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# Appeal Decision

Inquiry held between 2 and 9 December 2014

Site visit made on 10 December 2014

**by Stephen Roscoe BEng MSc CEng MICE**

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

**Decision date: 20 February 2015**

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**Ref: APP/R0660/A/13/2195201**

**Land off Sandbach Road North, Alsager, ST7 2EH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
  - The appeal is made by Gladman Developments Ltd against the decision of Cheshire East Council.
  - The application Ref 12/4872C, dated 12 December 2012, was refused by notice dated 14 March 2013.
  - The development proposed is a residential development for up to 155 residential units with associated infrastructure and access with all other matters reserved.
  - This decision supersedes that issued on 18 October 2013, which was quashed by a Consent Order dated 11 April 2014.
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## Decision

1. The appeal is dismissed.

## Procedural Matters

2. As I explained at the re-opening of the Inquiry, the fact that this appeal is being re-determined means that the previous decision in this case has no status in law. I therefore must determine the case again on the basis of the evidence before me at this time, and the previous decision can play no part in my consideration of the appeal.
3. The application was submitted in outline with appearance, landscaping, layout and scale reserved for future consideration.
4. The main parties have included their previously delivered closing statements as Core Documents to this Inquiry, and I have been provided with the previous Inquiry documents. Whilst these are all material considerations, I requested, in my Inquiry re-opening, that should the parties wish to give any weight to these documents, the relevant documents should be identified during the course of the Inquiry. At my re-opening, I also described the route of my unaccompanied site visit undertaken the previous day.
5. The planning application which is the subject of this appeal was submitted as recorded above. The appellant has however submitted a subsequent and similar planning application on the appeal site, but for up to 130 residential units. The Council has not yet determined this similar planning application.
6. The evidence submitted to the Inquiry included outline information relating to the 130 unit scheme. The Council submitted the representations and consultation replies that it had received in relation to this subsequent planning

- application to the Inquiry. The appellant wished the appeal to be considered on the basis of the 130 unit scheme and, at the Inquiry, there was no objection to this course of action.
7. In view of the similarities between the two schemes, the main parties' positions and the content of the consultation responses, I am satisfied that no party would be prejudiced by my considering the 130 unit scheme. I have therefore made my decision on this basis.
  8. The Council refused the appeal planning application for 6 reasons. Prior to the Inquiry, the Council withdrew the reasons relating to transport impact, protected species, ground gas pollution and important hedgerows, and I have considered the appeal on this basis.
  9. The appellant submitted a proof of evidence and appendices from Mr Venning as Inquiry documents. The appellant chose not to call Mr Venning, and I have therefore taken these documents as written submissions.
  10. The Council's emerging Local Plan Strategy (LPS) is currently subject to examination. The examination Inspector has issued a document titled 'Interim Views on the Legal Compliance and Soundness of the Submitted Local Plan Strategy'. The Council is now undertaking further work in relation to housing land supply matters during a 6 month suspension of the examination.
  11. Prior to the re-opening of this Inquiry, and as a consequence of the examination Inspector's document, the Council accepted that, notwithstanding its previously submitted evidence to this Inquiry, it did not have a five-year supply of deliverable housing sites. The Council advised that its proofs should be taken in this context and that its proposed housing land supply witness, Mr Stock, would not be called. The Council also suggested that it would therefore not be necessary for the appellant to call its housing land supply witnesses, Mr Nicol and Mr Mackenzie.
  12. The appellant did not accept this suggestion, on the basis that the quantum of the housing requirement and deliverable supply were important material considerations in the appeal. The Council responded that the calling of these witnesses would unnecessarily prolong the Inquiry and distract from the main issues of landscape and incursion into the open countryside. The Council then requested my guidance on this matter.
  13. At the Inquiry, the Council and the appellant both made submissions in relation to the above points, and the Council requested a ruling on whether the associated appellant's evidence should be heard. The Council suggested that, as a result of its changed position as set out above, housing land supply was now quintessentially a local plan matter and that it was not necessary for me to come to a view on objectively assessed need. Furthermore, the use of the section 78 appeal procedure to get an Inspector's decision on housing land supply could create further problems in the current Local Plan hiatus. The Council also added that, in view of the on-going LPS examination, its position on housing land supply could be prejudiced by the submission of oral evidence and any subsequent finding on full and objectively assessed need.

14. I gave my ruling as follows:

15. *It is for the parties to put their cases to me as they see fit, subject to the proper running of the Inquiry process. In relation to what has been put to me, there seem to be two thresholds that follow from this. The first is whether the housing land supply elements of the appellant's case should be heard at the Inquiry and the second is whether I should accept these elements of the case being put forward. The bar for these thresholds is different in that the first is very much lower than the second.*
16. *The fact that I hear the appellant's evidence does not mean that I accept the case being made, but I may need to hear from the witnesses in order to best decide on the case being made by the appellant. Moreover, I am content that these witnesses have not been put forward in a vexatious manner and that their appearing would not necessarily comprise repetition. Finally, in terms of fairness, there is a basic right to have the opportunity to present a proper case at an Inquiry. In view of all of the above points, I am therefore content to hear from Mr Nicol and Mr MacKenzie.*
17. In the event, the Council called Mr Stock, who was cross examined, and the appellant called Mr MacKenzie, who was cross examined, and Mr Nicol, who was not cross examined.

