
Appeal Decision

Inquiry held on 19-20 May 2015

Site visit made on 21 May 2015

by Brendan Lyons BArch MA MRTPI IHBC

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

Decision date: 7 September 2015

Appeal Ref: APP/R0660/A/14/2225591

Kents Green Farm, Kents Green Lane, Haslington, Crewe CW1 5TP

- 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 Renew Land Developments Ltd against the decision of Cheshire East Council.
 - The application Ref 13/4240N, dated 4 October 2013, was refused by notice dated 17 March 2014.
 - The development proposed is the development of up to 60 dwellings with associated car parking, roads and landscaped open space.
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Decision

1. The appeal is allowed and outline planning permission is granted for the development of up to 60 dwellings with associated car parking, roads and landscaped open space at Kents Green Farm, Kents Green Lane, Haslington, Crewe CW1 5TP, in accordance with the terms of the application Ref 13/4240N dated 4 October 2013, subject to the conditions set out in the schedule annexed to this decision.

Preliminary matters

2. The application that has given rise to this appeal was submitted in outline form, with only the principle of development and the means of access to the site for full approval at this stage. Other matters, including the layout and landscaping of the site and the scale and appearance of development were 'reserved' for later approval by the Council. However, the application was supported by an illustrative site plan¹ that shows how development might be laid out on the site.
3. The appeal is accompanied by a Statement of Common Ground ('SoCG') which sets out a description of the site and its surroundings, and the policy context for consideration of the appeal proposal, including the adopted and emerging development plan, and the Government policy guidance of the National Planning Policy Framework ('NPPF'). Matters not in dispute between the appellants and the Council are identified.

¹ Plan Ref 1938-110 Rev F

4. The appeal was accompanied by a draft planning obligation under S106 of the Town and Country Planning Act 1990, as amended. The draft obligation, in the form of a unilateral undertaking ('UU') by the landowners and appellants, was discussed at the Inquiry and further drafts submitted. By agreement with the main parties, the Inquiry was adjourned after closing submissions to allow the final UU to be signed and properly executed in accordance with a set timetable. The UU contains covenants in respect of the provision and management of affordable housing on the site, a contribution towards education provision, the implementation of bus stop improvements, and the provision and management of on-site open space. The merits of the obligation are considered later in this decision.
5. At the submission of the final UU, the appellants drew attention to a recently published report by Council officers recommending approval of housing development at a nearby site². As the application was relevant to the current appeal, and had been referred to in evidence to the Inquiry, written submissions on the matter were invited and were subsequently received from both main parties and from two interested parties who had spoken at the Inquiry. These submissions and the report and the Council's decision on the application have been taken into account in the determination of this appeal.
6. The Inquiry was then closed in writing on 25 June 2015.

Proposal

7. The appeal site comprises the farmhouse and outbuildings of Kents Green Farm and two adjoining fields, making up some 2.67 hectares of land. The site is bounded to the north by a tree-lined brook, beyond which is suburban-style housing that marks the edge of the village of Winterley. To the west, the site fronts onto Kents Green Lane, which is a narrow rural road, and to the south onto Crewe Road, which is the main approach to the village. A small field separates the site from further recent housing development to the east. A group of trees adjoining Crewe Road is protected by a Tree Preservation Order ('TPO').
8. The submitted application sought permission to erect up to 70 dwellings, but the number was reduced to 60 during consideration of the application by the Council. The revised description of development, as set out in the SoCG is used in the heading and decision above. Of the 60 dwellings, 18 (30%) would be reserved for affordable occupation. The Design and Access Statement ('DAS') that accompanied the application envisages development with a mix of detached, semi-detached and terraced houses. The illustrative plan, which actually shows 64 units, suggests that development would be set back from Crewe Road behind an open space, with the existing hedges and trees retained. It is also proposed to retain and renovate the existing farmhouse and two of the brick-built traditional farm buildings. Access to the new housing would be taken mid-way along the Crewe Road frontage, giving onto a network of short roads within the site and a potential footpath link to the housing area north of the brook.

