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## Appeal Decision

Inquiry held on 8 to 11 October 2013

Site visit made on 10 October 2013

**by Anthony Lyman BSc(Hons) DipTP MRTPI**

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

**Decision date: 9 December 2013**

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**Appeal Ref: APP/A0665/A/13/2196893**

**Land opposite Brewery House, Churton Road, Farndon, Cheshire, CH3 6NH**

- 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 Mr Paul Roberts of Gladman Developments Limited against the decision of Cheshire West & Chester Council.
  - The application Ref 13/00283/OUT, dated 22 January 2013, was refused by notice dated 22 April 2013.
  - The development proposed is up to 105 residential units, associated infrastructure, including access, public open space and associated works.
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### Decision

1. The appeal is allowed and outline planning permission is granted for up to 105 residential units, associated infrastructure, including access, public open space and associated works at land opposite Brewery House, Churton Road, Farndon, Cheshire, CH3 6NH in accordance with the terms of the application, Ref 13/00283/OUT, dated 22 January 2013, subject to the conditions set out in the attached schedule.

### Application for Costs

2. At the Inquiry an application for costs was made by Mr Paul Roberts of Gladman Developments Limited against Cheshire West & Chester Council. This application will be the subject of a separate Decision.

### Procedural Matters

3. The application was made in outline with all matters, other than access, reserved for future determination.
4. At the Inquiry an addendum to the Statement of Common Ground was submitted, in which the main parties agree that there is between 2.54 and 2.78 years supply of housing land in Cheshire West and Chester Council's area. Consequently, the Council withdrew their expert witness on housing matters and his Proof of Evidence in which it had been claimed that the supply amounted to 6.9 years. In response, the appellant's expert witnesses on housing land supply and housing need, Marc Hourigan and Dr Ricardo Gomez, did not appear at the Inquiry. I will address the consequences of this change later in my Decision.

5. At the time of the determination of the planning application the Council sought a contribution from the developer towards secondary school provision, to mitigate the increase in potential pupils arising from the new houses. The site falls within the catchment of the Bishop Heber High School at Malpas which was said to be oversubscribed with a forecast to remain at full capacity. The report to the Strategic Planning Committee stated that the applicant had agreed to a financial contribution. However, the appellant subsequently challenged the need to contribute and submitted a proof of evidence to that effect. At the opening of the Inquiry the Council stated that the school had recently secured substantial Government funding to address the capacity issue and confirmed that the contribution was no longer justified. The appellant withdrew the proof of evidence on this matter prepared by Oliver Nicholson of EPDS Consultants.
6. After the close of the Inquiry the appellant brought to my attention a recently issued Decision Letter by the Secretary of State (SoS) relating to two appeals in Hartford, Cheshire<sup>1</sup>. I have had regard to this document and the representations received from parties.

### **Main Issues**

7. The main issues are, i) the effect of the proposed development on the character and appearance of the area, ii) the impact of the proposal on best and most versatile agricultural land (BMVL), iii) whether there are other considerations to outweigh any potential harm arising from the development.

### **Reasons**

#### *Character and appearance*

8. The appeal site comprises two fields of just over 5 hectares (ha) of agricultural land on the edge of the village of Farndon. The proposal seeks outline permission for up to 105 dwellings of which 30% would be affordable housing. The submitted indicative master plan illustrates that the housing would occupy approximately 3.5ha with the remainder of the site used for public open space, a play area and habitat creation areas, with landscaped buffer zones to the periphery of the development. Detailed access arrangements to the site from Churton Road are included in the proposal.
9. The land is defined as open countryside, although the two fields are reasonably well contained and have existing or proposed development to three sides. Approximately half of the site's northern boundary abuts gardens/amenity space to a ribbon development of mostly large detached houses. The western boundary adjoins a commercial garage and fronts onto Churton Road which forms the boundary to the Farndon Conservation Area opposite. To the south west, the grounds of the village primary school and a modern residential development known as Swallowfields abut the site, and the field immediately to the south of the appeal site has the benefit of planning permission for residential development. If that permission is implemented, only the eastern boundary and part of the northern edge to the appeal site would continue to adjoin the open countryside.
10. The two predominantly level fields are small to medium in size and are surrounded by established hedgerows with occasional trees. These features

