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## Appeal Decision

Hearing held on 17 September 2013

Site visit made on 17 September 2013

**by Clive Sproule BSc MSc MSc MRTPI MIEnvSc CEnv**

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

**Decision date: 21 November 2013**

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**Appeal Ref: APP/A0665/A/13/2195648**

**Land at Flat Lane, Kelsall, Cheshire CW6 0PU**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Andrew Thorley, Taylor Wimpey UK Limited against the decision of Cheshire West and Chester Council.
  - The application Ref 12/01880/OUT, dated 20 April 2012, was refused by notice dated 13 March 2013.
  - The development proposed is residential development for up to 90 new dwellings with open space, access and associated infrastructure.
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### Decision

1. The appeal is allowed and planning permission is granted for residential development for up to 90 new dwellings with open space, access and associated infrastructure at land at Flat Lane, Kelsall, Cheshire CW6 0PU in accordance with the terms of the application, Ref 12/01880/OUT, dated 20 April 2012, subject to the conditions in the attached schedule.

### Procedural matters

2. An executed agreement pursuant to section 106 of the Town and Country Planning Act 1990 (as amended) has been provided.
3. The application was made in outline, with matters concerning appearance, landscaping, layout and scale reserved for determination at a later stage.

### Main issue

4. This reflects the Council's reason for refusal and is the effect of the development proposed on highway safety.

### Reasons

5. Policy TR 19 of the Chester District Local Plan – adopted May 2006 (LP) is only permissive of development where additional traffic can be accommodated safely and satisfactorily within the existing or proposed highway network. Paragraph 32 of the National Planning Policy Framework ("the Framework") states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.
6. Chester Road is a main highway running through Kelsall to junctions with the multi-lane A54 to the east and west of the settlement. Flat Lane enables traffic

and pedestrians on Chester Road to access agricultural land, Kelsall Primary School and the streets and residential areas around and beyond these. Footway provision varies along Flat Lane. Footways are present on both sides of the highway in the residential south eastern section of Flat Lane. However, to the north west of the school the footway is only present on one side of the street, and no footway is available to pedestrians on an approximate 60m section of the approach to the junction with Chester Road. This section without a footway corresponds with the narrowest part of the highway, which is approximately 4.8m in width.

7. The Flat Lane junction with Chester Road provides a 2.4 x 43m visibility splay to the west along Chester Road, which reflects guidance on suitable stopping distances within Manual for Streets for the vehicle speeds recorded. However, the existing asymmetric layout of the junction restricts driver visibility to the east to approximately 7m. The proposed 'build-out' of this junction would maintain the visibility to the west, while increasing the available splay to the east to around 16m. This would still be significantly less than the relevant visibility splay described by Manual for Streets.
8. Traffic conditions on Flat Lane were observed during the morning peak hour, when school and commuter traffic can be expected to coincide. Significant levels of parking were observed on Flat Lane, and some of these vehicles were noted to result from the school's role in assisting the development of teachers from other establishments. The accompanied site visit carried out after the hearing was during the evening peak hour and its commuter traffic. Observed traffic levels were not excessive for the highway, even with on-street parking. In future years levels of on-street parking could increase, but there is a lack of convincing evidence to suggest that the highway along Flat Lane would be unable to cope with it.
9. People were seen walking the section of Flat Lane without a footway in the morning, and attendees of the accompanied site visit walked it during the afternoon peak hour. While village locations often contain sections of highway without a footway, in this instance there is no effective width of verge to provide refuge to pedestrians. There is clearly an element of risk associated with this journey, but its proximity to the junction ensures that vehicle speeds are low. In addition, there is street lighting on this section of Flat Lane, and pedestrians taking this route are in a highway environment where vehicle drivers can be expected to be especially vigilant.
10. This appears to be reflected in accident data. Only one personal injury accident has been recorded in this location, and it involved a vehicle colliding with a cyclist when turning right into Flat Lane from Chester Road. A fatal accident near to this junction was also referred to, but the Council confirmed that it had no details regarding this incident and no link had been established to the operation of the junction. A number of pupil related incidents were noted to have occurred within the last 12 months. However, these have not resulted in any recorded injury accidents.
11. Traffic modelling has been based on surveyed flows, and expected vehicle numbers in 2014 and 2019. It has taken into consideration the likely types of housing and journeys that would result from a development of the kind proposed. Post-development morning peak hour flows are estimated to be 202 two way vehicle movements along Flat Lane, as opposed to approximately 141

without the appeal scheme. Consequently, the proposed development is expected to add an average 1 two way journey per minute during this peak period.

