



Appeal Decision

Inquiry held on 28, 29 and 30 January 2025

Site visit made on 30 January 2025

by A Parkin BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26th March 2025

Appeal Ref: APP/B3438/W/24/3351035

Land East of Froghall Road, Cheadle, Staffordshire

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by Bloor Homes NW against the decision of Staffordshire Moorlands District Council.
 - The application Ref is SMD/2021/0610.
 - The proposal is for residential development with access to the site (all other matters reserved).
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Decision

1. The appeal is allowed and outline planning permission is granted for residential development with access to the site (all other matters reserved) at Land East of Froghall Road, Cheadle, Staffordshire, in accordance with the terms of the application, Ref SMD/2021/0610, subject to the conditions in the schedule at Annex 3.

Preliminary Matters

2. The Government published the latest version of the National Planning Policy Framework (the Framework) on 12 December 2024, prior to the submission of the Proofs of Evidence of the parties. I am satisfied that the parties were aware of this publication and had the opportunity to address its content in the subsequently submitted evidence.
3. As the proposal would be within the setting of two listed buildings, I have had regard to section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) in determining this appeal.
4. The application form lists the postcode of the site as ST20 2DN. With reference to the Royal Mail website, I can find no listing of such a postcode. Consequently, I have omitted it from the site address and I have used the address from the Council's Decision Notice, in the banner heading above.
5. I have made minor amendments to the description of development in my formal decision, given the changes agreed between the main parties, in order to improve clarity and remove superfluous words.

Background and Main Issues

6. At the case management conference held on 2 December 2024 I identified the likely main issues for the appeal, as well as the other matters raised by interested parties, which could become main issues depending upon the discussions. I also set out how the evidence was expected to be heard over the six days of the Inquiry.
7. However, on the Friday prior to the opening of the Inquiry, the Council advised me that in light of an appeal decision¹ for another site near to Cheadle, issued on 17 January 2025, it would not be defending its reasons for refusal in the appeal before me. Furthermore, the Council would offer no evidence other than in relation to its five year housing land supply (HLS).
8. The Council's position was determined at a meeting of its Planning Committee on 23 January 2025, given the particular facts of both appeals, and was set out in both its opening submission to the Inquiry and in a revised Statement Of Common Ground (SOCG) with the appellant.
9. Consequently, at the beginning of the Inquiry I led a discussion on how the evidence would be heard, which would be through a series of roundtable discussions on the previously identified issues and other matters, followed by further roundtable discussions on the proposed s106 planning obligation, and on the suggested conditions were the appeal to be allowed. In light of the evidence at Inquiry, the main issues are the effect of the proposal on:
 - The countryside, including with regard to landscape character;
 - Designated heritage assets; and,
 - Flood risk.

Reasons

The countryside, including with regard to landscape character

10. The appeal site is located in the countryside next to and generally to the north of the town of Cheadle, in land designated as 'Other Rural Areas' by Policy SS2 (settlement hierarchy) of the Local Plan. The A521 Froghall Road, to the west of the site leads to and from Cheadle, whilst Hammersley Hayes Road to the south is a local road serving properties located upon it, and leading to Broad Hays farmhouse, a Grade II listed building to the east of the site.
11. The site comprises Grade 4 agricultural land, which is not the best or most versatile (BMV) agricultural land as designated by the Government². At the time of my visit the fields within the site were planted with grass and it is bounded by hedgerows to the west, east and south, with the rear gardens of properties on Froghall Road and Hammersley Hayes Road to the southwest. A hedgerow containing four mature deciduous trees runs through the northern part of the site on a roughly east-west axis and the land slopes gently downhill in a generally northwest-to-southeast direction, eventually reaching Cecilly Brook a few hundred metres to the east.

¹ Ref. APP/B3438/W/24/3340461

² Annex 2 – Glossary of the Framework

12. Other than the dwellings to the south and west within Cheadle, the site is set within a pleasant agricultural landscape, predominantly fields with hedgerows and occasional trees, and with Broad Haye farm to the east. The site is located within the Potteries and Churnet Valley National Character Area and within the Ancient Slopes and Valley Farmlands (ASVF) landscape type that covers much of Staffordshire Moorlands. However, the site is not within a National Park or National Landscape.
13. Access to the site would be via a new roundabout on Froghall Road to the northwest. The detailed development of the site would be controlled by reserved matters applications in accordance with the parameters masterplan³, amongst other things.
14. The parameters masterplan shows areas of housing, vehicular and pedestrian access routes and areas of open space and landscaping within the site. The landscaping measures include areas of new grassland, hedgerows and trees. The line of the existing hedgerow through the site and the four mature trees within it are shown as retained, with further hedgerow and tree planting. The parameters masterplan also identifies an area of grassland, bounded by hedgerows, at the east of the site. This would be some one hundred metres across, and would provide a physical and visual buffer between the proposed dwellings and Broad Haye Farmhouse, and the associated farm buildings.
15. A Landscape and Visual Appraisal (LVA) has been undertaken, which I have considered. I have also visited the site and viewed both the site and surrounding landscape from the north, and from footpaths Kingsley 94/Cheadle 40 and Cheadle 38 and Cheadle 39 to the south. I also note the locations of the two allocated housing sites CH001, which is under construction, and CH132, to the south.
16. The retention of a large area of grassland between the proposed dwellings and the listed Broad Haye Farmhouse would still allow this building to be appreciated as a distinct feature within the landscape. The enhancement of the existing hedgerow through the site, in particular the retention of the four mature trees within it, together with further boundary planting and areas of greenspace, would soften the appearance of the proposed development.
17. Policy DC3 (landscape and settlement setting) of the Local Plan states that development should be resisted where it would lead to a *prominent intrusion into the countryside or have a significant adverse impact on the character or setting of a settlement*, amongst other things.
18. The construction of new housing, and associated transport infrastructure, on agricultural land in the countryside such as this, would inevitably have an adverse visual effect in the immediate vicinity of the site, and would also be noticeable within the wider landscape. Such visual effects would be more pronounced in the short term whilst the associated landscaping becomes established, but would remain into the future, to a lesser extent.
19. However, I am satisfied that with the establishment of appropriate landscaping and the retention of existing features in accordance with the parameters masterplan, the adverse visual effects of the appeal development would not cause

³ Ref. 020 020 004 Rev N

unacceptable harm. I consider that in longer distance views the proposed development would be seen alongside existing and future planned housing, and as an integral part of the settlement of Cheadle.