² Application Ref 14/3962N Land north of Pool Lane, Winterley, Cheshire

Main Issue

9. It was agreed at the Inquiry that the main issue in the appeal is whether the proposal would amount to a sustainable form of development in accordance with national and local policy, having particular regard to its location on land allocated as open countryside.

Reasons

Policy context

10. The development plan for the purposes of this appeal comprises the saved policies of the Borough of Crewe and Nantwich Local Plan 2011 ('LP'), adopted in 2005.
11. The appeal site lies outside the defined settlement boundary of Winterley. Under saved LP Policy NE.2, it is classed as open countryside, within which only specified classes of development, not including general housing, are to be permitted. This is confirmed by saved Policy RES.5, which defines the limited types of housing considered acceptable in the countryside. The appeal proposal would therefore not comply with these policies.
12. Statutory duty requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise³. Should the proposed development for housing be contrary to the LP it should be refused unless material considerations are found to outweigh the conflict with the adopted plan.
13. Among the material considerations are the policies of the emerging Cheshire East Local Plan Strategy ('CELP'). In addition to the two adopted plan policies cited above, the reason for refusal of the application also referred to CELP Policy PG5, which is similar to them in seeking to protect open countryside from development, other than of certain very limited categories. Examination of the CELP has undergone a period of suspension following the Inspector's interim conclusions on the soundness of the plan. Even if the examination were to resume, the emerging policies are subject to considerable uncertainty and only limited weight can be attached to them. This is accepted by the main parties to the appeal.
14. Much greater weight must be given to national policy as set out in the NPPF, which is centred on the achievement of sustainable development. Paragraph 14 of the NPPF states a presumption in favour of sustainable development, which means approving development proposals that comply with the development plan, or, where the plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole.
15. The LP was drawn up to cover the period to 2011, and the settlement boundaries it defined will have reflected the need for and supply of land for new development, particularly housing, at the time the plan was drafted. The plan is now time-expired and its definition of settlement boundaries can thus be seen as out-of-date.

³ Planning and Compulsory Purchase Act 2004 s38(6)

16. At the time of the refusal of the planning application, the Council considered that it could demonstrate a five-year supply of deliverable housing land, as required by NPPF policy, and this is noted in the reason for refusal. However, the Council later acknowledged that this position had changed, so that by the time of the Inquiry, it was common ground that a five-year supply did not exist. In such circumstances, the NPPF advises that the housing supply policies of the development plan cannot be regarded as up-to-date, and the proposal must be assessed in accordance with the presumption in favour of sustainable development set out in NPPF paragraph 14.
17. The Council acknowledges that the restriction on the location of development imposed by LP Policies NE.2 and RES.5 is relevant to the supply of housing, and that the policies are therefore out-of-date in this respect. The policies' countryside protection objective remains relevant to the decision, and is a matter to be taken into account in the assessment of the appeal proposal's sustainability.

Test of sustainability

18. The judgment of the High Court in the case of *William Davis*⁴ confirmed that the presumption in favour of sustainable development stated by paragraph 14 could not apply to development that would not be sustainable. The Council seeks to follow that judgment in arguing at this appeal that some form of separate assessment of the sustainability of the proposed development is therefore required before deciding whether paragraph 14 is engaged.
19. However, subsequent judgments, in particular *Dartford*⁵ and *Bloor*⁶, have clarified that there is not a requirement to carry out a prior or free-standing assessment of sustainability before applying the balancing exercise defined by paragraph 14, which in itself provides a sufficient basis to decide whether proposed development would be sustainable. This approach was endorsed by the Secretary of State's decisions on two appeals at Droitwich⁷, in accepting the conclusion of an Inspector that the need for a separate assessment of sustainability does not arise from the NPPF. In reaching his decision, the Secretary of State acknowledged the *Dartford* judgment, as well as several earlier judgments that had pointed in a similar direction. I note that the more recent *Wenman* judgment⁸ by Mrs Justice Lang, who had issued the *William Davis* judgment, acknowledges the *Dartford* and *Bloor* judgments, but concludes that a separate assessment of sustainability did not give rise to any error of law. However, the judgment is clear that where policies are out-of-date an overall assessment under paragraph 14 is required.
20. Therefore, like the Inspector who determined a recent appeal at Saltersford Farm, Crewe⁹, I consider that the Droitwich decisions indicate the interpretation of policy favoured by the Secretary of State, and that it should be applied in this case. No prior or parallel assessment is needed, but the sustainability of the proposed development is to be judged by a positively weighted balancing of