12. PICADY modelling indicates that the improved Chester Road junction would operate well within its capacity, even taking into consideration potential traffic flows associated with other developments in the area. No queuing is predicted to occur at the junction in either the morning or evening peak periods, and these findings are not disputed by the Council.
13. It is possible that there would be groupings of vehicle movements during the peak hour that could coincide with heavy goods vehicles traversing the section of restricted width on Flat Lane. Nevertheless, the frequency of such events has not been shown to be sufficiently likely to call into question the results and conclusions drawn from the PICADY modelling of the altered junction.
14. School related parking and activity could continue to cause localised congestion on Flat Lane, and the school could continue to grow. However, there is no evidence to suggest that the appeal proposal would significantly alter school-related traffic and parking, or that highways issues at the school are particularly unusual.
15. The proposed access into the appeal site would be created some distance from the school. Pedestrian permeability through the proposed development would be expected to result in a shorter walking route to the school from the northeast. Also, the very close proximity of the appeal scheme to the school would be expected to result in children from the proposed dwellings walking between the two. This could be part of a 'walking bus' to and from the school. While attendees at the Hearing noted that such an approach had been tried in the past, increased pedestrian permeability through the appeal site may assist any future scheme.
16. Given the location of the appeal site in relation to other services within Kelsall, there would be opportunities for future residents of the appeal scheme to walk or cycle to and from them. In addition, bus stops are present along Chester Road within a short walking distance of the site that would enable access to shops, services and locations outside Kelsall.

#### Suitability of the proposed access

17. The location of the proposed access onto Flat Lane was confirmed during the site visit, along with the visibility splays that would be available to drivers exiting the new junction. These visibility splays of 2.4m x 43m would reflect the guidance in Manual for Streets, and the observed vehicle speeds along the highway. Footways would be present on either side of the proposed access, and a footway into the development would be provided along the southern side of the access. Given the nature of the highway and the traffic movements along it, the proposed Flat Lane junction layout would provide all highway users with safe and suitable access to the development.

#### Benefits of the scheme

18. Works to the Chester Road junction would be the subject of a planning condition and would not include the originally proposed changes to the configuration of the highway along Flat Lane. Without these elements of the scheme, pedestrians seeking to use Flat Lane from the Chester Road junction

would, for a short section, still have to share the two lane highway with road traffic. Flat Lane would be busier than at present, but given the length of the alternative pedestrian route that avoids the section of the highway without a footway (which was estimated to be 500-600m longer), people would still be likely to use the significantly shorter and more direct route along Flat Lane from its junction with Chester Road.

19. The layout of the Chester Road junction severely limits driver visibility to the east, but it has operated in this form without an accident record that would give cause for concern. The proposed works would improve the layout of the junction and the visibility from it. In addition, the upgrading of the existing pedestrian crossing to a Puffin Crossing would be expected to benefit pedestrians in this location, and reduce vehicle speeds on the approach to the Chester Road junction with Flat Lane.
20. Provision of a new Zebra crossing further into the village would improve pedestrian access to paths leading through the appeal site and to services (that include bus stops) on either side of Chester Road.
21. Also, the footway outside the appeal site would be widened as part of the scheme, which would benefit all pedestrians travelling between the school and the existing path through the appeal site. These beneficial matters add considerable weight in favour of the appeal scheme.

#### Conclusion regarding the main issue

22. Matters above lead to the conclusion that, despite the absence of a footway along part of Flat Lane, the additional traffic from the proposed development can be accommodated safely and satisfactorily within the highway network. Accordingly, the appeal scheme complies with LP policy TR 19, and the Framework, as the residual cumulative impacts of the development would not be severe.