20. Despite its proximity to Cheadle, the proposal would be located outside the settlement boundary and within the open countryside as defined in the Local Plan and would, to a limited extent, reduce the separation distance between Cheadle and Kingsley Holt to the north. It is common ground between the Council and the appellant that the proposal does not meet any of the categories of development that would be acceptable in the open countryside.
21. For these reasons, whilst the proposed development would not cause unacceptable harm to landscape character, it would still run counter to the local plan strategy for development in the countryside. It would, therefore, conflict with Policies H1 (new housing development) SS2, SS10 (other rural areas strategy) and DC3 of the Local Plan, and with the Framework, in this regard.

Designated heritage assets

22. A short distance to the east of the appeal site is Broad Haye Farmhouse, a three storey building said to date from the early 19th century that is Grade II listed⁴. The farmhouse has a slate roof with chimney stacks at either side, with cream painted brickwork. The front elevation faces south-eastwards and is located within a cluster of farm buildings and structures of differing sizes, designs and materials, including a substantial barn to the east.
23. The farmhouse is a distinct feature within the landscape and the surrounding fields, trees and hedgerows, including those within the appeal site, and the nearby buildings, contribute to its setting. The significance of this listed building, insofar as it relates to this appeal, stems from its design, historical function and its setting.
24. Broad Haye Farmhouse is visible from Froghall Road to the northwest and from Hammersley Hayes Road to the southwest. However, the topography of the land and the presence of trees, hedgerows and the surrounding farm buildings and structures limits its visual prominence from these locations, even during winter.
25. The listed building is readily visible in views from the Cheadle 38 and Cheadle 39 footpaths, alongside the nearby farm buildings, the existing dwellings within Cheadle and the allocated housing sites of CH001 and CH132. Furthermore, Footpath Kingsley 94 / Cheadle 40 passes immediately to the south of the appeal site and the farm and so affords clear views of Broad Haye Farmhouse, and the surrounding farm buildings and land.
26. The parameters masterplan for the proposed development was updated as part of the application process, including to address concerns raised by the Council with regard to the effect on the setting of Broad Haye Farmhouse. Consequently, an area of open grassland at the east of the site is now shown on the parameters masterplan, providing a visual and spatial buffer between the proposed dwellings and the listed building. The grassland would not be publicly accessible and so would not be dissimilar to the equivalent part of the current field to the west of Broad Haye Farmhouse.

⁴ List Entry Number: 1374681

27. Even within this visual context, the proposed development would cause less than substantial harm to the setting of Broad Haye Farmhouse. Any harm to a designated heritage asset attracts considerable weight⁵ and the less than substantial harm identified in this case should be weighed against the public benefits of the proposal⁶.
28. The proposal would deliver a substantial number of new homes to Staffordshire Moorlands, which cannot demonstrate a deliverable five year HLS as required by the Framework and where housing delivery has been persistently below what is required by the Local Plan. Furthermore, there has been a chronic shortfall in the delivery of affordable homes in Staffordshire Moorlands and the proposed development would deliver 33% of new homes as affordable homes. The development would also generate economic benefits for Cheadle, both during construction and following completion.
29. The low level of less than substantial harm that would be caused to the setting of Broad Haye Farmhouse would be outweighed by the public benefits of the proposed development.
30. Concerns were also raised initially regarding the effect of the proposal on the setting of the Grade I listed Roman Catholic Church of St. Giles⁷, some 1.5km to the south of the appeal site and centrally located within Cheadle. The church, designed by Augustus Welby Northmore Pugin dates from the mid-19th century and contains a tower and steeple that is visible from within the town and from the surrounding countryside, including the appeal site.
31. The significance of this listed building, insofar as it relates to this appeal, stems from its design and materials, its historical function as a place of worship and its setting within the area.
32. However, the urban land uses between the site and the church, the separation distance, and the topography of the site and the surrounding land, together with the parameters of the proposed development, means it would not adversely affect the setting of this designated heritage asset and so would preserve it.
33. For these reasons, the proposed development would not cause unacceptable harm to designated heritage assets. This would satisfy the requirements of the Act, paragraph 212 of the Framework and would not conflict with policy DC2 (the historic environment) of the Local Plan.

Flood Risk

34. National planning policy for flood risk is contained in Chapter 14 of the Framework and in Planning Practice Guidance (PPG) for Flood Risk and Coastal Change. With reference to the Sequential Test, the Framework states that *...the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding*⁸.