### **Main Issues**

18. The main issues in this case are:

- i. housing land supply; and
- ii. whether the proposal would accord with the three roles for sustainable development identified in the National Planning Policy Framework.

### **Reasons**

#### *Housing Land Supply*

19. The Council and the appellant agree that the Council cannot demonstrate a five-year supply of deliverable housing sites. The first consequence of this is that, in accordance with the National Planning Policy Framework (NPPF), relevant policies for the supply of housing should not be considered up to date and should therefore be given little weight. In this case, such policies are Local Plan<sup>1</sup> (LP) Saved Policies: PS4, which identifies settlement zone lines; PS8, which restricts development in the countryside and makes no mention of any countryside or landscape value; and H6, which sits under the general presumption of Saved Policy PS8 and identifies acceptable categories of countryside residential development. These policies relate to the supply of housing because they restrict housing development in the countryside.
20. In this case therefore, the proposal should be assessed against policies in the development plan that are up to date and the policies in the NPPF, which include paragraph 109 that seeks to protect valued landscapes. This element of the NPPF sits under the core planning principle, in paragraph 17, which seeks to ensure that the intrinsic character of the countryside is recognised. Planning Practice Guidance then advises that the intrinsic

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<sup>1</sup> Congleton Borough Local Plan First Review (January 2005)

character of the countryside includes designated landscapes and the wider countryside where character should be understood using landscape character assessments.

21. To conclude, as there is no five-year housing land supply, the proposal should be assessed against policies in the development plan that are up to date and the policies in the NPPF where the policies of the development plan are not up to date.

*Sustainable Development – Economic Role*

22. In relation to the economic role, the proposal would provide temporary benefits over some 4 years in respect of the construction economy. In the longer term, the proposal would support general economic growth in relation to the provision of housing to help the area sustain a skilled workforce. There would also be an increase in household spend and service needs in the locality, and the appellant is of the view that the proposal could support some 40 jobs. The economic benefits therefore attract medium weight.
23. The proposal would also result in a New Homes Bonus payment to the Council. There is however no evidence that the payment would be necessary to help to make the proposal acceptable in planning terms. This local financial consideration is therefore not material to the decision, as set out in Planning Practice Guidance, unlike the circumstances outlined in the Crewe Road<sup>2</sup> appeal.
24. In relation to this matter, I have been referred to three cases: Westminster City Council<sup>3</sup>; Sainsbury's Supermarkets Ltd<sup>4</sup>; and Tesco Stores Ltd<sup>5</sup>. In Westminster, a departure from the development plan, to permit office development, was necessary for the financial viability of the proposed development as a whole and was therefore a material consideration. In Sainsbury's, again off-site benefits had to be related to the development concerned to be a material consideration. In Tesco, again a planning obligation offer had to be related to the development concerned to be a material consideration. None of these cases therefore support the position of the New Homes Bonus as a material consideration in this case.
25. The proposal would also generate financial contributions to the Council through a planning obligation by deed of agreement between the Council, landowner, mortgagee and appellant. These contributions are again however necessary to make the proposal acceptable in planning terms and therefore cannot be seen as benefits in terms of sustainable development.
26. Part of the appeal site comprises Grade 2 and Sub Grade 3b agricultural land. These grades of land are not unusual for the area around the site, and the loss of these areas within the site would not be significant or conflict with paragraph 112 of the NPPF. The loss of this best and most versatile agricultural land therefore carries limited weight in favour of dismissing the appeal.
27. In view of all of the above points, I consider that the proposal would fulfil the economic role for sustainable development, and the related benefits attract medium weight.

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<sup>2</sup> CD38.15

<sup>3</sup> GD12

<sup>4</sup> GD13

<sup>5</sup> GD14

*Sustainable Development – Social Role*

28. The proposal would generate social benefits by providing housing to reduce the open market and affordable housing shortfall. It could also assist in the delivery of a wider choice of homes, and the proposal would include a building for community use. Furthermore, as a Council designated key service centre, Alsager generally is a sustainable location for new residential development.
29. The Council also acknowledges that, if the Borough housing requirement was to increase, it would be a reasonable assumption that Alsager's contribution towards this requirement would be likely to increase. This is because areas in the north of the Borough are constrained by the Green Belt, unlike Alsager. The proposal would also provide limited recreational benefits within the housing development.
30. The appellant is of the view that there is a full objectively assessed need (FOAN) of 2,050 dwellings per annum (dpa) between 2010 and 2030 in the Council's area. The Council, in closing, stated that it is currently unable to produce objective evidence on the FOAN. The Council has previously put forward a figure of 1,350 dpa in its emerging LPS but accepts that a final figure is likely to be greater than this. This is following the examination Inspector's interim views that included shortcomings in the Council's FOAN by failing to take into account all relevant economic factors together with pessimistic economic and jobs growth assumptions. Although the Council does not accept a figure of 1,710 dpa (it currently accepts no figure), it states that it does not dispute the appellant's calculations relating to it, adding that the approach used in these calculations was not certain to be adopted. Indeed the examination Inspector reports that, at an earlier stage in the LPS process, the Council considered that an option providing 1,600 dpa was most likely to deliver the necessary economic growth.
31. In view of the above, and for the purposes of this appeal, I consider the likely range of FOAN to lie between 1,710 and 2,050 dpa. Whilst this range is significant, there is nothing before me to suggest that the upper limit of this range is not possible. Indeed, the appellant has suggested that an additional 510 dpa could be added to the top of this range, due to market signals and changes in economic circumstances. From the evidence put to the examination Inspector however, this would appear to be very unlikely. In the absence of further detailed evidence, and for the purposes of this appeal, I have taken the top of this range, 2,050 dpa, as a worst case in terms of need.
32. In terms of supply, the appellant is of the view that the deliverable supply is 8,797 dwellings. The Council considers that the deliverable supply is 11,051 dwellings. The difference primarily relates to build rates and lead in times. Both parties agree that the incorporation of a 20% buffer in accordance with the NPPF is appropriate. With this in mind, and using the worst case FOAN, the parties supply figures are 2.43 and 3.06 years respectively. Again this range is significant, but there is nothing before me to suggest that the lower limit of this range is not possible. For the purposes of this appeal, I have therefore taken the bottom of this range, 2.43 years, as a worst case in terms of supply.
33. All that I have seen and heard, including the LPS examination Inspector's interim views document, therefore indicates that there is a very serious shortfall in housing land supply. Whilst paragraph 49 of the NPPF applies

