



Appeal Decision

Inquiry held on 21st -23rd July 2015

Site visit made on 23rd July 2015

by Jonathan G King BA(Hons) DipTP MRTPI

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

Decision date: 22 October 2015

Appeal Ref: APP/R0660/A/14/2228115

Land at Wistaston Green Road, Wistaston, Crewe, 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 Harlequin (Wistaston) Ltd against Cheshire East Council.
 - The application Ref 14/1326N, is dated 4th March 2014.
 - The development proposed is for residential development of up to 150 dwellings and access.
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Decision

1. The appeal is allowed and planning permission is granted subject to the conditions set out in the attached annex to this decision.

Preliminary matters

The application

2. The application is in outline with all matters reserved other than access.
3. The application form describes the proposed development as: "*Outline planning permission for up to 150 residential dwellings to include access. All other matters reserved for future consideration*". For simplicity this has been amended to the form given in the main heading.
4. Numerous documents were submitted with the application including: Planning Statement; Design & Access Statement; Landscape & Visual Impact Assessment; Desk Study Report; Transport Assessment; Junction Capacity Assessment; Tree Quality Survey; Services & Utilities Review; Heritage Statement; Ecological Assessment; Agricultural Land Quality Report; Air Quality Assessment; and Flood Risk Assessment & Surface Water Drainage Strategy.

The Environmental Statement

5. An Environmental Statement (ES) was submitted with the application. In May, an addendum ES was submitted; and following a request from the Planning Inspectorate, additional information was submitted shortly before the opening of the Inquiry. It was agreed between the parties that publicity should be carried out. The Inquiry was kept open during this period. Closing submissions followed in writing and the Inquiry was closed by letter on 10th

September 2015. I have taken into account the responses to this later round of consultation.

Statements of Common Ground

6. The appeal is accompanied by Statements of Common Ground (SoCG) concerning highways and transport matters (May 2015); housing land supply (June 2015); planning (June 2015); and landscape (July 2015).

Putative reasons for refusal

7. The appeal is against non-determination. However, the Council considered the proposal and resolved to contest the appeal for the following reasons:
 1. *The proposed residential development is unsustainable because it is located in the Open Countryside, contrary to Policies NE.2 (Open Countryside) and RES.5 (Housing in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, Policy PG 5 of the Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. The application is also contrary to the emerging Development Strategy.*
 2. *In the opinion of the Local Planning Authority, the proposed development would cause a significant erosion of the Green Gap between the built up areas of Shavington* and Crewe and would adversely affect the visual character of the landscape which would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policy NE.4 (Green Gaps) of the Borough of Crewe and Nantwich Replacement Local Plan 2011, and guidance contained in the NPPF. [*NB see para 8 below]*
 3. *The site comprises 5.05ha (67%) best and most versatile agricultural land, the loss of which weighs against the proposal in the overall planning balance, and when taken cumulatively with the other factors referred to in (1) and (2) above renders the development unsustainable and the harm caused would significantly and demonstrably outweigh the benefits and is contrary to Policy NE.12 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the provisions of the National Planning Policy Framework.*
8. These putative reasons for refusal differ from those originally put forward by the Council. In particular references were omitted to: (a) there being in excess of 5 year's supply of housing land; (b) the policies of the emerging Local Plan Strategy, including reference to the Green Belt; (c) highway safety; and (d) the impact on barn owls. Although the putative reasons refer to the site being in the Green Gap between Shavington and Crewe, this is an error. It is between Nantwich and Crewe (Wistaston).

Planning Obligation

9. A Planning Obligation agreed between the Council, the landowners and the applicant was submitted during the course of the Inquiry. This is a material consideration in my determination.

The Development Plan

10. The development plan is the *Borough of Crewe and Nantwich Replacement Local Plan 2011* (LP), adopted in 2005, with an end date of 2011. A number of relevant policies of this plan, including those relied upon by the Council in this appeal, were formally "saved" in 2008 by virtue of a Direction from the Secretary of State.
11. The Council has prepared and submitted for examination its *Local Plan Strategy* which will, if adopted, supersede the present local plan. At the time of the inquiry, the Examination had been suspended for some time in order to allow the Council to reconsider its position with respect to housing land supply. During the course of the Inquiry, the Council's Cabinet endorsed additional evidence to the Examination and suggested revisions to the submitted plan. I understand that at the time of writing the Examination is about to resume. In view of the present level of uncertainty, I do not afford this emerging plan any significant weight.
12. The Council acknowledges that it presently cannot demonstrate a 5 year deliverable housing land supply and therefore paragraph 49 of the National Planning Policy Framework (NPPF) – which states that in such circumstances relevant policies for the supply of housing should not be considered up to date - is engaged.

Main Issues

13. The main issues in this case are:

The effect of the proposed development on:

1. *the Green Gap and its objectives;*
2. *the countryside and the landscape character of the area;*
3. *the supply of Best and Most Versatile Agricultural Land;*
4. *highway safety and accessibility by means other than the private car;*

and

5. *having regard to the foregoing, and all other relevant aspects of the economic, social and environmental dimensions of sustainability, whether the proposed development would be sustainable;*

and against that background:

6. (a) *whether the development plan is absent, silent or its relevant policies are out of date;*

(b) *if so, whether any adverse impacts of granting permission for the proposed development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the National Planning Policy Framework taken as a whole; and*

(c) if not, whether the proposed development would accord with the development plan. If it is in accordance, whether other material considerations indicate that it should be refused; and, if it conflicts, whether other material considerations indicate that it should be permitted.

14. These issues were agreed by the advocates for both main parties as appropriate.

Reasons

15. The appeal site – 2 plots of agricultural land with a house and its grounds (Little West End) in between - is separated from the housing area of Wistaston by a small, tree-lined brook. To the south west and south east it is bounded by Wistaston Green Road that loops around to link the existing housing to the A530 Middlewich Road / Nantwich Road.
16. The conclusions on my first 4 issues form the basis for concluding on the fifth, which concludes overall on the question of sustainability, taking other considerations into account. I take them in turn, concluding on each by reference to the issue and with respect to the 3 dimensions of sustainability as set out in the NPPF: economic, social and environmental.