⁵ Paragraph 212 of the Framework

⁶ Paragraph 215 of the Framework

⁷ List Entry Number - 1038008

⁸ Para 174 of the Framework

35. The Framework goes on to state that *The sequential test should be used in areas known to be at risk now or in the future from any form of flooding except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk).*⁹
36. The submitted Flood Risk Assessment and Drainage Strategy of January 2022 (FRA) includes at Figure 4 an extract of the Government's Surface Water Flood Map in relation to the appeal site. Most of the site is said to be at 'very low' flood risk, but includes an area of 'low' risk of surface water flooding.
37. However, as the appellant noted, paragraphs 24¹⁰ and 27¹¹ of the Flood Risk and Coastal Change PPG provide further and more specific guidance on the Sequential Test, and specifically state that it is not required in areas of 'Low Risk' (and by inference 'Very Low Risk'). The appellant has also helpfully drawn my attention to various pieces of caselaw¹² and whilst I am satisfied that PPG further clarifies the wording of the Framework in this regard, the implications of Climate Change still need to be considered before reaching a conclusion as to whether the Sequential test is needed in this case.
38. During the Inquiry, the Risk of Flooding from Surface Water (RoFSW) map was published by the Environment Agency, which presents an improved and updated map showing surface water flood risk. Amongst other things this provides a scenario that accounts for climate change up to 2060, with further work expected in the future.
39. The appellant has provided an Addendum to their FRA to address the publication of the RoFSW in relation to the appeal site, which shows areas of High, Medium and Low surface water flood risk within the appeal site, including the climate change scenario. The areas of low risk do not trigger the requirement for the Sequential test, as set out above.
40. There are areas of high surface water flood risk that are identified, which would include primary footpaths and cycleways as shown on the parameters masterplan. However, these are clearly shown as 'indicative routes' and so would be subject to some change as the detailed reserved matters are submitted in due course, were the appeal to be allowed.
41. In any event, with reference to Para 175 of the Framework the Addendum to the FRA demonstrates that there would be no built development, including access or escape routes, located in an area of medium or high flood risk, which means that the Sequential test is not required in this case.
42. For these reasons, the proposed development would not be subject to an unacceptable risk of flooding. It would, therefore, accord with the Framework.

⁹ Para 175 of the Framework

¹⁰ Paragraph: 024 Reference ID: 7-024-20220825 Revision date: 25 08 2022

¹¹ Paragraph: 027 Reference ID: 7-027-20220825 Revision date: 25 08 2022

¹² *R. (on the application of Substation Action Save East Suffolk Ltd) v Secretary of State for Energy Security and Net Zero* [2024] EWCA Civ 12; and, *Mead Realisations Ltd v Secretary of State for Housing, Communities and Local Government* [2025] EWCA Civ 32

Other Matters

Housing land supply, including affordable housing and self-build housing

43. The Local Plan for Staffordshire Moorlands was adopted relatively recently, in September 2020 and did not include the appeal site as a housing allocation. Policy SS3 (future provision and distribution of development) requires provision to be made for 6080 additional dwellings over the plan period 2014-2033.
44. Policy SS3 directs that 75% of new housing should be focused in three settlements, Leek, Biddulph and Cheadle, with the remainder in what is termed Rural Areas. Cheadle itself would account for 25% of new housing over the plan period. The site lies next to Cheadle but is outside the settlement boundary as defined in the Local Plan. It is therefore within the Rural Areas, which covers most of the district outside the three main settlements of Cheadle, Leek and Biddulph.
45. However, it is clear that the housing planned for in the Local Plan through allocations has not progressed as intended. The plan requires the delivery of 320 new homes per year over the plan period, yet delivery to date only equates to 182 homes per year.
46. In Cheadle, of the 1026 dwellings on allocated sites contained in the Local Plan, only 94 had been delivered by April 2023. Furthermore, of these housing allocations, over 500 dwellings were considered not deliverable by the Council on 1 April 2023.
47. The delivery of allocated housing sites is even worse in Leek and Biddulph over the same period. Within the Rural Areas there has been a much better delivery rate, albeit much less housing is allocated there.
48. The Inspector's report into the examination of the Local Plan identified that at that time there had been persistent under-delivery of housing, which is compounded by the current delivery rates.
49. Policy SS3 requires that '*Sufficient deliverable land will be identified to provide at least 5 years of development at all times and that the Council will monitor the annual development rate and manage supply to ensure that future provision will continue to adequately meet identified needs and reflect development potential*'.
50. At the time that planning permission was refused for the proposed development the Council accepted that it could only demonstrate a deliverable HLS of 3.58 years, significantly less than the minimum required by the Framework. This had fallen to 3.51 years at the opening of the Inquiry, although this was disputed by the appellant, who considered the HLS was only 2.70 years.
51. During discussions at the Inquiry, the Council was unable to demonstrate the deliverability of seven of the sites it was relying upon for its 3.51 years HLS. Whilst the Council said it was confident the evidence existed, it accepted it was not before the Inquiry, and so for the purposes of this appeal the Council accepted its HLS was just 2.95 years.
52. Concerns were raised that the HLS did not account for the housing delivered around Cheadle on unallocated sites at appeal. However, from the evidence I am satisfied that windfall sites have been adequately considered in calculating the HLS for Staffordshire Moorlands.