#### *Other matters*

##### Character and appearance

23. Chester Road, Flat Lane and Church Street encompass an area that includes the appeal site, public open space, the school and residential development. It forms a south western edge to development in Kelsall, which for the most part extends north eastwards to the sandstone ridge and the A54.
24. The LP Inspector concluded that there is a strong physical division between the older and newer parts of the village through the presence of countryside.<sup>1</sup> Built development on the appeal site would, to a certain extent, be perceived in views from the elevated topography around Church Street and Chester Road, but vegetation and landform would limit this. Mid to long distance views of open countryside would remain to the west beyond Flat Lane.
25. The presence of the older part of the settlement around and to the west of the junction with Chester Road, along with more recent development to the east of the appeal site, would ensure that the proposed development would appear as a logical addition to Kelsall. The appeal scheme would be part of an area

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<sup>1</sup> Hearing Document 4

bounded by existing highways that would draw a clear distinction between the proposed development and the open countryside on the other side of Flat Lane.

#### Conservation Area

26. A Conservation Area extends to the west and north of the junction with Chester Road, and it includes much of the older part of the settlement. The historic buildings and layouts within the Conservation Area are surrounded by fields and countryside, except at the point nearest to the appeal site where it is separated from Flat Lane by development within a rural yard area. These elements of the Conservation Area's setting would remain. Accordingly, if the appeal site were to be developed as proposed, the setting of the Conservation Area would be preserved (and by their scale and type proposed works to the junction with Chester Road would preserve both the character and appearance of the Conservation Area). For these reasons, the significance of the heritage asset would be sustained.

#### Housing

27. The Council Officer's Report on the application noted the proposed development to conflict with LP policy HO 7, which is not permissive of the construction of new dwellings in the open countryside unless they would be necessary for agriculture or forestry. However, paragraph 49 of the Framework is clear that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites.
28. Although the Council suggested that at the time of the Hearing it had a 5 year supply of housing, evidence was not presented to demonstrate this. In contrast, paragraph 20 of the decision letter regarding appeal ref: APP/A0665/A/11/2167430 indicates that in June 2013 the Council considered it to have 2.6 years housing land supply.<sup>2</sup> This is also the figure within the Officer Report on the current appeal scheme. In such circumstances, and as recognised by the local planning authority at the application stage, the appeal scheme falls to be considered within the context of the presumption in favour of sustainable development as described by paragraph 14 of the Framework.
29. The appeal site is a green field location that could include best and most versatile (BMV) land. LP policy EC 20 seeks to protect BMV land from development, and Framework paragraph 112 states that where significant development of agricultural land is demonstrably necessary, poorer quality land should be used first. As noted above, the proposed development would be seen as a logical addition to the settlement. The Officer's Report on the application concluded that any conflict with LP policy EC 20 would not outweigh the benefits of the scheme, and indeed, it is not apparent that there are alternative sites of lower quality land that would be as suitable for development in the locality.
30. The appeal scheme would contribute toward meeting local housing needs, including in relation to affordable homes. The local planning authority has indicated there to be a backlog in affordable housing provision in the area, and the proposed 35% contribution from the appeal scheme would be appropriate if

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<sup>2</sup> Hearing Document 2

a suitable tenure split is secured by a planning condition. Such a condition has been suggested.

#### Community aspirations

31. Attention has been drawn to Appendix 2 of the *Supplementary Planning Document: Kelsall Parish Landscape and Design Statement – July 2007 (SPD)*, which records *Kelsall Aspirations for Chester's LDF*. First of the aspirations listed in Appendix 2 is that the 'green heart of the village', which includes the land on the appeal site, should remain open space and be protected from built development. At present, the only public access to the appeal site is along the path (Kelsall FP 4) that connects the northern end of Flat Lane to the public house on Chester Road and central areas of the village.
32. Paragraph 66 of the Framework highlights that applicant's are expected to work closely with those directly affected by their proposals and to evolve designs that take into account the views of the local community. As an outline scheme where matters concerning appearance, landscaping, layout and scale are reserved for determination at a later stage, if this appeal were to be allowed, there would be opportunities for community consultation in respect to the design of the scheme.
33. The number of children living within the appeal scheme that would be expected to seek to use Kelsall Primary School is disputed. It appears that factors taken into consideration by the Council in arriving at its estimate could to change in the near future. Also, the successful nature of the school can be expected to attract families with young children to the proposed development, which could alter these figures. However, the effect of these factors on the growth of the school, and how it would seek to develop in response, is not known.
34. The Hearing was informed of possible ways forward for the school that could involve land within the appeal site, but it has not objected to the proposed development. A number of local residents highlighted their wish for community uses on the appeal site, including the provision of additional land for the neighbouring school. These matters would be considered as part of a neighbourhood plan, but the process in this area is at a very early stage.