regardless of the quantum of the shortfall, the fact that the proposal could address some of this serious shortfall comprises an important benefit, as it did in the Tetbury case<sup>6</sup>. Here therefore, the overall social benefits attract significant weight.

34. In view of all of the above points, I consider that the proposal would fulfil the social role for sustainable development, and the related benefits attract significant weight.

*Sustainable Development – Environmental Role*

35. This element of this main issue will initially be addressed by considering landscape policy, character assessment and value and then the impact of the proposal. Turning first to policy, LP Saved Policy GR1 is of a general nature and refers to the acceptability of development in terms of landscape where this is appropriate. This is consistent with the NPPF, and the policy is therefore still up to date despite its age. It therefore carries significant weight in this case.
36. LP Saved Policy GR5 specifically refers to development not having an adverse impact on landscape character. The NPPF however seeks to protect valued landscapes and the natural environment while recognising the intrinsic character of the countryside. It does not seek to prevent any adverse effect on landscape character regardless of the value of that character. This element of Saved Policy GR5 therefore does not show consistency with the NPPF and can only be given limited weight.
37. In addition to seeking the protection of valued landscapes and recognising the intrinsic character of the countryside, the NPPF, under paragraph 113, advises that development on or affecting protected landscape areas should be judged against criteria based policies. The appeal site and its zone of visual influence (ZVI) do not lie within a protected landscape area, and paragraph 113 is therefore not relevant to this appeal.
38. It is however of note that paragraph 113 suggests that protection should be commensurate with the status of an area. This implies a more blanket approach under paragraph 113 as opposed to an individual value assessment of the locality concerned. Paragraph 109 however deals with landscapes more generally, in other words the wider countryside in addition to designated landscapes, and requires those landscapes to be protected to be valued. This implies that an individual value assessment should be undertaken, and this decision uses this latter approach.
39. Moving on to character, in the County landscape character assessment, which the appellant considers to be a robust and well informed key document, the appeal site falls within two character types. These are Type 10 – Lower Farms and Woods and Type 16 – Higher Farms and Woods. The use of the term lower in the Type 10 description appears to relate to the elevation of land in relation to this part of Cheshire as a whole. It does not relate to the area immediately around the appeal site, as this part of the appeal site is in fact at a higher level than the Type 16 part of the site.
40. The appeal site lies within a general distribution of individual Type 10 landscape character areas in this part of Cheshire. Particularly, it lies within the Barthomley Character Area of gently rolling topography which is said to be

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<sup>6</sup> CD38.1

influenced by development, as is much of the rural landscape surrounding Alsager.

41. The remainder of the appeal site, and indeed its ZVI, lies within landscape Type 16. This landscape type is said to have a rural and compact visual character, in strong contrast with areas where the landscape exhibits the influence of nearby urban areas, such as with Type 10 areas. This part of the appeal site particularly lies within the Little Moreton Character Area, immediately north of Alsager. This character area is the most south westerly of the Type 16 individual character areas in Cheshire and provides a valuable contrast with the Type 10 Barthomley Character Area to the south west.
42. The ZVI, including the appeal site, forms a valley feature within the surrounding rolling landscape. It is visually contained, and the vast majority of points within it have a similar ZVI to that of the appeal site. It could be said to form a discrete landscape pocket. Relating this to the County landscape assessment, the ZVI is a discrete and distinctive feature in the general area of Alsager. The ZVI is therefore important in terms of the landscape of the surrounding area.
43. The Borough landscape character assessment, which the appellant again considers to be a robust and well informed key document of considerable significance, is more detailed than the County assessment. It was prepared before the County document but, as the landscape of the ZVI has not significantly changed since its preparation, it can still be given significant weight.
44. The ZVI, including the appeal site, lies within the Wheelock Rolling Plain landscape character area in the Borough assessment. This area comprises a relatively narrow east-west band. The ZVI lies within the eastern part of this landscape character area and forms a compartment of this landscape character type between the settlement of Alsager to the south and the Cheshire Plain landscape character area to the north. The compartment effect is reinforced by the strong boundaries of the ZVI which are: the vegetated urban edge to the south; the landscaped Borrow Pit Meadows open access area to the west, which includes surfaced paths, an elevated viewing point with views over the ZVI, a landscaped pond, and seating; the Salt Line to the north, which is a footpath along a former railway line with occasional views of, and seating overlooking, the ZVI; and Sandbach Road North to the east, where the valley slightly narrows and is more heavily wooded.
45. The Borough landscape assessment suggests that the Wheelock Rolling Plain has an ordinary or good landscape quality. Many of the features identified in the assessment are readily apparent in the ZVI, such as: the narrow and shallow valley incision in the landscape; bands of woodland and scrub; field boundary variety; truncated views within the valley; and irregular medium scale pasture fields and areas of rougher grassland, all of which create a more intimate landscape than surrounding areas.
46. Furthermore, the ZVI has a relatively pure character in terms of the Borough assessment and little external influence, apart from the urban edge of Alsager which is visible in part through vegetation. The existing development on this urban edge is however set back from the crest or top of slope of the valley side and vegetation provides some screening, although this varies according to the season.

