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## Appeal Decision

Inquiry held on 24-27 February 2015

Site visit made on 24 February 2015

by **G D Jones BSc(Hons) DMS DipTP MRTPI**

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

Decision date: 25 March 2015

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**Appeal Ref: APP/A0665/A/14/2224763**

**Land Adjacent and to rear of 13 Holly Tree Drive, Nether Peover, Cheshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
  - The appeal is made by Mr David Russell, Mr Allan Helman and Mr Nick Ratcliffe against Cheshire West & Chester Council.
  - The application Ref 14/00419/OUT, is dated 23 January 2014.
  - The development proposed is described as residential development of up to 30 dwellings.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development of up to 30 dwellings at land adjacent and to the rear of 13 Holly Tree Drive, Nether Peover, Cheshire in accordance with the terms of the application, 14/00419/OUT, dated 23 January 2014, subject to the conditions contained within the Schedule at the end of this decision.

### Preliminary Matters

2. I have used the address as it appears in the Statement of Common Ground (SoCG) as this is agreed by the main parties and provides a more precise indication of the site's location than that of the planning application form; albeit that the Nether Peover is also known as Swan Green. For consistency and the avoidance of doubt, I refer only to Nether Peover throughout my decision. I have also used the description of the development as it appears in the SoCG in preference to that of the application form, for similar reasons to those regarding the site address.
3. The proposal is for outline planning permission with all matters reserved for future approval. The details submitted with the application include documents and plans, such as an Indicative Site Layout Plan, which make reference to access, layout, appearance, landscaping and scale. Whilst not formally part of the scheme, I have nevertheless treated these details as a useful guide as to how the site could be developed.

### Main Issue

4. The main issue is whether the proposal would be sustainable development to which there is a presumption in favour having regard to local and national policies.

## **Reasons**

### **Background**

5. The appeal site comprises some 1.6 hectares of undeveloped land, which is relatively flat and has a rather irregular shape. While it is not currently in use and is somewhat overgrown, the evidence indicates that it has been farmed in the past. To the north and west the site abuts residential properties within the village of Nether Peover and to the south there are largely open fields. The eastern boundary adjoins Middlewich Road, the B5081, beyond which there is a dwelling close to the junction with Foxcovert Lane. To the north the site also borders the head of Holly Tree Drive. There are mature trees and hedges close to and along much of the site boundary.
6. The indicative details submitted with the planning application show how the site might be developed for 30 dwellings with access off Middlewich Road and Holly Tree Drive, with the retention of some of the trees around the perimeter of the site.
7. Nether Peover has a general store/post office, a pub and a play area, all of which are within walking distance of the appeal site. Lower Peover C of E Primary School and Plumley railway station are some 1.3km and 3.8km respectively from the site by road. The site lies some 9.7km to the east of the settlement of Northwich and 6.4km from the town of Knutsford.

### **Policy Context**

8. The National Planning Policy Framework (the Framework) outlines a presumption in favour of sustainable development, which it indicates has three dimensions – economic, social and environmental. Plans and decisions need to take local circumstances into account, so that they respond to the different opportunities for achieving sustainable development in different areas.
9. In respect to housing delivery, the Framework requires the Council to meet the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period. Applications for housing should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
10. Design is part of sustainable development and this includes taking into consideration the effect of development on open spaces. Development should contribute to protecting and enhancing the natural and built environment. As part of this, it should help to minimise pollution and mitigate/adapt to climate change including moving to a low carbon economy. The Framework also states that due weight should be given to relevant development plan policies that pre-date the Framework according to their consistency with it.
11. Although it is a weighty material consideration, the Framework does not change the statutory status of the development plan. The Cheshire West & Chester Local Plan (Part One) Strategic Policies (the Local Plan Part One) was adopted by the Council on 29 January 2015. Additionally the development plan for this area includes the Vale Royal Borough Local Plan First Review Alteration

June 2006 (the Vale Royal Local Plan). The plan periods for these documents run to 2030 and 2016 respectively.