Issue 1 – The Green Gap

17. The site lies within an area designated in LP Policy NE.4 as the Wistaston / Nantwich Green Gap, an area of mostly undeveloped land that lies between the built up areas of Crewe (at Wistaston) to the east and Nantwich to the west. The part of the Gap that includes the site is about 2.5 km in width, very nearly its widest part. Further to the south it reduces to around 900m.
18. The purpose of Green Gaps as set out in the present local plan is to maintain the definition and separation of existing communities and to indicate support for the longer term objective of preventing a number of settlements from merging into one another. The policy says that approval will not be given for the construction of new buildings in the Green Gap which would either (1) result in the erosion of the physical gaps between built-up areas or (2) adversely affect the visual character of the landscape. Exceptions to the policy will only be considered where it can be demonstrated that no suitable alternative location is available.
19. So far as the first criterion of the policy is concerned, the construction of up to 150 dwellings on 7.6 hectares of land would not be an inconsiderable development; and the development would clearly physically erode the Gap by the width of the site: approximately 200 metres. Policy NE.4 does not allow for any flexibility in the degree of erosion, therefore I must conclude that the development would be contrary to this criterion. That said, 200 metres represents a fairly small proportion of the overall width of the Gap. Having regard to the purposes of the policy, the settlements would remain physically defined and separate, to an extent greater than in other parts of the Gap, albeit that the separation distance would be slightly reduced. In that context, I do not consider that the Gap would be eroded significantly or its purposes materially compromised. In my view the significance of the site in terms of the contribution that it makes to the effective functioning of the Gap as a means of separation is fairly small.

20. As for the second criterion, the main visual characteristic of the Gap so far as it relates to its functions is that it is largely undeveloped. Having regard to the overall width of the Gap locally, I consider the significance of the site in terms of the contribution that it makes to that character is limited. However, I consider the subject of the landscape character of the area in more detail under my second issue; and do not conclude on this now.
21. The appellant has not sought to demonstrate that no suitable alternative location is available and therefore the proposal cannot be considered as exceptional within the terms of the policy.
22. The Green Gap policy is proposed to be continued in the emerging local plan. However, the original intention to introduce a new Green Belt in substitution of some areas of Green Gap has been withdrawn. The present intention is to identify "strategic Green Gaps", together with consideration of a further "local gaps" policy in the forthcoming Sites Allocations and Development Policies DPD, recognising that some gaps may be either more or less critical. Material submitted in support of the revised proposed Green Gap policy states that there is insufficient evidence to define a detailed boundary to the Green Gaps, and so the present policy is intended to be saved, together with the present boundary until detailed boundaries are defined at a later stage. It remains to be seen whether this approach will be found sound in the Plan Examination.
23. The NPPF does not provide any direct basis for Green Gap policies, as it does, for example for the Green Belt. Nonetheless, the definition and separation of existing communities and preventing settlements from merging by means of the Green Gap policy arguably contributes to the social dimension of sustainability, in that it could contribute to supporting (in the words of the NPPF) strong, vibrant and healthy communities. It also contributes to the social and environmental dimensions by maintaining a high quality rural environment. I am in no doubt that the policy has significant local support. By eroding the extent of the Green Gap, the proposed development fails to promote its aims. However, as the harm to those aims and to sustainability would not be substantial, I conclude that the development would be only marginally unsustainable by reference to this issue.
24. I am mindful that the development could also contribute to a cumulatively greater impact, should other similar developments be permitted, leading to "creeping encroachment". Indeed, the supporting text to the policy refers to the potential of the principal traffic routes through the Gaps to increase pressure for new development up to and along them. However, each proposal would have to be considered on its individual merits. The proposed development, if permitted, should not be taken as accepting of, or encouraging other proposals in the Green Gap.
25. I address the question of whether this policy is a "relevant policy for the supply of housing" for the purpose of applying paragraph 49 of the NPPF, and whether it should be regarded as out-of-date under my sixth issue. For now, I simply note that the development would be contrary to Policy NE.4.

Issue 2 – Countryside & landscape character

26. The site is subject to LP Policies NE.2 (open countryside) and RES.5 (housing in the open countryside) which apply to all land beyond the designated urban boundaries. The proposed development falls outside the very limited

categories of housing that are acceptable under them. It follows that it would be contrary to these policies. As with Policy NE.4, I address under my sixth issue the question of whether they are relevant policies for the supply of housing for the purpose of applying paragraph 49 of the NPPF, and whether they should be regarded as out-of-date.

27. Policies NE.2 / RES.5 do not include any criteria relating to the protection of landscape character, though the supporting text of the former refers to keeping development in the open countryside to a minimum in order to protect its character and amenity. This reflects the core planning principle of the NPPF that the intrinsic character and beauty of the countryside should be recognised, with the planning system contributing to and enhancing the natural and local environment. But the NPPF does not seek to protect all countryside from development: it concentrates on the protection of "valued" and "distinctive" landscapes, for example, those subject to specific designations; and seeks to encourage development on previously developed land. This site is not subject to any specific landscape designations; and though it is obviously valued by local residents, I do not consider that it falls within the category of a "valued landscape" as I understand the NPPF to use the phrase. By reference to the range of factors set out in the *Guidelines for Landscape and Visual Impact Assessment* (The Landscape Institute & Institute of Environmental Management & Assessment), including landscape quality (condition), scenic quality and perceptual aspects, it does not rank highly in my view.
28. I agree with the appellant's assessment that, as a starting point, the site itself has a "low" landscape value and "ordinary" quality, with the visual quality being "moderate". It is undeveloped agricultural land, and it possesses no special qualities that would elevate its importance. It is affected by other urban influences such as a large above-ground sewage pipe, pylons and overhead wires. I agree that it is reasonable to conclude that the existing visual quality is no higher than "moderate". That notwithstanding, it is clear that the proposed development would radically affect the character of the site itself, as the fields would largely be replaced by housing of suburban character.
29. I have considered the respective Landscape and Visual Impact Assessments (LVIA) of both parties. Mitigation of the visual impact of the development by way of planting forms part of the proposals. Following mitigation, the LVIA prepared on behalf of the appellant assesses the residual effects as being "moderate adverse" from the footpath (on the western boundary); from Wistaston Green Road and Middlewich Road (at the junction of the south west boundary); for users of the car park and the footpath to the east. From all other identified locations, the residual effect was assessed as "minor adverse". For the Council, the residual effects were generally assessed as being greater and more significant. Notwithstanding the use of analytical techniques that attempt to provide an objective framework, it is by no means unusual for landscape architects to reach differing conclusions because the input is unavoidably subjective. This case is no different.
30. Insofar as the site is a component of the wider landscape of which it forms a part, there would doubtless be some impact on the character of the latter. But it was agreed between the parties at the Inquiry that such impact would be essentially local. I also agree. Principally owing to the lie of the land and intervening physical features such as trees and existing development, the site is not readily visible in the landscape other than in close views. It does not

contribute significantly to the perception of there being a gap between the settlements; and it is not possible to see it from the Nantwich side of the gap. In that context, I have not found reference to the Cheshire Landscape Assessment or to the Wimboldsley Character Area of any great assistance, especially as the Council acknowledges that the broader landscape contains strong contrasts and many local variations; where the settlement pattern is obvious in places; and where the road infrastructure and built environment in general can be seen.