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<sup>1</sup> APP/A0665/A/12/2179410 & APP/A0665/A/12/2179374

reflect the landscape characteristics of the Western Lowland Plain and the subdivision WLP4 as defined in The Cheshire Landscape Character Assessment (November 2008). However, the site has no specific landscape 'quality' designation, and is of limited landscape value given the context of the adjacent urban developments. Nevertheless, the site has considerable local value as it is crossed by well used public rights of way which afford walkers interesting and attractive views towards the distant hills and the Grade II\* listed Barnston Monument a few hundred metres to the north of the site. The site's accessibility and rural character are also valued locally.

11. The methodology for the landscape and visual assessment was agreed by the main parties and it was further agreed that the site has medium sensitivity to development, given its proximity to existing built development. However, the two expert landscape witnesses could not agree on the extent of the impact of the proposed development on landscape character or on the visual impact, variously arguing that the effects have been underplayed, or exaggerated.
12. I undertook extensive visits to the site and its surroundings on more than one occasion to assess the likely impacts for myself, having regard to the submissions of the landscape witnesses, the indicative master plan and the provisions of the Design and Access Statement. The existing hedgerows to the northern and southern boundaries would be enhanced and a strong green frontage to Churton Road would be created with new tree planting and grass verges to supplement the existing extensive hedge. Along the eastern edge, landscaping would ensure that views of the development from the countryside to the east and north would be obscured.
13. On my site visits, it was apparent that, from most parts of Churton Road, including in the vicinity of the Barnston Monument, there would be only glimpses of the new dwellings due to the topography, the extensive hedge along the western boundary and the built developments on either side. The new access through the frontage hedge would provide views into the new development. However, generally the houses would be set back and would not be visually intrusive. Their impact on the street scene and the settings of the listed Monument and of the Conservation Area would be minimal, and certainly not harmful.
14. From limited parts of Sibblesfield Lane the existing edge to the built up area can be seen beyond the rise in the land. The new development would be closer to this highway, but the enhanced landscaping along the eastern boundary of the development would lessen the impact and possibly improve the visible impact of the existing urban edge. I am not persuaded that, when seen from any of the viewpoints on Churton Road and Sibblesfield Lane, the significance of the effects of the development would be as great as 'moderate to substantial adverse' as claimed by the Council.
15. The public footpaths across and around the site would be retained and extended. Walkers would inevitably experience a change from the views currently enjoyed. However, the proposed relatively extensive areas of open space and landscaping would help to mitigate the impact and provide pedestrians with an attractive, albeit very different experience. The layout would ensure that some valuable framed views of the Barnston Monument from the footpaths would be retained. Whilst there would be some loss of

open views from houses adjoining the site, this is not a matter which carries weight against the proposal.

16. Policy ENV24 of the Chester District Local Plan (CDLP) permits development in rural areas only where it would respect the key features of the landscape and would not be detrimental to its character. As open fields are a key landscape characteristic of the area, their loss would cause some local harm and would be contrary to the Policy. However, the retention and strengthening of the other key features, the trees and hedgerows, and the provision of landscaped buffers would help mitigate that loss and ensure that the impact of the development would be locally contained with little harm to the wider landscape character area.
17. On this issue I conclude that, on this relatively contained site, the well designed and landscaped proposal would not be a 'sprawling incursion into the countryside' as described in the reason for refusal. In time, the proposed landscaping would soften the appearance and visual impact of the development, which would be accommodated satisfactorily as a logical extension to the village. Although this is an outline application, the essential design features of the scheme will be secured by a condition requiring the reserved matters applications to reflect the details of the illustrative master plan and the provisions of the Design and Access Statement.