12. The Council's putative reason for refusal indicates that the appeal development would be contrary to Policy GS5 of the Vale Royal Local Plan and Policy STRAT 9 of the Local Plan Part One. The appellants accept that the proposed development conflicts with both of these Policies and I see no reason to disagree. While these Policies are the most pertinent development plan policies to the appeal proposals, Local Plan Part One Policies STRAT 1, STRAT 2 and STRAT 8 are also relevant.
13. The Cheshire West and Chester Local Plan (Part Two) Land Allocations and Detailed Policies (the emerging Local Plan Part Two) is intended to provide further detailed policies which would support the strategic objectives and policies set out in the Local Plan Part One and review allocations in the currently adopted Local Plans, including the Vale Royal Local Plan. The evidence indicates that this document is at an early stage, such that, with reference to paragraph 216 of the Framework, it is of limited weight in the determination of the appeal.

### **Housing Need and Supply**

#### *Context*

14. Policy STRAT 2 of the Local Plan Part One identifies that at least 22,000 new dwellings will be delivered in the borough over the period of 2010 to 2030. This equates to an annual requirement of 1,100 dwellings; 5,500 dwellings for the period 1 April 2014 to 31 March 2019. The Policy explains that these are net figures because if recent trends continue it could be anticipated that up to approximately 50 dwellings per year may be lost to other uses or demolished. It adds that on this basis the number of housing completions that would be needed to meet the net annual requirement would equate to a gross average of 1,150 dwellings per annum and that this will need to be reflected in the overall supply of housing land.
15. It is common ground between the main parties that a buffer of 20% should be applied, that the backlog amounts to 1,307 dwellings and that the total requirement for the five year period 2014-19 is 7,907 dwellings, or 1,581 per annum. I see no good reason to disagree. Although during the Inquiry there was movement by both main parties regarding the extent of the supply of housing land there remained considerable dispute.
16. The principle areas of disagreement are in respect to the supply of deliverable housing from 22 sites over the five year period, how to make allowance for losses and whether supply should be discounted to take account of potential non-implementations. The Council considers that supply amounts to 8,527 dwellings across the five years, whereas the appellants consider it to be 7,332; in other words, a 620 unit surplus or a 762 unit shortfall respectively. The Council's evidence in this regard is to a large extent based on the information that was before the Local Plan Part One examining Inspector. I am mindful that there is no evidence before me to the effect that the substance of the appellants' housing supply witness's evidence was presented to the Local Plan Part One Inspector.

### *Non-Implementation*

17. The Council's supply of housing land includes 463 small sites as commitments and assumes that 942 dwellings will be delivered over these sites in the five years. The appellants maintain that there is evidence to support the application of a 20% non-implementation discount to the first three years of the five year period based principally on trends in 2012-13. This would equate to 188 dwellings. While I acknowledge that there may be potential difficulties with the delivery of some of these sites, I am also mindful that this assessment reflects only a reasonably short period that may not be representative of wider trends.
18. In any event, regarding housing land supply, government policy and guidance on the treatment of sites with planning permission applies to all sites and does not differentiate small sites from larger ones. Moreover, it does not suggest that a blanket allowance as promoted by the appellants would be appropriate. I also note that the Inspector and the Secretary of State in respect to another appeal in the borough rejected an approach which involved a non-implementation allowance for all sites including small sites with planning permission<sup>1</sup>. The Local Plan Part One Inspector also took a similar approach to the suggestion of such an allowance. For these reasons, therefore, the requested non-implementations discount is not justified.

### *Housing Losses*

19. The Local Plan Part One clearly states that the overall supply of housing land will need to reflect that the number of housing completions needed to meet the net requirement of 1,100 dwellings per annum would equate to a gross average of 1,150 dwellings per annum. While I recognise that as the plan period progresses losses may prove to be less than 50 per annum, at this stage it is not possible to have confidence regarding the overall amount of dwellings that may be lost in coming years. Consequently, it is appropriate to apply the approach identified in the Local Plan Part One, particularly as the Plan was adopted only shortly before the Inquiry. On this basis, I favour the approach advanced by the appellants, such that the Council's net supply figure should be reduced by 187 dwellings. Consequently, the Council's surplus reduces from 620 to 433 units.