47. At the December Inquiry site visit, this urban edge did not influence the character of the ZVI to any material degree, despite the lack of leaf cover. In this regard, I do not consider that the appellant's photographic evidence, including that in the 2012 and 2014 landscape and visual impact assessments (LVIAs), realistically represents the circumstances that I observed at the site visit.
48. The ZVI does not possess the negative features identified in the Borough assessment, which are generally found to the west of the ZVI, such as the Sandbach urban fringe, the M6 motorway and the Wheelock by-pass. Indeed, the Council is of the opinion that the ZVI is the highest quality landscape in the Wheelock Rolling Plain landscape character area.
49. In view of all of these points therefore, the ZVI is a good, comprehensive and discrete example of its landscape character type and is distinctive in the context of its surrounding area.
50. I now turn to consider the value of the landscape in this intact and visually contained pocket of the ZVI. This is in the context of the GLVIA<sup>7</sup> which suggests that landscape quality, rarity, representiveness, recreational value and perceptual aspects, such as tranquillity, are factors that can help in the identification of valued landscapes.
51. I have already found the landscape to be of good quality and particularly representative of the positive aspects identified in the Borough landscape assessment. I have also found that the landscape of the ZVI is somewhat distinctive, has an element of rarity in relation to its surroundings and is not representative of the wider Cheshire Plain. Furthermore, in relation to the ZVI, the eastern section of this tributary is of better quality than that to the west, as previously considered, and the visually contained pocket of the ZVI could not be realistically replaced.
52. The Borough landscape assessment however describes the River Wheelock tributary valleys as being not particularly attractive and not having any great sense of drama or distinctiveness. This element of the Borough landscape assessment though applies generally to this landscape character area as a whole and not specifically to the ZVI, and I therefore give it limited weight in this case.
53. Indeed, the GLVIA advises that everyday landscapes may still be valued landscapes, particularly as local landscape designations have been discounted by national policy and advice in recent years. It suggests that existing landscape character areas may give an indication of which undesignated areas are particularly valued. It also suggests that intact landscapes in good condition where tranquillity and natural features make particular contributions are likely to be highly valued, especially where they cannot be realistically replaced. Furthermore, the European Landscape Convention promotes the need to recognise that ordinary landscapes have their value where supported by a landscape character approach.
54. The Borrow Pit Meadows area and the Salt Line are publically owned and accessible and have protection as recreation and community open space under LP Saved Policy RC2. This plan-led approach to open space for recreation is consistent with the NPPF, and the policy protection should therefore be given

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<sup>7</sup> Guidelines for Landscape & Visual Impact Assessment, Third Edition (GLVIA3) (2013)



- significant weight. The ZVI also contains various public rights of way and permissive paths. This recreational accessibility and the close proximity of the ZVI to Alsager, in terms of its relative tranquillity, increases the value of the landscape to the locality. This is supported by evidence in terms of use of the paths at my site visits and in the submitted representations.
55. There is therefore demonstrable evidence, from physical attributes in the context of the County and Borough landscape character assessments, that the ZVI is of significant local landscape value. This is as was said to be required in the Leonard Stanley case<sup>8</sup>. The value of the ZVI is also increased by its recreational accessibility. Furthermore, the value is not from the ZVI being open countryside per se, but from an objective and informed assessment. This value accords with the Council's view that the ZVI is one of the most sensitive landscapes in the Borough outside of the Peak District National Park and the two Areas of Special County Value in relation to landscape.
56. I now consider the impact of the proposal on the landscape of the ZVI, including the appeal site, and firstly in terms of landscape character. The proposal would result in the development of a significant proportion of the ZVI. In terms of the County landscape assessment, the proposal would exhibit little conflict with the Type 10 landscape character area, in that the extended urban edge would be seen as part of that character. It would however have a greater impact on the Type 16 landscape character area, in that it would extend the urban edge into this area unlike other urban extension sites surrounding Alsager. In this south westerly location for this particular landscape type, the ZVI would thus become partly urban. The loss of the existing contrast between the obviously urban area of Alsager and the obviously rural area of the ZVI would then result in very significant harm to the ZVI in terms of landscape character. This would be unlike the circumstances in the Elworth Hall Farm<sup>9</sup> and Hassall Road<sup>10</sup> appeals.
57. The proposal would also result in the loss of part of the Wheelock Rolling Plain landscape character area identified in the Borough landscape assessment. It would significantly change the landscape character of the appeal site and would introduce views of the urban area to the remainder of the ZVI, whereas they are very limited at present. This would have a very significant harmful effect on the landscape character of the ZVI. This would be due to the fact that the existing ZVI is distinctive in landscape terms, the intimacy of the landscape in this particular location and the truncated nature of views within it.
58. I now turn to visual impact. Having visited the site and the ZVI, I agree with the Council's assessment of the impact of the proposal. This identifies an impact of up to moderate adverse at some of the local footpath viewpoints after 15 years, and the Council is of the opinion that this impact was at the high end of moderate adverse.
59. In my opinion, the appellant's 2014 LVIA and other evidence underestimates the impact of the proposal. This is in terms of: overstating the effect of the nearby Alsager urban edge and the sensitivity of the appeal site and its ZVI; the positions of the viewpoints and the amount of development that would be visible from them; seasonality; and its reliance on thin lines of existing and