*Best and most versatile agricultural land*

18. According to the appellant, approximately 4.3ha of the site is BMVL comprising Grade 2 and sub-Grade 3a agricultural land quality. The remainder of the site falls within category sub-Grade 3b. These figures were not disputed by the other parties.
19. Policy EC20 of the CDLP states that '*development proposals involving the loss of best and most versatile agricultural land will not be allowed*'. Exceptions will only be permitted where, a) there is an overriding need for development which is supported in the local plan; b) the development proposal cannot be accommodated on, amongst other things, land of lower agricultural quality. The appellant conceded that these two exceptions should be considered cumulatively rather than as alternatives, with which I agree. However, the weight that can be attributed to any conflict with Policy EC20 is reduced by this rigid policy's lack of consistency with the National Planning Policy Framework (the Framework) which takes a more generalised approach to the use of BMVL and adds a scale dimension. Paragraph 112 of the Framework states that '*where **significant** (my emphasis) development is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of higher quality.*
20. There is no guidance in the Framework as to what constitutes 'significant' development. The appellant refers to the 20ha threshold which triggers a requirement to consult Natural England on larger proposals on agricultural land. However, I am not convinced by this approach of applying a rigid numerical threshold in all situations. The use of the word 'significant' in the Framework implies to me that the scale or significance of development should be considered with regard to the local context. In the case of the small settlement of Farndon with approximately 600 households, I consider that the proposed development of 4.3ha of BMVL for up to 105 houses would be a relatively significant development and that the provisions of the Framework

would be engaged. Consideration must therefore be given as to whether the development is necessary and whether poorer quality land could be used.

21. The Council's supply of deliverable housing sites falls far short of the required five year supply and given the substantial shortfall in housing delivery the proposed development is deemed necessary. Furthermore, Farndon is a key service centre where growth is expected to be directed. With regard to land quality, the appellant's expert witness considered that Farndon is surrounded by BMVL and that the development could not, therefore, be accommodated on lower quality land. However, the Council and the Parish Council argued that three sites in Farndon identified as having potential for development in the latest Strategic Housing Land Availability Assessment (SHLAA) were not BMVL. Two of these sites were described as 'open space' and not in agricultural use, and the Parish Council argued that the third site at Townfield Lane had previously been used as a waste tip and could not be considered as BMVL.
22. However, the SHLAA gives the potential yield for each of the three sites as ranging from 19 to 50 dwellings. Therefore, even if these sites are not BMLV, which has not been proven in evidence, the appeal proposal could not be accommodated on one of these sites.
23. The Council confirmed that it did not have evidence of its own to dispute the appellant's findings with regard to the quality of the surrounding land, but argued that the evidence submitted by the appellant's expert witness, was mainly 'desk based'. Notwithstanding the benefits of proper field surveys as advocated in the Inspector's Report to the SoS relating to an appeal in Tarporley<sup>2</sup>, I consider that, on the information before me, the majority of land surrounding Farndon is likely to be BMVL and that adequate lower quality land would not be available for the proposed development. Little evidence was submitted concerning the extent of BMVL throughout other parts of the Council area. In these circumstances, I concur with the Inspector's conclusions in another recent appeal in respect of land at Loachbrook Farm, Congleton, Cheshire<sup>3</sup>, to which I have also been referred. Here the Inspector considered that although the loss of BMVL would be contrary to the intentions of the Framework, this carried neutral weight, as other sites in the area would also involve a similar loss, and that the loss of BMVL would not be unwarranted.

#### *Other considerations*

24. At the start of the Inquiry, the Council confirmed that the housing land supply in Cheshire West and Chester is between 2.54 and 2.78 years taking into account under-performance in housing delivery between 2003 and 2013, the need for a 20% buffer and the use of the Sedgefield approach. The appellant agreed with these figures and argued that this amounted to a shortfall of approximately 5,500 to 6,500 dwellings to meet the minimum requirement of a five year supply. In these circumstances Paragraph 49 of the Framework is engaged. Paragraph 49 confirms that if the local planning authority cannot demonstrate a five year supply of deliverable housing sites, relevant policies for the supply of housing land should not be considered up-to-date. Paragraph 14 of the Framework states that where the development plan is

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<sup>2</sup> APP/A0665/A/11/2167430

<sup>3</sup> APP/R0660/A/11/2158727

absent, silent or relevant policies are out-of-date, planning permission should be granted unless, i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole, or ii) specific policies in the Framework indicate development should be restricted.