### *Delivery from Identified Housing Sites*

20. In respect to the Beeston Cattle Market, there is a resolution to grant planning permission. The delivery of the proposed housing is, in part, dependant on the creation of a replacement cattle market known as Cheshire Fresh. Although there is a planning permission for Cheshire Fresh, the evidence indicates that the approved scheme is not viable and that as a consequence the applicant intends to make a new planning application for an alternative scheme. While, there is good reason to believe that such an application would be likely to be determined expeditiously, overall, there are so many variables involved, each with sufficient uncertainty attached, that I am not persuaded that the Beeston Cattle Market site is available or that its development for housing is achievable during the five year period. Therefore, the Council's projection should be discounted by 50 units, thus reducing its surplus to 383 dwellings.

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<sup>1</sup> CD14 – Appeal Ref APP/A0665/A/14/2214400

21. Regarding the Cheshire Warehousing site, the information before me indicates that there are existing tenants at the site and I am not persuaded by the wider evidence that the site will become available such that it would deliver any dwellings within the five year period. On this basis the Council's projection should be discounted by a further 30 units, thereby reducing its surplus to 353 dwellings.
22. The Premier House site has planning permission for 200 units as part of a larger mixed use scheme and a condition of the consent requires a phasing plan. A phasing plan was approved by the Council in June 2014. It shows the residential element of the development to take place in the last three of ten phases, which suggests its delivery is not planned for within the five year period. Nonetheless, the evidence also refers to more recent discussions with the developer which suggest that an application for 220 dwellings may be made with building potentially taking place in 2015/16.
23. Given that the phasing plan was approved reasonably recently, there has been no subsequent application to amended it and that there is no documentation before me to support earlier delivery, I give greater weight to the approved phasing plan. The evidence in respect to the main component of the greater scheme being office development also points to a greater likelihood that the site will not deliver any homes in the five year period. For these reasons, the Council's surplus should be further reduced to 153 dwellings.
24. There is contrasting evidence regarding the build rates for Sutton New Hall Farm. As it is more recent and comes direct from the developer, Redrow, I give greater weight to the information provided by the appellants than the earlier advice provided by Redrow's agents which was before the Local Plan Part One Inspector. I acknowledge that the more recent information from Redrow states 'at this stage' the site will have only one developer, and such as this could change over time. However, there is no clear evidence to indicate that this is likely to happen. Therefore, the Council's surplus should be further reduced by 135 units to 18 dwellings.
25. The Rossmore Road East site has outline planning permission and there is a further planning permission to amend the access to the residential element of the development. While Bellway has expressed a number of concerns about the site, the appellants accept that delivery can be expected within the five years and I see no good reason to disagree. In light of the wider evidence, including the absence of clear evidence of substantive interest from a house builder, that there is no reserved matters approval for the dwellings and the volume and complexity of pre-commencement requirements, I consider it unlikely that any dwellings will be delivered before 2017/18. Based on the evidence before me, it also appears reasonable to bring the annual build rate in line with those of other sites in the area. Overall, therefore, the Council's supply figure should be further reduced by 40 units, thereby resulting in a shortfall of 22 dwellings.
26. The site known as Phases 3B & 4 Rossfield Park was granted outline planning permission in March 2005. The site has been cleared and there is some evidence of developer interest, albeit that it is not clear how far this interest extends or whether it is likely to lead to development. Nonetheless, it is available and nothing in the evidence leads me to believe that it will not be developed. Therefore, I see no reason why it should not be treated in a similar