⁴ *William Davis Ltd v Secretary of State for Communities and Local Government* [2013] EWHC 3058 (Admin)

⁵ *Dartford Borough Council v Secretary of State for Communities and Local Government and Landhold Capital Ltd* [2014] EWHC 2636 (Admin)

⁶ *Bloor Homes East Midlands Ltd v Secretary of State for Communities and Local Government and Hinckley and Bosworth Borough Council* [2014] EWHC 754 (Admin)

⁷ Appeals Ref APP/H1840/A/13/2199085; APP/H1840/A/13/2199426

⁸ *Mark Wenman v Secretary of State for Communities and Local Government and Waverley Borough Council* [2015] EWHC 925 (Admin)

⁹ Appeal Ref APP/R0660/A/14/2221374

the benefits and adverse impacts against the policies of the NPPF as a whole. The Council argues that the proposal would not meet that assessment.

Sustainability of proposed development

21. The Council accepts that the proposal would result in economic benefits through the provision of jobs and supply chain investment during the construction phase. There would also be increased demand for local goods and services over the long-term occupation of the dwellings, as well as a short-term local financial benefit from the payment of the New Homes Bonus. As pointed out by a local resident at the Inquiry, the existing farm buildings could have potential for conversion to small business use. The economic dimension of sustainable development would be met.
22. The NPPF seeks to boost significantly the supply of housing. There is no dispute that the Council's five-year supply is lacking. The Council accepts that the proposal's contribution to meeting outstanding need for market and affordable housing should be given significant weight in assessing the social dimension of sustainable development. But at the same time it seeks to query the scale of the benefit that would be achieved. In my view the provision of 60 dwellings would amount to a significant benefit, in the light of current conditions and the emerging future need. The provision of 18 affordable dwellings must be seen in the light of a stated need for 44 homes per year in the immediate local area, and would make a significant contribution.
23. Evidence on the objective assessment of housing need leading to and arising from the suspension of the CELP examination suggests that the future housing requirement is likely to be considerably greater than previous estimates. Figures produced at the Inquiry suggest that a substantial proportion of the currently projected requirement of 2000 dwellings in the rural areas remains to be found, but that target figure also remains to be confirmed by the final adoption of the CELP. As things stand, the contribution to meeting the current shortfall in supply lends significant weight in support of the proposal.
24. Further social benefits would be gained by public access to the proposed open space and equipped play area, whose provision forms part of the UU obligation. There would be clear evidence of the social dimension of sustainable development.
25. The Council's primary objection relates to the environmental dimension and the loss of countryside to built development.
26. The Council's concern is very much one of principle, and hinges on the loss of 'rural character'. The change from open fields surrounding farm buildings to new housing is seen as inherently harmful. However, it appears that the Council places undue reliance on the core principle of the NPPF which requires recognition of the 'intrinsic character and beauty of the countryside'. This principle is prefaced by the need to 'take account of the different roles and characters of different areas'. The policies of the NPPF do not offer blanket protection for all parts of the countryside, regardless of their quality, but rely on an assessment of harm and benefit. Protection is primarily directed to 'valued landscapes', particularly those with formal designation.
27. The appeal site has no such designation, even at county level. I agree with the appellants that the two fields are not unattractive but are of generally

unremarkable landscape quality. This stretch of Kents Green Lane has distinctive character, being lined with trees that provide the setting for the traditionally built, if rather dilapidated, farm buildings. But despite the row of trees along the brook, which provide the site's other most distinctive feature, there is a clear perception of the adjoining village housing. The character of the site is influenced by its location at the village edge and is not classic 'open countryside'. The appeal proposal would not amount to the type of 'new isolated homes in the countryside' that NPPF paragraph 55 seeks to resist.