25. The Publication Draft of the Cheshire West and Chester Local Plan (Local Plan) was approved for consultation in August 2013 and at the time of the Inquiry was out to a period of consultation which was due to end in November 2013. The Local Plan will be subject to examination in 2014 with a view, according to the Council, of adoption later that year. I was advised at the Inquiry that there would be substantive objections to the housing elements of the plan. In accordance with the views of the SoS in his recently issued Decision Letter relating to the Tarporley appeal referred to above, I consider that the emerging Local Plan is still at a stage that merits it little weight. The Council acknowledged that position in its closing submissions.
26. In addition to the Policies set out above, the Council's case referred to saved Policy HO7 of the CDLP, which was not included in the reasons for refusal. Policy HO7 relates specifically to housing and states that in the open countryside the construction of new dwellings will not be permitted other than in accordance with Policy EC23, (which relates to agricultural and forestry workers dwellings in the countryside).
27. Both main parties argued that aspects of the Inspector's Report and the SoS Decision on the previously mentioned Tarporley case variously supported their different arguments as to whether Policy HO7 is or is not out-of-date. However, I note that at another recent Inquiry nearby in Malpas<sup>4</sup> the Council stated in evidence that Policy HO7 was then out-of-date. Having regard to the Tarporley Decision and the SoS's conclusions, it is unlikely that the quantum of houses needed to be delivered now and in the future in the Council area will be achieved without the inevitable release of greenfield land. The SoS considered that the settlement boundaries associated with the housing land supply policies in the former Vale Royal area and elsewhere in Cheshire West and Chester are in urgent need of a comprehensive review. Although the proposed development would not accord with Policy HO7, having regard to the above, I attach little weight to that conflict.
28. Paragraph 14 of the Framework refers to the benefits of a development. In this case these include the new market dwellings which would contribute towards the significant shortfall in housing supply in Cheshire West and Chester and which, therefore, carry substantial weight in my consideration of this appeal. Although it was argued that Farndon's affordable housing need would be met by the extant residential permissions in the village, there would still be an unmet need for affordable housing in the Council area to which the new development would make a significant contribution. This adds further weight in favour of the proposal. The development would also be a major financial investment in the area, creating business for building industry suppliers and some local jobs, albeit largely likely to be only temporary during the construction period. The potential increase in spending in local shops and businesses by the future residents of the new houses also carries weight.

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<sup>4</sup> APP/A0665/A/13/2193956

### *Neighbourhood planning*

29. A Neighbourhood Development Plan (NDP) for Farndon is currently in preparation and a survey of local residents has been undertaken to assess the community's views on major issues affecting the village, in accordance with the Localism Act. Policy STRAT8 of the emerging local plan states that in the rural areas provision will be made for 4,200 dwellings over the period 2010 to 2030, of which 200 are to be provided in Farndon. The Parish Council indicated that it had accepted that figure as one of the key inputs of the NDP and pointed out that over 150 new dwellings have been granted permission or been built in Farndon in recent years, leaving less than 50 dwellings to be catered for over the rest of the plan period to 2030. The Parish Council and the Neighbourhood planning team argued that allowing the appeal proposal for 105 dwellings would exceed the allocation for the village, would be premature and would jeopardise the production of the NDP.
30. I have sympathy with the Parish Council's concerns, as there is a real possibility that the clearly demonstrated enthusiasm of the community to seize the opportunity to influence the future of their village may be undermined by this Decision. Nevertheless a NDP is intended to deal with far more issues affecting a community than just housing and will be a valuable tool for local communities once the necessary procedures are in place. Unfortunately in Cheshire West and Chester, key elements such as the Local Plan, with which the NDP must conform, will not be adopted for some time.
31. No evidence has been put before me to justify the above overall rural housing figure or the allocation of 200 dwellings to Farndon. The appellant drew my attention to the Council's own Rural Regeneration Strategy which identifies the need for almost double the number of houses in rural areas, and to two separate commercial studies submitted in objection to the previous draft of the Local Plan, which both suggested the need for a substantial increase in the housing requirement. It is highly likely that the housing allocations will change following the examination of the draft Local Plan in 2014 and those changes may have a bearing on the NDP for Farndon.
32. Given this level of uncertainty, which will not be resolved for some time, little weight can be attributed to the emerging Farndon NDP or the suggested allocation of 200 dwellings for Farndon in determining this appeal. I note that the SoS reached a similar conclusion in relation to the progress with the Tarporley Neighbourhood Plan in the aforementioned appeal Decision.