#### Prematurity

35. Prematurity was not a reason for refusal in this case. Paragraph 17 of *The Planning System – General Principles* addresses decision taking where a development plan document (DPD) is being prepared, or is under review. It indicates that in some situations it may be justifiable to refuse planning permission on the grounds of prematurity. Such circumstances include when a development would be so substantial, or its effect so significant, that granting planning permission could prejudice a DPD in preparation.
36. Draft National Planning Practice Guidance indicates that while emerging plans may acquire weight during the plan making process, within the context of the Framework and its presumption in favour of sustainable development, prematurity is unlikely to lead to refusal of planning permission other than in exceptional circumstances.
37. In this case, the scale and location of the proposed development would be significant within the context of Kelsall and the layout of the settlement. However, it would not remove all of the opportunities for green space and

development within and around the village. Nor would it be so substantial, or its cumulative effect so significant that allowing this appeal would undermine plan-making for the village. Moreover, while it is clear that local residents intend to take forward a neighbourhood plan (and the LP is to be replaced), at this point there is no emerging plan at an advanced stage. Accordingly, matters have not been demonstrated that would be exceptional and warrant the appeal's dismissal on grounds of prematurity.

#### Planning obligation

38. An executed Planning Obligation by Deed of Agreement, pursuant to Section 106 of the Town and Country Planning Act 1990 was presented to the Hearing.<sup>3</sup> The agreement is between Cheshire West and Chester Council, three owners and Taylor Wimpey UK Limited. It provides contributions for education and off-site play provision of £194,576 and £78,965 respectively.
39. Planning obligations should only be sought where they meet the three tests within paragraph 204 of the Framework, which are that the obligation would be: necessary to make the development acceptable in planning terms; directly related to the development; and, fairly and reasonably related in scale and kind to it. These reflect the tests of a planning obligation within Regulation 122 of Statutory Instrument 2010 No.948, The Community Infrastructure Levy Regulations 2010.
40. LP policy MI 1 indicates that the Council will seek to negotiate agreements regarding contributions toward matters such as education, and Framework paragraph 37 confirms that planning policies should aim for a balance of land uses. It is clear from the evidence presented in this case that the likely numbers of additional primary school pupils resulting from the appeal scheme could not be accommodated within the adjacent primary school. Consequently, there is a need for a contribution towards education provision and it is directly related to the development. While the scale of the agreed contribution has been questioned, it is derived from the application of the Council's current standard primary school yield calculation which provides consistency of approach to such calculations. It is possible that actual numbers of children may vary from the predicted levels. Nevertheless, the application of the calculation indicates that the agreed contribution is fairly and reasonably related in scale and kind to the proposal.
41. LP policy ENV 23 requires residential developments to provide both open space and play provision, while paragraph 73 of the Framework emphasises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities. Application documentation indicates the provision of open space within the appeal proposal. The appeal site lies next to Kelsall Green and the agreed off-site play contribution would be in relation to its existing junior play area. The scale of the agreed sum is noted to be in accordance with the Council's *Play and Open Space Provision in New Housing Developments Supplementary Planning Guidance*. The off-site play contribution is directly related to the needs of future occupiers of the development proposed, and the approach to calculating it has ensured that it is fairly and reasonably related in scale and kind to it.

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<sup>3</sup> Hearing Document 6

42. The planning obligations are necessary to make the development acceptable in regard to local and national planning policy. They meet the three tests within paragraph 204 of the Framework and accordingly, significant weight is attributed to the executed agreement.