31. Even locally, the site is not prominent. Parts are visible in public views from some of the length of Wistaston Green Road; to a limited extent from the main A530 road; and from sections of the footpaths that run along the brook and from adjoining pedestrian rights of way. Limited views of the development would also be visible from the existing housing.
32. From the A530, the site is seen in the context of other development on the East / South-East side of that stretch of highway. When walking or driving along it towards Crewe / Middlewich in the vicinity of the site, one is aware that one is approaching a built-up area. The road has a 30mph speed limit; there are footways; some groups of houses, a plant nursery and the Rising Sun pub on the corner of Wistaston Green Road. A little further on, beyond the site there is a large car dealers. I would categorise this stretch of the road as being "suburban fringe". Taking account of the proposed planting, I do not believe that the proposed development would materially alter the perception of the landscape character of the area when viewed from this road.
33. Wistaston Green Road in the vicinity of the site forms a loop, exiting the urban area to the north east of the site and running along its eastern and southern / south western boundaries before joining the A530. Parts of the existing housing estate beyond the brook are visible from places, but much is screened by the intervening trees and vegetation along the brook. Beyond the built up area, it has the character of a country lane, with the land to either side, including the site, being mostly undeveloped apart from the occasional dwelling. It does not have footpaths or other more urban characteristics over most of its length.
34. I do not accept that, if the proposed development were to go ahead, Wistaston Green Road would form a new "natural" boundary to the urban area. It would certainly provide a firm identifiable boundary, but it would not, in my view, be as effective as the present boundary, marked by the tree-lined stream that provides a substantial physical and visual screen to the suburban development to the east. Even with the proposed planting, I believe that the development would have a much greater visual impact, with the character of the road altered from that of a country lane to urban fringe. This would be particularly noticeable from Wistaston Green Road at its north-eastern end, in the vicinity of the car park, where the site rises quite steeply.
35. The walkway along the brook in the vicinity of the site is attractive and a recreational and practical asset to the local area that links into a broader footpath network including the Crewe – Nantwich Greenway and amongst other things gives access to recreational green space, including "Joey the Swan" to the south-east. When walking along the path by the site, at times one is aware of the presence of the housing estate on higher ground close by, but the main

- impression is of being in the countryside, an important element of which is the appeal site rising to the other side of the brook.
36. Even though there is intended to be a stand-off between the brook and the proposed housing, together with additional planting, I consider that the "natural" elements of the visual quality of the walkway and the enjoyment of those using it would be diminished by the proposed development.
37. Views from the direction of the housing estate towards the site are limited to private views from a number of houses on its south-western edge. Valued though they may be to the individual householders, their context is of the suburban housing with which the proposed development would be visually compatible.
38. On my site visit I viewed the site of an application for housing off Church Lane, a short distance to the south east, which in 2014 was also the subject of an appeal [APP/R0660/A/14/2213505]. The Inspector concluded that the visual impact on the landscape would be limited to the site and its immediate environs. The evidence fell short of proving that the land had such visual landscape quality in its own right as to make its loss unacceptable, nor that the sensitivity of the user and the adversity of the effect would be so great as to prevent residents and visitors from achieving normally acceptable levels of amenity. Notwithstanding that the Secretary of State dismissed the appeal on grounds of prematurity pending the resolution of the Green Belt issue – now resolved - he agreed with this assessment. I have considered the evidence of the Council's landscape witness, but I take the view that the present case is comparable in many respects. Indeed, I would suggest that it is rather less visually sensitive, given the proximity of the Church Lane site to the "Joey the Swan" recreational area. I find no good reason to depart from the conclusions of the inspector in that case.
39. Overall, I conclude by reference to the second criterion of Policy NE.4 that, despite being valued locally, the site itself has a low landscape value and "ordinary" quality. It contributes little to the character of the wider landscape or to that of the Green Gap. Though the proposed development would have a number of adverse effects, as set out above, and thereby be contrary to the policy, they would be local and the degree of impact would be only moderate. In view of the very limited contribution the site makes to the wider landscape, the harm to the landscape would be fairly slight.
40. The maintenance and protection of the rural landscape fulfils the environmental role of sustainability. By reducing the area of undeveloped countryside, the proposed development fails to promote that aspect. However, as in practice the site makes little contribution to the visual character of the landscape other than locally, the harm to those aims would be insignificant.

Issue 3 – Agricultural land

41. The environmental role of sustainable development, as set out in the NPPF, includes using natural resources prudently. The planning system should contribute to and enhance the natural and local environment by protecting and enhancing (amongst other things) soils. The economic and other benefits of the best and most versatile agricultural (BMV) land should be taken into account by local planning authorities; and they should seek to use areas of poorer quality land in preference to that of a higher quality where significant

development of agricultural land is demonstrated to be necessary. LP Policy NE.12 (Agricultural Land Quality) goes beyond the provisions of the NPPF, by saying that development on BMV land will not be permitted other than in certain circumstances. I regard it as being out of date by reference to the later NPPF.

42. Part of the site (about 1.45ha) is graded 2 in the Agricultural Land Classification, and a further 3.63ha is Grade 3A, both in the BMV category – albeit that about a third of the latter is considered by the appellant to be unsuitable for agriculture owing to its slope and potential for flooding. Naturally, the loss of between 3.85 and 5.08 hectares of BMV land would be undesirable and inherently unsustainable in view of the fact that BMV is a finite resource. But the loss would be fairly small, and it has been agreed between the parties as not being a determinative matter, though one which would weigh against the development in the final balance.