- manner to Phase 5 Rossmore Road East, as outlined above, such that housing would be delivered from 2017/18 at a rate of 25 units per annum. On this basis the Council's supply figure should be further reduced by 25 units, leading to a shortfall of 47 dwellings.
27. Although there are planning applications pending determination for the Backford Cross site there is no extent planning permission. The proposed development is the subject of objects from the Health and Safety Executive and the Highway Authority. While there may be ways to overcome these objections, at this stage there is a significant degree of uncertainty that the site is achievable within the five years. Therefore, it should be discounted for the time being and the Council's supply further reduced by 75 units. This leads to a shortfall of 122 dwellings.
28. There is no planning permission for the Moorside Lane site and a scheme for its development for residential purposes was refused in December 2014. Although the evidence indicates that the site is suitable for housing, the refusal casts doubt on the deliverability of the site during the five years such that at this point in time it cannot reasonably be said to be supported by robust up to date evidence. In the current circumstances, therefore, the Council's supply should be further reduced by 33 units, leading to a shortfall of 155 dwellings.
29. I am sympathetic to the Council's position regard the Handley Hill Primary School, Castleleigh Centre and Church Street Car Park sites which together are identified by the Council to supply 64 units. This is primarily on the basis that, as Council owned sites, their progression is pending the prioritisation of another Council owned site, Woodford Lodge, which is not included in the Council's five year housing supply figures. Nonetheless, even if they were included in the housing supply, they would not make up the identified shortfall.
30. Three other sites, The Chase, land adjacent to The Ropeworks and land between Mornant Avenue and St Vincents Drive, amount to a difference between the parties of only four units. Consequently, they have very little influence on supply in the context of the identified shortfall.
31. Regarding the remaining eight sites<sup>2</sup>, I am satisfied that, notwithstanding the appellants' evidence, these should all remain within the five year supply on the basis that the Council has made reasonable assumptions regarding their deliverability, lead in times and build rates. In making this assessment I have taken into account that the evidence indicates that there have not been any significant changes in circumstances or significant additional evidence provided since these sites were considered by the Local Plan Part One Inspector.
32. To be clear, when assessing the deliverability of each site, in addition to the evidence of the parties, I have also had regard to paragraph 47 of the Framework, including Footnote 11, and to paragraph 033 of the government's Planning Practice Guidance<sup>3</sup>. In making my assessment I have also taken into account an appeal decision for development elsewhere in the borough, including the Inspector's and Secretary of State's conclusions that there was a five year housing land supply<sup>4</sup>. However, having done so I note that in that

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<sup>2</sup> Roften Works, Great Hall Park I and II, Former Van Leer, Former Service Station Rossmore Road, Wrexham Road, S Cooper & Sons and Former Garage Lower Bridge Street

<sup>3</sup> Planning Practice Guidance Reference ID: 3-033-20140306

<sup>4</sup> CD14 – Appeal Ref APP/A0665/A/14/2214400

case there was no detailed assessment of the deliverability of housing sites put to the Inquiry in comparable terms to that which is before me.

33. During the Inquiry the Council's housing supply witness, Miss Fletcher, also made reference to some sites where housing delivery is or is likely to be greater than is projected in the Council's supply figures for the five year period. However, there is no clear documentation to demonstrate this and consequently I can afford it only limited weight. Moreover, there is no clear information before me to indicate that any such additional delivery would make up the shortfall in supply identified above.

#### *Affordable Housing*

34. The latest Cheshire West and Chester Strategic Housing Market Assessment indicates a net annual shortfall of 714 affordable homes across the borough over the five year period 2013-18. As the base annual housing requirement is 1,100 dwellings and bearing in mind the local policy requirement of 30% affordable housing provision, it is unlikely that the affordable housing delivery shortfall will come close to being met over the current five year period. While there is no sub-borough data regarding affordable housing need, there is nothing before me that gives me good reason to believe that the borough-wide need should not be given due weight in this case.

#### *Housing Supply: Summary and Conclusions*

35. The shortfall of 155 dwellings over the period 2014-19 is significant, contrary to the Framework's requirements and substantially exceeds the maximum number of dwellings proposed by the appeal development. Consequently, the development of the site for housing would provide a much needed contribution to meeting a serious shortage of housing in the borough and would assist in bringing supply closer to what is required by the Framework. I find this to be a substantial benefit of the scheme, as is the delivery of affordable housing. Therefore, although it is for only up to 30 dwellings, the proposed development would make a valuable contribution to identified housing need. For the reasons outlined, I find that the need for both market and affordable housing carries weight in favour of the proposal.