28. The Council accepts that meeting current and future housing requirements will involve the release of greenfield land, often at the edge of settlements. Reference was made in evidence to the Inquiry to other schemes for which permission had already been granted. It is not entirely clear why the Council considers that this is an instance where the settlement boundary should not be allowed to 'flex'. The expansion of the original linear village towards the west has clearly been a pattern of development over many years, with the village edge already extending to Kents Green Lane immediately to the north of the site. The site has been identified in the Council's SHLAA¹⁰ Update of February 2013 as suitable for development. Furthermore, the Council raises no objection on landscape grounds and the SoCG confirms agreement that an acceptable design and layout of development could be achieved.
29. The junction of Kents Green Lane with Crewe Road already marks an informal edge to the settlement, identified by the change in speed limit, and by the opening of views of the village buildings. I accept that the sharp bend to the east, at Winterley Pool, makes a more pronounced entrance, but the extension of built form to the Kents Green corner, particularly when well set back behind hedges and protected trees as indicatively proposed, would not provide an incongruous form of development.
30. The Council and other parties raise concern about the reduction that this would entail of the gap between Winterley and Haslington. There would be some erosion of the gap, but a substantial separation would remain. There would be no risk of perceived merger of the two villages.
31. Similarly, the proposal would involve expansion of Winterley's physical envelope, but would be unlikely to fundamentally alter the character of the settlement or of views out from the centre of the village, even allowing for other development already approved. The village would clearly remain as a small-medium sized settlement in a rural setting. The appropriateness of the village for future development, including the concern raised about imbalance between the north and south of the borough, is a matter to be resolved by the CELP.
32. I consider that there would be some loss of rural character of the site as a result of the proposed development, principally as experienced from Kents Green Lane, and some loss of the sense of an open break between settlements when travelling on Crewe Road, but that the effects in either case would not be significantly harmful.
33. The Council accepts that the site is sustainably located in terms of access to facilities and use of non-car modes of transport. The bus stops adjoining the south-west corner of the site provide hourly services to larger centres.

¹⁰ Strategic Housing Land Availability Assessment

Improvements to the stops would be funded through the UU. While Winterley lacks some local community facilities, those in Haslington would be quite readily reachable by bus or cycle or on foot. The proposed Travel Plan should include measures to encourage non-car modes. Concern has been expressed by some local residents about the suitability of Clay Lane as a pedestrian route to the nearest primary school, but there would be a potentially safer alternative using the footways along Crewe Road.

34. There are no objections by the highway authority on grounds of safety or the effect of traffic generation on the immediate or wider highway network. Notwithstanding the concerns of some local residents about the location of the proposed site access and the effect of additional trips likely to be generated, I have found no reason to dissent from the highway authority's view.
35. The Council's assessment of air quality issues gives no grounds for concern for future residents' living conditions, while the need for sound insulation measures in houses close to the road can be the subject of a condition.
36. While layout is reserved for later approval, the indicative plan gives confidence that dwellings could be laid out to avoid harmful effects on outlook from existing houses near the site, particularly those to the north of the brook, or to affect their privacy. Scale is also a reserved matter, but the intention of the DAS is to provide houses of similar scale to those nearby. It would be unduly restrictive to impose a condition at this stage, as requested by a local resident, preventing the option of any development above two-storey level.
37. It is agreed that the site has limited ecological value. Subject to the approval prior to the commencement of development of updates to the draft mitigation strategies for bats and badgers submitted in support of the planning application, secured by a condition, there should be no harm to nature conservation interests. The approval of reserved matters would allow opportunities for habitat enhancement measures. The retention and protection of trees and hedges could also be secured by a condition.
38. A small portion of the site is said to be subject to flooding. Conditions are proposed to restrict development to Flood Zone 1 and to create a clear strip along the bank of the brook, and to require approval of details of surface water and foul drainage. Notwithstanding some local concern, it appears that subject to these measures the risk of flooding on the site and elsewhere would be adequately mitigated.
39. Winterley Cottage, on the opposite side of Crewe Road, is a Grade II listed house dating from the early C19. The house's immediate setting is defined by its contained front garden with mature trees. The appeal site forms part of the wider setting but there is no evidence that it makes any particular contribution to the house's significance as a heritage asset. I agree with the main parties that the proposed development, including the site access, would be sufficiently set away from the house that its setting would not be harmed.
40. For the reasons set out above, I consider that apart from some very limited harm to rural character, the environmental dimension of sustainable development would largely be addressed. When assessed against the policies of the NPPF as a whole, the adverse impacts of the proposed development would not significantly and demonstrably outweigh the benefits. The proposal

must therefore be regarded as sustainable development, to which the presumption in favour set by the NPPF would apply.