Issue 4 – Highway safety & accessibility

43. Although some considerable concern has been expressed by a number of local residents and the Parish Council regarding the road safety aspects of the proposed development, the Highway Authority raised no objection; and the Council has not included the issue amongst its putative reasons for refusal.
44. The development would give rise to additional traffic, which would enter and leave the site by means of the 2 proposed accesses on to Wistaston Green Road towards its western end. The percentage change to the number of vehicles using Wistaston Green Road is estimated as being between 13% and 17% and just 1%-2% on the A530. As shown by the agreed Transport Assessment, it can be reasonably expected that most vehicles would turn right out of the site and use the fairly short length of the road up to its junction with the A530. Relatively few, estimated as 22%, would use the remainder of the road and the narrow bridge over the brook situated just before it enters the built up area.
45. The A530 junction is proposed to be modified as part of the development, ensured by a “Grampian” style condition that would require implementation prior to any dwelling being occupied. The Council accepts (in the Highways & Transport Statement of Common Ground) that there are no existing highway safety issues on the A530 since a package of road safety measures, including carriageway markings, a toucan crossing and a speed camera sign had been installed. The speed limit has also been reduced. It has been agreed that peak period junction performance will be improved when compared to the existing layout. I am satisfied that, far from increasing hazard at the junction, the modifications, including the introduction of traffic signals, would make it safer both for vehicles and pedestrians. The proposed accesses to the site incorporate adequate visibility splays and should not result in any reduction to highway safety.
46. Although the main parties also agree that there are no existing highway safety issues along the site frontage with Wistaston Green Road, it is nonetheless a country lane without footways or lighting over most of its length, with some blind bends and consequently it is a fairly hostile environment for pedestrians. The appellant has submitted an illustrative plan showing pedestrian routes within the site, and a condition (26) has been proposed requiring a scheme to be submitted and carried out for the connection of these

routes to the neighbouring area in broad conformity with it. The routes would allow pedestrians to make their way through the proposed development – mostly between the housing and Wistaston Green Road – thereby avoiding having to walk along that road. Pedestrian safety on the road would be materially improved. Connections would be made to the A530, to the Crewe – Nantwich Greenway and to the existing pathway alongside the brook, involving the construction of a bridge, in order to improve connectivity with the adjoining housing.

47. As part of its analysis of the application, the Council utilised the toolkit contained in the “North West Sustainability Checklist”, a method of assessing locational accessibility by reference to the distance from a range of local amenities. Though drawn up in the context of the now defunct regional plan, it still provides a rule of thumb for considering proposed developments. The checklist showed that the site met some of the criteria, including by reference to a local meeting place; bus stop, public right of way; amenity open space and playspace. Though it did not meet the minimum standards for others, including a railway station, child care facility, medical facilities, schools, pharmacy and supermarket, the Council concluded that there was not a significant failure; and acknowledged that the development would be no different to that already existing in the area, where residents would have to travel the same distances to most everyday services.
48. I conclude that the site has an appropriate level of access to all or most local services and facilities and would form a sustainable development in the context of sustainable accessibility and in respect of policy objectives contained in the NPPF. It has also been agreed that the site is located in a sustainable location that can be adequately accessed by non-car modes. I am satisfied that it is well located for easy access by private vehicle to the main road network and to Crewe and Nantwich. There is also a bus service to those centres and good pedestrian links into Wistaston and towards Crewe, which provide employment opportunities and the normal range of urban facilities, including shops, recreation and social amenities and educational provision all in reasonably close proximity.
49. I conclude on this issue that the development would not harm any road safety interests and that it would benefit from good accessibility to most common facilities, including by means other than the private car. I regard the site as being generally sustainably located.

Issue 5 – sustainability overall

50. In addition to the above issues, other matters have a bearing on overall sustainability of the proposed development.
51. First, the Council freely acknowledges that the Borough has a shortage of available housing land in that it cannot demonstrate a 5-year supply. The precise size of the available supply was at the time of the Inquiry a matter of conjecture and no figure was included in the Housing SoCG. However that document does confirm the view of the present local plan Inspector that the Council’s calculation of objectively assessed need was too low and that there had been persistent under delivery of housing in the past 6 years. The appellant calculates current supply as being perhaps as low as 2.65 years but, in the absence of up-to date information, I cannot take a view on the accuracy of this figure or any other. The local plan examination had been suspended to

- allow the Council to reconsider its position with respect to housing supply; and the outcome was at the time of the Inquiry unknown. As a result, the subject was not discussed.
52. The development would provide for 45 units of affordable housing through the Section 106 Agreement. There is no dispute that there is a need for affordable housing in Crewe. This site would go some way to making up the shortfall of both market and affordable housing, which would be a social benefit, and thereby fulfil the social role of sustainability.
53. The need for land to be released for housing development outside the presently-defined urban areas within the timescale of the emerging local plan is demonstrated by the observations of the Inspector presently conducting the examination into that plan. In his interim views (November 2014) he observed that the Plan as submitted proposes to release 16 sites from the Green Belt, either for housing and/or employment development (over 200ha) or Safeguarded Land (over 130ha). While he identified significant flaws in the process and evidence relating to the release of land from the Green Belt, he also took the view that the proposed level of housing growth seems inadequate to ensure the success of the overall economic, employment and housing strategy. Though the examination of the plan has a long way to go, I can reasonably conclude that there is a pressing need for housing land, a proportion of which will have to be beyond the present urban boundaries. That will inevitably require a review of the extent of the areas designated as Open Countryside, and possibly the Green Gaps and the Green Belt.
54. The fact that there may be developer interest in other sites unconstrained by Policy NE.4 is far from demonstrating that such sites would be acceptable or that they would be developed. Until new sites are identified through the development plan system, applications – including those within the Green Gap – must be determined on their merits in the context of a lack of a 5-year supply of available housing land.
55. Second, The NPPF says that good design is a key aspect of sustainable development. In my opinion, the Design and Access Statement is not of the highest quality. Indeed, at the Hearing, the appellant's landscape architect sought to distance himself from some of its content. However, the Council (in its Committee report) concluded that the development would comply with LP Policy BE.2 (Design Standards) and the NPPF. Other than means of access, the remaining design elements of the proposed development are reserved for later approval. I have no reason to believe that it would not be possible to create a living environment of satisfactory quality on this site. It would include open space, provision of which is assured by means of the Section 106 Agreement, planting, and pedestrian linkages to the footpath network. The proposed conditions include a number of other sustainable design features. I conclude that the development would be sustainable by reference to this matter.
56. The Council acknowledges that there would be some economic and social benefit by reason of the New Homes Bonus; future residents' spending; and the use of local facilities.
57. No issue has been taken by the Council with respect to the effect of the proposed development on other matters including trees, heritage, ecology (for which the Section 106 Agreement makes mitigation provision), air quality,

flood risk and drainage. Several of these matters are addressed by specific conditions in order to assure the acceptability of the development.