Whether the proposal would be a sustainable form of development

43. By the nature of the development, and the scope of reserved matters that would address the detailed design of the proposal, the appeal scheme could be developed without being unacceptably harmful to local living conditions. Public transport is available in the locality. The proposed dwellings would be sited where jobs and services in the immediate and wider area could be accessed by means other than by a private car. Matters that include a Travel Plan Framework, landscaping, wildlife and archaeology would be adequately addressed by the scope of suggested planning conditions.
44. The Framework seeks planning to boost significantly the supply of housing and the appeal scheme would contribute towards the supply of market and affordable homes in this area. While the appeal scheme would result in the loss of the economic activity associated with the agricultural use of the appeal site, farming would continue on other land in the area. Moreover, there would be significant economic activity associated with the construction and occupation of the proposed homes that would benefit the economy and support local services. While this may place additional pressures on Kelsall Primary School, the planning obligation makes provision for this, and the appeal scheme would be a sustainable form of development.

The planning balance

45. Each application and appeal is determined on its individual merits within the context of the specific circumstances and planning policies that pertain to it. Therefore, if this appeal were to be allowed it would not set a precedent in relation to other proposals.
46. In regard to the main issue in this case, the appeal scheme complies with LP policy TR 19 and paragraph 32 of the Framework. The appeal proposal would provide much needed housing in a sustainable location that would be appropriate within the context of the built environment and countryside around it. These matters, along with the economic benefits of the scheme, outweigh the loss of the agricultural land in this location. Accordingly, in relation to paragraph 14 of the Framework and the presumption in favour of sustainable development, specific policies within the Framework do not indicate that development should be restricted in this case. None of the other matters raised have been found to outweigh the benefits of the scheme and the identified policy compliance.

**Conditions**

47. Suggested conditions were provided within Appendix 4 to the Statement of Common Ground.<sup>4</sup> These conditions have been considered against the guidance within Circular 11/95 – *The Use of Conditions in Planning Permissions*.

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<sup>4</sup> Hearing Document 3



48. In the interests of the character and appearance of the locality and to protect local living conditions I shall impose conditions in relation to reserved matters, the provision of public open space and external lighting.
49. For the avoidance of doubt and in the interests of proper planning, a condition shall be imposed regarding the approved plans, including in relation to the site and its access. For this reason, and in the interests of the character and appearance of the area, a condition shall be imposed in relation to the maximum number of dwellings permitted within the application site. To protect the character and appearance of the locality, conditions shall be imposed regarding trees, landscaping and site levels.
50. To protect local living conditions a condition shall be imposed in relation to construction work hours. To protect local living conditions and the water environment, and to provide a sustainable form of development, a condition shall be imposed in relation to surface water drainage. In the interests of providing a sustainable form of development, conditions shall be imposed in regard to the removal of vegetation, the provision of bird and bat boxes, and the provision of a Travel Plan Framework.
51. In the interests of highway safety a condition shall be imposed to address delivery and despatch times. In the interests of the character and appearance of the locality, and to protect local living conditions and highway safety, conditions shall be imposed in relation to a Construction Method Statement and the provision of vehicular and pedestrian accesses. In the interests of protecting the character and appearance of the locality and to protect highway safety a condition shall be imposed regarding parking spaces. In the interests of highway safety, a condition shall be imposed regarding the provision of junction improvement works and crossing facilities.
52. In the interests of protecting the historic environment a condition shall be imposed in relation to archaeological works. To address housing needs, a condition shall be imposed in relation to affordable homes.
53. Conditions agreed between the main parties include *reasonable avoidance measures* and further survey work in relation to protected species. Paragraph 99 of Circular 06/2005 – *Biodiversity and Geological Conservation – Statutory Obligations and Their Impact Within the Planning System* is explicit that it is essential that the presence or otherwise of protected species, and the extent to which they would be affected by the proposed development is established before planning permission is granted. It has not been suggested that there would have been a reason for refusal in respect of this issue, nor does appeal documentation provide evidence that protected species would be likely to be harmed by the proposed development. In this instance, there is a lack of evidence to demonstrate that the suggested conditions are necessary, which is the first test of a condition within Circular 11/95 and accordingly, they shall not be imposed.

