Its environmental role would be less weighty due to the impact of the proposal on the character and appearance of the countryside. Nonetheless, when the three dimensions to sustainable development are weighed together, as well as the other relevant elements of the Framework, I find on balance the outcome to be a positive one whereby the appeal proposal can be considered to be sustainable development and I give this considerable weight in the overall balance of this decision.

Conclusion and balance

126. In this case the development plan is out of date. The proposed development has been shown to be sustainable development. Therefore, paragraph 14 of the Framework is engaged. There would be few adverse impacts in allowing the appeal and granting planning permission. Such impacts are not weighty and would not significantly and demonstrably outweigh the benefits of the scheme. In particular, the contribution of the development of the appeal site to the identified housing need in the Borough, in circumstances where a five year housing land supply cannot be identified is a persuasive and weighty factor in the consideration of this appeal. In combination with the other positive facets of the development, it is concluded that the presumption in favour of sustainable development applies and planning permission should be granted.

Conditions

127. A list of potential conditions was discussed at the Inquiry and, as result, a number were deleted with the agreement of the parties. I have amended and amalgamated a number for clarity, elimination of duplication, and taking into account guidance in this regard.

128. In summary, standard conditions are required on the approval of the reserved matters and on the commencement of development. Confirmation of the approved plans is needed to define the site. Further conditions are required to

¹¹⁰ I appreciate initially as families move into the new housing there may be issues with places being available across the year groups, but this would a temporary, short lived issue.

- ensure that the submission of reserved matters and later details comply with the considerations taken into account in the approval of the outline permission.
129. Although evidence is limited regarding whether there is any contamination of this agricultural land, it is reasonable that investigations should be carried out in relation to possible contamination. Therefore, for this reason the condition is imposed. A condition relating to surface and foul water drainage, including run-off and flooding is also deemed necessary to ensure adequate arrangements are in place to respond to local concerns and for the avoidance of doubt.
130. A condition securing the proffered improvements to the nearby bus stop is justified as this is one of the positive benefits of proposal.
131. Conditions relating to the protection of birds, trees and hedgerows are required both in the interest of amenity as well as biodiversity. For the same reason, conditions dealing with the future management; long term wellbeing of these natural elements; and their protection during the construction phase are necessary.
132. A more detailed condition requiring an arboricultural method statement, in relation to the retention and protection of the existing trees and the hedgerow on the site, is required in circumstances where these features are important within the character and appearance of the countryside.
133. The condition relating to the Construction Management/Method Plan and Statement is required in order to protect the amenities of nearby residents and general amenity. For the same reason, the condition relating to the ground/slab levels has been imposed.
134. The parties promoted the securing of the affordable housing element of development by means of a condition. I agree with the utilising of such a mechanism and a condition is accordingly imposed.
135. A condition relating to the submission and implementation of a Travel Plan is necessary to provide sustainable transport objectives, giving people a real choice about how they travel.
136. A condition relating to noise mitigation measures for the proposed dwellings was suggested. However, the appellant company's Noise Assessment sets out that both internal and external noise levels are predicted as being acceptable without the need for special noise attenuation measures. The report further concludes that noise levels in the gardens, even closest to Audlem Road are predicted to be acceptable. On this basis, even given that some measures were promoted for the facades of any dwellings facing Audlem Road, I do not consider this condition to be necessary in the circumstances of this edge of village location.

Frances Mahoney

Inspector

Annex A – Schedule of conditions

- 1) Details of the appearance, landscaping (both hard and soft), 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. The reserved matters shall follow the general parameters and broad design/layout concepts set out in the Design and Access Statement dated May 2013; and the terms of the Arboricultural Assessment Report (dated May 2013). The layout shall also show the affordable element of the housing dispersed across the extent of the appeal site, and full details of the access and tight turn lane.
- 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.
- 3) 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.
- 4) The development hereby permitted shall be carried out in accordance with approved plans nos 5192-L-01 (Application Boundary - red line plan), and 5192-L-02 rev E (Development Framework) in so far as it relates to the location of the proposed site access onto Audlem Road.
- 5) No development shall take place until:
(a) A Phase II contamination investigation shall be carried out in accordance with a scheme to be submitted to and approved in writing by the local planning authority; (b) The results shall be submitted to the local planning authority and if the Phase II contamination investigation indicates that remediation is necessary, then a Remediation Statement shall be submitted to the local planning authority for its approval in writing. 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.
- 6) Development shall not commence until a sustainable urban drainage system strategy detailing any on and/or off-site drainage works has been submitted to and approved in writing by the local planning authority. This shall include both foul and surface water drainage and a scheme to limit the surface water run-off generated by the proposed development as well the management of the risk of flooding from overland flow of surface water. The development shall be carried out in accordance with the approved details and maintained as such.
- 7) No development shall take place until a detailed survey (carried out by a suitably qualified person) to check for nesting birds prior to undertaking any works between 1st March and 31st August in any year has been carried out and submitted to the local planning authority. Where nests are found a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting should be confirmed by a

suitably qualified person and a report submitted to and approved in writing by the local planning authority before any works involving the removal of any hedgerow, tree or shrub, or within the exclusion zone takes place.