53. I note the disagreement between the main parties regarding whether a small site windfall allowance should be included in the HLS calculation. In this case the relatively small difference between a 2.7 year HLS and a 2.95 year HLS is not significant to my decision. Whilst the greater the shortfall the more the weight that would be attached to it, a deliverable HLS of only 2.95 years is still substantially below the minimum requirements contained in the Framework.
54. Policy SS4 (strategic housing and employment land supply) requires the Local Plan to be reviewed no later than September 2025, *to assess whether it needs updating to bring forward additional sites for development*. Even if the Local Plan review were to commence in September 2025, it would be several years before a revised plan could be adopted. Despite monitoring the annual development rate, there is no substantive evidence that the Council is managing the supply of housing effectively at present.
55. The significant under delivery of homes in Staffordshire Moorlands over the current Local Plan period has had an even greater effect in terms of affordable housing. The Strategic Housing Market Assessment updated in 2017 (SHMA) identified an objectively assessed need of 224 - 432 net affordable dwellings per year between 2014/15 and 2030/31 in Staffordshire Moorlands.
56. However, it is common ground between the Council and the appellant that only 327 net affordable homes were provided between 2014/15 and 2023/24, an average of just 33 per year. This equates to the delivery of just 8-15% of the identified annual need for affordable homes contained in the SHMA during this period, which is a chronic shortfall in delivery of affordable homes.
57. The Council also has a statutory duty under Section 2A(2) of the Self-Build and Custom Housebuilding Act 2015 (as amended) to grant permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in its area over a specific period of time.
58. In the Statement of Common Ground with the appellant on this subject, the Council accepts there has been a shortfall in permissions for self-build and custom housing. No compelling evidence has been provided that would cause me to doubt the position of the main parties in this regard.
59. Taking all of this into account, it is clear that there is a pressing, current need for new housing in the district. Whilst located outside the Cheadle settlement boundary, the circumstances I have described lend significant weight to the appeal scheme in bringing forward this much needed housing.

Local Infrastructure Capacity

60. The appellant has provided a detailed assessment of transport infrastructure within this area, including surveys and recorded accidents, in their evidence. Staffordshire County Council, the Local Highway Authority, was consulted on the proposal and did not object, subject to various conditions to be attached to any grant of planning permission, and to the appellant entering into a s106 planning obligation to improve pedestrian movement between the site and Cheadle town centre, as well as an appropriate subsidy to bus services serving the site.
61. The Local Plan recognises that education provision is an important issue to be addressed alongside housing growth in Cheadle. Staffordshire County Council's

School Organisation Team (SOT) has identified the need for a new Primary School in Cheadle, and that it should be located within the Cheadle North Strategic Development Area, to the south of the appeal site.

62. Funding contributions have been and are being collected for the new Primary School through s106 planning obligations, and the SOT has identified the appropriate funding contribution for the appeal development to provide¹³. Concerns were raised as to whether the new school would be delivered in time to meet the needs of new residents. However, there is no compelling evidence that this would be the case. Both the Council and the County Council are well aware of the need for this new school and have a clear process through which it would be delivered in a timely manner.
63. With reference to healthcare, the Staffordshire and Stoke-on-Trent Integrated Care Board (ICB) recognises that clinical and administration space is insufficient across the Moorlands Rural Primary Care Network (PCN) with the majority of premises insufficient when benchmarked against current standards. There is also an overall shortfall in clinical capacity for current patient numbers across the three identified PCN practices within Cheadle.
64. Consequently, following a consultation on the appeal proposal, a request was made for a funding contribution towards the provision of healthcare services within the PCN¹⁴. Difficulties accessing healthcare facilities was an issue raised by a number of residents. Nevertheless, I am satisfied the ICB is aware of the current situation and the effect the proposal would have and has a clear process through which enhanced capacity would be delivered, as necessary.
65. Concerns were also raised by a number of interested parties regarding drainage, including the capacity of the foul water treatment works and the foul and surface water drainage infrastructure in the area. However, I note the planning application consultation responses of Severn Trent Water, and Staffordshire County Council, the Lead Local Flood Authority. No compelling evidence has been provided that would cause me to question these responses and this matter could be satisfactorily addressed by means of appropriately worded planning conditions.
66. From the evidence, and with reference to the s106 planning obligation, I am satisfied that the effects of the proposed development on the capacity of local infrastructure would be acceptable.

Contaminated land

67. This area has a history of coal mining, and has also been used for landfill. There are some minor discrepancies between the appellant's evidence and the comments of the Coal Authority and the Environment Agency. However, following discussions at the Inquiry I am satisfied the likely risks have been identified and could be addressed at reserved matters stage, were the appeal to be allowed.

Biological Diversity

68. The nature of the site would inevitably change as a result of the proposal, and some features of ecological value would be lost, with associated disturbance to wildlife species in the area. However, no compelling evidence has been provided

¹³ SOT Education Supporting Information (29 November 2024)

¹⁴ ICB letter of 15 March 2024

that causes me to question the findings of the Preliminary Ecological Appraisal (PEA) and the addendum to it, which amongst other things, considers the effects of the revised access arrangements.

69. With Landscape a reserved matter, the actual effects cannot be calculated in detail across the site. However, with appropriately worded conditions, overall the proposal would be likely to have a positive effect on biological diversity.

Living Conditions

70. The outline nature of the proposal means that the details of the layout, scale, appearance and landscaping of the development are not fixed beyond the parameters plan. Were the appeal to be allowed, reserved matters applications would need to address how the proposal relates to existing dwellings / private gardens, including with regard to any overlooking.

Air Quality

71. Concerns that the proposal would result in an adverse effect on air quality in the area, including in Cheadle itself were raised. I am satisfied that with appropriately worded conditions, the effects on air quality as a result of the construction of the proposed development could be effectively managed.
72. In terms of increased vehicular traffic from the proposed development, the Council's Environmental Health team were satisfied with the appellant's Air Quality Assessment (AQA) results of March 2023. No compelling evidence has been provided that would cause me to doubt this conclusion.

Carbon emissions

73. Concerns were also raised that the location of the proposed development would be likely to increase carbon emissions, with new residents having to drive to work or to meet their day-to-day needs.
74. Whilst the proposed development would be located in the countryside north of Cheadle, the submitted Transport Assessment Addendum notes that it is within walking distance of the shops and services in the centre of Cheadle, and has reasonable access to public transport routes that link it to Cheadle and to other nearby settlements. Furthermore, Cheadle is one of three towns that are the main focus for development in the Local Plan and the appeal site is located very close to allocated housing sites in Cheadle.
75. I consider that in this case, the location of the appeal site is in a reasonably sustainable location, and the proposed development would not be wholly inconsistent with the spatial pattern of development contained in the Local Plan.