### *Local infrastructure*

33. The Parish Council expressed concern about the impact of a further 105 dwellings on the local primary school and the surgery in Farndon. At the Inquiry I heard from, amongst others, the Chair of Governors of the School and the Medical Practice Manager.
34. Although the school neither objected nor supported the proposal, it is evident that some year groups are currently at capacity and that there are only 34 spaces available in total. Given the extant residential permissions in Farndon it was suggested that potentially, the school would not be able to accommodate all the children arising from the new developments, particularly as siblings of pupils at the school from out of catchment would have priority over local children. However, at the time the application was determined, the

Council considered that sufficient places would be available and sought no contribution from the appellant towards educational provision at the primary school.

35. Several residents, whilst praising the quality of care at the local surgery, highlighted the problems of getting appointments because the practice is said to be near to capacity. Concerns were also expressed about inadequate car parking at the surgery. The Practice Manager argued that there was little capital funding available to expand the premises and no funding available to increase the number of clinicians. However, I note that the former Primary Care Trust was aware of the other three housing developments in Farndon and raised no objections to the appeal proposal, stating that they would consider putting together a business case to establish the need for additional capacity. In the circumstances, given the lack of robust evidence, I can attach only limited weight to the concerns regarding health care and educational provision.

#### *Transport and highways*

36. It was argued by local residents and the Parish Council that the site was not sustainable, as the public transport services are poor and most occupants of the new development would rely heavily on the private car. Nevertheless Farndon has been identified as a Key Service Centre in the emerging Local Plan and benefits from a reasonable range of facilities compared to many other villages. Its facilities include a school, post office, public house, some shops, hairdressers, doctor's surgery and a sports and social centre.
37. It appears to me from the submitted bus timetables that the village has a reasonable weekday bus service to both Chester and Wrexham during the day. For instance, the first bus leaves Farndon at 07.46 and arrives in Chester at 08.13 with the last return trip from Chester at 17.43 with almost hourly services in between. There is a similar level of connectivity with Wrexham. Although connections to more distant cities such as Liverpool and Manchester may not encourage daily commuting, that is not surprising for such a rural village, given the distances involved. By most measures, Farndon is a sustainable location and I agree with the appellant that an increase in population could help to sustain the existing public transport services.
38. The Highway Authority raised no objections to the proposed development and considered that given the capacity of Churton Road and the likely scale of traffic generated by the development, there would be no significant highway safety issues, subject to some improvements to the footpaths and the introduction of speed/traffic management measures. The proposed site access would be satisfactory, achieving the required visibility splays and forward sight lines along Churton Road, and being sufficiently separated from existing junctions nearby.
39. At the Inquiry a signed and dated s106 Unilateral Undertaking was submitted, binding the appellant to make contributions of £15,000 towards speed and traffic management measures on Churton Road, and £2000 towards upgrading one of the existing footpaths. I am satisfied that the planning obligations are necessary to make the development acceptable, directly related to the development and are fairly and reasonably related in scale and



kind, in accordance with the requirements of the Framework and Regulation 122 of the Community Infrastructure Levy Regulations 2010.

### *Conditions*

40. The suggested conditions have been considered with regard to the advice in Circular 11/95: *The Use of Conditions in Planning Permissions* and the wording adjusted accordingly and in the light of discussions at the Inquiry. The plans to which the development relates will be specified for the avoidance of doubt. In addition to the conditions relating to the timescales for the submission of reserved matters, a condition requiring the reserved matters to reflect the submitted illustrative masterplan and the Design and Access Statement will be necessary as these set out the parameters upon which this Decision is based. The details to be included in any phasing scheme for the development will also be set out in a condition.
41. The number of dwellings permitted on the site will also be controlled by condition to ensure compliance with the masterplan on which this decision is based. A condition will be imposed in order to secure the affordable housing provision and the details relating to the tenure split and arrangements for the management and phasing of the affordable dwellings. The minimum size of the provision of greenspace and the details of the play area will be specified by conditions to ensure the adequacy and the quality of the facilities. A scheme of surface water drainage will be required in order to secure adequate means of disposal and to reduce the risk of flooding.
42. Details of existing and proposed ground levels will be required in the interests of visual amenity and landscape character. In the interests of highway safety details will be required of all works to be undertaken in the highway and a condition will require the existing farm track across the site to be closed to vehicular traffic other than for the existing dwellings it serves. Also in the interests of highway safety and the amenity of existing residents a construction method statement will be required by condition. To assess any potential archaeological interest in the site a programme of investigation will be required. A scheme of investigation will be necessary for any contamination on the site including details of any mitigation measures in the interests of the local environment and the health of future occupants of the dwellings. In the interests of nature conservation a further badger survey will be necessary before development commences and measures will be required to protect nesting birds. Energy efficiency and sustainability of the dwellings will be controlled by condition.
43. The Council included, at the suggestion of Welsh Water, a condition requiring a Hydraulic Modelling Assessment of the public sewage network to be undertaken in order to protect the integrity of the public sewerage system and to ensure that there is adequate capacity in the network. The critical matter is to ensure that no house is occupied until an adequate system for foul water disposal is in place and I will, therefore, impose a Grampian condition to that effect.
44. Further conditions were suggested relating to the materials to be used, the layout of car parking and cycle spaces and the details of hard and soft landscaping. I have not included these conditions which would be more appropriate at the reserved matters stage.

## Conclusions

45. The proposed development, through the loss of the two fields in the open countryside, would cause some local harm to the landscape character of the area and would be contrary to the objectives of Policies ENV24 and HO7 of the CDLP. However, due to the relatively contained nature of the site, the extensive proposed landscaping buffers and the proposed layout, the development would not be a 'sprawling incursion into the countryside' and would not unduly affect the setting of the Conservation Area or the Barnston Monument. Furthermore, for the reasons set out above, the conflict with Policy HO7 carries little weight. The loss of BMVL would be contrary to the intentions of the Framework and Policy EC20 of the CDLP but this would carry little or neutral weight as it is likely that, on the evidence submitted, the majority of land around Farndon would also be of similar grades.
46. The failure of the Council to demonstrate a five year supply of deliverable housing land, contrary to the provisions of the Framework, carries substantial weight in favour of granting permission for this sustainable development. The benefits of the scheme are also substantial and, cumulatively, add significant weight in favour of the development.
47. I appreciate the many concerns eloquently made by the Parish Council and many local residents about the effects of the proposed development on, amongst other things, the environment, local services, infrastructure, highway safety and parking in Farndon. However, the evidence and information before me does not indicate that the proposal would have a significant harmful effect on these matters.
48. I conclude that any adverse impacts arising from the development would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework, taken as a whole. Furthermore, the substantial weight attributed to the lack of a five year housing land supply and the benefits of the scheme would significantly outweigh the conflicts with the development plan identified above.
49. Therefore, for the reasons given and having had regard to all other matters raised, including the many local representations and the other appeal decisions brought to my attention, the appeal is allowed, subject to the conditions imposed.