- 8) Prior to the commencement of any development works, a detailed arboricultural method statement (AMS) shall be submitted to and approved in writing by the local planning authority. The AMS shall be based upon an up-to-date, tree and hedge survey to be submitted with the statement and shall contain details of the specification and location of tree and hedge protection or barriers, shown on a tree protection plan (TPP). The approved protection scheme shall show trees and hedges for removal and retention. The erection of the protection for the retained trees and hedge shall be undertaken in accordance with the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site (duration of the development phase). Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority. The TPP shall also show root protection areas of all retained trees and hedges and those trees and the section of hedge to be removed. Details of tree and hedge pruning should be contained in the tree survey information. No tree/hedge shall be damaged, felled or pruned other than as expressly permitted by the approved protection scheme. The AMS shall provide details of any construction activities, including excavations that may require works within protected root areas, including the construction of specialist hard surfaces. All works shall be carried out in strict accordance with the approved details.
- 9) Prior to the commencement of the development a habitat and landscape management plan, including long term design objectives, management responsibilities and maintenance schedules for not less than 15 years for all areas, shall be submitted to and approved in writing by the local planning authority. The management scheme shall include details for the long term management of the existing boundary hedgerows, including any translocation/replacement hedge planting; along with detailed proposals for the incorporation of features to accommodate breeding birds. The management plan shall be implemented (timetable agreed) as approved and its requirements adhered to thereafter.
- 10) No development shall take place until an Environmental Management/Construction Management/Method Plan and Statement with respect to the construction phase of the development have been 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. Development works shall be undertaken in accordance with the approved Environmental Management/Construction Management/Method Statement/Plan. The details shall include, amongst other things, hours of work/piling/deliveries; contractors parking areas, compounds,

including storage of plant and materials; specification of plant and equipment to be used; construction routes; details of wheel washing facilities; minimisation of dust emissions arising from construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development; an undertaking that there shall be no burning of materials on site at any time during construction; details of any piling required, including method (to minimise noise and vibrations), duration and prior notification to affected neighbouring properties; overall monitoring methodology; and details of the responsible person (site manager/office) who can be contacted in the event of a complaint.

- 11) No development shall take place until details of the existing and proposed ground levels across the site and the levels of the proposed floor slabs shall be submitted to and approved in writing by the local planning authority. The development shall be constructed in accordance with the approved details.
- 12) No development shall take place until a scheme of improvements to the existing bus stop at Cheshire Street/Emberton Place has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented in accordance with an agreed timetable to be included within the scheme.
- 13) The development shall not begin until a scheme for the provision of affordable housing as part of the development hereby permitted has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing set out in the Glossary to the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units;
 - ii) the tenure shall be split 65% social rented or affordable rented and 35% intermediate;
 - iii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - iv) the arrangements for the transfer of the affordable housing to an affordable housing provider (registered provider) or the management of the affordable housing (if no registered provider is involved);
 - v) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing including arrangements where appropriate for the subsidy to be recycled for alternative affordable housing provision; and
 - vi) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 14) 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 a timetable for

implementation and provision for monitoring and review. All measures contained within the approved Travel Plan shall be implemented in accordance with the approved scheme of monitoring and review, as long as any part of the development is occupied.

Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Antony Crean QC	Instructed by the Borough Solicitor of Cheshire East Council
He called	
Adrian Fisher BSc(Hons) MTPPI MRTPI	Head of Strategic and Economic Planning
Ben Haywood BA(Hons) MA MBA MRTPI MCIM	Principal Planning Officer

FOR THE APPELLANT:

John Barrett of Counsel	Instructed by Kevin Waters Gladman Developments Ltd
He called	
Stephen Nicol BA MA	Managing Director Regeneris Consulting
John MacKenzie MSc DipTP MRTPI	Planning & Development Manager Gladman Developments Ltd
Kevin Waters MSc BSc(Hons) MRICS MRTPI	Planning & Development Manager Gladman Developments Ltd
Robert Hindle BSc(Hons) MRICS	Director Rural Solutions
George Venning MA	Associate Director Level Ltd
Phil Rech BA B Phil LD CMLI	Director FPCR
Paul Chadwick BA(Hons) FSA MIFA	Director CgMs Consulting
Malcolm Reeve BSc FISoilSci CSci MBIAC MCIWEM	Director Land Research Associates Ltd

INTERESTED PERSONS:

Geoff Seddon	Audlem Parish Council
David Cade	Representing Stephen O'Brien MP
Mrs H Jones	Local resident
Barbara Dale	School Admissions & Organisation Manager
Simon Hodgkiss	Land & Sites Coordinator
Erica Partridge	Consultant to NHS Property Services Ltd for NHS England