Planning Obligation

76. I have considered the submitted s106 planning obligation dated 14 February 2025, including with regard to the requirements of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) (the CIL Regulations) and the Council's CIL Compliance Statement.
77. Schedules 1-4 concern affordable housing provision, self-build and custom housing, accessible housing, discounted market housing and open space and recreation.

78. Schedules 6-8 concern enhanced healthcare capacity within Cheadle, a funding contribution for the provision of a new primary school in the north of Cheadle, and works to improve pedestrian mobility and to promote the use of public transport.
79. I consider that each of these obligations would be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development and I give them full weight in my decision.
80. However, Schedule 5 of the submitted planning obligation concerns Air Quality Monitoring. The Council has requested a charge of £50 per dwelling 'to support and implement better local air quality monitoring in the area, namely the real time monitoring of NOx and PM10 data and possibly to support a further feasibility study into local sustainable travel in the area'.
81. The necessity of this monitoring cost was questioned by the appellant given the conclusions of the AQA. In response the Council advised that there is '...inevitably some uncertainty around modelled data particularly at receptors currently close to air quality objectives...(and a) need to validate these predictions (notably PM 10 & 2.5) to demonstrate that the many assumptions in the model were accurate'.
82. However, I note that section 8.2 of the AQA states 'the impacts of the Proposed Development on NO2, PM10 and PM2.5 concentrations at all assessed receptor locations are considered to be 'negligible''. Furthermore, Appendix 01 of the AQA includes a section on Model Verification, which shows the modelled outputs would be within acceptable parameters. If the Council had serious concerns with the modelled data these should have been raised with the consultant earlier. This was not done, and I do not consider the Council would find the AQA acceptable if it had serious concerns regarding the modelling.
83. I accept that real-time modelling would help improve the Council's understanding of local air quality, including the effects of the proposed development and others in the area. However, it has not been demonstrated that this would be necessary to make the development acceptable in planning terms.
84. Consequently, I am not satisfied the Air Quality Monitoring obligation under Schedule 5 would be necessary to make the development acceptable in planning terms and it does not form part of my reasons for allowing the appeal.

Planning Balance

85. The proposed development would not cause unacceptable harm to designated heritage assets and would not be at an unacceptable risk of flooding. However, these would be outweighed by the significant harm caused by a development of this scale in the countryside.
86. The Council accepts that it cannot currently demonstrate a deliverable five year HLS and for the purpose of this appeal accepts it can only demonstrate a deliverable 2.95 year HLS.
87. Furthermore, the Council accepts that it has delivered only 1691 new homes between 2014 – 2023, against an identified requirement of 2880 new homes for this period, just 59%. With reference to paragraph 11d) of the Framework, consideration of the presumption in favour of sustainable development is needed.

88. The precise number of homes is to be determined at reserved matters stage. Nevertheless, the evidence indicates that around 210 new homes could be delivered on the appeal site, of which 33% would be affordable homes and up to 10 would be self-build / custom homes.
89. The delivery of a substantial number of new homes in a reasonably sustainable location on the edge of the town of Cheadle, which is a settlement identified as a focus for development in the Local Plan, would be a strong benefit of the proposal, given the 2.95 year HLS in Staffordshire Moorlands.
90. Furthermore, the delivery of up to 10 self-build / custom housing plots would also be beneficial given past permissions, whilst the delivery of around 70 affordable homes would be a very strong benefit of the proposal given the very low level of affordable housing delivery in recent years.
91. The provision of 50% of the dwellings on the site as *Accessible*, with reference to Part M4(2) of Schedule 1 of the Building Regulations 2010 (as amended) (the Regulations), together with a minimum of six dwellings on site to be Wheelchair Accessible (Part M4(3) of Schedule 1 of the Regulations) would be a further benefit of the proposal.
92. I am satisfied the Planning Obligation dated 14 February 2025 would ensure the delivery of the affordable housing, custom and self-build housing and accessible housing proposed.
93. There would be short-term economic and social benefits of the proposal during its construction, with longer-term economic, social and some environmental benefits upon occupation.
94. The Council and appellant have referenced a number of development plan policies in their evidence that they consider relevant to the appeal proposal. I have considered these policies, and their consistency with the Framework¹⁵.
95. It is common ground between the Council and the appellant that the proposal would conflict with policies H1, SS2 and SS10 of the Local Plan and so would conflict with the development plan as a whole. I am also satisfied the proposal would conflict with policies H1, SS2 and SS10 of the Local Plan and with Policy DC3, which are consistent with the Framework and so I give these conflicts weight. Whilst the proposed development would accord with other policies in the Local Plan, these specific policy conflicts mean there would be conflict with the development plan when taken as a whole.
96. The proposal would cause less than substantial harm to the setting of Broad Haye farmhouse, a designated heritage asset. However, this harm would be outweighed by the public benefits of the scheme, as set out above. Parts of the appeal site would be at risk of surface water flooding. However, the parameters masterplan and the FRA and addendum mean that this risk can be effectively managed. Consequently, there are no policies in the Framework that protect areas or assets of particular importance that provide a strong reason for refusing the development proposed¹⁶.

¹⁵ Para 232 of the Framework

¹⁶ Para 11 d) i) of the Framework

97. The proposed development would be supported by parts of the Framework, and I have had particular regard to the key policies listed at paragraph 11 d) ii). These include policies to increase housing supply, including affordable housing; to support economic growth; to make efficient use of land; to promote sustainable transport and to promote healthy and safe communities and inclusion.
98. However, there would also be some conflict with parts of the Framework, including with policies to conserve and enhance the natural environment and the historic environment.
99. In my view, the adverse impacts of granting permission would not significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole. Therefore, the proposal would constitute sustainable development with regard to paragraph 11 d) ii) of the Framework.
100. The proposal would conflict with the development plan as a whole. However, the presumption in favour of sustainable development is a material consideration, which in this case, causes me to determine this appeal otherwise than in accordance with the development plan.