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<sup>8</sup> CD38.23

<sup>9</sup> CD38.6

<sup>10</sup> CD38.7

proposed vegetation screening. The harm from this moderate adverse visual impact would add to the very significant harm in relation to the character of the landscape.

60. Other landscape matters have been raised as follows. The valley to the east of Sandbach Road North is far more vegetated than the ZVI and has fewer features that are typical of the County and Borough landscape character areas in which it is situated. The Leicester Avenue development, to the south of the valley, therefore does not have the landscape impact that would be the case with the appeal proposal. On plan, the Leicester Avenue development also appears to complete an urban wrap around to the south and east of the appeal site. This is however not the case on the ground due to the topography of the landscape and vegetation.
61. The relevant Council officers, in their pre-decision report to members, did not recommend refusal on landscape grounds. The report did however advise that the landscape and visual impact of the proposal would be more significant than the appellant's 2012 LVIA, for up to 155 units, indicated. Members then decided to refuse permission on landscape grounds amongst others. There is though a reasonable body of evidence presented at the Inquiry in support of the member's decision, and I therefore give the pre-decision Council officer views limited weight in this case.
62. The proposal would give the opportunity to add to existing vegetation and tree cover and also diversify watercourse margins within the appeal site. Such additions and diversification, particularly along the northern boundary of the site where mature trees are already present, would however be unlikely to offset the very significant landscape harm identified. Furthermore, the presence of specific trees, either existing or proposed, to screen the development cannot be guaranteed to do so in the future. It is also of note that some screening trees have been removed between the 2014 LVIA and the Inquiry site visit.
63. It has been suggested that the absence of any Council landscape objection to a planning application, 14/4010C, for 60 dwellings on a site adjoining the appeal site to the north west adds weight in favour of allowing this appeal. This adjoining site is however visually separated from the main body of the appeal ZVI by an area of woodland to its north east. The absence of any landscape objection therefore carries little weight in this appeal.
64. I have been referred to other housing applications on the edges of Alsager which have received planning permission, or are likely to, as well as various appeals. These are however different to the appeal proposal in that they do not involve the same landscape character areas or have a similar type of landscape impact in relation to the planning balance. I have also been referred to the Staffordshire Ridge and Dane Valley landscape character areas which have high and very good quality landscapes respectively. These areas are however at some distance from the appeal site, and their landscape quality therefore adds little weight in favour of allowing the appeal.
65. I therefore consider that the proposal would have a very significant harmful effect on the landscape of the surrounding area which has a significant local value. This harm would be landscape harm specific to the ZVI and does not relate to any wish to protect the open countryside for its own sake. I further

consider that the proposal would thus conflict with LP Saved Policy GR1 and paragraph 109 of the NPPF.

66. The proposal would result in some environmental gains such as biodiversity and hedgerow enhancement, habitat linkages and landscaped and recreation areas within the site together with the fact that the built form could beneficially front the adjoining landscape. It would however result in the permanent loss of part of, and very significant harm to, a particular landscape area of significant local value, unlike the situations in the Close Lane<sup>11</sup> and Crewe Road<sup>12</sup> appeals.
67. Indeed, the Council's LPS Non-Preferred Sites Justification Paper identifies important natural features within the appeal site and the area to the north west which would be sensitive to the impacts of development. It therefore recommends that the site has an inability to deliver sustainable development in relation to other sites in the area.
68. In view of all of the above points, I consider that the proposal would not fulfil the environmental role for sustainable development, and the related adverse impacts attract very substantial weight.

#### *Sustainable Development – Conclusion*

69. The proposal would fulfil the economic and social roles of sustainable development, and would provide very relevant benefits in relation to each of the roles of medium and significant weight respectively. The proposal however would not fulfil the environmental role, due to the permanent loss and significant landscape harm in relation to this particular and distinctive area. Whilst landscape harm in itself, or a failure to fulfil a particular NPPF role, does not necessarily render a proposal unsustainable, here the nature of the loss and harm, when set against the value of the area, is sufficient to do so. Furthermore, the related adverse impacts attract very substantial weight. In view of this, and all of the foregoing points, I consider that the proposal as a whole cannot be seen to be sustainable development.