58. Taking all of these considerations together, I take the view that the location, including accessibility to facilities and infrastructure, together with the provision of needed housing and affordable housing, on balance render the proposed development highly sustainable. This is notwithstanding the comparatively minor unsustainable elements I have identified, including the effect on the Green Gap, the local effect on the landscape, and on BMV agricultural land. Therefore, I conclude on balance that the development would by reference to all 3 elements of sustainability and in all critical respects be sustainable. The NPPF (Paragraphs 12 and 14) says that at its heart is a presumption in favour of sustainable development.

Issue 6 – the balancing exercise

59. For decision-taking, the presumption means that proposed development that accords with an up to date local plan should be approved without delay; and where it conflicts it should be refused unless other material considerations indicate otherwise.
60. In this case, I have found that the proposed development would be contrary to Policies NE.2 / RES.5 and NE.4. Consequently, it should be refused, provided the local plan is up to date, unless material considerations indicate otherwise. But if the relevant policies of the development plan are absent, silent or out of date, it should be permitted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework as a whole.
61. This process ultimately requires a balance to be carried out, but at the start it is necessary to determine whether the development plan is absent, silent or the relevant policies are out of date. In this case there is no suggestion that the development plan is either absent or silent. There is an adopted local plan; and the site of the proposed development is subject to relevant policies: NE.2 / RES.5 and NE.4.
62. As for being out of date, the present local plan was intended to run up to 2011, but the mere fact that it is beyond its end date should not mean that it is necessarily "out of date", in whole or in part, unless its policies are no longer relevant owing to significantly changed circumstances, for example they do not reflect those of the Framework.
63. The purpose of Policies NE.4 and NE.2 to protect the character of the countryside is broadly consistent with the Framework. The protection of the Green Gap as a means of maintaining the separation of settlements in Policy NE.4 has no specific basis in the Framework, but I have already concluded that its purpose to maintain the separation of settlements is a reasonable planning objective in the interests of sustainability. Consequently I do not consider that either policy is out of date by reason of inconsistency.
64. However, Paragraph 49 of the NPPF says 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. Here, the Council accepts that it cannot do so. The remaining question, therefore, is whether for the purposes of applying paragraph 49 these policies are *relevant*

policies for the supply of housing. The term is not defined in the Framework and has been the subject of debate in the High Court when Inspectors' decisions have been challenged. In addressing this question I have had regard to a number of judgments which were brought to my attention at the Inquiry. Cases of particular note are *Barwood* [South Northamptonshire Council v SSCLG and Barwood Land and Estates Ltd[2014] EWHC 573 (Admin)]; *Richborough* [Cheshire East Borough Council and SSCLG vs Richborough Estates Partnerships LLP [2015] EWHC 410]; *Cotswold* [Cotswold District Council vs SSCLG [2013]EWHC] 3719 (Admin)]and *Wenman* [Mark Wenman vs SSCLG & Waverley Borough Council [2015]EWHC] 925 (Admin)].

65. In *Barwood*, Ousely J took the view that the question as to whether a particular policy falls within the scope of paragraph 49 is a matter for planning judgment. He opined that the phrase "*policies for the supply of housing*" is either very narrow and specific, confining itself simply to policies which deal with the numbers and distribution of housing, ignoring other policies dealing generally with the location of development or areas of environmental restriction, or alternatively it requires a broader approach which examines the degree to which a particular policy generally affects housing numbers, distribution and location in a significant manner. The judge concluded that the language of the policy cannot sensibly be given a very narrow meaning, because that would mean that policies for the provision of housing which were regarded as out of date would nonetheless be given weight, indirectly but effectively through the operation of their counterpart provisions in policies restrictive of where development should go. He contrasted general "counterpart" policies such as those seeking to prevent development in broadly defined areas, such as the open countryside, with those designed to protect specific areas or features, such as gaps between settlements, which could sensibly exist regardless of the distribution and location of housing and other development.
66. In the *Richborough* case, Mrs Justice Lang applied this reasoning to policies in the Cheshire East situation, concluding that Policy NE.4 falls within the second category ie one designed to protect specific areas or features. Leave has been granted for that judgment to be appealed but the case has not yet been heard. I have been directed by the appellant to a skeleton argument prepared on behalf of the Secretary of State which invites the Court to allow the appeal by Richborough Estates. The court is invited to consider the meaning of the phrase *relevant policies for the supply of housing*; whether it is appropriate to conclude that there are 2 categories of policy and that certain types of policy must be regarded as falling in to one or the other; and whether policies falling within the ambit of Paragraph 49 should be disapplied or bypassed in the overall planning judgment. However, I cannot accord this document any significant weight ahead of the judgment in the Court of Appeal.
67. Against that background, I take as my starting point the approach set out in *Barwood* that, if the expression *relevant policies for the supply of housing* is not to be given a very narrow meaning, the appropriate means by which to judge whether in any particular case a policy should be so described requires an examination of the degree to which it generally affects housing numbers, distribution and location in a significant manner.
68. By reference to the *Cotswold* and the *Wenman* judgments, the Council accepts that Policy NE.2 is a policy for the supply of housing and thereby out of date, but only in terms of its "geographical extent", with the wider purpose of protecting the countryside remaining relevant. I take the view that Policy NE.2

is, using the judge's expression in *Barford*, an obvious counterpart to policies designed to provide for an appropriate distribution and location of development. It imposes a near blanket presumption against housing development - other than in the very limited circumstances which do not apply here - outside the defined settlement boundaries. That effectively directs virtually all housing to within the defined settlements and is a counterpart to other policies of the plan related specifically to where housing should be located. It clearly affects the distribution and location of housing in a significant manner. At the time it was adopted, it may or may not have affected housing numbers. But now, when a 5-year supply of deliverable housing sites does not exist, there is no doubt in the matter. Whether directly or indirectly, it affects housing numbers and so is a relevant policy for the supply of housing. By reason of the Council not demonstrating a 5-year supply, it should be considered out of date.