Conditions and Conclusion

101. In addition to conditions requiring the approval of identified reserved matters; the timescale for such approvals; and, the timescale for the commencement of the approved development; conditions specifying the approved drawings and documents would be necessary for reasons of certainty.
102. Conditions concerning specific details required for reserved matters applications would be necessary to protect the character and appearance of the area, to ensure an appropriate mix and size of dwellings and to promote biodiversity.
103. Conditions concerning site investigations, consequent reporting and, if necessary, the completion of agreed remediation works and future monitoring, would be manifestly necessary to protect human health, property, and the environment, given previous uses of the appeal site.
104. A condition requiring the assessment / approval of soil imported to the site, and of the submission and subsequent approval and implementation of foul and surface water drainage plans would be manifestly necessary to protect the environment and the living conditions of future occupiers.
105. Conditions concerning the approved Flood Risk Assessment and Drainage Strategy, and the Surface Water Addendum, and confirming that no built development would be located within areas of medium and high flood risk would be necessary to protect the living conditions of future occupiers and for effective flood risk management.
106. Conditions concerning the submission, approval and subsequent implementation of Construction Management Plans dealing with surface water, ecology and the environment would be manifestly necessary to protect local people, biodiversity and the environment.
107. A condition requiring the submission and approval of a plan showing the proposed dwellings that would receive noise mitigation measures contained in the Noise Mitigation Report of 16 July 2021, and its subsequent implementation prior to

occupation of the dwellings, would be necessary to protect the living conditions of future occupiers.

108. Conditions concerning works to trees, hedgerows and shrubs, including protection measures and their potential role as bat roosts, would be manifestly necessary to protect biodiversity and the environment.

109. A condition requiring the submission, approval and implementation of a staged scheme of archaeological investigations, would be manifestly necessary to protect the historic environment.

110. Conditions concerning the visibility splays for the site's vehicular access point and the implementation of approved footway and highway works by Froghall Road, would be necessary to protect public safety and to promote sustainable travel modes.

111. For the reasons given above, I conclude the appeal is allowed.

Andrew Parkin

INSPECTOR

Richborough

ANNEX 1 - APPEARANCES

FOR THE APPELLANT:

Sarah Reid KC	Counsel	(Kings Chambers)
John Coxon	Agent / Planning	(Emery Planning)
Ben Pycroft	Housing Land Supply	(Emery Planning)
Jamie Roberts	Affordable Housing	(Tetlow King)
Andrew Jones	Self - Build / Custom Housing	(Tetlow King)
Philip Wooliscroft	Highways and Transport	(Eddisons)
Gail Stoten	Heritage	(Pegasus Group)
Tim Jackson	Landscape	(FPCR)
Sarah Hollis / Cairo Nickolls	S106 Obligation	(Gowling WLG)

FOR THE LOCAL PLANNING AUTHORITY:

Howard Leithead	Counsel	(No 5 Chambers)
Nicola de Bruin	Solicitor	(SMDC)
Alasdair Cross	Housing	(SMDC)
Ruth Woodisse	Housing	(SMDC)
Jane Curley	Planning	(SMDC)

INTERESTED PARTIES:

Cllr James Aberley	(Kingsley Parish Council)
Cllr Kenneth Unwin	(Kingsley Parish Council)
Cllr Peter Wilkinson	(SMDC)
Cllr Alan Thomas	(Cheadle Town Council)
Cllr Bernard Charlesworth	(Cheadle Town Council)
Cllr Phillip Routledge	(Cheadle Town Council)
David Lichfield	(resident)
Dave Scott	(resident)

ANNEX 2 – DOCUMENTS SUBMITTED AT THE INQUIRY

- ID1 – Appellant appearances list
- ID2 – Council's opening
- ID3 – Appellant's opening
- ID4 – Mead Realisations Ltd v The SSLUHAC and Anor [2024] EWHC 279 (Admin) (12 February 2024)
- ID5 – surface water map (no climate change)
- ID6 – surface water map (with climate change)
- ID7 – Green Infrastructure: Assets & Functions Plan (020-020-P011 Rev C)
- ID8 – Updated Housing Land Supply SoCG
- ID9 – Additional conditions relating to highways
- ID10 – Developer Contributions SPD
- ID11 – Playing Pitch Strategy
- ID12 – Site visit itinerary and map
- ID13 – Final draft s106 – track changes
- ID14 – Final draft s106 - clean
- ID15 – CIL Compliance Statement 30.1.25 – track changes
- ID16 – CIL Compliance Statement 30.1.25 – clean
- ID17 – Updated draft conditions 30.1.25 – track changes
- ID18 - Updated draft conditions 30.1.25 – clean
- ID19 – Flood Risk Technical Note
- ID20 – Public Open Space Note
- ID21 – Appellant closings
- ID22 – R. (on the application of Substation Action Save East Suffolk Ltd) v Secretary of State for Energy Security and Net Zero [2024] EWCA Civ 12
- ID23 – Revised draft conditions (31 January 2025)
- ID24 – Appellant written agreement to pre-commencement conditions
- ID25 – Addendum to Flood Risk Assessment and Drainage Management Strategy (January 2022): Surface water (dated 31 January 2025)
- ID26 - Mead Realisations Ltd v SSHCLG and North Somerset CC [2025] EWCA Civ 32
- ID27 – Appellant note on ID26
- ID28 – Appellant corrected note on ID26