#### *Other Matters*

70. I have been provided with many appeal decisions and examples of case law in support of the main parties' cases. Having carefully considered each, I am satisfied that none, particularly where the appeal was allowed, reflects the characteristics of the appeal site and proposal, nor the particular circumstances of this case such as to warrant my allowing this appeal, which I have determined on its merits and on the evidence presented in respect of the proposal.

#### *Planning Balance*

71. The main parties agree that the Council cannot demonstrate a five year housing land supply, and there is no evidence to satisfy me that a five year supply exists. Relevant policies for the supply of housing are therefore not up to date. I also have found that the proposal would not fulfil the environmental role of sustainable development in terms of the environmental dimension and therefore cannot be seen to be sustainable development.

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<sup>11</sup> CD38.12

<sup>12</sup> CD38.15

72. Paragraph 49 of the NPPF sets out a presumption in favour of sustainable development in the absence of a five year housing land supply. That presumption has however to be considered in the context of the caveat given at paragraph 14 of the NPPF. This says that, where the relevant development plan policies are out-of-date, then permission should be granted unless any adverse impacts would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework as a whole.
73. The economic and social benefits of the proposal are as set out above, accord with the policies of the NPPF and attract medium and significant weight respectively.
74. The landscape adverse impacts are demonstrated by the previous matters considered in this decision. As a consequence of these impacts, and in relation to the NPPF, the proposal would not protect the natural environment as sought by paragraph 7, would not recognise and take account of the intrinsic character of the countryside within the ZVI as sought by paragraph 17 and would not protect the valued landscape of the ZVI as sought by paragraph 109. This landscape harm attracts very substantial weight which is of a high order, as set out previously. The weight of this harm is such that the adverse impact of granting permission would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF as a whole.

*Conclusion*

75. I therefore conclude that the proposal cannot be seen to be sustainable development and that the adverse impacts of allowing the appeal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the NPPF as a whole. I further conclude that the presumption in favour of sustainable development therefore cannot apply.
76. I have taken into account all other matters raised, but none carry sufficient weight to alter my conclusion. I therefore conclude that the appeal should be dismissed.

*Stephen Roscoe*

INSPECTOR

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr R Humphreys QC

Instructed by the Borough Solicitor,  
Cheshire East Council

He called

Mr I Dale BSc(Hons)  
MPhil MLI MICFor

Environmental Planning Manager, Cheshire East  
Council

Mr B Haywood BA(Hons)  
MA MBA MRTPI MCI

Major Applications Team Leader, Cheshire East  
Council

Mr G Stock BA MA  
MRTPI AIEMA

Partner, Deloitte LLP

### FOR THE APPELLANT:

Mr J Barrett of Counsel

Instructed by Ms L Tilston, Planning Manager,  
Gladman Developments Ltd

He called

Mr S Nicol BA MA

Managing Director, Regeneris Consulting

Mr J MacKenzie MSc  
DipTP MRPI

Planning and Development Manager,  
Gladman Developments Ltd

Mr B Coles BA(Hons)  
DipTP DipLA MRTPI

Director, FPCR Environment & Design Ltd

Ms L Tilston BSc(Hons)  
MRTPI

Planning Manager, Gladman Developments Ltd

### INTERESTED PERSONS:

Alderman D Bould

President, Alsager Residents Action Group

Cllr D Longhurst

Alsager Town Councillor

Cllr D Hough

Cheshire East Council Ward Member

## DOCUMENTS

### General

- G1 Letter of notification of the Inquiry
- G2 Letters from Interested Persons
- G3 Email, dated 25 November 2014, from Mr B Haywood of the Council to the Planning Inspectorate regarding housing land supply evidence
- G4 Email response. dated 26 November 2014, from Ms L Tilston of the appellant to the Planning Inspectorate regarding housing land supply evidence
- G5 Further email response, dated 27 November 2014, from Mr B Haywood of the Council to the Planning Inspectorate regarding housing land supply evidence

### Core Documents

- CD1 Application Documents
- CD2 Additional & Amended Reports Submitted after Validation
- CD3 Correspondence with Local Planning Authority
- CD4 Consultation Responses
- CD5 Correspondence with LPA Post Decision
- CD6 Reports to Address the Reasons for Refusal
- CD7 Committee Report
- CD8 North West RSS September 2008 (No longer required/provided)
- CD9 Congleton Borough Council Local Plan 1st Review
- CD10 SPD No.4 Sustainable Development (April 2005)
- CD11 CEC Interim Planning Statement on Affordable Housing (February 2011)
- CD12 CEC Interim Planning Statement on the Release of Housing Land (February 2011)
- CD13 Cheshire East Strategic Housing Market Assessment (2010)
- CD14 CEC LDF Background Report - Determining the Settlement Hierarchy (November 2010)
- CD15 Strategic Housing Land Availability Assessment (2012)
- CD16 Strategic Housing Land Availability Assessment Update 2012 (February 2013)
- CD17 CEC LDF Core Strategy - Issues & Options Paper (November 2010)
- CD18 Alsager Town Strategy
- CD19 Shaping our Future - A Development Strategy for Jobs & Sustainable Communities (Preferred Options) January 2013
- CD20 Shaping our Future Emerging Policy Principles
- CD21 Representations to Shaping our Future - A Development Strategy for Jobs & Sustainable Communities
- CD22 CEC SHLAA Review (May 2013) (No longer required/provided)
- CD23 Statements of Common Ground
- CD24 Possible Additional Sites Consultation Document
- CD25 CEC Additional Sites Gladman Final Reps

