
Appeal Decision

Inquiry opened on 12 May 2015

Accompanied site visit made on 15 May 2015

by Philip Major BA (Hons) DipTP MRTPI

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

Decision date: 3 September 2015

Appeal Ref: APP/A0665/W/14/3000528

Land at Hill Top Farm, By-Pass Road, Northwich, Cheshire CW9 8JU.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Robert Matthew, Mr & Mrs Igoe, and Russell Homes Limited against the decision of Cheshire West & Chester Council.
 - The application Ref: 13/05006/FUL, dated 15 November 2013, was refused by notice dated 24 October 2104.
 - The development proposed is the demolition of the existing dwelling and construction of residential development of 113 dwellings with associated public open space, landscaping, highways and parking.
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Preliminary Matters

1. The application was submitted on the date set out above and at that time proposed the erection of 121 dwellings. That scheme was replaced by the scheme before me, for 113 dwellings, which was submitted in May 2014.
2. During the course of the inquiry I carried out unaccompanied visits to the area surrounding the site on 11 and 13 May.
3. The decision notice relating to this proposal refers to the emerging Cheshire West and Chester Local Plan Part 1 (LP). This was adopted in January 2015 and forms part of the development plan along with saved policies of the Vale Royal Borough Local Plan (BLP).
4. Shortly after the close of the inquiry the Council published the Housing Land Monitor (HLM) for the period 1 April 2014 to 31 March 2015. This has been considered by the parties and representations have been made. I have taken into account those representations in reaching my decision. The important point to note from this information is that on the Appellant's new evidence the Council can demonstrate some 4.77 years of supply. This is self evidently close to the 5 year requirement and it would not need much change in order to reach that level. In other words the position has moved significantly since evidence was given at the inquiry and the supply position has moved significantly towards a position of being able to demonstrate a 5 year supply on the Appellant's calculations.

Decision

5. The appeal is allowed and planning permission is granted for the demolition of the existing dwelling and construction of residential development of 113

dwellings with associated public open space, landscaping, highways and parking at land at Hill Top Farm, By-Pass Road, Northwich, Cheshire CW9 8JU in accordance with the terms of the application, Ref: 13/05006/FUL, dated 15 November 2013, and the plans submitted with it, subject to the conditions set out in the attached schedule.

Location and Planning Policy Background

6. The site is located within Kingsmead parish, which lies to the north of the A556. The A556, a dual-carriageway by-pass, forms an effective boundary between Kingsmead and Davenham to the south. The 2 settlements have different characteristics. Kingsmead is an urban extension of Northwich with modern housing and a local centre developed in relatively recent years. Davenham is an older village, with its village centre to the south-east of the appeal site, and more recent development stretching outwards. There is a tract of open land to the north of Davenham and south of the A556 which is designated as an Area of Significant Local Environmental Value (ASLEV) under saved Policy NE12 of the BLP. It is designated as an environmental buffer between Davenham, the A556 and Leftwich. In practice it also forms a buffer between Davenham and much of Kingsmead.
7. There is no dispute between the parties that the site lies outside the defined settlement limits of Northwich as identified in the BLP. These development limits are applicable under the auspices of LP Policy STRAT 9 which seeks to protect the intrinsic character and beauty of the Cheshire countryside. The explanation to that policy indicates that until the Local Plan Part 2 is prepared and adopted the policies of (amongst others) the Vale Royal Borough Local Plan relating to settlement boundaries will be retained. In this case that relates to saved policy GS5 of the BLP. The site lies outside the defined settlement limit and does not fall within any of the exceptions permitted by Policy STRAT 9. There is, therefore, an acknowledged breach of development plan policy at least in the period until the Local Plan Part 2 is adopted.
8. The Appellant suggests that GS5 is not consistent with the pro-growth thrust of the National Planning Policy Framework (NPPF) and as such should carry reduced weight. In the context of this appeal I do not consider that this is a matter which is determinative. Taking the Local Plan as a whole, however, I am not persuaded that GS5 should be given reduced weight in light of its recent confirmation as being relevant in the context of the adopted Local Plan, albeit for a limited period until LP Part 2 is adopted.
9. Local Plan Policy STRAT 2 lists Northwich as one of 3 towns outside Chester which are to be the main focus for development. Northwich itself is constrained by Green Belt, flood risk areas and a brine works. I agree that new development is likely to be focussed generally towards the south of the town. The site itself was included within the 2013 Strategic Housing Land Availability Assessment (SHLAA), and no constraints to development were identified other than the requirement for a new access.
10. The NPPF seeks to ensure that the supply of housing is boosted significantly, and requires local planning authorities to identify and update annually a supply of sites sufficient to provide 5 years worth of housing to meet objectively assessed need. If the authority cannot do so then policies for the supply of housing should not be considered to be up to date. Policies STRAT 9 and GS5 can be taken to be policies of relevance to the supply of housing, and whether