DOCUMENTS

- 1 Judgement of Mr Justice Sullivan (Case no dated 14 March 2008 (Edward Poole)
- 2 Judgement of Mr Justice Hickinbottom dated 30 April 2014 (Gallagher Homes Ltd/Lioncourt Homes Ltd)
- 3 Extract of proof of evidence of John MacKenzie in relation to appeal APP/R0660/A/13/2195201 – Land at Sandbach Road, Alsager
- 4 Appeal decision APP/C1570/A/13/2201844
- 5 Cheshire Landscape Character Assessment – November 2008 – Landscape Character Type 10: Lower Farms and Woods
- 6 Audlem Village Design Statement and Landscape Character Assessment – An Annex to the Parish Plan (2010)
- 7 Extract from PPG Determining a planning application
- 8 Emails dated 1 May 2014 and 6 May 2014 respectively between Adrian Fisher and John MacKenzie re: various scenarios of housing land supply
- 9 Housing Land Supply Scenarios Summary Sheet – The Tables
- 10 Agreed Statement of Common Ground – Highways
- 11 PPG – Housing and economic land availability
- 12 Submission on behalf of Audlem Parish Council – presented by Geoff Seddon (Parish Councillor) dated 7 May 2014
- 13 Unilateral Undertaking dated 16 May 2014
- 14 Agreed Statement of Common Ground dated 6 May 2014
- 15 Cheshire East Objectively Assessed Housing Requirement - A Final Report by Regeneris Consulting
- 16 PPG - Housing and economic development needs assessments
- 17 Statement of Rt Hon Stephen O'Brien MP
- 18 Ministerial statement of Nick Boles MP Minister for Planning dated 10 March 2014
- 19 Appellant's note – Chronology of discussions relating to design, trees and amenity matters relevant to the appeal
- 20 Statement by Geoff Seddon on behalf of Audlem Parish Council
- 21 Community Infrastructure Levy Regulations 2010 Compliance Statement
- 22 Appeal decision APP/D3315/A/12/2170249
- 23 Appeal decision APP/R3325/A/12/2170082
- 24 Comparison of Cheshire East LSCs/Statistics on Population and Distances Travelled to Work – Audlem Parish Council
- 25 Email from Kevin Waters dated 12 May 2014 – update on Appellant's position re CIL Compliance Statement
- 26 Appeal decision letter of Secretary of State APP/X2410/A/13/2196928 & 2196929 – Land off Mountsorrel Lane, Rothley, Leicestershire
- 27 Education Contributions Position Statement - EPDS Consultants
- 28 Audlem Statement of Concerns/Questions - Re CIL Compliance
- 29 Brine Leas School - criteria for prioritising applications from parents expressing a preference for the school
- 30 Five Year Supply Positions – Appellant's tables – not agreed
- 31 Appeal decision APP/A0665/A/13/2200583
- 32 Details of Robert Smith Director CgMs

- 33 Extract from Government Response to the Communities and Local Government Committee's Report Abolition of Regional Spatial Strategies: a planning vacuum
- 34 Extract from 2011 Census Glossary of Terms – April 2014
- 35 The North West of England Plan Regional Spatial Strategy to 2021 - Policy L4
- 36 Five Year Supply Positions – updated 14 May 2014 – Appellant's position
- 37 Judgement of Mr Justice Kenneth Parker (Case number CO/12831/2012 – Dated 9 May 2013) – Anita Colman
- 38 Judgement of the Honourable Mr Justice Males (Case numbers CO/8962/2012 & CO/10438/2012 – dated 20 February 2013) – Tewkesbury Borough Council
- 39 Judgement of the Honourable Mrs Justice Lang DBE (Case number 10359/2012 - dated 11 October 2013) – William Davis Ltd/Jelson Ltd
- 40 Note of Stephen Nicol dated 14 May 2014 regarding C2 issue
- 41 Local Development Scheme 2014-2016
- 42 Agreed position on housing need surveys
- 43 Suggested draft conditions version 4
- 44 Response to Stephen Nicol's note (Doc 40) by Adrian Fisher
- 45 Decision Notice Application No 09/2083C
- 46 Judgement of Mr Justice Hickinbottom (Case number CO/12539/2012 – dated 18 July 2013) – Stratford on Avon District Council
- 47 Application for costs – Applicant
- 48 Rebuttal of costs application - Council

Documents submitted after the close of the Inquiry

- 49 Cheshire East Five Year Housing Land Supply Position Statement September 2014
- 50 Response from the appellant company dated 10 November 2014
- 51 Email dated 12 November 2014 from the appellant company, including the Local Plan Inspector's Interim Views – letter dated 6 November 2014.

PLANS

- A Proposed access arrangements – dwg no 1321/05 Rev A
- B Proposed access arrangements – dwg no 1321/05 Rev B