## **Conclusion**

54. For the reasons above, I conclude that the appeal should be allowed.

*C Sproule*

INSPECTOR

## **SCHEDULE OF CONDITIONS**

- 1) 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.
- 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) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans:
  - Drawing No: 423B-02 – Red Line Boundary
  - Drawing No: 423B-03B – Scheme Parameters Plan
  - Drawing No: 0003-02 Revision B – Proposed Site Access
- 5) No more than 90 dwellings are hereby permitted within the application site.
- 6) No development shall take place until an arboricultural impact assessment, identifying trees to be removed and retained, and a tree protection plan has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved arboricultural impact assessment and tree protection plan.
- 7) No development shall take place until an Affordable Housing Scheme has been submitted to and approved in writing by the local planning authority. The Affordable Housing Scheme shall include details of:
  - i. the numbers, type, tenure and location on the site of the affordable housing provision to be made;
  - ii. the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing (if no Registered Provider is involved);
  - iii. the occupancy criteria to determine the identity of prospective and successive occupiers of the affordable housing, including the identification of means to ensure such occupancy criteria are enforced;
  - iv. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - v. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing.

The amount of affordable housing shall be equal to 35% of the total number of dwellings hereby permitted, and it shall be provided in accordance with the approved scheme.
- 8) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i. the parking of vehicles of site operatives and visitors;

- ii. the phasing of the construction traffic and details of temporary highway vehicle and pedestrian access;
  - iii. loading and unloading of plant and materials;
  - iv. storage of plant and materials used in constructing the development;
  - v. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - vi. wheel washing facilities;
  - vii. measures to control/mitigate the emission of dust, dirt, noise, vibration and light during construction;
  - viii. a scheme for recycling/disposing of waste resulting from construction works; and
  - ix. details of any piling.
- 9) Construction works shall not take place outside the hours of 08.00 hours to 18.00 hours Mondays to Fridays and 08.00 hours to 13.00 hours on Saturdays, nor at any time on Sundays, Bank or Public Holidays.
- 10) During demolition and/or construction works hereby permitted no deliveries shall be taken at or despatched from the site outside the hours of 08.00 hours to 18.00 hours Mondays to Fridays, and 08.00 hours to 13.00 hours on Saturdays nor at any time on Sundays, Bank or Public Holidays. During demolition and/or construction works hereby permitted no deliveries by heavy goods vehicle shall be taken at or despatched from the site outside 09:00 hours and 15.00 hours Mondays to Fridays, and 08.00 hours to 13.00 hours on Saturdays, nor at any time on Sundays, Bank or Public Holidays.
- 11) No development shall take place until a scheme of external lighting (including any floodlighting) has been submitted to and approved in writing by the local planning authority. Such details shall include the equipment and supporting structures, together with isolux drawings to demonstrate the levels of illumination within the site and the amount of any overspill of lighting beyond the site boundaries. The details shall include the hours at which such lighting is to be operated. The development shall not be occupied or brought into use until the lighting scheme has been constructed in accordance with the approved details, and no external lighting shall be operated other than in accordance with details approved by the local planning authority.
- 12) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and thereafter these works shall be carried out as approved. These details shall include:
- i. means of enclosure/boundary treatments;
  - ii. hard surfacing materials;
  - iii. minor artefacts and structures (e.g. furniture, play equipment, refuse or other storage units, signs, lighting, etc.);
  - iv. retained historic landscape features and proposals for restoration, where relevant;
  - v. planting plans (including written planting specifications and plans with schedules of plants noting species, plant sizes and proposed numbers/densities where appropriate); and
  - vi. an implementation programme/Management and Maintenance Plan.