they can be regarded as being up to date depends on whether the Council is able to show that it has a 5 year supply of deliverable housing sites.

Main Issues

11. The main issues in the appeal are:

- (a) Whether the Council can demonstrate a 5 year supply of deliverable housing sites and;
- (b) If there is a deliverable 5 year housing land supply whether other material considerations indicate that planning permission should be granted, or;
- (c) If there is no deliverable 5 year housing land supply whether the NPPF presumption in paragraph 14 should apply in the light of the effect of the proposal on highway safety and the character and appearance of the area.

Reasons

Housing Land Supply

12. There is general agreement between the parties as to the housing requirement over the appropriate 5 year period. At the time of the inquiry the period was April 2014 to March 2019. Following the publication of the HLM the period is now April 2015 to March 2020. The requirement is made up of the (minimum) level of net provision set out in the adopted LP (1100 per annum), the backlog from previous years (836), and an agreed 20% buffer applied to the base requirement of 1100, in line with NPPF requirements. The requirement is therefore 7436 dwellings.
13. That said, there is no common approach established as to dealing with the backlog, and whether a 20% buffer should also be applied to that. However I acknowledge that there are decisions available which do apply a buffer to the backlog and decisions which do not. These include decisions by the Secretary of State. Were such a buffer to be applied here the requirement would rise to 7603 dwellings on the Appellant's calculations.
14. Before embarking on the assessment of supply it is apposite to understand the position agreed at the inquiry. First, that a 5 year requirement is not a maximum figure in the context of the NPPF objective to significantly boost supply. Secondly it is acknowledged that housing land supply calculations can never be exact. The predictions can only be based on the best available information applied with the best available skill and knowledge. For that reason the inquiry did not dwell on some disputed sites where the difference in supply predicted by each party was of a very small order. As an example the difference in supply predictions for the site at Leaf Lane Infant School, Winsford was just 4 dwellings. Such sites would be unlikely to materially alter the 5 year supply position.
15. This agreed starting point assists in assessing the dispute between the parties in relation to supply. The Council (based on the recent HLM) believes it has a total net deliverable supply of about 10151 dwellings (6.83 years) if the buffer is not applied to the backlog. On the other hand the Appellant considers supply to be about 7086, or 4.77 years. The difference of just over 3000 stems from a variety of matters, including:

- Whether a non-implementation 'discount' should be applied to small sites;
- Whether a demolitions and losses allowance should be included in calculations and;
- Whether student housing can reasonably be included;
- Disagreement about delivery on a number of sites, in terms of both availability and deliverability.

16. I therefore turn to some principles of assessing sites as investigated at the inquiry. I then go on to examine some sites with disputed numbers which, alone or together, are likely to be material to the supply position.

17. As a precursor I record here that the examination of the recently adopted Local Plan found that the Council could demonstrate a 5 year supply of deliverable sites. However, that examination took place some time ago, and evidence at this inquiry was given that the discussion of supply at the examination was relatively brief. That is not to criticise the Inspector, who can only deal with the information before him. In any event the supply position is a dynamic environment and evidence has inevitably moved on.

18. Subsequently the Council has been found not to be able to demonstrate a 5 year supply in an appeal decision relating to proposed development at Nether Peover¹. That decision was clearly based on up to date information at that time. This decision is based on the evidence presented to me but I am mindful of the fact that the position in relation to housing land supply changes over time, and that this decision is made in a new monitoring year following the publication of the Council's HLM for the 2014 – 2015 year. I turn now to the matters set out above in turn.

19. Non-implementation discounts for small sites. The Council indicated at the inquiry that at 1 April 2014 there were some 942 dwellings on small sites which could be regarded as commitments to be delivered in the 5 year period. Future supply relies on a windfall allowance on small sites of 150 dwellings per annum from year 3 onwards. However, I acknowledge the Appellant's evidence that some of these sites will not come to fruition for a variety of reasons. The evidence presented to me is that between 1 April 2014 and 1 March 2015 planning permission expired on 11 sites equating to 46 dwellings. Suffice to say at this stage that I believe that the Council was being optimistic in assuming the completion rate on small windfall sites with planning permission would be as high as it had allowed for. Nonetheless I acknowledge that the Inspector in the Nether Peover appeal and the Secretary of State² have not made an allowance for non-implementation on small sites. In light of the recently published HLM I do not in any event consider that this is a determinative matter as non implementation is catered for in the monitoring exercise.

20. Demolitions and Loss Allowance. The LP clearly states that the housing requirement is a net figure of at least 1100 dwellings per annum. That clearly means that any losses through demolition or other loss must be made up elsewhere so the figure of 1100 is reached. The Local Plan Inspector's report

¹ APP/A0665/A/14/2224763

² Appeal ref APP/A0665/A/2214400

indicates that, based on recent trends, approximately 50 dwellings per annum may be lost.

21. However, I also accept the Council's evidence that the figure of 50 dwellings per annum lost could be an over estimate when some larger redevelopment schemes are taken out. But I do not accept that the demolitions and loss figure should be removed entirely. Any net supply calculation must factor in the likelihood of losses at whatever level. As with the Inspector at Nether Peover I consider it appropriate to account for losses and on the basis of submitted evidence following the publication of the HLM I note that the Council's new calculations are all expressed as net figures and include demolitions.

Student Housing

22. The Appellant argues that student housing should be removed from the Council's calculations on the basis that these are communal establishments and should not therefore be included in the supply figure.

23. However, Planning Practice Guidance (PPG) states that "*All student accommodation, whether it consists of communal halls of residence or self-contained dwellings, and whether or not it is on campus, can be included towards the housing requirement, based on the amount of accommodation it releases in the housing market. Notwithstanding, local authorities should take steps to avoid double-counting.*" The information supplied indicates that the accommodation in question is in fact self contained units which include sleeping, bathing, cooking and eating facilities. I have no evidence that there is any double counting here and I see no need to discount these units. I am also satisfied that it is likely that they will be delivered in the 5 year period.

24. That adds 511 units to the supply calculation of the Appellant, bringing it to a total of 7597, which equates to a 5.1 year supply if there is no buffer added to the backlog, and just about equal to a 5 year supply of 7603 if it is. On the face of it, therefore there is sufficient information to conclude at this point that the Council can probably demonstrate a 5 year supply. However, some sites were argued at the inquiry and in representations and for completeness I deal with a number of them here.

25. **Individual disputed sites.** In considering these sites I pay strong heed to the contents of footnote 11 of the NPPF which states that

"To be considered deliverable, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within 5 years and in particular that development of the site is viable. Sites with planning permission should be considered deliverable until permission expires, unless there is clear evidence that schemes will not be implemented within 5 years, for example they will not be viable, there is no longer a demand for the type of units or sites have long term phasing plans."

This footnote clearly introduces matters of professional judgement. I have considered the sites on the basis of their importance to the overall supply position, where the difference between the parties is at a significant level (above 10 units) down to those with least influence on supply. It is worth reiterating that this is a dynamic, but not exact, area of study. The evidence I

heard, as updated by the HLM representations, is particular to this case and where I differ from the conclusions of the Inspector who considered the Nether Peover appeal I explain why that is so. The fact that I may differ from the conclusions of the Local Plan Inspector in part reflects the likely difference in evidence and detailed consideration of individual assumptions.

26. *Premier House, Chester*. This is a phased mixed use development and there is no dispute that the residential element has been permitted on the basis that it would be in the final 3 phases of 10. The approved phasing plan confirms this position. Whilst the Council has indicated that it has expectations of detailed applications for the residential phases and a change to the approved phasing plan during the spring or summer of 2015, no application had been submitted at the time of this inquiry. Bearing in mind that the NPPF expects deliverable sites to show a realistic prospect of development within 5 years, it is difficult at this stage to conclude that the 200 units argued at the inquiry would be delivered in the current 5 year period and I note that the HLM cuts this to 100. The agents for the developer did indicate in February 2015 that the intention would be to deliver the residential element within 5 years. But that intention does not provide firm enough evidence for it to be regarded as part of the supply. For one thing there is no planning application, and the length of time to determine an application is unknown. Secondly there would be likely to be the necessity to discharge conditions as well as to coordinate construction with other phases of the development. Taken in the round it seems to me that this is not a site which could be reasonably held to offer the likelihood of housing provision in the current 5 year period. It is currently subject to a phasing plan which sets it outside the current 5 year horizon, and there is too little evidence to suggest that this will change materially. Even if some provision were made I consider the Council's delivery rate to be highly optimistic. On balance my judgement is to exclude delivery on this site.
27. *Cheshire Warehousing, New Road, Winsford*. Although the Council has received a planning application for development on this site the HLM records it as pending. I acknowledge that a permission of some sort may be forthcoming, but it seems likely that there would need to be some time required for discharge of conditions and other preparatory works. There is information from Wolvern Housing that its funding arrangement with the Homes and Communities Agency (HCA) would require completion by March 2018. Although the site is occupied by an operating business Wolvern Housing has expressed the view that delivery is expected from March 2016 with completion in about 18 months. On that basis, on balance, I accept that this site is likely to deliver.
28. *Research Laboratories, Winnington Lane, Northwich*. Planning permission exists for 20 dwellings on this site, granted in 2012. However, a more recent permission was granted for the improvement of the existing leisure facilities which occupy the site. Neither permission has been implemented and the residential permission expires in September 2015. There is no evidence to support a conclusion that the existing leisure use is likely to be abandoned in favour of providing dwellings. The site cannot be regarded as being available now, and 20 dwellings should be removed from the Council's assessment of supply.
29. *Malvern House, Old Road, Anderton with Marbury*. This is another site which is in use. The extant planning permission was due to expire in May 2015 and I

am told that a new application has been submitted. However as the site is currently still in use by a coach company it would be too optimistic to regard the site as being available now and so 11 dwellings should be removed from supply calculations.

30. *Former Van Leer site, Meadow Lane, Ellesmere Port.* The site has planning permission which I understand was granted in 2010 and extended in 2012. I note that the owner's agent regards the site as being available now. I do not challenge that position, but the counter evidence from the Appellant indicates that the site has been marketed for 7 years, and that an extended time period for a reserved matters application was sought in order to address contamination issues. The latest information is that the site is in the process of being sold. However, it is not yet a certainty that any delivery would take place in the near future. I recognise that the Nether Peover Inspector accepted that some delivery could be included from this site. I agree with that, but do not share the Council's delivery expectations. This is because of the question mark relating to decontamination (which goes to the viability of the site) and the extended time sought for the submission of reserved matters (which also suggests an acknowledgment by the owners that delivery will not be quick and easy). On that basis and despite the extant planning permission I consider that the Council is too optimistic and that there are clear reasons to suggest that delivery on this site will be limited in the 5 year period. I discount 50 units from the Council's calculations.
31. *S Cooper and Sons, Nat Lane, Winsford.* This site has an extant planning permission but is in active use as a haulage yard. I was told at the inquiry that the occupant is a well known haulier in this locality, operating numerous vehicles. The planning permission does not require a reserved matters submission until 2021 at the latest, and in the absence of any evidence suggesting that a submission is likely in the near future this must lessen the weight attaching to the permission. There is also no evidence of the occupier having found any alternative premises to move to. In these circumstances I depart from the Nether Peover Inspector and consider the Council's suggestion that delivery should be included in years 4 and 5 to be too optimistic. The site cannot be regarded as being available now. I discount 60 dwellings from the Council's assessment.
32. *Former Garage, Lower Bridge Street, Chester.* The Council seems confident that this site will come forward, though no planning permission exists at present. I am told that pre-application discussions took place some time ago, but there is no evidence of a planning application having been submitted. The lack of a planning permission and the apparent tardiness in bringing forward a planning application carries more weight in my judgement than the Council's optimism that such sites can be delivered quickly. That would only happen if there is some realistic prospect of a developer showing signs of wishing to move ahead with some speed. I am not aware of any such circumstances, and again I differ from the Nether Peover Inspector as I believe that, based on current evidence, the Council is too optimistic. This site should be discounted.
33. *Land at Moorside Lane, Neston.* This is a site on which an application for 33 units was refused in December 2014. However, planning permission has been granted for access works to the site. An appeal against the earlier refusal of permission has also now been allowed and this increases certainty of some

development. It therefore seems that some development is likely in the future. I am satisfied that delivery will take place on this site.

34. *Roften Works, Hooton Road, Hooton*. Outline planning permission exists on this site and the Council's evidence is that progress is being made towards an application for reserved matters being submitted. But as pointed out by the Appellant planning permission has existed since 2013, the site has been marketed but remains in the owner's control. As a result I agree that the lead in time for development commencing is too optimistic on the Council's part. I give greater credence to the Appellant's assessment that development might begin a year later. This results in a reduction of about 50 dwellings from supply.
35. *Land off Chester Road, Malpas*. In view of the acknowledged likelihood of a sale being completed on this land only after June 2016 it seems unlikely to me that the site would provide the number of dwellings in the 2017 – 2018 year predicted by the Council (year 3 of 5). Hence I discount 20 dwellings from supply (leaving about 40).
36. *Wrexham Road, Chester*. This is a strategic site with an ultimate capacity beyond 1200 houses. There is currently no planning permission on this site. Local Plan Policy requires a development brief to be prepared (possibly in the form of a masterplan) and such a document has not been prepared as yet. It seems very optimistic to expect any delivery on this site at the level predicted by the Council. The development brief, planning permissions and discharge of conditions will take time. I therefore consider that delivery rates should be lowered with a consequent reduction in the 5 year supply. Even so this would add about 100 dwellings to the Appellant's figures.
37. *Rossmore Road (former service station)*. As pointed out by the Appellant, this site has benefitted from a series of planning permissions and renewals. The current permission is valid for the period to October 2016. I accept that development will be forthcoming here at some point, but the difficulty is predicting when. The fact that other apparently 'stalled' sites have moved forward to delivery does not mean that this site will follow suit. Although the Nether Peover Inspector accepted delivery on this site within 5 years I am not persuaded that there is sufficient information to reach that conclusion. The assumption that all 39 units would come forward in year 5 might be seen as a pragmatic move on behalf of the Council, but it seems equally likely than no dwellings would be built. It would be more realistic to assume a partial build out of the site at best. I therefore discount 20 units from supply, leaving 19 for delivery.
38. *Sites at Handley Hill Primary School, Castleleigh Centre and Church Street, Winsford*. These sites are in the Council's ownership and are expected by the Authority to provide some supply. But none of the sites has planning permission. Although the Nether Peover Inspector expressed sympathy for the Council's position on these sites, he did not assess whether that position was realistic. In my judgement it is too optimistic. To be generous, and in acknowledgement of the Council's control and desire to push the sites forward, I consider that it would be more realistic to predict supply coming forward at half the rate suggested. This discounts some delivery but I would find a supply of about 45 units to be realistic.

39. Pausing here in my consideration of disputed sites the above reasoning amply illustrates the difficulties of predicting which sites are likely to provide housing within the 5 year period. It is also ample illustration that there is likely to be a middle way on many of them, with delivery somewhere between that predicted by the Council and that predicted by the Appellant. In some cases I accept the Council position, in others I accept the position of the Appellant. Neither prediction is right or wrong. However, an overall assessment that the Council can demonstrate a 5 year supply is reasonable, not just because of the inclusion of student housing, but because other delivery is also likely which is discounted by the Appellant at the present time. The actual supply figure is likely to fall somewhere between the 2 competing predictions, but I have no difficulty, based on the evidence presented to me, in reaching a conclusion that the Council can demonstrate a 5 year housing supply at the present time. This applies whether or not the 20% buffer is applied to the backlog. The assessments above on just a few sites result in supply increasing above the figure calculated by the Appellant by something approaching 350 units. Even if some of the student housing were to be discounted the Council's figures would still provide confidence that a 5 year supply can be demonstrated.
40. There are also other sites which are contested by the Appellant which have been included by the Council in its assessed supply. These sites, some of which have come forward in the HLM but were not discussed at the inquiry, will no doubt play a role in the current and future supply assessments, but for my purposes in this appeal they would make no difference to whether or not a 5 year supply is currently demonstrated and I see no need to consider them in detail here. The fact that the sites assessed indicate that the likely outturn is between the 2 sets of figures before me will in all likelihood be repeated elsewhere, further boosting the Appellant's figures whilst depressing those of the Council. Nor do I need to consider by what margin the 5 year supply is exceeded, though it is apparent to me that it is likely to be exceeded by several hundred houses or more.
41. As a result of finding that the Council can demonstrate a 5 year supply of deliverable housing sites it must follow that the policies for the supply of housing in the development plan are not out of date. That in turn means that paragraph 14 of the NPPF is not engaged. I turn, then, to consider the other main issues in the appeal.

Highway Safety

42. The impact of the proposal on highway safety is not a matter contested by the Council. Access to the appeal site would be taken from a new signal controlled junction on the A556, and this would also involve changes to the access and egress from Hartford Road, Davenham, which lies opposite the proposed entrance.
43. Extensive modelling and consultations have taken place between the Appellant's highway consultant and the highway authority. The result is a scheme which would involve a reduction in the speed limit along the A556, right and left turn access to the A556 from the site and from Hartford Road, TOUCAN pedestrian facilities for crossing the A556, appropriate sight lines, and the closing up of 2 unsatisfactory access points from the appeal site.
44. Davenham Parish Council and others are concerned that the proposed development would be harmful to highway safety, in contrast to the significant

benefits in this respect claimed by the Appellants. The Parish Council's objections³ are set out in its written submission, and the Appellant's response is also set out in writing⁴.

45. Much of the objection centres on the fact that this is a fast stretch of road (it is currently subject to a 70mph speed limit) and that the site access is on a bend on the brow of a hill. Those facts are indisputable. However, the proposed access junction has been designed in accordance with the current Design Manual for Roads and Bridges (DMRB) and has been assessed and agreed by the technical officers of the highway authority. I agree with the Appellant that there would be significant safety improvements resulting from the proposed junction. These include the installation of a TOUCAN pedestrian crossing to replace the hazardous uncontrolled crossing which now exists, the reduction in the speed limit, and the effective breaking up of traffic flows which would be likely to make access to and egress from Royal Gardens easier and safer. My conclusions on this point are based not only on the technical material presented, but also my own experience and observations of the local highways over 3 separate site visits at both peak and off-peak times.
46. Although the reintroduction of a right turn facility into Davenham causes concern to some, I do not share it. I accept that there would be an increase in traffic travelling west to east along Hartford Road, but I do not consider that this would amount to significant extra flows. The possibility of the use of Mount Pleasant Road as a 'rat run' cannot be discounted, but that route is not attractive for car drivers because of its narrowness and twisting nature. It would be very unlikely to save time, would not be an easy route, and I cannot believe that it would be an attractive alternative to using the A556 and turning right at the nearby roundabout, for access to or beyond Davenham.
47. The traffic lights proposed would enable traffic from within Davenham an alternative route onto the A556 travelling east and would no doubt remove some traffic which currently flows through the village centre. The lights would also control flows both east and west, so making any other manoeuvres safer in the breaks in flow. The amount of traffic added to the A566 and surrounding roads from the proposed housing would be relatively limited and would not be likely to lead to any extra congestion. Taken in the round I am satisfied that the proposed access would bring significant enhancements to the highway network and its safe operation. This is a material consideration which adds substantial weight in favour of the proposal.

Character and Appearance

48. This matter is, in essence, the root of the Council's objection. Davenham Parish Council and others also express concerns in relation to the environmental impact of the proposal. The location of the proposed housing is extremely well concealed for the most part. Though the site includes part of Poors Wood to the north and well vegetated tree belts on other sides, these are not proposed for housing development. There is no public access to the site and it is not prominent in the landscape. It carries no protective designation. In my judgement it has a low sensitivity to change.

³ Document 14

⁴ Document 12

49. Some development in the south-east part of the site would be visible from the A556 and some dwellings at the western end of Davenham. However, I do not subscribe to the view that the proposal would lead to a perception that Davenham and Kingsmead had merged. The position at which Davenham and the appeal development would be closest is a short distance only. From the A556 any impression of development being on each side of the road would be fleeting. It is right that the proposed block of flats on site, and houses, would be seen particularly when travelling west and in passing the site entrance, but the majority of viewers would be concentrating on the road ahead. In any event the views into the site would be filtered by vegetation. The apartment block would be higher than other dwellings but would not be unduly prominent given the local topography.
50. The remainder of the area proposed for housing is exceptionally well visually self contained. It is likely that there would be some glimpses of development through existing trees during winter months, but these would be minor and little different to any glimpses of the existing Kingsmead development.
51. Poors Wood would be unaffected with the exception of a new footpath to link to the existing footpath in the wood to the north. I understand the concerns of residents of Royal Gardens who own parts of Poors Wood, but I have nothing before me which suggests that development of the appeal site would lead to trespass on their property.
52. In a wider sense it was suggested that the development would also lead to a perception of coalescence with the development just starting at School Lane, Hartford. I saw at my site visits that these 2 developments, separated by the Weaver Navigation and its valley, would sit on the higher slopes of either side of the valley. Some minor intervisibility would be possible from within the developments, but the degree of landscape containment of the appeal site would be such that there would be minimal impression of built development reaching anything approaching what might be described as coalescence.
53. This landscape containment would also protect the users of the Weaver Valley leisure facilities from any material impression of the development existing at all. It may be possible to glimpse parts of dwellings at some times of the year, but as existing and proposed vegetation matures those glimpses would diminish.
54. Taking these matters together it is my judgement that the impact of the proposed on the landscape character of this area would be slight. When combined with its low sensitivity to change this results in a very small overall impact on character. The self contained nature of the majority of the site also means that any visual impact would be small and restricted in extent. I therefore conclude that the proposed development would have no more than a minor effect on the character and appearance of the locality.

Other Matters

55. There are a number of other matters which I should address as they have been raised by local residents.
56. The capacity of local schools and medical facilities to cater for residents of the development is questioned. The Appellant has offered a contribution to enable school places to be provided (a matter I refer to later) but I have no evidence

that medical facilities would be unable to cope with the residents of the proposed development and these matters therefore carry little weight.

57. I also have nothing before me which suggests that harm would be caused to the ecology or biodiversity of Poors Wood, a site managed by the Cheshire Wildlife Trust. The Trust has no objection to the proposals and it is proposed that parts of the woodland within the appeal site should in future be managed by that organisation (I also deal with that matter later in relation to the offered Unilateral Undertaking). The site has been subject to investigative work and it would be possible to impose conditions to give the greatest possible degree of ecological protection. This matter does not militate against permission being granted.
58. I am informed that the land has not been used for agricultural purposes for many years. The remnants of horticultural use are in evidence towards the eastern end of the site, and much of the rest is grazed by horses and ponies. It is not disputed that the land is a low grade classification. I can appreciate that this area of land would be difficult to use productively given its lack of connection to other land and the difficulty which might ensue for slow moving agricultural vehicles seeking to use the site access points. The loss of the land from potential agricultural use is not something which should weigh against the proposal.
59. It has been suggested that the site is relatively isolated and not well connected with nearby settlements. Whilst Poors Wood stands between the site and the majority of Kingsmead actual distances are small, and I deal with connectivity below.

The Planning Balance

60. Having determined that the Council can demonstrate a 5 year housing supply, I now assess the sustainability of the site when assessed against the NPPF as a whole. There are 3 dimensions to sustainability.
61. **Environmental.** I have dealt with the impact on the character and appearance of the area above and I do not need to repeat those findings here. Suffice to say that it is my judgement that the proposed development would not cause more than minimal harm to the local environment. The Phase 1 Habitat and Bat Survey Report of April 2014 explains that the scheme would either protect habitats or suitably compensate for any loss. The scheme would also include the provision of public open space, and the elimination of invasive species.
62. It is proposed that the dwellings on site should be constructed in such a way that energy consumption would be reduced. This would assist in combating the impacts on climate change and is an inherently sustainable objective. The proposal therefore follows the environmental dimension of sustainable development.
63. **Social.** The proposal would provide housing in accordance with the NPPF objective to increase housing delivery. Some 30% of the housing would be affordable. This is a significant and important social benefit which addresses a long term need for such provision in a borough which has an acknowledged pressing need for affordable housing.

64. I know from my site visits that there are services within reasonable walking distance of the site, and that it would not be necessary to cross any major road to access those services. Local bus services are also available nearby. The provision of public open space and access to the managed woodland to the north would support the health, well being and understanding of the environment for residents. As a result of these factors the proposal accords with the social dimension of sustainability.
65. **Economic.** The economic dimension is supported by the provision of new dwellings and the construction jobs that that would bring, together with the economic benefits accruing to the local centre. Some economic benefits can also be expected to filter down to the centre of Northwich, which is currently undergoing a major redevelopment. Whilst economic benefits are difficult to quantify I am satisfied that the scheme would follow the thrust of the economic dimension of sustainable development.
66. Overlying these three dimensions, and contributing to them all to some extent would be the significant benefits resulting from the improved traffic arrangements and improved pedestrian safety. In overall terms, therefore, the proposed development is sustainable.
67. As acknowledged earlier in this decision the proposed development is in conflict with Policy GS5 of the BLP and STRAT 9 of the LP. On the other hand the fact that Northwich is a focus for growth, and that the southern part of the town seems likely to form a logical area for development means that LP Policy STRAT 2 lends a degree of support.
68. Notwithstanding these policy matters I have examined the reasons given for opposing the development earlier in this decision. In my judgement none of these matters establishes that there would be harm which is significant or demonstrably outweighs the benefits, the most significant of which include housing provision, affordable housing provision, and improvements to the highway network. The material considerations in support of the development are such that they outweigh any development plan conflict. It follows that the appeal should succeed.

Conditions and Obligations

69. **Conditions.** A number of conditions have been agreed between the parties as being necessary in the event of planning permission being granted. These fall under a number of general themes, and I agree that the conditions set out below are reasonable and necessary in relation to those matters.
- In the interests of the appearance of the area conditions dealing with:
 - Materials to be used on site
 - