

---

## Appeal Decisions

Inquiry held on 1, 2, 3 & 4 April and 16, 17 & 18 September 2014

Accompanied site visit made on 18 September 2014

Unaccompanied Site visits made on 30 March 2014 and 19 September 2014

**by Wenda Fabian BA Hons Dip Arch RIBA IHBC**

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

**Decision date: 9 January 2015**

---

### **Appeal A: APP/R0660/A/13/2200462**

#### **Land north of Weston Lane, Shavington, Cheshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by David Wilson Homes (North West) against the decision of Cheshire East Council.
  - The application Ref 12/3300N, dated 24 August 2012, was refused by notice dated 22 May 2013.
  - The development proposed is erection of 57 dwellings, landscaping including the creation of a newt corridor, new access and associated infrastructure.
- 

### **Appeal B: APP/R0660/E/14/2211111**

#### **Land north of Weston Lane, Shavington, Cheshire**

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
  - The appeal is made by David Wilson Homes (North West) against the decision of Cheshire East Council.
  - The application Ref 13/3373N, dated 5 August 2013, was refused by notice dated 1 October 2013.
  - The works proposed are alteration and rehabilitations to the existing gate posts and flanking walls to the former access to Shavington Hall.
- 

### **Decision**

1. The appeals are dismissed.

### **Procedural Matters**

2. The inquiry was adjourned on 18 September 2014 at the request of both parties. This was to enable additional time for the applicant to submit a finalised version of the s106 Unilateral Undertaking and to allow both the parties to provide submissions in respect of ownership of part of the Newt Mitigation Area and with regard to third party rights of access over part of the appeal site. The inquiry was closed in writing on 21 October 2014, following receipt of these.
3. Both parties have recorded that the application description shown in respect of Appeal A above was amended prior to the Council's decision. The amended description is: the erection of 54 dwellings, landscaping including the creation

of a newt corridor, new access and associated infrastructure. I shall consider Appeal A on this basis.

4. The Council has confirmed in the Statement of Common Ground (SoCG) that the pre submission screening advice letter of 18 September 2013 from Natural England confirms that a newt licence would be granted and that it no longer seeks to pursue the sixth reason for refusal, with respect to the effect of the proposal on protected wildlife species. In the light of the evidence presented in this regard including the detailed mitigation measures proposed, I see no reason to disagree and shall consider Appeal A on this basis. I return to the matter of how mitigation would be secured below.
5. The Council confirmed at the inquiry that the reference, in its decision to prematurity, with respect to the emerging Local Plan, would not be pursued in evidence to the inquiry. In the light of government advice on this matter I agree that it is not material to the considerations in this case.
6. Housing Land Supply evidence was presented as a structured round table discussion, without cross examination by either side. An agreed agenda was provided by the appellant, as well as a list of formal questions. Both advocates participated to make points and raise questions, with expert witnesses for each side who provided detailed responses, based on their individual proofs of evidence. Those who participated are listed in appearances. An update for this matter was held in the same way at the resumed inquiry on 16 September 2014.
7. In November 2014 after the close of the inquiry but prior to the issue of this decision, the appellant supplied the *Inspector's Interim Views on the Legal Compliance and Soundness of the Submitted Local Plan Strategy*<sup>1</sup> in respect of the examination of the Cheshire East Local Plan Strategy. This document was accepted as it is material to my consideration of the issues in this appeal. Comments<sup>2</sup> on the document from both parties were invited and accepted, but a further exchange of comments was declined.

## Main Issues

8. The main issues in Appeal A are:
  - i) whether the proposal would preserve the special architectural and historic interest of the listed building and preserve its setting including the effect on setting of the loss of trees subject to a Tree Preservation Order (TPO);
  - ii) the effect of the proposal on the character and appearance of the open countryside, with particular regard to development plan aims to prevent the erosion of defined green gaps;
  - iii) whether there is a 5-year supply of housing land in the district;
  - iv) the effect of the proposal on the future health of trees subject to the TPO; and
  - v) whether the loss of the best and most versatile agricultural land is justified.

---

<sup>1</sup> Inquiry document

<sup>2</sup> Appellant's comments inquiry document 63, Council's comments inquiry document 64

9. In Appeal B the main issues are: whether the proposal would preserve the special architectural and historic interest of the listed building and preserve its setting.

## **Reasons**

### **Site surroundings, planning history and proposal**

10. The appeal site is a large roughly rectangular agricultural field. It lies outside the development boundary in open countryside between Shavington village at its west boundary and at its east side Shavington Hall, an imposing country house which is listed, Grade II. Beyond the Hall close-by but out of sight to the east and south lie the much smaller villages of Basford and Hough.
11. The north site boundary, lined by mature trees and hedging, adjoins further agricultural fields which extend to both sides, to the north of the village and behind the Hall and its outbuildings. Beyond these fields is the A500 dual carriageway flanked by grassed mounding and planting and beyond this, out of sight to the north is a large site allocated for residential development, Basford West, which is now underway. Beyond this and the railway line, the conurbation of Crewe is also close but not visible.
12. The landscape here is largely flat but undulating and despite the presence of the extensive built up areas to the north, the appeal site and its surroundings have a rural agricultural character of fields, hedges and trees interspersed with village settlements and more sporadic farmsteads and houses.
13. Shavington village retains a core of rural cottages at its centre, which to some extent define its character, but various more recent residential estates and ribbon developments extend out from this including those adjacent to the appeal site. In addition, several further sites around its perimeter have recently gained planning permission for residential development (Shavington Triangle, Shavington East and Rope Lane) and some of these are already under construction.
14. The back gardens of modest post-war detached and semi-detached houses on North Way and Park Estate abut the west of the appeal site. A short ribbon of similar era houses and bungalows fronts Weston Lane and backs onto the south edge of the site. Immediately alongside the last of these, is the original gateway and tree lined drive curving northeast towards Shavington Hall.
15. In 2000, planning permission was granted for the construction of an alternative access and drive to the Hall at its east side, further out of the village along Weston Lane. This has been constructed and is in use as the predominate means of approach to the Hall. However, the historic gateway and driveway branch to the outbuildings continue in use as the sole access to the residential conversions behind the Hall. The former driveway branch to the Hall also remains, with a more recently constructed imposing gateway at this point, albeit that this appears infrequently used.
16. There is no dispute between the parties that the gateway on Weston Lane benefits from protection as a listed structure by reason of its relationship to the Hall. The existing drive extends along around two thirds of the east boundary of the appeal site, between it and the Hall, with the side and rear garden to Langtry (a converted barn) adjoining the remainder of this edge of the site.

17. The proposal, which is for a conventionally laid out estate development of 54 traditional style dwellings on the site, would be accessed via this gateway. The eastern side of the gateway would be taken down and rebuilt and three trees on the west side of the drive, subject to the TPO, would be felled for the drive to be widened to two lanes; the new access road would run north-westwards, away from the line of the existing drive, into the site. A side turn from it within the appeal site would link back to the original drive and entrance to the Hall and at this point a further four trees would be felled.
18. Along this eastern site boundary the proposal is for a narrow landscaped band, widening towards the north, further into the site. This would comprise the retained trees along the former route of the drive, new hedging to a new mitigation area associated with the two existing large ponds (which remain in separate ownership) a narrow strip of public open space traversed by a new footway from the gateway into the estate and some additional tree planting.

### **The listed building**

19. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that *in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.* Policy BE9 of the *Borough of Crewe and Nantwich Replacement Local Plan, 2015, (LP)* requires that proposals for the alteration or extension of a listed building should not detract from the character or setting of the building.
20. The development plan period expired in 2011 and a saving direction was issued in 2008 pending the replacement plan (the draft *Cheshire East Local Plan* now subject to formal examination, which commenced in September 2014). Policy BE.9 is saved and is in broad compliance with the *National Planning Policy Framework* (the Framework), which states at paragraph 132 that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset the greater the weight should be. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Heritage assets are irreplaceable, any harm or loss should require clear and convincing justification. Substantial harm to or loss of a grade II listed building should be exceptional.
21. Shavington Hall is described in the 1997 listing as a small but imposing country house. According to the appellant's Historic Assessment<sup>3</sup>, the original Hall here dated from medieval times and was mentioned in the Domesday Book. It was rebuilt for the Earl of Shrewsbury in 1877 in the Tudor revival style, of light Bowden brick with sandstone dressings and redbrick at the rear. The listing refers to numerous notable features of historic and architectural interest both internally and externally.
22. Behind the Hall a single barn and a range of outbuildings around an open courtyard (possibly former stables) have been recently converted to around four dwellings, with the former agricultural field behind them to the north

<sup>3</sup> CD1.9

divided into separate residential plots. The names of these dwellings reflect the widely accepted historic link between the actress Lillie Langtry and the 20<sup>th</sup> Earl of Shrewsbury, who commissioned the Hall. The scandal caused at the time is now reflected in the historic value attributed to the connection, particularly locally, and adds a further layer of interest to the significance of the historic asset<sup>4</sup>.

23. In front of the hall is a large south facing front garden now mostly laid to lawns with a large circular stand of mature trees and planting. Alongside the original driveway are two large ponds, one close to the gateway is encircled by trees and one at the side of the Hall is bounded by a tall close-clipped rather sparse evergreen hedge.
24. The Hall with its curtilage buildings and structures, including the simple stone entrance gateway, is a nationally designated heritage asset of acknowledged significance. The gateway attracts the same level of protection as the Grade II listed building.

#### **Listed building – alterations to the gateway**

25. It seems that the current occupants of Shavington Hall choose to approach it via the new access and drive referred to above, from the east side, arriving where there is a setback service range recorded in the list description. However, the listing also describes the open entrance porch at the side of the right hand rear gable, which is still in place; this equates to the west side and from historic maps<sup>5</sup> it is clear that the original main approach to the Hall was from this side. Although the 20<sup>th</sup> century ribbon development described above terminates at the gateway, this main approach remains intact, visually set apart from the newer dwellings by the unpaved rural appearance of the drive leading from it and by the large mature trees that flank it. It is an important indicator of the historic pattern of use of the listed Hall. The single carriage width drive here leads from the original gateway on Weston Lane, curves slightly towards the Hall and splits to provide access to the outbuildings behind.
26. The gateway is modest and simple. It comprises a pair of stone piers each with chamfered corners, narrow recessed panels and a plinth and, on each side, lower curved flanking walls of thin-bed rusticated stones with deep chamfered curved copings and secondary stone piers lower but similar to the main ones. It is apparent on site that original cast iron gates and railings have been removed; the inset seatings in the curved copings for railings remain and the stumps of hinge pins are embedded in the stone piers where they have been sawn through. More recent metal railings have been put in place, but in a panel form suspended above the copings; these are of inauthentic construction and details. More recently lost are the stone caps to the main gate piers. The Council's photographs<sup>6</sup> from 2005 show they were still in place then and were of the same robust stepped and moulded pyramid form as those remaining at the side piers.
27. The mature trees that line both sides of the drive, combined with those around the pond here and within the front gardens to the Hall provide heavy screening such that the Hall is not visible from the gateway, nor are the gates

<sup>4</sup> Rebuttal POE Ms Wise, appendix 1

<sup>5</sup> Ms Adams POE, appendix HA1 and Mr Hallam POE appendix 4

<sup>6</sup> Mr Hallam POE, appendix 3

visible from in front of the Hall. The appellant suggests that the gateway is of much lesser importance than the main Hall; this arises from the visual separation and the incremental loss of historic features such as the pier caps, gates and railings.

28. Nevertheless, this lack of inter-visibility does not reduce the significance of the gateway – rather the gateway is the publicly visible part of the historic listed building and signals that the Hall is there, set back behind its landscaped grounds. As such the gateway is a key part of its significance, through its public visibility and the interest of its historic function. The Government's *Planning Practice Guidance* (the Guidance) confirms that part of the public value of heritage assets is the contribution that they can make to understanding and interpreting our past. While it is of lesser detailed architectural interest than the Hall, nevertheless it is of good quality stone and robust detailing; it provides a simple but dignified gateway to the Hall. As such it is a nationally designated significant heritage asset in its own right. Its current physical condition and the low use, if any, of it as an entrance to the Hall at present are not reasons to cause further harm to it or to the historic relationship between it and the Hall.
29. There are settlement cracks and disturbance to the structure that have arisen over time, partly due to tree root growth and incursion by ivy. The whole gateway would be repaired and restored as part of the proposal and the missing pier caps would be replaced. The appellant cites this as a benefit of the proposal that would not occur otherwise, but the Guidance clarifies that deliberate neglect or damage should not be a reason to grant consent or permission. The Guidance says that generally the risks of neglect and decay are best addressed through ensuring that heritage assets remain in active use that is consistent with their conservation. Here although the gateway remains in use in connection with primary access to the residential conversions, ownership has been divorced from both these buildings and the Hall. The degradation that has occurred to this part of the historic asset may not have been deliberate, but it has not been conclusively demonstrated that the restoration of the gateway could not be secured by other means than this far-reaching proposal.
30. The proposal is to widen the access by taking down and re-building the eastern gate pier, curving wall and secondary pier, so as to provide a two lane access. The existing opening of some 3.4m would be increased to 5.5m. This more than 50% increase in width would distort the original proportions of the gateway to such an extent that it would not retain its historic appearance of an entrance built for horse drawn vehicles. It would clearly no longer support paired gates of the original narrow high proportions, even were the missing gates restored. This fundamental alteration to the proportions of the gateway and the increase in width, combined with the proposed re-alignment of the access road, would result in the gateway being clearly perceived as the entrance to the proposed new housing development, rather than to the Hall.
31. The appellant suggests that the proposal is only a minor alteration, but I disagree; the historic link between the gateway (a key element of the listed building) and the Hall would be severed and the proposed altered gateway would have only a small resemblance to the current one; it would in effect be partially destroyed. It would have the appearance of architectural salvage, an arbitrary and contrived relic, disconnected from Shavington Hall. Its original

relationship to the Hall would be so distorted that its importance as the public signal of the Hall's presence would be lost.

32. Thus, without the tangible historic link between the gateway and the Hall and as a result of the proposed altered proportions, the historic significance of this part of the heritage asset would be almost totally if not completely lost and would cause substantial harm to the special architectural and historic interest of the gateway, which is a key element of the historic interest of the Hall.
33. The Guidance advises that substantial harm is a high test, so it may not arise in many cases ....an important consideration would be whether the adverse impact seriously affects a key element of its special architectural or historic interest.....it is the degree of harm to the asset's significance rather than the scale of the development that is to be assessed.....partial destruction is likely to have a considerable impact.....even minor works have the potential to cause substantial harm.
34. I conclude in both appeals that the proposed alterations to the historic gateway to Shavington Hall would fail to preserve its special architectural and historic interest, contrary to LP policy BE.9.

#### **Listed building – setting**

35. Historic maps<sup>7</sup> show the Hall in 1877 at the heart of and surrounded by an extensive field system, with a dairy house, what appears to be a farm, a short terrace of houses, other isolated buildings and a mill to the west. By 1910 this was little altered, with only a few more terraced houses to the south west, close to the mill. Since then Shavington village has expanded with time and on the west side of the appeal site the fields have been reduced in extent by 20<sup>th</sup> century residential development. Nevertheless the same field system remains predominantly intact today. Although not set in a formally designed landscape, the Hall remains as it was when built; surrounded on three sides by large fields (albeit that the one now forming the appeal site was formerly part of an even larger field) and across Weston Lane by further open agricultural fields. It is still set in open countryside.
36. The appeal site is typical of the Barthomley character area defined by the *Cheshire Landscape Character Assessment*, November 2008<sup>8</sup>; it is not designated for its quality and is agreed to have a medium sensitivity with the capacity to absorb some change. The appellant's landscape visual impact assessment (LVIA) found that while some immediately adjoining dwellings would suffer moderate to high negative impacts in terms of the effect of the proposal on the immediate landscape seen from these properties, it would have a minor adverse impact on the character of the landscape locally and in the wider area a negligible to minor impact. However, the LVIA did not consider the effect, as I must do, on the setting of the Hall.
37. The surrounding open fields and the rural landscape are intrinsic to the character of the Hall as a country house, related to but separate from the village. Despite the ribbon of houses fronting Weston Lane, the appeal site forms a green undeveloped space between the bulk of more recent housing at the edge of the village, in Park Estate and North Way, and the Hall and its related outbuildings. It has the appearance of a large agricultural field, albeit

<sup>7</sup> Proof of Evidence Ms Adams, appendix HA1

<sup>8</sup> Mr Berry POE, appendices 3 and 4

that it is no longer in use for crops or grazing, and it is integral to the agricultural landscape around the Hall. As such the appeal site forms an important part of the setting of the Hall.

38. The appellant points to the lack of visibility of the appeal site in public views; no public footpaths traverse it or run close by and it is screened as described above by boundary trees and vegetation. However, the still extant *PPS5 Planning for the Historic Environment: Historic Environment Planning Practice Guide* advises at paragraph 117 that *the contribution that setting makes to the significance does not depend on there being public rights or an ability to access or experience the setting*. Moreover, the appeal site is readily visible from the original driveway to the Hall and to some extent from within the Hall's front gardens, as well as from the rear gardens of numerous surrounding houses and to some extent from Park Estate and North Way between the houses. Crucially, the existing views from the front gardens of the Hall are mostly of the boundary hedges and trees and open sky – only a few distant roofs of houses can be seen.
39. The effect of new houses close to the Hall's west boundary is demonstrated by the appellant's photomontage viewpoint 18<sup>9</sup>, taken from within the front garden to the Hall. The proposed development would wholly alter the balance of the agricultural surroundings; relatively close-set houses would press close to the garden and the Hall, with only a narrow landscaped area and small open space between the new estate road and houses and the Hall curtilage. The resulting sense of urban development here, irrespective of the merits of architectural style, would seriously reduce the agricultural character of the Hall's setting at this side.
40. The proposed development would also extend to the north, in line with the houses at North Way, but well beyond the outbuildings at the north of the Hall. Although this would be in line with the rear boundaries of these historic curtilage properties, each has a defined small rear garden with a long piece of land beyond, which remains largely open and free from development, in strong contrast to the row of detached dwellings, garages, and driveway proposed here.
41. Overall, the proposed development on the appeal site would result in significantly increased urbanisation immediately adjacent to Shavington Hall. Despite the carefully orientated house fronts (rather than rear elevations) that would face towards the Hall, the visible presence of buildings in place of the open field here would seriously harm its setting so as to materially diminish its character which is that of a country house, set within an encircling field system.
42. In addition to these effects, the loss as proposed of the existing drive layout at its southern end and the construction of a two lane estate road at this point, as well as through the proposed alterations to the gateway, for the same reasons described above, would also fundamentally detract from the setting of the listed building.
43. Overall, in both appeals the proposal would fail to preserve the setting of the listed building and would cause serious harm to the significance of the heritage asset, contrary to LP policy BE.9 and national policy in this regard.

<sup>9</sup> Mr Berry POE



## Setting and loss of trees

44. The Crewe and Nantwich Borough Council (Weston Lane, Shavington) Tree Preservation Order 1979 relates to numerous individual trees, as well as defined areas of trees and groups of trees. Of these, some trees within Area A2<sup>10</sup> lie within the east boundary of the appeal site and the remainder in the same group lie mostly in the grounds of Shavington Hall. The appellant's Arboricultural Impact Assessment<sup>11</sup> records 34 individual and 2 groups of trees, shown on the tree survey drawing and categorised in the report. Not all of these trees are subject to the TPO, which only relates to trees along the eastern boundary of the site. The eye-catching line of mature trees and hedging along the north boundary, which can be seen from the footpath to the west, would all be retained.
45. As described above, the proposal would also result in the loss of a total of seven trees within the setting of the listed building that are subject to the TPO.
46. Three trees immediately behind the west side of the gateway would be felled. These are assessed in the survey as T1 an 18m mature lime, T2 an 18m mature sycamore, and T4 a 22m mature ash. The survey records they have variously 40 years, more than 40 years and 20 years future life and categorises them as B1, B1 and C1 in good and fair condition. The Council suggests, the lime should be categorised A and could have well in excess of 40 years more life to contribute, being around 140 years old with a possible age up to 300 years.
47. These differences between the parties serve to illustrate the difficulty in reaching a consensus as to the value of trees in this type of context. Nevertheless, there is little dispute that the three trees are all in reasonable if not good condition, with a substantial future life. There is no suggestion that any of them is in poor health or should be felled for any other reason than to facilitate the proposed development.
48. Much has been made of the backdrop of other trees behind them in various views, particularly dynamic ones when travelling along Weston Lane, such that the appellant suggests it is difficult to pick out the individual trees that would be felled. It is true that there are several younger self-seeded trees in front of these mature ones that partly mask them at lower level from the road (these are also the cause of root damage to the gateway structure). In longer views along Weston Lane other large and mature trees further along the road-front also partly mask them and in some views they are seen against the more dense stands of trees within the front gardens of the Hall. However, although not a formal avenue of similar species, the trees are evenly spaced apart and, with their counterparts opposite, line the route to the Hall. The trees are also seen in distant views from North Way and Park Estate, where the height and form of T4, the ash, make it particularly noticeable in the skyline. Overall, the three trees are protected and worthy of retention, they make a positive and important contribution to the setting of the listed building as well as to the character and appearance of the surrounding area. Their loss would be noticeable and a significant loss in this context.

<sup>10</sup> The TPO First Schedule refers to Area A2 as within the curtilage of Shavington Lodge, but as the Lodge is clearly labelled on the Map attached to the TPO on the south side of Weston Lane and Area A2 is clearly marked around Shavington Hall, this is agreed to be wrongly attributed in the schedule.

<sup>11</sup> CD1.11

49. It is proposed to replace the three trees here with a small group of native trees (three are depicted in the photomontage, two on plan) in the small space between the proposed footway and the new road behind the west side of the gateway. The appellant's photomontage Viewpoint 1<sup>12</sup> images of the gateway show that by year 15 following the planting, these would have reached a degree of maturity, such that the trees would have a recognisable presence. But, as shown by the appellant's evidence<sup>13</sup>, at around a maximum of 9.6m by this stage, they would be much lower than the existing mature trees here and the remaining corresponding ones on the east side of the gateway, which range from 18 – 22m. In addition, although no specific tree type has been shown for this location, very few of the species listed would be likely to attain or replace the stature of those lost and certainly would not do so for very many decades. Further, the proposed planting layout would not reproduce the tree lined quality of the existing driveway.
50. The photomontage is cropped well below the full canopy of the mature trees such that a full impression of the proposed tree loss is difficult, but it demonstrates my assessment above that the loss of these three trees would leave a long large gap in the line of mature trees here at a critical visual point. These three trees form the start at the entrance of the line of trees along the driveway. I have seen that they are prominent in this part of the roadside landscape, if they are removed the sylvan character at the gateway would be significantly diminished and the sense of a tree lined drive would be substantially lost at this main historic approach to the Hall.
51. Four other protected trees would also be removed further north on the line of the existing driveway, to facilitate the proposed branch driveway from the new estate road back towards the Hall. These are trees T11, T12, T13 and T14, which are also on the west side of the existing driveway. They are a 17m ash, a 15m oak and 10m and 12m sycamores. All four trees are shown as early mature in fair condition and categorised as C2. The smaller two sycamores seem off-line relative to others on this side of the drive and I am not convinced that their loss would cause significant harm, but the loss of the ash and the oak would leave a further sizeable gap in the line of trees along the west side of the driveway to the Hall and this adds to my conclusions above. While substantial additional tree planting is proposed within the site, this would not repair the visual gap that would be created within this particular line of trees, which denotes the historic line of the drive.
52. Overall the loss as proposed of at least five out of the seven trees subject to the TPO would cause moderate harm to the setting of the Hall, with three of them also within the immediate setting of the gateway, where their loss would cause more serious harm to that also. I conclude in Appeal A that this aspect of the proposal would also fail to preserve the setting of the listed building and so would cause additional harm to the significance of the heritage asset, contrary to LP policy BE9 and national policy in this regard.
53. In both Appeals A and B, bringing together my conclusions on the first main issue in respect of the listed building, its setting and protected trees, the substantial harm and serious harm arising would be sufficient in itself to justify dismissal. However, this must be weighed against the benefits put forward in favour of the development; paragraph 133 of the Framework sets

<sup>12</sup> Mr Berry's POE

<sup>13</sup> Mr Berry POE appendix 10

out that where a proposed development will lead to substantial harm to a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm. I return to this consideration later in this decision.

### **Open countryside and green gap**

54. The appeal site is outside the settlement boundary defined by the LP, where policy NE.2 precludes residential development in open countryside other than for essential purposes or one or two infill dwellings within an otherwise built up frontage. In addition, the appeal site also falls within an area defined by policy NE.4 as the Shavington/Weston/Crewe green gap within the open countryside. Policy NE.4 resists the erosion of green gaps through the construction of new buildings and the policy notes that these areas need additional protection in order to maintain the definition and separation of existing communities, and to indicate support for the longer term objective of preventing Crewe, and amongst other places, Shavington from merging into one another.
55. The Framework at paragraph 14 establishes a presumption in favour of sustainable development; where the development plan is absent, silent or relevant policies are out-of-date, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole. As set out above, the development plan has reached the end of the plan period, but policies NE.2 and NE.4 have both been saved. Nevertheless, paragraph 49 of the Framework states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
56. As set out in the SoCG<sup>14</sup> the appellant considers that both these policies are relevant to the supply of housing and they should therefore carry little weight in this appeal. The Council acknowledges that where a 5 year supply of housing cannot be demonstrated, policy NE.2 can be considered to be out of date in terms of its geographic extent and the boundaries of the area which it covers will need to 'flex' in some location to provide for the housing land requirements. This is consistent with the Government's objective to increase the supply of housing land and if there is shown to be no 5 year supply of housing land (to which I turn below) then the policy would be out of date and a lack of compliance with it would not be a reason in itself to dismiss the appeal.
57. In respect of policy NE.4 the Council wholly disagrees and holds that this policy is not one for the supply of housing. This goes to whether the policy is to be considered out of date by reference to paragraph 49 or whether, in terms of paragraph 215 of the Framework, weight can be attached to it depending on its degree of consistency with the Framework.
58. There have been varying approaches to this question by other inspectors<sup>15</sup>. The more recent one followed the Barwood Homes judgement<sup>16</sup> and found that as policy NE.4 is concerned with particular areas of land and is about the

<sup>14</sup> Statement of Common Ground, Inquiry Document 42

<sup>15</sup> APP/R0660/A/12/2173294 (November 2012) and APP/R0660/A/13/2203883 (July 2014)

<sup>16</sup> CD5.2

construction of any new building, it is not a policy that regulates housing land supply. With regard to the issue as to whether a policy is one that restricts the supply of housing, the judgement contrasts countryside policies (characterised as broadly defined) with those designed (among other examples) 'to protect gaps between settlements.....all of which could sensibly exist regardless of the distribution and location of housing or other development'. Further, the Davis judgement<sup>17</sup> found in respect of a green wedge policy (similar to NE.4 for green gaps) that it is not one for the supply of housing.

59. In my view policy NE.4 does not simply seek to safeguard the countryside and is more narrowly focussed. As such it does not relate to the supply of housing. It is a policy with wide local support, residents of Shavington expressed at the inquiry their strong concern regarding the need to preserve the sense of definition between their settlement in its countryside surroundings and the much larger conurbation of Crewe, particularly in the face of the residential developments already approved around its edges, as summarised above. It is broadly consistent with the Framework which sets out as one of the 12 core planning principles that planning should take account of the different roles and character of different areas....recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it.
60. Whether the proposed construction of 54 new dwellings on the appeal site would harm the character and appearance of the open countryside and fail to prevent the erosion of a defined green gap is inextricably linked to its effect on the setting of the listed building. For similar reasons to those set out above it would be harmful; it would intrude into an area of open countryside which is a crucial part of the green gap between Shavington and Crewe. Taking into account the allocated housing site and the development underway there at the north side of the A500 it would further narrow the gap between the two built up areas at one of the narrowest points. It would also expand and link a finger and a ribbon of development that both already project beyond the main line of the settlement boundary in two directions. The proposal would be contrary to these saved development plan policies. While not overriding of itself, my finding here in respect of policy NE.4 adds weight against the proposal. I now turn to consider whether policy NE.2 should be considered out of date.

### **Housing Land Supply**

61. The inquiry into this appeal spanned from April to September 2014. In that time several more appeal decisions<sup>18</sup> have been issued which considered the question as to whether or not the Council could demonstrate a five year housing land supply. None has found that it does, these decisions have been taken in the face of shifting evidence bases for establishing the full objectively assessed need (FOAN), housing requirement and supply figures. During the intervening months the Council's stance remains that it can demonstrate a five year supply, but now advises that the figure on which the assessment is based has been adjusted in the light of the Gallagher judgement<sup>19</sup>.

<sup>17</sup> Inquiry document 45

<sup>18</sup> Council's update of HLS matters since adjournment of the inquiry, appendices 2 - 8

<sup>19</sup> Council's update of HLS matters since adjournment of the inquiry, appendix 1

62. The Council's evidence to this inquiry in April 2014 was that the annual requirement of 1,150 derived from the North West Regional Strategy (RS) should continue to be relied upon, despite the revocation of the RS. With reference to the Hunston judgements<sup>20</sup>, the Council contends that the NWRS figure was not constrained by policy considerations and is up to date. The Council still maintains this position but has adjusted the figure to 1,180 to take account of the Gallagher judgement, which post dated the publication of the latest version of the draft LP (March 2014). The Council now considers 1,180 to be the FOAN.
63. The use of the RS figure was justified in the Council's Five Year Housing Land Supply Position Statement, 10 February 2014 (HLSPS)<sup>21</sup>, on the basis that this and the background evidence to it has been objectively assessed and tested at the RS examination and remains the only rigorously tested evidence base. The HLSPS was produced as a snapshot to identify the housing land supply within the borough at the base date of 31 December 2013.
64. On the basis of the 1,180 dpa requirement the Council contends that it can demonstrate more than a 5 year supply of housing; either a 5.8 year supply using the 5% buffer, or 5.07 with the 20% buffer as required by the National Planning Policy Framework (the Framework) depending on whether or not there has been a pattern of persistent undersupply in the borough, which I return to below. This is based on the March 2013 update to its Strategic Housing Land Availability Assessment (SHLAA). The appellant's analysis of the housing supply differs from this and on the basis of their figures, based on the same housing requirement there is an undersupply of some 4.53 years even with the 5% buffer and of 3.97 years with a 20% buffer. (A further strand of shifting evidence incorporated within these figures is the shortfall which has varied since the HLSPS recorded this as -2,165 to -2,250 now according to the appellant and -2,119 according to the Council.)
65. To support the emerging *Cheshire East Local Plan* (the draft Local Plan), the Council published its *Local Plan Strategy Background Paper Population Projections and Forecasts* in March 2014; this document supersedes previous background papers published in January and September 2013 and now provides the Council's most up to date assessment of the evidence and the basis for its housing requirement figures in the draft Local Plan. It included analysis of the 2011 ONS<sup>22</sup> interim population projections and CLG<sup>23</sup> household projections, both the most up to date available, and from these the need for 1,050 dpa to 2021 was identified. The Council has extrapolated this figure, on the same basis as the projections, to 2030 to give a figure of 1,180 dpa. Following the Gallagher judgement the Council now promotes this figure as the FOAN, rather than its previous figure of 1,150 from the RS.
66. However, from the Gallagher judgement, the FOAN should not simply be the projection of household formation rates; it should take other factors relating to the economy into account. The Government's Guidance at paragraph 015 records that the household projection-based estimate of housing need may require adjustment to reflect factors affecting local demography and household formation rates which are not captured in past trends. For

<sup>20</sup> CD5.1A and CD5.1B

<sup>21</sup> CD4.9

<sup>22</sup> Office of National Statistics

<sup>23</sup> Communities and Local Government

example, formation rates may have been suppressed historically by under-supply and the worsening affordability of housing. The assessment will therefore need to reflect the consequences of past under delivery. As household projections do not reflect unmet housing need, local planning authorities should take a view based on available evidence of the extent to which household formation rates are or have been constrained by supply.

67. The Council's Background paper calculated a series of forecasts for alternative requirement scenarios – population-led, jobs-led and dwellings-led. These range from the scenario 3a requirement for 1,150 dpa to 3c, the requirement for 1,350 dpa. The draft Local Plan identifies at paragraph 8.8 that as a minimum, it aims to meet the FOAN for an additional 27,000 dwellings in the twenty year period (1,350 per year). This is the medium growth option; two higher requirements for 1,600 and 1,800 dpa were discounted on the grounds that they produced implausible demographic results and may not be economically sustainable.
68. The Background Paper further records the 1,350 dpa figure multiplied over the 20 year period to 27,000 and with an additional 500 total allowance added for the same period, accepted from the High Peak Borough under the Duty to Cooperate. This total requirement is then phased across the period as 1,200 dpa in the first 5 years to 2015, 1,300 in the second, 1,400 in the third and 1,500 in the final 5 years. This is to reflect the need identified in the emerging Local Plan to ramp the provision of housing up over the plan period to reflect the need to support economic development as it grows over the period.
69. Despite the explicit identification of the FOAN as 1,350 dpa in the emerging Local Plan, the Council's position at this inquiry is that this is the 'policy on' figure as it includes 0.4% for growth and should be categorised following Gallagher as the housing requirement figure. Thus it contends that the only safe basis for assessing the housing supply at present is to take the FOAN as the 1,180 figure. From what was put to me at the inquiry my understanding of the Council's position is that until the evidence base and the effect of policies for growth have been fully examined and concluded on then the Council suggests the housing figures now embodied in its submission version of the draft Local Plan are less certain; they may be revised up or down, dependant on the outcome of consultations and examination in public. Moreover, the figures are dependant on the release of existing Green Belt land for housing and the provision of infrastructure, as identified in the same document.
70. This is contested by the appellant who considers 1,350 to be the lowest figure that should be used to assess supply and points to the objections to the Local Plan, which claim higher requirement figures as much as 1,800 should be accepted. Calculations have been provided in the HLS SoCG2 based on five scenarios including the Council's 1,180 figure, the 1,350 (unphased figure) and a higher growth scenario of 1,600 promoted by the appellant and other objectors to the LP.
71. To conclude on what the requirement should be it would be necessary to subject the background evidence to close scrutiny and cross-examination (which the parties elected not to engage in for this inquiry) and in any event this process is more appropriate to the Local Plan examination, which was

underway at the time of the later part of this inquiry. However, I must come to a view on this matter for the purposes of this decision.

72. It is simply difficult to believe on the basis of all that I have seen and heard that there is a sufficiently clear reason why I should ignore the 1,350 figure in the draft Local Plan. This is supported by the most up to date evidence base available and with the most up to date national policy context. I note also that this figure has been adopted in a majority of the recent appeal decisions in the district brought to my attention. This is not based on the draft Local Plan, to which I can give little weight at this stage, but on the basis of the background evidence and the Council's own conclusions on this put forward to the examination.
73. As to calculating the supply, the Council has now altered its stance following the Audlem Road decision<sup>24</sup> and in the absence of detailed evidence to support the inclusion of student and Category 2 sheltered accommodation in the supply figures, no longer seeks to do so. The figures in the tables for the updated Housing Land Supply SoCG2<sup>25</sup> reflect this. The parties agree that shortfall against delivery since the start of the current plan period in 2010 should be added to the five year supply (the Sedgefield method).
74. The HLS SoCG2 Table DPP3A gives a comparison of the Council's figures with the appellant's version<sup>26</sup>. This includes as a variable the parties' disagreement as to how the current shortfall should be calculated; whether on the basis of the RS requirement figure or the FOAN set in the emerging Local Plan. For the same reasons that I consider the 1,350 figure should be used in assessing the five year supply, it should also be used in calculating this part of the shortfall. Further disagreements regarding assumptions for lead in times for and build rates on sites (including whether they would be built out by one or two developers) have been built in to the comparisons. Although the parties differ as to which basis for the requirement and supply figures should be used, there appeared to be little dispute as to the accuracy of the figures recorded in this table and I therefore use it as the basis for this decision.
75. Accordingly as shown by table DPP3A, on the basis of 1,350 dpa the Council cannot demonstrate a five year supply of housing land whether a 5% or a 20% buffer is applied. The table was amended orally at the inquiry; if the Council's lower figure reported figure for shortfall (2,119 as referred to above) is put into the calculation with the 5% buffer a 5.24 year supply results. I have seen very little evidence to support this adjustment to the figures and am sceptical as to the merits of applying the lower buffer. From everything put before me, including numerous previous appeal decisions I am persuaded that on balance the higher buffer is appropriate to reflect persistent recorded under delivery during the last 6 years, as shown at the table at 1.17 of the SoCG(2)<sup>27</sup>.
76. The Council points to the many permissions that have been granted but not delivered and also considers that delivery should be assessed against a longer period, as indicated by the Guidance, to fully account for housing market cycle and the effect of any previous housing moratorium. There was oversupply

<sup>24</sup> Council's update POE on HLS, appendix 4

<sup>25</sup> Inquiry document 28, CD3.16

<sup>26</sup> The Council's figures were adjusted up to give a base date of 1 April 2014

<sup>27</sup> Inquiry document 27

against targets in previous years and the last six years have also coincided with the economic recession, but the net effect remains a shortage of dwellings.

77. The purpose of the higher buffer is not to punish local planning authorities but to meet the need for housing in the district. Paragraph 47 clarifies that the 20% buffer is not an additional requirement, merely the requirement to meet need moved forward from later in the plan period to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land.
78. My conclusions here are also borne out by the interim views of the Examining inspector for the emerging Local Plan; he has stated that the original evidence is neither clear nor accurate in its approach to determining the OAN and does not quantify key elements of the assessment. In respect of a buffer he has also stated 'Prior to the SPS plan period, the overall RS target had been met, but since 2008 there has been a consistent record of under-delivery for a continuous period of 6 continuous years. The accumulated shortfall is substantial and in such circumstances it would seem that a 20% buffer for the 5-year supply would be appropriate.'
79. Taking the 20% buffer, I conclude that the Council has not demonstrated a five year supply of housing land. Consequently LP policy NE.2 cannot be regarded as up to date and carries little weight in this appeal.

#### **Future health of trees subject to the TPO**

80. In addition to requiring the removal of seven trees, the proposed estate road and footway would encroach to some degree within the root protection areas (RPA) of several other trees, all protected by the TPO. An amended detail drawing<sup>28</sup> in this respect was tabled at the inquiry. This version shows the road construction to an adoptable standard (450mm overall depth) with finished levels adjusted such that the deepest excavation below existing ground levels would be a little over 300mm at the 10 metre chainage point (edge of T3 RPA) and this would grade to only around 40mm excavation at the 30 metre chainage point (other edge of T3 RPA). The finished road level would thus sit above and be graded back to the adjacent ground level by a varying amount ranging from 150 – 310mm.
81. This new impermeable hard surface would occur over a little more than the BS 5837:2012 recommended 20% of RPA for T3 and would involve more than the removal only of turf or excavation layers set out at paragraph 7.4.2. But this advice is not directly applicable here in the area already occupied by the existing driveway, which is made up of compacted layers of hardcore added over the years. Although not itself impermeable, I accept that the drive is likely to have deterred root growth under it and the appellant's specialist advice is that while excavation here would be greater than advised this would not be to a harmful degree; on the basis of the evidence put to me this appears a reasonable conclusion.
82. The new road would also encroach by less than 20% into the RPAs of T6, T7 and T8, but with at most around 40mm of excavation; equivalent to removing turf and vegetation. The installation of main surface water and foul drains

<sup>28</sup> Inquiry document 32



below the road would be at levels well below the main rooting depth and using trenchless techniques. While some detailed aspects of the road construction are not yet fully resolved, such as the location of rainwater gullies and their connection to surface water drains, this could be the subject of further approval via a condition.

83. On this main issue I have seen and heard little to convince me that the road and footway could not be installed in broad compliance with the guidance in BS5837:2012. I conclude it would not cause serious harm to the future health of trees subject to a TPO.

#### **Best and most versatile agricultural land**

84. The parties agree that 61% of the site is of soil type Grade 3B and 39% is Grade 2. The latter equates to very good quality agricultural land. LP policy NE.12 in this regard requires that development on Grades 1, 2 and 3A land should not be permitted unless it can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality. On the face of it this has not been done in respect of just less than 40% of the land. The Framework requires local planning authorities to take into account the economic and other benefits of the best and most versatile agricultural land.
85. The appellant points to the lack of any current agricultural use of the site and suggests that it is unlikely to be of much economic value in the future, but did not present evidence to show that alternative options to development on this site had been explored. It is clear from the many other appeal decisions drawn to my attention that there is a large quantity of such land in the district and that it would be very difficult to achieve an increase in the supply of housing were this factor to be given overriding weight.
86. Nevertheless, from what has been put to me I conclude that the loss of the best and most versatile agricultural land within the appeal site has not been justified in accordance with development plan policy. While on its own this conclusion would not be a determinative factor it adds some weight against the proposal in the overall balance.

#### **Other Matters**

87. The appellant has submitted another application for an alternative scheme for residential development on the appeal site, which would avoid use of the historic gateway and drive. I was told that it would provide the highway access and estate road via the adjacent residential plot. Although clearly preferable to the appeal proposal in that it would avoid the harm that I have identified that would arise from the proposed alterations to the gateway and loss of trees, and in the light of the Framework requirement at paragraph 129 that conflict between the heritage asset's conservation and any aspect of the proposal should be avoided or minimised, this application has not been determined by the Council and is not before me.

#### **Final balance**

88. Paragraph 14 of the Framework sets out a presumption in favour of sustainable development and in such circumstances, permission should be granted unless any adverse impacts of doing so would significantly and

demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

89. Considerable importance and weight should be accorded to the desirability of preserving the listed building, including the gateway, as well as its setting. I have found that substantial harm would result to the gateway and serious harm would arise to the setting of the Hall and the gateway by reason of the proposed development within its setting, the proposed alteration to the gateway and the loss of trees subject to the TPO. All of these factors are contrary to the development plan and Framework policies, and to Section 66 of the Act referred to at paragraph 19 above, and weigh very heavily against the proposal.
90. Added to this is the separate moderate harm arising from the loss of trees subject to the TPO, which make a significant contribution to the amenity of the surrounding area. Although not overriding in itself the harm due to the erosion of the green gap separating Shavington and Crewe is contrary to the development plan, as is the lack of justification for using the best and most versatile agricultural land; this adds further moderate weight against the proposal.
91. The loss of part of the site which is classed as of the best and most versatile agricultural land also weighs minimally against the proposal. I am not persuaded that the proposal would cause harm to the future health of trees subject to the TPO on site, but this neutral outcome weighs neither for nor against the proposal.
92. The proposal would add 54 dwellings to the supply of housing in the district, in an edge of settlement location which is not disputed to be sustainable in terms of access to facilities and services, and in the context of the lack of a five year supply of housing this attracts significant weight in its favour. In addition, of these 54 dwellings, 30% would be provided as affordable dwellings, constructed on site; a proportion let via a registered provider and the balance as reduced price houses for sale at 70% of open market value. This benefit complies with development plan policy for the provision of affordable homes and also weighs significantly in favour of the development.
93. I have carefully weighed all of the factors for and against together. However, these significant benefits, even taken together, are not sufficient to significantly and demonstrably outweigh the sum of the substantial, serious and moderate harms I have identified to the listed building and its setting, and the protected trees.
94. The Framework at paragraph 7 sets out that there are three dimensions to sustainable development - the economic, social and environmental roles. While the proposal would contribute positively in economic and social terms, it would fail to protect and enhance our historic and natural environment. As set out above I find this an overriding consideration in both appeals.

### **Unilateral Undertaking**

95. A Unilateral Undertaking<sup>29</sup> under s106 of the Act has been submitted by the appellant. It provides for a financial contribution to be paid to the Council in respect of the cost of the provision or upgrading of play equipment at the

<sup>29</sup> Inquiry document 57

public open space at Wessex Close. It also provides undertakings in respect of securing: the provision of on site public open space and a management plan for it; a newt mitigation area management plan; and the provision of on site affordable housing.

96. The Council's Compliance Statement<sup>30</sup> sets out the detailed policy basis for the need, the justification for the amount offered and where it would be expended in relation to the requirements for: the financial contribution to off site play equipment and the provision of on site public open space with a management plan for its upkeep by a private management company; and the on site provision of affordable housing. On the basis of this statement, these provisions are necessary to make the proposal acceptable in planning terms and would be fairly and reasonably related to the development in scale and kind.
97. The undertaking also makes provision in respect of a newt mitigation area. Development plan policy LP NE5 seeks to protect, conserve and enhance nature conservation and habitats and ensure that where wildlife habitat would be unavoidably damaged by development this should be compensated for by adequate mitigation. The potential for the proposed development to have adverse impacts on breeding great crested newts is confirmed by the appellant's survey report<sup>31</sup>. This is a protected species.
98. The proposed mitigation measures for great crested newts are necessary in planning terms and would be fairly and reasonably related to the development in scale and kind. They include the retention and enhancement of land and pond areas that are partly within the appeal site and partly on adjacent land controlled by a separate land owner. To secure the full mitigation measures it is necessary to secure those for the adjacent land, by an undertaking from the adjacent land-owner. The undertaking at Schedule 3 provides a covenant with the Council by the adjacent land owner to provide access for the developer to carry out work and maintenance required to comply with the Newt Mitigation Area Management Plan (NMAMP). This also includes provisions to ensure that the NMAMP terms are complied with in this adjacent land.
99. Objections to the undertaking have been raised by the owner-occupants of two of the barn conversions that are accessed via the existing gateway within the appeal site and the drive that crosses through it. These are on the basis that at paragraph 9.1 the owner warrants that 'no person other than the owner and the developer has any legal or equitable interest in the property'. This is disputed and the objectors state that they have a legal right of way over the land, which would be usurped by the proposal. One objector attended the inquiry to state that any alteration to this right of way would not be agreed to by her on any basis.
100. The Council has also raised concerns with regard to the effectiveness of the undertaking on several grounds. In respect of the third party rights outlined above; although the Council accepts that the undertaking that the development would not commence until the access is free from encumbrance provides legal comfort to the Council, it does not provide surety that the proposal could go ahead were planning permission granted. The covenants

<sup>30</sup> Inquiry document 41

<sup>31</sup> CD1.31

provided by the adjacent land-owner are subject to an option agreement to enter into the covenants, which cannot be enforced. There are other very detailed concerns relating amongst other matters to securing the submission and agreement of a Newt Mitigation Area Management Plan and to a clause which allows the use of non-powered leisure boats on the ponds.

101. Were the appeal to be allowed the UU would be necessary to make it acceptable in planning terms. However, even were I to find that the issues contended by the Council are resolved by it, the harms I have found above would not be outweighed.

### **Conclusion**

102. For the reasons set out above and having regard to all other matters raised, I conclude that both appeals should be dismissed.

*Wenda Fabian*

Inspector

Richborough Estates

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

(each witness's qualifications are listed in the Proofs of Evidence)

Mr R Humphreys	Queens Counsel, instructed by the Borough Solicitor, Cheshire East Council
He called	
Mr I Dale	Heritage and Design Manager, Cheshire East Council
Ms J Wise	Heritage and Design Team, Cheshire East Council
Mr J Gomulski	Principal Landscape Architect, Cheshire East Council
Mr B Haywood	Principal Planning Officer, Cheshire East Council
<b>Structured discussion</b>	
<b>Housing Land Supply</b>	
Mr Fisher	Head of Strategic and Economic Planning, Cheshire East Council
Mr Loughrey	(appeared at resumed inquiry in lieu of Mr Fisher) Inaltus Ltd planning consultancy

### FOR THE APPELLANT:

(each witness's qualifications are listed in the Proofs of Evidence)

Mr R Warren	Queens Counsel, instructed by Mr J Francis, Director DPP Ltd
He called	
Ms E Adams	Director DPP One Ltd, Heritage and Design Service
<b>Structured discussion</b>	
<b>Housing Land Supply</b>	
Mr J Francis	Director, DPP Ltd
Mr R Purser	DPP Ltd

### INTERESTED PERSONS:

Councillor D Brickhill	Councillor for Shavington
Miss P Housley	Local resident
Mr D Malam	Local building contractor
Mrs J Chapman	Local resident
Mr G Pilsel	Local resident
Mrs A Goodwin	Local resident
Mr D Murphy	Local resident

## DOCUMENTS handed in at the inquiry 1 – 4 April 2014

- 1 Opening Points on behalf of the appellant
- 2 Opening Statement on behalf of the Council
- 3 BS 5837:2012
- 4 Mr Dale's appendix 6 photos hand annotated with tree reference numbers
- 5 A4 copy Dwg H6081:02
- 6 Age assessment lime tree T1
- 7 Decision Notice ref P00/0086 New access and driveway to Shavington Hall
- 8 Email date 28 March 2014 from Mr N Curtis, Highways Cheshire East Council

- 9 Draft Statement of Common Ground
- 10 Draft conditions list
- 11 Draft s106 Unilateral Undertaking
- 12 Bundle of 4 letters submitted by Mr Malam; dated 24 November 2005, 3 January 2006, 30 January 2006, 22 February 2006
- 13 Email dated 2 April 2014 Ms Bailey to Mr Haywood
- 14 Mrs Chapman's notes
- 15 Suggested agenda for Housing Land Supply (HLS) roundtable
- 16 Housing numbers round table Appellant's questions to the Council
- 17 Council's impact of NPPG on housing requirement
- 18 HLS : tables showing Council's and Appellant's respective positions on disputed supply sites
- 19 Errata sheet Appx A10 Mr Francis POE
- 20 Letter dated 2 April 2014 re Build Rates
- 21 HC decision Bloor Homes East Midlands Ltd and So/S CLG and Hinckley and Bosworth BC
- 16
- 22 Planning recommendation report ref 13/3762N
- 23 Mr Pilsel's submissions – 5 documents
- 24 Mrs Goodwin's submission and extract from title document
- 25 Plan – Basford West site

#### **DOCUMENTS handed in at the resumed inquiry 16 – 18 September 2014**

- 26 Housing numbers – Issues (handwritten)
- 27 SoCG(2) CD3.15 Update Housing Land Supply 12 September 2014
- 28 SoCG2 Housing Land Supply update tables 12 September 2014 CD3.16
- 29 Summary of supply by category Tables 1 to 7 update 11 September 2014
- 30 S106 (unsigned)
- 31 Draft conditions list, including conditions for listed building consent
- 32 14005/SKD101 Rev D road construction over RPA - (A3 and A1 copies)
- 33 a) letter 15 August 2014 CEC to B Lewis MP b) reply from B Lewis MP 1 September 2014
- 34 A4 planning layout hand annotated – trees omitted from Ascerta Tree Survey
- 35 Core Documents list 16 September 2014
- 36 SHMAA 2013 update
- 37 Borough of Crewe and Nantwich Replacement Local Plan 2011 p 5
- 38 Topographical Survey 0849/01 rev F A1 copy
- 39 A4 photograph of drive 27 March 2014
- 40 Planning application new drive and access 2004
- 41 CIL compliance Statement
- 42 SoCG September 2014 update CD3.17 (signed)
- 43 Location Plan Rope Lane and Illustrative Master Plan – 2 sheets A4
- 44 Location Plan Gresty Oaks and Illustrative Master Plan – 2 sheets A3
- 45 HCJ W Davis Ltd and refusal of leave to appeal
- 46 HCJ Dartford BC
- 47 Grounds of claim – CEBC v SoS & Richborough Estates
- 48 HCJ E Northamptonshire DC v SoS CLG
- 49 Response by Mr Dale to 14005/101 rev D
- 50 SoCG(2) 12 September 2014 CD3.15 (signed)
- 51 Sites awaiting S106 updated 16 September 2016
- 52 3 photographs taken at boundary with Langtry Barn by Mrs Goodwin

- 53 Site visit itinerary
- 54 Location plan for Shavington sites
- 55 Closing submission on behalf of Council
- 56 Closing submission on behalf of Appellant  
HCJ Barrow upon Soar PC v SoS CLG & Charnwood BC & Jelson Ltd

**DOCUMENTS received following adjournment on 18 September 2014, prior to closing on 21 October 2014**

- 57 Signed S106 Unilateral Undertaking and Power of Attorney
- 58 Appellant's note on revised S106 and covering letter dated 10 October 2014
- 59 Council's submission on s106 (with copies of Option relating to land to north of Weston Lane, dated 18 September 2014, and draft UU)
- 60 Appellant's response and Land Registry document

**DOCUMENT received after closing on 21 October 2014**

- 61 Email from Mr Bate dated 23 October 2014, comments on s106 Undertaking
- 62 Examination of the Cheshire East Local Plan Strategy – Inspector's Interim View on the Legal Compliance and Soundness of the submitted Local Plan Strategy
- 63 Appellant's comments on document 62
- 64 Council's comments on document 62

Richborough Estates