*Anthony Lyman*

INSPECTOR

## 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 three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the Location Plan – drawing No. 2012-001-001; and the Access drawing – 1335/01 Revision A.
- 5) The submission of reserved matters in respect of layout, scale, appearance and landscaping and the implementation of the development shall be carried out in substantial accordance with the Development Framework Plan No. 5071-L-03 Revision B dated April 2013; The Detailed Layout Plan No. 5071-L-10 Revision B dated March 2013 and the Design and Access Statement dated January 2013.
- 6) The reserved matters applications shall include details of any proposed phasing of the development across the whole development site. The phasing scheme shall include the following matters: i) a plan demarcating the development phases, ii) details of the number of development plots for both market and affordable housing units, iii) a programme of delivery of development phases. All reserved matters applications and consequent development shall be made in accordance with the approved phasing scheme.
- 7) The development hereby approved shall include no more than 105 dwellings and no dwellings shall be more than two and a half storeys high.
- 8) The development shall not begin until a scheme for the provision of affordable housing as part of the development on the site, has been submitted to and approved in writing by the local planning authority. The affordable housing shall be provided in accordance with the approved scheme which shall include:
  - i) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of housing units;
  - ii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iii) the arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing, if no Registered Social Landlord is involved;
  - iv) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - v) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 9) A minimum of 0.6ha of public open space and 0.76ha of strategic landscaping and habitat area shall be provided and shall form the green space provision within the area outlined on Drawing No. 5071-L-03 Revision B. Thereafter, these spaces shall be retained and used for no other purpose.
- 10) Development shall not commence until a scheme and timetable for the provision of the play area shall be submitted to and approved in writing by the local planning authority. The play area shall be implemented and completed in accordance with the agreed scheme and timetable and thereafter shall be retained and used for no other purpose.

- 11) The existing farm track that runs east from Churton Road through the centre of the site shall not be used by vehicular traffic at any time, save for access to the existing dwellings it serves.
- 12) The development hereby permitted shall not commence until a scheme, including a timetable of implementation, for surface water drainage to limit the surface water run-off generated by the development and to manage the risk of flooding from overland flows of surface water has been submitted to and approved in writing by the local planning authority. The approved scheme shall provide for surface water drainage only which shall not be permitted to discharge to the public sewerage foul water system. The approved scheme, which shall include measures to prevent pollution, shall be implemented and maintained in accordance with the approved details and timetable.
- 13) No development shall take place until a scheme for the protection of nesting birds on the site during construction works has been submitted to and approved in writing by the local planning authority. Thereafter, development shall take place in complete accordance with the approved scheme.
- 14) No development shall take place until a further badger survey report has been submitted to and agreed in writing by the local planning authority. The survey is to be undertaken by a suitably qualified person using recognised survey techniques. The survey report is to include a mitigation strategy together with a buffer zone around the badger sett unless otherwise agreed in writing by the local planning authority. The approved mitigation strategy is to be implemented in accordance with a timetable to be agreed in writing by the local planning authority.
- 15) No development shall take place until full details of existing and proposed ground levels have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 16) No development shall take place until a foul water drainage scheme to satisfactorily accommodate the foul water discharge from the site has been submitted to and approved in writing by the local planning authority. No part of the development shall be brought into use and no dwelling shall be occupied until the approved foul drainage system has been constructed, completed and brought into use in accordance with the approved scheme.
- 17) Prior to the commencement of development, the developer shall submit and have approved in writing by the local planning authority detailed plans of the works required within the public highway in accordance with the submitted Transport Assessment 1335/2/B and Travel Plan, including proposed accesses both vehicular and pedestrian, footways, lighting, and highway improvements. The works shall be carried out in accordance with the approved details and shall be completed prior to the first occupation of any dwelling on the site.
- 18) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - i) the parking of all construction related vehicles including of site operatives and visitors
  - ii) the loading and unloading of plant and materials
  - iii) the storage of plant and materials used in constructing the development
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - v) wheel washing facilities