Unilateral Undertaking

41. The Council raises no objection to the construction or content of the completed UU, and has provided a CIL¹¹ Compliance Statement which sets out the background to each of the obligations given.
42. In addition to providing for approval of the phasing of development, the UU allows for 30% of the dwellings on the site to be provided as affordable housing, for the timing of their provision and transfer, and for definition of the numbers, type and location of the affordable units and the control of their future occupation. The Council has confirmed that these provisions would accord with its normal requirement, based on LP and NPPF policy and the level of unmet need in the area. No concern has been raised by the appellants about effect on viability.
43. The UU provides for the laying out and later management of open space on the site, and the provision of a LEAP equipped play area. The Council confirms that the proposed provision would readily meet local standards and accord with LP policy.
44. A contribution of £30,000 would secure improvements to the two bus stops adjacent to the site, principally through the provision of proper waiting facilities on the southern side of the road, where there is no footway. The Council confirms that the amount needed has been calculated by the highway authority and that the proposal would comply with LP policy.
45. I am satisfied that each of these site-specific obligations would comply with the requirements of the CIL Regulations 2010 and with the tests set out in paragraph 204 of the NPPF and with the advice of the PPG. The obligations can be fully taken into account in support of the appeal proposal.
46. The UU also includes an obligation to pay contributions of £119,309 towards the provision of primary school places and £130,742 towards secondary school places. The Compliance Statement provides details of the education authority's methodology in calculating the amounts and of the schools assessed within 2 mile and 3 mile catchment areas. The consultation response by the education authority provides details of the committed schemes that would remove any apparent surplus capacity at the relevant schools. The SoCG records agreement that these payments are necessary to address the impacts of the development on local infrastructure.
47. I am satisfied that this obligation would comply with the requirements of the CIL Regulations 2010 and with the tests set out in paragraph 204 of the NPPF and with the advice of the PPG. The Council confirms that there would be no breach of the requirements of Reg 123 with regard to the pooling of contributions. The obligation can be fully taken into account in support of the appeal proposal.

¹¹ Community Infrastructure Levy

Conditions

48. A schedule of conditions agreed by the main parties, together with one disputed condition, was discussed at the Inquiry. Subject to some amendment and amalgamation, I am satisfied that the agreed conditions would be reasonable and necessary and would comply with the requirements of the NPPF and the advice of national Planning Practice Guidance.
49. In summary, standard conditions are required on the approval of the reserved matters and on the commencement of development. Confirmation of the number of dwellings and of the approved plans is needed to define the nature and extent of the development and the approved access arrangements. Further conditions are required to ensure that the submission of reserved matters and later details complies with the considerations taken into account in the approval of the outline permission and would respect the character and appearance of the area. These include details of phasing, landscaping, site and building levels, retention of farm buildings and details of materials and boundary treatments.
50. As outlined above, a set of conditions on the location of development, the formation of a buffer zone along the brook bank and the details of surface water and foul drainage are needed to minimise the risk of flooding.
51. Further investigation of potential contamination, and approval and implementation of any necessary remediation, are required to ensure satisfactory living conditions for future residents. For the same reason, assessment and implementation of acoustic measures is needed for houses adjoining Crewe Road, and approval of proposed external lighting.
52. Protection of living conditions for existing residents and of highway safety justifies the approval and implementation of an Environmental Management Plan to govern hours of work and operation of the construction phase, and the implementation of the site access.
53. For the protection and enhancement of the natural environment, a set of conditions is needed to include the protection of nesting birds during construction, habitat improvements, and approval and implementation of mitigation strategies for bats and badgers. For the same reason, and to protect the character and appearance of the area, conditions are needed for the approval and implementation of tree protection measures and of the layout and management of open space.
54. In order to promote the sustainable use of the completed development, conditions are justified on the provision of bin storage and recycling and the approval and implementation of a Travel Plan
55. I agree with the appellants that the proposed condition on the provision of broadband infrastructure would not be justified in the absence of a clear adopted policy provision to support its imposition.