ANNEX 3 – CONDITIONS SCHEDULE

- 1) The approval of the Local Planning Authority shall be obtained in writing with respect to the plans and particulars of the following reserved matters (hereinafter called "the reserved matters") before any development is commenced: Layout, Scale, Appearance, Landscaping and Access (save for the vehicular access to the site shown in Proposed site access plan 3277 F06 Rev G).
- 2) Application for approval of the reserved matters shall be made to the Local Planning Authority before the expiration of three years from the date of this permission.
- 3) The development hereby permitted shall be begun before the expiration of two years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby approved shall be carried out in accordance with the following drawings and documents:
 - Location Plan and application boundary 020 020 P001 Rev G
 - Parameters Masterplan - 020 020 004 Rev N
 - Proposed site access plan 3277 F06 Rev G
- 5) The reserved matters application for Layout and Scale shall be accompanied by the following for approval by the Local Planning Authority
 - a. existing and proposed levels across the site and relative to adjoining land
 - b. finished floor levels of the proposed buildings
 - c. long and cross sections through the siteDevelopment shall thereafter be undertaken in accordance with the approved details.
- 6) The mix of units at reserved matters shall be based on housing needs as informed by the Council's Strategic Housing Market Assessment (SHMA) and other relevant factors such as available supply and market demand. All units shall meet the Nationally Described Space Standards.
- 7) The reserved matter application(s) submitted shall be in accordance with the principles contained in the Design and Access Statement ref 020 020 001 Rev G.
- 8) The first reserved matters application shall be accompanied by the following for approval:
 - a. A scheme of intrusive site investigations (the Scheme) designed by a competent person and adequate to properly assess the ground conditions

on the site and establish the risks posed to the development by past coal mining activity (shallow mining / mine entry).

- b. A report (the Report) of findings arising from the Scheme and any remedial and / or measures necessary, including the submission of the proposed layout plan which identifies the location of any on-site mine entries (if found present) including appropriate zones of influence for all mine entries, and the definition of suitable 'no-build' zones;

Any remedial works or measures identified in the Report to address land instability arising from coal mining legacy shall be completed in full prior to the commencement of any development on the site.

- 9) No development approved by this planning permission shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, property (existing or proposed including buildings, crops, livestock, pets, woodland, service lines and pipes; buildings), adjoining land and ground and surface waters, has been submitted to and approved in writing by the Local Planning Authority. The scheme must include:

- a. A site investigation, based on the information already provided to support a detailed assessment of risks to all receptors that may be affected, including those off site.
- b. The results of the site investigation and the detailed risk assessment referred to in (a) and, based on these, an options appraisal and a remediation strategy giving full details of remediation objectives and remediation criteria
- c. A validation plan providing details of the data that will be collected in order to demonstrate that all the works set out in (a) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
- d. If, during the course of development, any contamination is found which has not been 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 approved additional measures.

The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

- 10) Prior to bringing the development into first use, a validation report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved validation plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency

action, as identified in the validation plan, and for the reporting of this to the Local Planning Authority.

- 11) No soil is to be imported to the site until it has been tested for contamination and assessed for its suitability for the proposed development; a suitable methodology for testing this material should be submitted to and agreed in writing by the Local Planning Authority prior to the soils being imported onto site. The methodology should include the sampling frequency, testing schedules, criteria against which the analytical results will be assessed (as determined by the risk assessment) and source material information. The analysis shall then be carried out and validity evidence submitted to and approved in writing by the Local Planning Authority.
- 12) The development hereby permitted should not commence until drainage plans for the disposal of foul and surface water flows have been submitted to and approved in writing by the Local Planning Authority. The details shown on the approved drainage plans shall be implemented in full before any of the dwellings hereby approved are first occupied.
- 13) The development hereby approved shall be carried out in accordance with the following documents:
 - Flood Risk Assessment and Drainage Management Strategy (January 2022)
 - Addendum to the Flood Risk Assessment and Drainage Management Strategy (January 2022): Surface Water (dated 31 January 2025)The drainage strategy set out in the above documents shall be implemented in full before any of the dwellings hereby approved are first occupied.
- 14) No built development, including access or escape routes, land raising or other potentially vulnerable elements, shall be located on the areas identified as being of medium and high chance of surface water flooding on plan reference HYD618 / 105 / Rev C in the Addendum to the Flood Risk Assessment and Drainage Management Strategy (January 2022): Surface Water (dated 31 January 2025).
- 15) Prior to the commencement of development a Construction Surface Water Management Plan (the Plan) shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall detail arrangements for the control of surface water that will be put in place as part of any temporary works associated with the permanent development, to ensure that flood risk is not increased prior to the completion of the approved drainage strategy. The development shall proceed in accordance with the agreed Plan.
- 16) No development hereby permitted shall take place except for works of site clearance and demolition until a Construction and Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority, which shall include the following details:-

- I. the hours of work, which shall not exceed the following: Construction and associated deliveries to the site shall not take place outside 08:00 to 18:00 hours Mondays to Fridays, and 08:00 to 13:00 hours on Saturdays, nor at any time on Sundays or Bank Holiday;
- II. the method and duration of any pile driving operations (including expected starting date and completion date);
- III. pile driving shall not take place outside 09:00 to 16:00 hours Mondays to Fridays, nor at any time on Saturdays, Sundays or Bank Holidays;
- IV. the arrangements for prior notification to the occupiers of potentially affected properties;
- V. the responsible person (e.g. site manager / office) who could be contacted in the event of complaint;
- VI. a scheme to minimise dust emissions arising from construction activities on the site.
- VII. a scheme for recycling/disposal of waste resulting from the construction works;
- VIII. the parking of vehicles of site operatives and visitors;
- IX. the loading and unloading of plant and materials;
- X. the storage of plant and materials used in constructing the development;
- XI. the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- XII. details of measures to protect the public footpaths and amenity of users of the public footpaths crossing the site during the construction works,
- XIII. any waste material associated with the demolition or construction shall not be burnt on site but shall be kept securely for removal to prevent escape into the environment.
- XIV. details of any generator/s to be used on site. They should be sufficiently attenuated so that any noise generated shall be inaudible inside any nearby noise sensitive premise, during construction/demolition phases amplified music and/or radios shall not be audible beyond the site boundary.
- XV. wheel wash facilities
- XVI. the routing of vehicles to and from the site
- XVII. details of any site compound(s) with associated temporary buildings
- XVIII. road sweepers

All works shall be carried out in accordance with the approved details.