- 13) No development shall take place until a scheme for the provision of the proposed improvement works to the Chester Road/Flat Lane junction (as shown on drawing ref 0003-09 Revision K) and the proposed zebra crossing on Chester Road (as shown on drawing ref 0003-12 Revision A) has been submitted to and approved in writing by the local planning authority. The junction improvement works and zebra crossing shall be provided in accordance with the approved scheme, and shall be completed prior to the first occupation of any dwelling hereby permitted.
- 14) No development shall take place until a scheme for the provision of parking for cars, cycles and powered two-wheelers has been submitted to and approved in writing by the local planning authority. Details shall include the number, type and design of all parking facilities. The parking facilities in relation to any single dwelling shall be implemented as approved prior to first occupation of that dwelling, and shall be retained and remain available for use by the occupiers of the development at all times thereafter.
- 15) No development shall take place until a programme of archaeological works has been implemented in accordance with a written scheme of investigation that has been submitted to and approved in writing by the local planning authority. The programme of archaeological works shall be carried out in accordance with the approved scheme.
- 16) No development shall take place until full details of existing and proposed ground levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 17) No development shall take place until a scheme for the laying out, construction, surfacing and drainage of the vehicular and pedestrian accesses to the site and the phasing of these works has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved scheme and the vehicular and pedestrian accesses shall be retained thereafter.
- 18) No development shall take place until a scheme for (a) the provision and implementation of a surface water regulation system, and (b) the management of overland flow from surcharging of the site's surface water drainage system, has been submitted to and approved in writing by the local planning authority. The scheme of surface water regulation and overland flow management shall be implemented in accordance with the approved details.
- 19) No vegetation removal shall be undertaken during the bird breeding season (1st March to 31st August inclusive) unless the site is first inspected by an ecologist. Where this inspection indicates that mitigation measures are necessary, no vegetation removal shall take place until a scheme for the removal of vegetation has been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with any approved scheme for the removal of vegetation.
- 20) No development shall take place until a scheme for the provision of bat and bird boxes within the site has been submitted to and approved in writing by the local planning authority. No dwelling hereby permitted shall be occupied prior to the installation of bat and bird boxes through

the implementation of the approved scheme, and these bat and bird boxes shall be retained thereafter.

- 21) No development shall take place until a scheme for the provision of on-site public open space has been submitted to and approved in writing by the local planning authority. The scheme shall provide open space in line with the local planning authority's current standards, subject to a maximum of 0.83 ha. The scheme shall include detailed arrangements for the future management of the open space. On-site public open space shall be provided and managed in accordance with the approved scheme.
- 22) Prior to first occupation of the development a Travel Plan Framework (TPF) shall be submitted to and approved in writing by the local planning authority. The TPF shall include details of potential measures to improve sustainable travel in the area, including the potential of a 'walking bus' to the nearby Kelsall Primary School with a series of walking bus stops in and around the village. The TPF shall be implemented as approved.

Richborough Estates

## APPEARANCES

### FOR THE APPELLANT:

Gary Halman BSc FRICS MRTPI	HOW Planning
Phil Wooliscroft MSc	Croft Transport Solutions
Pauline Randall FLI	Randall Thorpe
Morag Ellis QC	2-3 Gray's Inn Square

### FOR THE LOCAL PLANNING AUTHORITY:

Rob Charnley	Cheshire West and Chester Council
Paul Parry	Cheshire West and Chester Council

### INTERESTED PERSONS INCLUDED:

Councillor John Leather MA DIC PhD	Cheshire West and Chester Council and local resident
Jon Moorhouse	Local resident and School Governor
Claire Deruty	Local resident and working on the Kelsall Neighbourhood Development Plan
Noel Dutton	Parish Councillor and local resident
Robert Krotze	Local resident

### DOCUMENTS

- 1 Proposed Residential Development , Flat Lane, Kelsall - Framework Walking Bus Plan – Croft Transport Solutions - August 2013
- 2 Appeal Decision Letter and Report Ref: APP/A0665/A/11/2167430 – Land off Nantwich Road, Tarporley, Cheshire
- 3 Statement of Common Ground between Taylor Wimpey UK Limited and Cheshire West and Chester Council
- 4 Chester District Local Plan: Inspector's Report - extract of matters including *DH02: Kelsall*
- 5 Extract from Randall Thorpe – Further details regarding proposals for treatment of Flat Lane
- 6 Planning Obligation by Deed of Agreement, dated 16 September 2013
- 7 A copy of drawing No: 423B-03B – Scheme Parameters Plan