Conclusion

56. For the reasons set out above, I conclude that the proposal would be contrary in principle to LP Policies NE.2 and RES.5, but that the conflict would be outweighed by other material considerations. These are principally the contribution that the proposal would make to meeting unmet need for market and affordable housing that arises from the borough's lack of an adequate

housing supply, and the very limited harm that it would cause, thereby benefitting from the presumption in favour of sustainable development set by the NPPF.

57. Having taken careful account of the submissions made both in writing and at the Inquiry and having regard to the obligations of the completed UU, I conclude that the appeal should be allowed and outline planning permission granted subject to conditions.

Brendan Lyons

INSPECTOR

Richborough Estates

Annex

Appeal Ref: APP/R0660/A/14/2225591

Kents Green Farm, Kents Green Lane, Haslington, Crewe CW1 5TP

Schedule of Conditions

- (1) Details of the layout, scale, appearance and landscaping, (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(s) 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 no 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 comprise a maximum of 60 new-build dwellings.
- (5) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan Ref 1938-101*, Proposed Site Access Ref SCP/13219/GA01 Rev A.
- (6) The reserved matters shall include a scheme of phasing for the development. The development shall be carried out in accordance with the approved scheme unless amended by a subsequent reserved matters application.
- (7) Any future reserved matters application for approval of landscaping shall be in general accordance with the indicative Site Layout Ref 1938-110 Rev F, and shall make provision for replacement hedge planting for any hedgerows to be removed as part of the development hereby permitted.
- (8) Prior to the commencement of the development hereby permitted, details of existing ground levels, proposed ground levels and the levels of proposed floor slabs for the dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- (9) Prior to the commencement of the development hereby permitted, details of a scheme for the retention and renovation of the farmhouse and two brick barns adjoining Kents Green Lane shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- (10) Prior to the commencement of the development hereby permitted, details or samples of the materials to be used in the construction of

boundary treatments and the external surfaces of the dwellings shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.

- (11) Prior to the commencement of the development hereby approved, details of the positions, design, materials and type of boundary treatment to be erected shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the boundary treatment pertaining to that property has been implemented in accordance with the approved details.
- (12) Prior to the commencement of the development hereby permitted, a scheme demonstrating that all built development is to be located within Flood Zone 1 as indicated on the Environment Agency's flood risk map shall be submitted to and approved in writing by the local planning authority.
- (13) Prior to the commencement of the development hereby permitted, a scheme to limit the surface water runoff generated by the development and to manage the risk of flooding from overland flow of surface water shall be submitted to and approved in writing by the local planning authority.
- (14) Prior to the commencement of the development hereby permitted, a scheme for the provision and management of an undeveloped buffer zone alongside Fowle Brook shall be submitted to and approved in writing by the local planning authority. The buffer zone shall be a minimum of 5m wide measured from bank top (bank top is defined as the point at which the bank meets normal land levels), and shall be kept free from built development including domestic gardens and formal landscaping.

The scheme shall include:

- plans showing the extent and layout of the buffer zone, including cross sections clearly showing the watercourse, bank top and the edge of the development.
- details of any proposed planting scheme (for example, native species).
- details demonstrating how the buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of a detailed management plan.
- details of any proposed footbridge across the brook and proposed footpaths, fencing, lighting and associated development.

The development shall be carried out and retained thereafter in accordance with the approved scheme.

- (15) Prior to the commencement of the development hereby permitted, a scheme for the disposal of foul water from the development shall be submitted to and approved in writing by the local planning authority. For the avoidance of doubt, surface water shall drain separately from

the foul and no surface water will be permitted to discharge directly or indirectly into the existing public sewerage system. The approved scheme shall be implemented prior to the first occupation of the development hereby permitted.