69. In the *Richborough* judgment Mrs Justice Lang expressed the opinion that it seems unlikely that the Minister [when drawing up the NPPF] intended local policies protecting the environment or identifying areas where development would be inappropriate to be treated as out of date, solely on the ground that their indirect effect was to restrict the supply of housing in those areas, without consideration of their wider purpose. I agree. Those wider purposes must be considered. It seems to me that the proper way to do so is by following the approach of NPPF paragraph 14, under which a balance between any adverse and beneficial impacts of granting permission must be undertaken.
70. The wording of Policy NE.2 does not refer directly to the protection of the character of the countryside, but the supporting text implies that this is one of its purposes. Insofar as it is policy, this is a consideration to be taken into account in any final balancing exercise. However, that could be a largely theoretical matter as, in the event Policy NE.4 is found not to be out of date, that policy independently seeks to further a broadly similar aim.
71. The purposes of Policy NE.4 are to afford a Green Gap between built up areas and to protect the character of the landscape. In so doing, it obviously restricts development. Indeed, although the physical extent of the Green Gaps is less than that of the open countryside defined under Policy NE.2, it is arguably more restrictive, as it does not provide for even the limited development allowable under that policy. It is explicitly - in the supporting text to the policy - providing additional protection.
72. On that basis, it too must affect the distribution and location of housing; and, for the same reasons as I have given in relation to Policy NE.2, it may also have some impact on housing numbers. Bearing in mind that it operates alongside NE.2 and over a smaller area, and would become engaged mostly to prevent housing that otherwise might exceptionally be permissible under NE.2 (for example agricultural dwellings and infilling, none of which apply to the present proposal), the degree to which NE.4 could affect housing numbers, distribution and location is considerably less. Against that background, I do not consider that these things would be affected in a *significant manner*. I therefore conclude that Policy NE.4 is not a relevant policy for the supply of housing; and I conclude that it is not out of date.
73. This is in line with the *Richborough* judgment, but at odds with the conclusion of my colleague who determined the appeal relating to housing on land at Rope

Lane, Shavington [APPR0660/A/12/2173294], where Policy NE.4 was also found to be one relevant for the supply of housing. But that case predated both *Barwood* and *Richborough*, which provide the most up-to date analysis of the issue.

74. As the policy is not relevant for the supply of housing, I do not agree with the appellant's contention that the Green Gap boundaries are out of date because they reflect housing policy intended to run only up to 2011. Clearly a view will have to be arrived at as to whether the Green Gap defined in Policy NE.4 should be altered as part of the Local Plan presently undergoing examination. But it is not for me, in the context of this appeal, to pre-empt any such conclusion. Pending the outcome of the examination, I have no way of knowing whether the areas or the policies that apply within the current Green Gap may change. However, I note the Council's acceptance that it does not presently have the evidence to define detailed boundaries, thereby recognising that they may be subject to change within the context of the emerging plan.
75. Before embarking on the final balancing exercise, I shall recap on my findings thus far:
- (a) the development is on balance sustainable and thereby benefits from the presumption in favour. In reaching this conclusion I have had regard to all matters addressed under my issues 1-5;
 - (b) the development is contrary to Policy NE.2 which is a relevant policy for the supply of housing, but is out of date. Permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the Framework as a whole;
 - (c) the development is contrary to Policies NE.4 and NE.12, which are not relevant for the supply of housing. Policy NE.4 is not out of date and carries full development plan weight. Development that conflicts with it should be refused unless other material considerations indicate otherwise. Policy NE.12 is not fully in accordance with the NPPF and should be given weight only insofar as it complies; and
 - (d) the purpose of Policy NE.2 of protecting the countryside is a material consideration notwithstanding that it is out of date as a relevant policy for the supply of housing. But this is a consideration that should in any event be taken into account under Policy NE.4.
76. My starting point should be the development plan insofar as it is up to date: ie Policy NE.4 in respect of which the presumption in this case is for refusal. The principal argument on the other side of the balance is the provision of about 150 market and affordable homes in the context of a lack of a 5 year supply of available housing land. That is clearly a benefit and a weighty consideration – one which the Council's planning witness agreed should be given "maximum" weight.
77. But it is not a consideration which in every case must outweigh policy. I have in mind the Secretary of State's recent (March 2015) decision in respect of an appeal at Audlem Road / Broad Lane, Stapeley [APP/R0660/A/13/2197532 and APP/R0660/A/13/2197529], in which he concluded that, although the proposal would represent sustainable development in terms of providing new housing and supporting economic growth, it would fail to do so in terms of being the most

effective way of improving the economic, social and environmental conditions of the wider area. But the development in that case was significantly different, including a local centre and employment development in addition to housing. Moreover, the Secretary of State considered the proposal to represent a piecemeal approach in the interim period before the housing land supply requirements have been finalised through the emerging local plan. The Council does not argue by reference to prematurity with respect to the present case.

78. Though Policy NE.4 would be breached, I have concluded that, while the proposed development would physically erode the Green Gap and would adversely affect the visual character of the landscape, the impact would be slight by reference to both factors and would not compromise the objectives of the policy or the NPPF. The Green Gap would remain effective and the effect on the landscape character of the countryside would be local and not very significant. With respect to Policy NE.12, the loss of BMV land has been agreed as not being a substantial factor. Set against this harm is the provision of a significant quantity of market and affordable housing. That is a very weighty material consideration. I conclude as a matter of planning judgment that it indicates that the determination of the appeal should be other than in accordance with the development plan.
79. With respect to Policy NE.2, insofar as it remains relevant, I conclude that the harm to the countryside would not significantly and demonstrably outweigh the benefits of the development, principally the provision the housing. On the basis of its acceptance that the policy is out of date in terms of its geographical extent, the Council acknowledges that the boundaries of the area designated as countryside may need to "flex" in some locations to provide housing land requirements. But it concludes that the appeal site is not one such location due to the impact of the development on the intrinsic value of the open countryside and the harm to the Green Gap. I consider that this approach is not consistent with the NPPF, in that where relevant policy for the supply of housing is out of date, permission should be granted, subject to the balancing provisos of the Framework.
80. I have concluded that the proposed development would be sustainable. In reaching that conclusion, I took into account the same matters as in the foregoing balancing exercises. It is important to ensure that these considerations should not be "double counted", thereby over-emphasising the weight of considerations supporting the development. Nonetheless, I would not reach have reached my conclusions in respect of the development plan unless I was certain that the development would be sustainable and thereby benefit from the presumption in favour.