#### ***Housing Land Supply Policy and Planning Balance***

36. In undertaking the planning balance I have considered the identified development plan policy conflict and made an assessment of whether the proposals would amount to sustainable development in the terms of the Framework. In doing so I have had regard to, among other things, the absence of a demonstrable five-year housing land supply and the contents of the Framework as a whole.
37. Policy GS5 indicates that the character and appearance of the open countryside will be protected and that new buildings will not be allowed in the open countryside unless provided for through other policies of the Plan. It identifies the open countryside as the areas which lie outside of settlement policy boundaries and the green belt.
38. Policy STRAT 9 protects the intrinsic character and beauty of the Cheshire countryside by restricting development to that which requires a countryside location and cannot be accommodated within identified settlements. It identifies types of development which will be permitted in the countryside and

- states that development must be of an appropriate scale and design to not harm the character of the countryside.
39. Local Plan Part One Policy STRAT 1 gives a framework of locally specific sustainability principles which provide the basis for the policies of the Plan and will also provide the basis for the Local Plan Part Two. Policy STRAT 8 complements STRAT 9 by providing that within the rural area development will be supported that serves local needs in the most accessible and sustainable locations, in particular key service centres which provide a good range of facilities and services, as well as at local service centres. The appeal site is not within a key service centre and no local service centres have been designated as yet as these are to be identified through the Local Plan Part Two.
  40. The development would conflict with Policies GS5 and STRAT 9 in respect to the appeal site's location in the countryside outside any defined settlement limits. While Policies seek, at least in part, to protect the countryside, they are nonetheless related to the supply of housing as they restrict housing development in the countryside. Therefore, in the absence of a five-year housing land supply, the geographical extent of these Policies should be regarded as being out of date and carry limited weight.
  41. Nonetheless, the appeal scheme would result in the building of up to 30 homes on a greenfield site in the countryside. Consequently, it would cause at least some detriment to the intrinsic character and beauty of the countryside. Nether Peover also has somewhat limited facilities and no direct public transport. It is away from those key service centres identified in the development plan as where development in rural areas is to be focused. Even if Nether Peover were to be designated as a local service centre, within the context of the overall settlement hierarchy, local service centres are not the most sustainable locations for housing development. These matters weigh against the proposed development.
  42. In terms of the economic and social dimensions of sustainable development, the appeal proposal would be deliverable and increase the supply and choice of housing, including affordable homes, in an area where there is not a Framework compliant supply of housing land. The development would also contribute to economic growth during the construction phase in terms of employment and a potential increase in local spending. In the longer term, the additional population may increase spending in the area, for instance in the village shop and pub. Additional local residents would also be likely to help support the sustainability of the primary school in Lower Peover. Proposed contributions in respect to the primary school and the play area off Swan Grove would also enhance local facilities.
  43. In terms of the environmental dimension, through the careful consideration of the reserved matters a high quality built environment within the site could be achieved. Existing attractive planting around the fringes of the site could also be retained, including three Oak trees that are the subject of Tree Preservation Order, and supplemented by additional landscaping. For these reasons and given the reasonably modest size of the site, the harmful effect of the development on the character and appearance of the countryside would be limited. Although limited, there is a range of facilities in the village including a shop/post office, a pub and a children's play area within walking distance of the site. Lower Peover primary school and Plumley railway station, which provides

direct access to Chester and Manchester, are within cycling distance of the site, as are employment opportunities in the surrounding countryside and settlements.

44. When taken together those matters that are in favour of the proposals carry considerable weight. Although, as identified, the development would be at odds with the Council's adopted strategy for the location of housing in rural areas and cause some harm to the character and beauty of the countryside, the resultant harm is outweighed by the matters outlined above such that overall the appeal proposals would represent sustainable development in the terms of the Framework.

### **Other Matters**

45. During the Inquiry the appellants submitted a signed unilateral undertaking, dated 10 February 2015, made under Section 106 of the Town and Country Planning Act 1990, (the UU). Subject to certain criteria, the UU would secure the payment of financial contributions in respect of improvements to the Lower Peover C of E Primary School; improvements to the play area off Swan Grove and their maintenance; and improvements to customer/traveller facilities at Plumley Railway Station.
46. The Council has submitted a detailed statement (the UU Statement), which addresses the application of statutory requirements to the planning obligations within the UU. I have considered the UU in light of Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and government policy and guidance on the use of planning obligations.
47. The education and play area obligations are in line with the local policies referred to in the UU Statement, notably the Council's SPD3 Developer Contributions September 2007, as well as with Policy BE4 of the Vale Royal Local Plan. They would also accord with the aims of paragraphs 7, 58, 70, 72 and 73 of the Framework. I am satisfied that both of these obligations are directly related to the proposed development, fairly and reasonably related to it and necessary to make it acceptable in planning terms.
48. Regarding the railway station contribution, I note that the Council has not actively sought this obligation. Moreover, there is no evidence that it would accord with any of the statutory requirements. Consequently, I have given it no weight in my decision.
49. In addition to the foregoing matters, concern has been expressed locally regarding a number of considerations. These include the effect of the proposed development on the character and appearance of the area, including in respect to development density; on highway safety and congestion, as well as the associated emission of carbon dioxide; on existing services, utilities and the adequacy of infrastructure, including water supply and public transport; on the living conditions of neighbouring occupiers; on wildlife; on flooding and drainage; and on trees. Other issues raised concern the adequacy of employment opportunities in the area, the loss of agricultural land, planning policy conflict, affordable housing provision, the assessment of the appeal site in the Strategic Housing Land Availability Assessment and the quality of the site's management and maintenance.

50. These matters are largely considered within the report prepared for the Council's Planning Committee. They were also before the Council when it prepared its evidence, including the putative reason for refusal, and when it submitted its case at the Inquiry. The Council did not conclude that they would amount to reasons to justify withholding planning permission. Subject to the provisions of the UU and the imposition of planning conditions, I see no good reasons to disagree.
51. My attention has also been drawn to other proposals and development, including other appeal decisions. However, each proposal falls to be assessed on its own merits and, in any event, I am not aware of all of the circumstances associated with these other cases.

### **Conditions and Conclusion**

52. The Council and the appellants submitted a list of draft conditions at the Inquiry, including the standard outline conditions. I have considered these in the light of government guidance on the use of conditions in planning permissions and made amendments accordingly.
53. Conditions requiring the submission and approval of sample materials to be used in the construction of the external surfaces of the buildings, soft and hard landscaping details, including boundary treatment, and measures for the protection of trees/hedges, would be necessary to safeguard the character and appearance of the area.
54. Conditions to control when hedgerows/scrubs/trees may be removed and to secure the installation of bat and bird boxes/tiles and the provisions of the Badger Sett Closure Method Statement would be necessary to safeguard protected species and in the interests of biodiversity. A condition controlling proposed site levels, along with proposed finished floor levels, would be necessary to safeguard the character and appearance of the area. To promote use of the modes of transport other than private powered vehicles, a condition to the secure cycle storage facilities would be necessary. The submission and approval of a Construction Management Plan would also be necessary to safeguard the living conditions of local residents and in the interests of highway safety.
55. Conditions to secure the implementation of foul and surface water measures would be necessary to ensure the development would be adequately drained and in the interests of flood prevention. A condition which requires the submission and approval of a scheme to demonstrate that not less 10% of the total energy consumption of the development would be provided by means of renewable energy or alternative measures to achieve at least 10% less energy consumption would be necessary to safeguard the environment. A condition to secure on-site affordable housing would be necessary to assist with the provision of homes that are affordable for local people.
56. Although they were included in the list of conditions within the SoCG, during the Inquiry the main parties advised that they had concluded that condition Nos. 14, 17, 18 and 23 would not be necessary. I see no good reason to disagree. As all matters are reserved for future consideration conditions 4 and 16 would also be unnecessary.

57. In summary, notwithstanding the policy conflict, given the absence of a five-year housing land supply and the status of relevant policies of the development plan for the supply of housing, I find that the appeal proposals would be sustainable development. I conclude, therefore, that the appeal should be allowed subject to the identified conditions.

*G D Jones*

INSPECTOR

Richborough Estates

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Scott Lyness, of Counsel

Instructed by Pamela Chesterman,  
Solicitor, Cheshire West and Chester Council

He called

Beth Fletcher BSc(Hons)  
MSc

Senior Planning Officer, Cheshire West and  
Chester Council

Jill Stephens BA(Hons)  
DipTP MRTPI

Senior Planning Officer, Cheshire West and  
Chester Council

### FOR THE APPELLANTS:

Ian Ponter, of Counsel

Instructed by Lambert Smith Hampton,  
Manchester

He called

Ben Pycroft BA(Hons) DipTP  
MRTPI

Emery Planning

Richard Moffat BSc(Hons)  
MRICS

Director, Lambert Smith Hampton

### INTERESTED PERSONS:

Cllr R Kendall  
Mr A Booth

Lower Peover Parish Council  
Local Resident

## DOCUMENTS submitted at the Inquiry

- 1 Revised Statement of Common Ground dated 24 February 2015
- 2 Signed Unilateral Planning Obligation document, dated 10 February 2015, made under Section 106 of the Town and Country Planning Act 1990
- 3 CIL Compliance document, submitted by the Council
- 4 Draft, unsigned, Statement of Common Ground re: Housing Land Supply
- 5 Housing Land Supply – Disputed Position document, submitted by the Council
- 6 List of Sites Challenged by the Appellant document, submitted by the Council
- 7 Rebuttal Proof of Evidence of Beth Fletcher
- 8 Review of the Supply of and Demand for Student Accommodation in Chester, by PSL Research Ltd, January 2015, submitted by the appellants
- 9 Appeal Decision Ref APP/A0665/A/14/2217039 - the erection of a 350 bedroom student accommodation development, 40 car parking spaces and associated hard and soft landscaping proposals at Land adjacent to Telford's Warehouse, Tower Wharf, Chester, CH1 4EZ allowed on 9 February 2015, submitted by the appellants
- 10 Appellant's Opening Submissions
- 11 The Council's Opening Submissions
- 12 Appeal Decision Ref APP/A0665/A/14/2223160 - erection of 18 No dwellings with associated garages, car parking, landscaping, means of access and site infrastructure, plus temporary sales advertising signage during development at Birch Heath Road, Tarporley, Cheshire, CW6 9UR allowed on 24 February 2015, submitted by the Council

- 13 Letter from Peel Land & Property Limited dated 19 February 2015, submitted by the Council
- 14 Summary Proof of Evidence of Jill Stephens
- 15 Emails from Chris McGough dated 16 April 2014 and 12 November 2013, submitted by the Council
- 16 Bloor Homes East Midlands Limited v Secretary of State for Communities and Local Government & Hinckley and Bosworth Borough Council [2014] EWHC 754 (Admin), submitted by the Council
- 17 Summary Proof of Evidence of Richard Moffat
- 18 Revised Housing Land Supply – Disputed Position document, submitted jointly by the main parties
- 19 Revised List of Sites Challenged by the Appellant document, submitted jointly by the main parties
- 20 Closing Submissions on behalf of the Council
- 21 Cotswold District Council v Secretary of State for Communities and Local Government [2013] EWHC 3719 (Admin), submitted by the Council
- 22 Dartford Borough Council v Secretary of State for Communities and Local Government & Landhold Capital Limited [2014] EWHC 2636 (Admin), submitted by the Council
- 23 Appellant’ Closing Submissions

Richborough Estates

SCHEDULE OF CONDITIONS FOR APPEAL REF APP/A0665/A/14/2224763:

- 1) Details of the access, layout, appearance, landscaping and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the Local Planning Authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall not commence until, samples of the materials to be used in the construction of the buildings hereby permitted have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved materials.
- 5) The development hereby permitted shall not commence until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority and these works shall be carried out as approved prior to the occupation of any dwelling. These details shall include:
  - i. Means of enclosure
  - ii. Car parking layouts
  - iii. Other vehicle and pedestrian access and circulation areas;
  - iv. Hard surfacing materials
  - v. Minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs and lighting)
  - vi. Proposed and existing functional services above and below ground (e.g. drainage power, communications cables, pipelines and similar, infrastructure, indicating lines, manholes and supports)
  - vii. Retained historic landscape features and proposals for restoration, where relevant.Soft landscape works shall include planting plans; written specifications, schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate; and implementation programme.
- 6) If within a period of 5 years from the date of initial planting, any trees or shrubs planted in accordance with the approved landscaping works are removed, die, become diseased or seriously damaged then replacement trees or shrubs shall be planted in the next planting season of similar size and species, unless the Local Planning Authority gives its written approval to any variation.
- 7) No site clearance, preparatory work or development shall take place until a scheme for the protection of the retained trees (the tree protection plan) and the appropriate working methods (the arboricultural method statement) in accordance with Clause 7 of British Standard BS5837 - *Trees in Relation to Construction - Recommendations* has been submitted to and approved in writing by the Local Planning Authority. These measures shall be carried out as described and approved.
- 8) All on-site hedgerows to be retained shall be protected during construction of development through the installation of protective fencing a minimum of a metre from the foot of the hedge. Should any semi-natural habitats be

removed these shall be inspected prior to their removal as part of the development.

- 9) No on-site hedgerow/scrub/tree shall be removed between 1st March and 31st August inclusive, unless the site is surveyed for breeding birds, and a scheme to protect breeding birds is submitted to and approved in writing by the Local Planning Authority. The development outside of these dates shall only be carried out in accordance with any such approved scheme.
- 10) The development hereby permitted shall not commence until a scheme and timetable for the provision of bat and bird boxes/tiles, including the numbers and locations has been submitted to and approved in writing by the Local Planning Authority. The bat and bird boxes/tiles shall be installed in accordance with the approved scheme and shall be retained thereafter.
- 11) Development shall be carried out in complete accordance with the Holly Tree Drive, Peover - Method Statement for Badger Sett Closure (TEP, 2014) submitted with the application.
- 12) The development hereby permitted shall not commence until full details of existing levels and proposed finished floor (slab) and site (garden) levels relative to adjoining land have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and completed prior to the occupation of the dwellings hereby permitted.
- 13) The development hereby permitted shall not commence until details of secure and covered parking facilities for cycles have been submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the approved facilities have been provided and these shall be retained thereafter.
- 14) The development hereby permitted shall not commence until, a detailed Construction Methodology Statement has been submitted to and approved in writing by the Local Planning Authority. No development shall take place except in complete accordance with the approved Statement, unless otherwise approved in writing by the Local Planning Authority. The Statement shall be carried out in accordance with BS:5528 and shall include full details of the following:
  - i. Proposed construction access arrangements
  - ii. Site compound and site offices, and the parking of vehicles of site operatives and visitors
  - iii. No construction or other operations shall be undertaken on the site outside the hours of 0800 hours and 1800 hours Monday to Friday and 0800 hours and 1300 hours on Saturdays. No works shall be undertaken on the site on Sundays or Bank Holidays, without the written permission of the Local Planning Authority, unless emergency works are required
  - iv. Appropriate mitigation techniques to prevent unnecessary disturbance to neighbouring properties especially from noise, dust, vibration, light and odour
  - v. Details of the management/operation for the construction of the dwellings
  - vi. Wheel washing facilities
  - vii. There shall be no piling (except as specifically approved in writing by the Local Planning Authority) in carrying out site excavation or any other part of the development.

- 15) The development hereby permitted shall not commence until a scheme for the disposal of sewerage has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be first occupied until the approved scheme has been fully implemented.
- 16) The development hereby permitted shall not commence until a scheme for surface water drainage of the site has been submitted to and approved in writing by the Local Planning Authority. No part of the development shall be first occupied until the approved scheme has been fully implemented.
- 17) The development hereby permitted shall not commence until a scheme to demonstrate that not less than 10% of the total energy consumption of the development will be provided by means of renewable energy or that alternative measures will achieve at least 10% less energy consumption than similar development constructed in accordance with the current Building Regulations has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed wholly in accordance with the approved details.
- 18) The development hereby permitted shall not commence until a scheme for the provision of affordable housing as part of the development has been submitted to and approved in writing by the Local Planning Authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it.  
The scheme shall include:
  - i. The numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of the housing units with a split of 50:50 intermediate/affordable rent;
  - ii. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii. The arrangements for the transfer of the affordable housing to an affordable housing provider or for the management of the affordable housing (if no registered social landlord is involved);
  - iv. The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v. The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.