- (16) Prior to the commencement of the development hereby permitted:
- (i) A thorough site walkover shall be undertaken in order to inform the design of a Phase II investigation for contaminated land.
 - (ii) A Phase II investigation shall then be carried out and the results submitted to and approved in writing by the local planning authority.
 - (iii) If the Phase II investigations indicate that remediation is necessary, then a Remediation Statement shall be submitted to and approved in writing by the local planning authority. The remediation scheme in the approved Remediation Statement shall then be carried out.
 - (iv) If remediation is required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to and approved in writing by the local planning authority prior to the first occupation of any part of the development hereby approved.
- (17) Prior to the commencement of the development hereby permitted, an acoustic assessment report detailing any required noise mitigation measures for internal and external areas of the properties adjacent to Crewe Road shall be submitted to and approved in writing by the local planning authority. Any mitigation measures must achieve the internal noise levels within the "good" standard defined by BS 8233:1999. The scheme must also include provisions for ventilation that will not compromise the acoustic performance of any proposals whilst meeting building regulation requirements. The development shall be implemented in accordance with the approved scheme.
- (18) Prior to installation, details of any external lighting shall be submitted to and approved in writing by the local planning authority. The details shall include the location, height, design and luminance of any lighting and minimise potential loss of amenity caused by light spillage on adjoining properties. The lighting shall thereafter be installed and operated in accordance with the approved details.
- (19) Prior to the commencement of the development hereby permitted, an Environmental Management Plan shall be submitted to and approved in writing by the local planning authority. In particular, the Plan shall include details of:
- a. The hours of construction work and deliveries;
 - b. The parking of vehicles of site operatives and visitors;
 - c. Loading, unloading and storage of plant and materials;
 - d. Wheel washing facilities;
 - e. Any piling required, including method (best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties), hours, duration, prior notification to the occupiers of potentially affected properties;

- f. A responsible person (e.g. site manager / office) who could be contacted in the event of complaint;
- g. Mitigation measures in respect of noise and disturbance during the construction phase including piling techniques, vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes;
- h. Waste management. There shall be no burning of materials on site during demolition / construction;
- i. A scheme to minimise dust emissions arising from demolition/ construction activities on the site, including details of all dust suppression measures and the methods to monitor emissions of dust arising from the development.

The approved Environmental Management Plan shall be implemented and kept in force during the demolition / construction phase of the development.

- (20) Prior to the first occupation of the development hereby permitted the formation of the site access and associated works shall be carried out in accordance with the approved details.
- (21) Prior to any commencement of works between 1st March and 31st August in any year, a detailed survey shall be carried out by a suitably qualified person to check for nesting birds and the results submitted to and approved by the local planning authority. Where nests are found in any building, hedgerow, tree or scrub to be removed (or converted or demolished in the case of buildings), a 4 metre exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a further report submitted to and approved in writing by the local planning authority before any further works within the exclusion zone take place.
- (22) Prior to the commencement of the development hereby permitted, detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds, including house sparrow, shall be submitted to and approved in writing by the local planning authority. The approved features shall be installed prior to the first occupation of the development hereby permitted and thereafter retained.
- (23) Notwithstanding the submitted Ecological Scoping and Protected Species Report (October 2013), Outline Bat Mitigation Strategy (November 2013) and Outline Badger Mitigation Statement (December 2013), any future reserved matters application for approval of layout or landscaping shall be supported by updated badger and bat surveys and mitigation strategies. The development shall be carried out in accordance with the approved revised mitigation strategies.
- (24) Prior to the commencement of the development hereby permitted (including any tree felling, tree pruning, demolition works, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery), a detailed Arboricultural Method Statement shall be

submitted to and approved in writing by the local planning authority. The Method Statement shall include details of the following:-

- a. A scheme (hereinafter called the "approved protection scheme"), which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site including trees which are the subject of a Tree Preservation Order currently in force, or are shown to be retained on the approved layout, and which shall be in place prior to the commencement of work.
- b. Implementation, supervision and monitoring of the approved protection scheme. The approved protection scheme shall be retained intact for the full duration of the development hereby permitted and shall not be removed without the prior written permission of the local planning authority.
- c. A detailed Tree Work Specification.
- d. Implementation, supervision and monitoring of the approved Tree Work Specification.
- e. Implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.
- f. Timing and phasing of arboricultural works in relation to the approved development.

No development shall take place except in complete accordance with the approved Method Statement.

- (25) The first reserved matters application shall include an Open Space Scheme showing all areas of open space to be provided within the site, including public amenity open space and an equipped children's play area (LEAP). The scheme shall also include details of the location, layout and size, the timing of provision, proposed planting, location and specification of boundary structures, play equipment and materials.
- (26) Prior to the first occupation of any dwelling on the site, a Management Plan for the future management and maintenance of the open space shall be submitted to and approved in writing by the local planning authority. The Plan shall identify the maintenance requirements including all ongoing maintenance operations, and shall thereafter be implemented in perpetuity.
- (27) Prior to the commencement of the development hereby approved, details of the proposed bin storage facilities shall be submitted to and approved in writing by the local planning authority. The details shall ensure that bins are stored securely, and provide facilities for both recyclable and household waste storage. No dwelling shall be occupied until the bin storage facilities pertaining to that dwelling have been constructed and made available for use.

- (28) Prior to the first occupation of the development hereby permitted, a Travel Plan shall be submitted to and approved in writing by the local planning authority. The Travel Plan shall include a timetable for implementation and provision for monitoring and review. No part of the development hereby permitted shall be occupied until those parts of the approved Travel Plan that are identified as being capable of implementation prior to occupation have been carried out. All other measures contained within the approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented, in accordance with the approved scheme of monitoring and review.
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Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Graeme Keen of Counsel	Instructed by the Head of Legal Services, Cheshire East Council
He called:	
Ben Haywood	Major Applications Team Leader, Cheshire East Council
BA(Hons) MA MBA MRTPI MCMI	
For discussion of obligation:	
Patricia Evans	Legal Services Department, Cheshire East Council

FOR THE APPELLANTS:

Jeremy Cahill QC	Instructed by David Diggle, Turley Planning
He called	
David Diggle	Director, Turley Planning
BSc(Hons) MCD MRTPI	
Written evidence by:	
Iain M Reid	Director, Iain Reid Landscape Planning Ltd
DipTRP DipLD MRTPI MLI	

INTERESTED PERSONS:

Elly McFahn	Local resident, for Winterley Action Group
Geoff Beadle	Chairman, Haslington Parish Council
John Hammond	Member, Cheshire East Council
	Member, Haslington Parish Council
Richard Hovey	Local resident
Jean Jameson	Local resident

DOCUMENTS

Submitted at the Inquiry:

1. Cheshire East Housing Development Study 2015
2. High Court Challenge Claim Form: Muller Property Group v Secretary of State for Communities and Local Government and Cheshire East Council
3. Officer report: Application Ref 12/3564N Land off Vicarage Road, Haslington
4. Opening Statement on behalf of the Appellant
5. Opening Statement on behalf of Cheshire East Council
6. CIL Compliance Statement
7. Draft Unilateral Undertaking
8. Extract from LTP Final Strategy
9. Appeal Decision Ref APP/R0660/A/14/2220021 Land off Wren Close, Nantwich
10. Elly McFahn's Statement
11. Geoff Beadle's Statement
12. Councillor Hammond's Statement
13. Richard Hovey's Statement
14. Cheshire East Press Release, 13 May 2015

15. List Entry: Winterley Cottage
16. Table of housing completions and commitments for Rural Area
17. Letter from Mr G F Thompson on Application Ref 14/1915N
18. Letter from Dr C D Easter on Application Ref 14/1915N
19. Amended Unilateral Undertaking
20. Closing Submissions on behalf of Cheshire East Council
21. Closing Submissions on behalf of the Appellant

Submitted following adjournment of the Inquiry:

22. Copy of Unilateral Undertaking as completed
23. E-mail dated 3 June 2015 from Council, confirming receipt of executed Unilateral Undertaking
24. E-mail dated 3 June 2015 from Turley Planning, enclosing copy of committee report on Application Ref 14/3962N Land north of Pool Lane, Winterley
25. E-mail dated 15 June 2015 from Council, enclosing copy of Decision Notice for Application Ref 14/3962N
26. E-mail dated 16 June 2015 from Councillor Hammond
27. E-mail dated 17 June 2015 from Richard Hovey
28. E-mail dated 3 June 2015 from Turley Planning, confirming no further submissions.

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