- 17) Prior to first occupation of any of the proposed dwellings hereby approved, a plan shall be submitted to and approved in writing by the Local Planning Authority indicating those properties fronting Froghall Road for which the mitigation set out in section 4.3.8 of the Noise Impact Assessment Report dated 16th July 2021 prepared by JPM Acoustics shall apply. Such mitigation measures shall be

installed in all such properties marked on the plan prior to any first being occupied.

- 18) The reserved matters application shall be accompanied by an up to date Arboricultural Impact Assessment report to demonstrate full and detailed consideration for the avoidance of harmful impact on trees and hedgerows to be retained and compliance with guidance set out in British Standard 5837:2012 *Trees in Relation to Design, Demolition and Construction - Recommendations*.
- 19) No trees, shrubs or hedgerows shall be removed other than those whose removal is directly required to accommodate the development, as hereby approved or as subsequently approved in detail under a related reserved matters application, unless otherwise approved by the Local Planning Authority (LPA). There shall be no removal of any trees, shrubs or hedgerows during the bird nesting season (March to August inclusive), unless otherwise agreed by the LPA and in this case only following careful inspection by a competent person immediately prior to removal in order to establish that such trees, shrubs or hedgerow are not in active use by nesting birds.
- 20) Any mature tree to be removed or to have substantial crown pruning operations carried out shall first be carefully inspected for the potential to provide bat roosting opportunities. Any tree which has such potential (which could include cavities, splits, decay pockets, hollow stems or branches, areas of loose bark, dense ivy cover or dense epicormic shoots) shall be subject to a further detailed and if necessary climbing inspection by a licensed bat worker immediately prior to felling or pruning, and all felling or pruning of such trees assessed as having moderate or greater potential for roosting shall take place in the presence of the bat worker who can then immediately advise on appropriate measures if bats are encountered during dismantling, felling or pruning operations.
- 21) No development shall commence on site (including any site clearance, site stripping, site establishment or formation/improvement of temporary/permanent access) until such time that temporary tree protection barriers and advisory notices for the protection of the existing trees to be retained have been erected in accordance with guidance in British Standard 5837:2012 *Trees in Relation to Design, Demolition and Construction – Recommendations*, and these barriers and notices shall be retained in position for the duration of the period that development takes place. Within the fenced areas there shall be no excavation, changes in ground levels, installation of underground services, provision of hard surfacing, passage of vehicles, storage of materials, equipment or site huts, tipping of chemicals, waste or cement, or lighting of fires.
- 22) No development shall commence on site (including any ground works, site clearance, site stripping) until a Construction and Ecological Management Plan

(CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be based on the submitted Preliminary Ecological Appraisal (PEA) dated 16th July 2021 and shall have regard to BS 42020 *Biodiversity. Code of practice for planning and development* (or the prevailing standard), and shall include mitigation details for those species listed in Section 4 of the PEA. The approved CEMP shall be implemented and adhered to throughout the construction period in accordance with the approved details

- 23) The reserved matters application shall be accompanied by a Landscaping and Ecological Management Plan which should be written in accordance with BS 42020 *Biodiversity. Code of practice for planning and development* (or the prevailing standard and shall include but not be limited to the following:-

- (1) Details of habitat creation and species enhancements
- (2) Updated Biodiversity Net Gain (BNG) calculation using latest Defra metric/ Statutory Biodiversity Metric
- (3) Soil preparation details.
- (4) Appropriate planting / seeding specifications.
- (5) Long-term habitat management plan with legal and funding mechanism (s) by which the long term implementation of the plan will be secured by the developer with management body(ies) responsible for its delivery
- (6) Implementation timetable

The Landscaping and Ecological Management Plan shall be implemented in accordance with the approved details.

- 24) Prior to the commencement of development including site stripping and clearance a written scheme of staged archaeological investigation ('the Scheme') shall be submitted for the written approval of the Local Planning Authority. The Scheme shall provide details of the programme of archaeological works to be carried out within the site, comprising a geophysical survey followed by archaeological trial trenching (the need for and scope of this to be determined following the geophysical survey) including post-excavation reporting and appropriate publication with implementation timescale.

The archaeological site work shall thereafter be implemented in full in accordance with the approved Scheme and timescale therein

The development shall not be occupied until the site investigation and post-excavation assessment has been completed in accordance with the approved Scheme and the provision made for analysis, publication and dissemination of the results and archive deposition has been secured.

- 25) The development hereby permitted shall not be brought into use until the visibility splays shown on Proposed site access plan 3277 F06 Rev G, have been provided. The visibility splay shall thereafter be kept free of all obstructions to visibility over a height of 600 mm above the adjacent carriageway level.

- 26) Prior to first occupation of any of the proposed dwellings hereby approved, the proposed access and the footway and footway alterations between the site access and number 170, Froghall Road, including alterations to the service road (to numbers 204 to 172) and resurfacing of the service road, as shown on Proposed site access plan 3277 F06 Rev G shall be implemented in full.

END

Richborough