- CD26 Cheshire East Strategic Housing Market Assessment Update (September 2013)
- CD27 Background Paper: Population Projections and Forecasts (September 2013)
- CD28 Five Year Housing Land Supply Position Statement (February 2014)
- CD29 Five Year Housing Land Supply Position Statement (September 2014)
- CD30 Background Paper: Population Projections and Forecasts (March 2014)
- CD31 Local Plan Strategy Housing Background Paper (March 2014)
- CD32 Local Plan Strategy Sites Justification Paper (March 2014) (Extract)
- CD33 Local Plan Strategy Non-Preferred Sites Justification Paper (March 2014) (Extract)
- CD34 Pre-submission Core Strategy (November 2013) (Extract)
- CD35 Local Plan Strategy Submission Version (March 2014)
- CD36 Cheshire East Council: SHLAA Housing Market Partnership - Workshop Minutes (19-12-13)
- CD37 Cheshire East Council: SHLAA - Methodology Representations
- CD38 Appeal Decisions
- CD39 Court of Appeal and High Court Judgments
- CD40 Gladman Developments Limited v SoS for CLG and other (2014 CO/17165/2013)
- CD41 Documents Relating to New Application (14/3919C Residential Development for up to 130 Units)
- CD42 National Character Area Profile (NCA61, Shropshire, Cheshire & Staffordshire Plain) Natural England (2014)
- CD43 Cheshire Landscape Character Assessment (2008) (Extract)
- CD44 A Landscape Character Assessment for Congleton Borough (1999)
- CD45 Guidelines for Landscape & Visual Impact Assessment, Third Edition (GLVIA3) (2013)
- CD46 Manual for Streets (2007)
- CD47 Manual for Streets 2 (2010)
- CD48 Land off Hassall Road, Sandbach (11/3414C) Committee Report, Strategic Planning Board 11/04/2012
- CD49 Regeneris - Cheshire East - Objectively Assessed Housing Requirement
- CD50 Planning for Houses in England: Understanding recent changes in household formation rates and their implications for planning for housing in England, RTPi (2014)
- CD51 New Estimates of Housing Demand and Need in England 2011 to 2031, Town and Country Planning - Tomorrow Series Paper 16, Alan Holmans (2013)
- CD52 East Cheshire: Engine of the North (2013)
- CD53 South Worcestershire Council Local Plan - Examination in Public - Inspector's Interim Conclusions (28-10-13)
- CD54 New East Devon Local Plan - Examination in Public - Inspector's Letter (31-03-14)

- CD55 Lichfield District Council Local Plan - Examination in Public - Inspector's Interim Conclusions (03-09-13)
- CD56 West Lancashire Borough Council Local Plan - Examination in Public - Inspector's Report (26-09-13)
- CD57 Cheshire East Council Response to the Further Information Requested by the Inspector: 18th July 2014 (PS B006B)
- CD58 Cheshire East Response to the Further Information Requested by the Inspector: Annex 1: Objectively Assessed Need and Related Issues, 18th July 2014 (PS B006C)
- CD59 Council's Response to Hearing Statements, Matter 3: Overall Development Strategy (M3.001a)
- CD60 Comments from Cheshire East Council on the August 2014 submission "Cheshire East Examination in Public: Objectively Assessed Housing Need - A Joint Position Statement", September 2014 (PS B022)
- CD61 Cheshire East EiP: Objectively Assessed Housing Need - A Joint Position Statement, Regeneris Consulting et al. August 2014 (PS C001)
- CD62 Review of the Further Information Supplied by Cheshire East Council in Response to the Inspector's Questions, Regeneris Consulting, August 2014 (M3.016 Appendix 4)
- CD63 Letter to the Inspector, 15th September 2014, Regeneris Consulting (PS C003)
- CD64 Addendum Note on Housing Needs in Cheshire East, April 2014, Regeneris Consulting
- CD65 NLP Matter 3 Supplementary Statement Cheshire East Local Plan EiP on behalf of Harrow Estates (M3.029v2)
- CD66 Barton Willmore Cheshire East Local Plan Strategy Examination, Matter 3 Statement on behalf of The Crown Estate (M3.024)
- CD67 CEC Homework Matter 9 OAN (PS D003.009)
- CD68 Report of the Head of Strategic and Economic Planning to the Portfolio Holder regarding Cheshire East 5 year Housing Land Supply - Position Statement - September 2014
- CD69 Land south of Old Mill Road, Sandbach (APP/R0660/A/14/2212606) Inquiry from 7th-10th October 2014 Closing Statement on behalf of the Appellant
- CD70 Request for further information from the Inspector (11-06-2014) (PS A006)
- CD71 Letter from the Inspector to the Council regarding Examination Progress (22-10-14) (PS A015)
- CD72 Hansard - Westminster Hall. Planning and Housing Supply (24-10-13) (extract)
- CD73 Cheshire East: Local Landscape Designations - Draft Report Prepared by LUC (May 2013)
- CD74 13/3032C Crewe Road, Alsager Committee Report (23/01/14)
- CD75 Land off Sandbach Road North, Alsager (APP/R0660/A/13/2195201) Inquiry held August 2013 Closing Statement on behalf of Cheshire East Council



- CD76 Land off Sandbach Road North, Alsager  
(APP/R0660/A/13/2195201) Inquiry held August 2013  
Closing Statement on behalf of the Appellant
- CD77 Inspector's Interim Views on the Legal Compliance and Soundness  
of the Submitted Local Plan Strategy (PS A017b)
- CD78 Further Appeal Decisions
- CD79 Congleton Borough Local Plan Inspector's Report on Objections -  
Main Report September 2003
- CD80 Consultation Response from Stoke on Trent City Council and  
Newcastle under Lyme Borough Council re: CEC Local Plan Possible  
Additional Sites (28-05-2013)
- CD81 Newcastle Borough Council objection to 13/4132N White Moss  
Quarry
- CD82 Statement on Cheshire East Local Plan & Five Year Supply  
(Strategic Planning Board 12-11-14)

### **Documents Submitted by the Council**

- CEC/ID/1 Mr I Dale: Proof of Evidence
- CEC/ID/2 Mr I Dale: Rebuttal Proof of Evidence
  
- CEC/BH/1 Mr B Haywood: Proof of Evidence
  
- CEC/GS/1 Mr G Stock: Proof of Evidence: Volume 1
- CEC/GS/2 Mr G Stock: Proof of Evidence: Volume 2

### *Submitted During the Inquiry*

- CEC1 LPA Note: Housing Land Supply (28 Nov 2014)
- CEC2 High Court Judgement: Lewis J: Elworth Hall Farm: 28 October 2014
- CEC3 Opening Statement on behalf of Cheshire East Borough Council
- CEC4 Application 14/3919C Representations and Consultation Replies
- CEC5 Emery Planning: The Gables: Mr S Harris: Proof of Evidence
- CEC6 HLS: Recent Cheshire East Inspector Decisions
- CEC7 Letter from Parliamentary Under Secretary of State (Planning) to  
Planning Inspector Mr G Hill: 14 July 2014
- CEC8 Joint Note to Inquiry Prepared by Mr B Haywood and Mr I Dale
- CEC9 Note to Inquiry in Respect of Stoke-on-Trent and  
Newcastle-under-Lyme Councils prepared by Mr B Haywood
- CEC10 Letter from Newcastle-under-Lyme Borough Council to Cheshire East  
Council dated 9 December 2014
- CEC11 Planning Obligation by Deed of Agreement dated 8 December 2014  
between Cheshire East Borough Council, Patrick Hugh Redstone and  
Christine Mary Redstone, John Edward Brookes and  
Gladman Developments Limited
- CEC12 Cheshire East Principal Town and Key Service Centre Populations
- CEC13 The CIL Regulations 2010 Compliance Statement

CEC14 Closing Statement of behalf of Cheshire East Borough Council

### **Documents Submitted by the Appellant**

GD/SN/1 Mr S Nicol: Proof of Evidence  
GD/SN/2 Mr S Nicol: Note on Inspector's Interim Views on the Submitted Cheshire East Local Plan Strategy

GD/JM/1 Mr J MacKenzie: Proof of Evidence  
GD/JM/2 Mr J Mackenzie: Appendices  
GD/JM/3 Mr J Mackenzie: Comments on Events Post Exchange of Evidence (CEC 5 Year Supply)

GD/BC/1 Mr B Coles: Proof of Evidence  
GD/BC/2 Mr B Coles: Appendix A

GD/LT/1 Ms L Tilston: Proof of Evidence  
GD/LT/2 Ms L Tilston: Appendices  
GD/LT/3 Ms L Tilston: Comments on Events Post Exchange of Evidence (Planning)

GD/GV/1 Mr G Venning: Proof of Evidence  
GD/GV/2 Mr G Venning: Appendices

### *Submitted During the Inquiry*

GD1 Appearances on behalf of the Appellant  
GD2 Opening on behalf of the Appellant  
GD3 Suggested Conditions  
GD4 Statement of Common Ground between Gladman Developments Ltd and Cheshire East Council  
GD5 High Court Judgement: Hickinbottom J: Shotton: 18 July 2013  
GD6 Report to Cheshire East Council Strategic Planning Board: 10 December 2014  
GD7 Suggested Route: Site Visit  
GD8 Ecology Information for Statement of Common Ground between FPCR and Cheshire East Council Ecologist: 27 October and 12 November 2014  
GD9 Amended List of Conditions  
GD10 Plan 5313-L-02-Rev M Development Framework  
GD11 Closing on behalf of the Appellant  
GD12 \*87 Regina v Westminster City Council, Ex parte Monahan and Another: Court of Appeal: 19 October 1988  
GD13 \*437 Regina (Sainsbury's Supermarkets Ltd) v Wolverhampton City Council: Supreme Court: 12 May 2010  
GD14 \*759 Tesco Stores Ltd v Secretary of State for the Environment and Others: House of Lords: 11 May 1995

### **Documents Submitted at the Inquiry by Interested Persons**

IP1	Statement from Alderman D Bould
IP2	Statement from Cllr D Longhurst
IP3	Statement from Cllr D Hough
IP4	Alsager Site Numbers Table from Alderman D Bould

Richborough Estates