- vi) measures to control the emission of dust and dirt during construction
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works
  - viii) the details of any piling
  - ix) hours of construction
  - x) Phasing and routing of construction traffic to and from the site
- 19) No development shall take place within the site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the local planning authority.
- 20) No development shall take place until a site investigation of the nature and extent of contamination has been carried out in accordance with a methodology that has previously been submitted to and approved in writing by the local planning authority. The results of the site investigation shall be made available to the local planning authority before any development begins. If any contamination is found during the site investigation, a report specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted, shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved plans before development commences. If during the course of development any contamination is found which was not identified in the site investigation, additional measures for the remediation of this source of contamination shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the additional measures. If ground 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 use or occupation of any part of the development hereby approved.
- 21) The dwellings shall achieve a minimum Level 4 of the Code for Sustainable Homes. No dwellings shall be occupied until a final Code Certificate has been issued for it to certify that Code Level 4 has been achieved.

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Alan Evans of Counsel  
He called

John Seiler BA (Hons)  
DIPLA CMLI

Principal Landscape Architect, Cheshire West and  
Chester Council

Nicholas Howard BSc  
(Hons) MRTPI

Senior Planning officer, Cheshire West and Chester  
Council

### FOR THE APPELLANT:

John Barrett of Counsel  
He called

Malcolm Reeve BSc  
FISoilSci, CSci, MBIAC,  
MCIWEM

Land Research Associates Ltd

Phil Rech BA, B Phil LD,  
CMLI

FPCR Environment and Design Ltd

Alex Day

Utility Law Solutions

Martyn Twigg BSc (Hons)  
MRTPI

Fox Land and Property/ Gladmans Developments Ltd

### FOR FARNDON PARISH COUNCIL

John Hillyer called  
Sue Rowlandson

Farndon Parish Council

Fiona Henderson

Farndon Parish Council and Chair of the Farndon  
Neighbourhood Development Plan Group

Hilary Williams

Farndon Parish Council

### INTERESTED PARTIES

Julie Perry

Chair of Governors Farndon Primary School

Margot Jones

Local Resident

Vera Roberts

Local Resident

Michael Grey

Local Resident

Helen Broad

Resident of a South Cheshire village

Martin Perry

Chairman of Farndon Parish Council

Carol Broad

Resident of Malpas

Joanna Crosse

Local Resident

Stephen Dale

Local Resident

Gill Moroney	Local Resident
Trevor Ferrigno	Farndon Health Centre Practice Manager
Michael Coe	Local Resident

#### DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Opening submissions on behalf of the Appellant
- 2 Opening submission on behalf of Farndon Parish Council
- 3 Draft list of Conditions
- 4 Email between WW and Gladmans dated 7 October 2013
- 5 Abstract from Guidance for Landscape and Visual Impact Assessment – Third edition
- 6 Visual effects – Comparison Table
- 7 Addendum to the Statement of Common Ground – Signed by both parties on 9 October 2013
- 8 Copy of letter dated 6 January 2012 from Mr. Harry Jones
- 9 Abstract from Proof of Evidence of Nicholas Howard to Malpas Inquiry – APP/A0665/A/2193956
- 10 Closing submissions of Cheshire West and Chester Council to Malpas Inquiry - APP/A0665/A/2193956
- 11 S106 Unilateral Undertaking dated 8 October 2013
- 12 Statement by Julie Perry
- 13 Statement by Margo Jones
- 14 Statement by Vera Roberts
- 15 Statement by Michael Grey
- 16 Statement by Helen Broad
- 17 Statement by Martin Perry
- 18 Statement by Carol Broad
- 19 Statement by Joanna Crosse
- 20 Statement by Stephen Dale
- 21 Statement by Gillian Moroney
- 22 Statement by Trevor Ferrigno
- 23 Statement by Squadron Leader Glyne Earle Welby
- 24 Copy of letter from Gladmans to landowners dated August 2011
- 25 Closing Submissions on behalf of Farndon Parish Council
- 26 Closing Submissions on behalf of the Council
- 27 Closing Submissions on behalf of the Appellant