The planning obligation

81. The appellant has entered into a Section 106 agreement which would take effect on the granting of permission and the commencement of the development. In accordance with the aims of the local plan, it provides for 30% of the houses (45) to be affordable. Consistent with LP Policies RT.3 and NE.5, open space would also be provided within the development, maintained by means of a management company (including the payment of a financial contribution for ecological mitigation purposes). The payment of an educational contribution to provide for educational needs arising from the development would also be made. Secondary school places are sufficient to

meet the needs of the proposed development, but additional primary school places would be required. I am satisfied that the terms of the obligations meet the tests of the NPPF and the requirements of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 in that they are necessary to make the development acceptable in planning terms; they are directly related to the development and are fairly and reasonably related in scale and kind to it. The agreement is material to my decision.

Conditions

82. During the Inquiry a schedule of draft conditions was discussed and agreed between the parties. Most are in the interests of defining the permission or require the submission of additional details that did not form part of the outline application. In short, conditions 1 – 3 set out the normal timescales for development and the submission of reserved matters; and condition 4 defines the plans which are to be complied with. Schemes and details to be submitted and or implemented include: a scheme for A530 / Wistaston Green Road junction improvements (5), the timing of provision of accesses and visibility splays (18), and the closure of existing accesses (19) in the interests of highway safety; floor levels (6) and building materials (7) in order to achieve an acceptable design; flood risk assessment mitigation (8) to prevent or control flooding; provision of separate foul and surface water drainage (9) and a land remediation strategy (12) in order to prevent pollution; management of the undeveloped (buffer) zone between the proposed housing and the brook (10), and a lighting plan (11) in order to reduce the visual impact of the development; an environmental management plan (13) to protect residential amenity during construction; a travel plan (14), the provision of electric vehicle infrastructure (15), shared pedestrian / cycle routes (20) and their connection to existing footpaths (26), provision of recycling / bin store facilities (24) and broadband links (25) all in the interests of sustainable transport or sustainability generally; an arboricultural impact assessment (16), and a method statement for tree protection (17), a nesting bird survey (21) and an updated badger survey and mitigation report (22), all in the interests of environmental protection; and a scheme of archaeological investigation (23) to cater for the possibility of heritage features being discovered. All are in my view necessary, relevant to planning, related to the development, enforceable, precise and reasonable in all other respects.

Other matters

83. In drawing this conclusion, I have had regard to the substantial number of decisions by Inspectors and the Secretary of State brought to my attention by both main parties. In some cases they pre-date the latest High Court judgments concerning the issue of whether policies should be regarded as out of date; and so must be treated with caution. In some, the development was judged not to be sustainable. In others, prematurity was a determining factor pending the resolution of the extent of the Green Belt in Cheshire East – a matter then being addressed through the emerging local plan, but now resolved by the removal of such proposals. Prematurity is not an argument put forward in this case. I have therefore exercised my planning judgment on the basis of the material before me in this particular case.

84. I have also taken into account representations received from third parties, including from the Parish Council. Most relate to the main issues I have

identified in this decision. I fully appreciate the strength of feeling locally about these and other matters, including the potential for the development to harm wildlife and the value of the area recreationally; the risk of flooding; disturbance by noise and loss of residential amenity generally; and the inadequacy of local services to cope with additional population. But, having regard to the evidence before me, none outweigh the conclusions I have reached on the main issues which have led to my decision.

Overall conclusion

85. Having regard to all of the foregoing, I conclude that the proposed development is, on balance, acceptable. The appeal is allowed.

Jonathan G King

Inspector

Richborough Estates

Annex

CONDITIONS

1. 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.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this decision.
3. The development hereby permitted shall begin either before the expiration of three years from the date of this decision, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development hereby permitted shall be carried out in accordance with the following approved plans;

- | | |
|--------------------------------------|--------------|
| • Location Plan | OS-002 |
| • Western Access | A083609-P005 |
| • Eastern Access | A083609-P002 |
| • Proposed Footway to Western Access | A083609-P005 |

And in conformity with

- | | |
|-------------------|---------|
| • Parameters Plan | 1902-04 |
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5. Prior to the commencement of the development hereby permitted, a signalised junction scheme for the junction at Wistaston Green Road and Middlewich Road in broad conformity with the design principles of plan A083609-P003 will be submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to first occupation.
6. Prior to the commencement of the development hereby permitted, details of existing ground levels, proposed ground levels and the level of proposed floor slabs shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. Finished floor levels of proposed buildings shall be set no lower than:-

Southern Development Area A1: 35.5mAOD, Southern Development Area A2: 33.95mAOD, Northern Development Area 33.75mAOD.

7. Prior to the commencement of the development hereby permitted, samples of the materials to be used in the construction of the external surfaces of the dwellings to be erected shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
8. No development shall take place except in complete accordance with the mitigation measures as set out in the Flood Risk Assessment from Campbell Reith dated 4 March 2014 prior to occupation of the first dwelling.
9. The site shall be drained on a separate system, with only foul drainage connected into the public foul sewerage system. Surface water shall discharge to the watercourse via an attenuation scheme as required by condition 8.
10. No development shall take place until a scheme for the provision and management of an undeveloped zone is provided adjacent to Wistaston Brook and the Pond on site as shown in the Parameters Plan. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the Local Planning Authority. The schemes shall include plans showing the extent and layout of the buffer zone. This should include cross sections clearly showing the water, buffer zone and development.
11. Each reserved matters application shall be accompanied by a detailed lighting plan for the phase of development to which it relates. No development in that phase shall take place except in complete accordance with the approved plan.
12. Prior to the development commencing:
 - (a) A Phase II investigation shall be carried out and the results submitted to, and approved in writing by, the LPA.
 - (b) Should the Phase II investigations indicate that remediation is necessary, a Remediation Strategy shall be submitted to, and approved in writing, by the LPA. The remedial scheme in the approved Remediation Strategy shall then be carried out.

- (c) Should remediation be 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 LPA prior to the first use or occupation of any part of the development hereby approved.
13. Prior to the development commencing, an Environmental Management Plan to protect the amenity of existing residents during the construction phase shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme.
14. Prior to the first occupation of the development hereby permitted a Travel Plan setting out how non-car modes of transport shall be encouraged will be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall be implemented as approved.
15. Prior to the first occupation of the development hereby permitted, details of Electric Vehicle Infrastructure to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority. No property shall be occupied until the approved infrastructure relating to that property has been fully installed in accordance with the details. The approved infrastructure shall thereafter be retained.
16. An arboricultural impact assessment shall be submitted with each reserved matters application and shall inform the design of the layout. The reserved matters application shall make provision for the retention of those trees that are classed as Category A and Category B in the submitted survey.
17. No development shall commence (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) until a detailed Arboricultural Method Statement in accordance with British Standard 5837 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 Method Statement(s).
18. The approved works to form the site accesses shall be carried out prior to the first occupation of the development hereby permitted. The visibility splays

shall be kept clear of any object, vegetation or other obstruction of a height exceeding 0.6m above the level of the adjacent carriageway at all times thereafter.

19. The existing accesses shall be closed and any footpath / verge crossing reinstated in accordance with a scheme to be submitted to, and approved in writing by the Local Planning Authority prior to first occupation of the development hereby approved. The works shall be carried out in complete accordance with the scheme approved by the Local Planning Authority.
20. The reserved matters shall include a scheme for the provision of shared routes for pedestrians and cyclists and signage to be approved in writing by the Local Planning Authority. The approved scheme shall be carried out as approved.
21. Prior to any commencement of any development hereby permitted between 1 March and 31 August in any year, a detailed survey shall be carried out to check for nesting birds within the area of the proposed works and submitted to the LPA. Where nests are found in any hedgerow, tree or scrub to be removed a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed in writing to the local planning authority by a suitably qualified person.
22. The first reserved matters application shall be accompanied by an updated badger survey and mitigation report. Any mitigation recommended in the report shall be completed before any of the dwellings are occupied.
23. No development shall take place within the application area until a scheme of archaeological investigation and recording has been submitted and approved in writing.
24. Details submitted in accordance with Condition 4 shall include details of the location, design and materials of proposed facilities for the disposal and storage of any refuse/recyclable materials, including details of any bin stores, shall be submitted to and approved in writing by the Local Planning Authority.
25. No dwelling hereby approved shall be occupied until details of high speed broadband infrastructure to all proposed dwellings within the development has been submitted to and approved in writing by the planning authority. The necessary infrastructure shall then be provided prior to first occupation of the

phase to which the infrastructure relates and thereafter retained in accordance with the approved details.

26. Prior to the commencement of the development hereby permitted, a scheme to connect footpaths from within the site to the neighbouring area in broad conformity with the detail shown on plan 1902_06 shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details prior to first occupation.

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Richborough Estates

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Anthony Crean QC	Kings Chambers, Manchester, instructed by the Borough Solicitor, Cheshire East Borough Council
He called	
Ben Haywood BA(Hons) MA MBA MRTPI MCI	Major Applications Team Leader Cheshire East Borough Council
Jan Gomulski BA(Hons) MA MCD CMLI	Principal Landscape Architect, Cheshire East Borough Council

FOR THE APPELLANT:

Paul Tucker QC	Kings Chambers, Manchester, instructed by Satplan Ltd.
He called	
Shaun Taylor BA(Hons) MCD MRTPI	Managing Director, Satplan Ltd.
David Appleton NDH MA CMLI	Director, Appletons
Luke Regan MSc MCIHT CMILT	Associate WYG Group

INTERESTED PERSONS:

Graham Roberts	Parish Councillor, on behalf of Wistaston Parish Council
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DOCUMENTS submitted at the Inquiry

On behalf of the Appellant

- 1 Opening by Mr Tucker.
- 2 Leave to appeal to the Court of Appeal: Richborough Estates Partnership LLP vs Cheshire East BC.
- 3 Skeleton Argument of behalf of the Secretary of State ref C1/2015/0894 in relation to forthcoming Court of Appeal Hearing - Richborough Estates Partnership LLP vs Cheshire East BC.
- 4 Speed Limit and Restricted Road Order 2013 (A530 Middelwich Road and approach Roads, Nantwich to Leighton) submitted by Mr Regan.
- 5 Report (Appendix 1 Annex F) and Minute of Cheshire East Council Cabinet meeting 21st July 2015 concerning Local Plan Strategy.
- 6 Extract from Guidelines for Landscape and Visual Impact Assessment (3rd Edition) – The Landscape Institute & Institute of Environmental Management & Assessment

- submitted by Mr Appleton.
- 7 Appeal Decision APP/R0660/A/11/2158727 submitted by Mr Regan.
 - 8 Draft revised plans (A083609-P001A & A083609-P002A) – Proposed western & eastern accesses to Wistaston Green Road submitted by Mr Regan.
 - 9 Plan – Congleton Padgebury Lane Accessibility Comparison measurement points & table showing scores.
 - 10 Closing Submissions on behalf of the Appellant.

On behalf of the Council

- 11 Opening submissions by Mr Crean.
- 12 High Court judgment: [2015] EWHC 410 (Admin)
Cheshire East Borough Council vs SSCLG & Richborough Estates Partnerships LLP.
- 13 High Court judgment: [2015] EWHC 488 (Admin)
Stroud District Council vs SOSCLG & Gladman Developments Ltd.
- 14 High Court judgment: [2014] EWHC 754 (Admin)
Bloor Homes vs SOSCLG & Hinckley & Bosworth Borough Council.
- 15 Appeal decision APP/R0660/A/13/2203883.
- 16 Appeal decision APP/R0660/A/13/2200462.
- 17 Extract from Guidelines for Landscape and Visual Impact Assessment (3rd Edition) –
The Landscape Institute & Institute of Environmental Management & Assessment.
- 18 Closing Submissions on behalf of the Appellant.

Other documents

(including those submitted following the Inquiry)

- 19 Statement from Mr Roberts on behalf of Wistaston Parish Council.
- 20 Completed S.106 agreement.
- 21 Draft schedule of agreed conditions
- 22 Bundle of 3 letters received in response to additional information relating to the
Environmental Statement from:
Cyril H Jones
Mrs Janice A Jackson
Jonathan Hayes CEng MEng MICE.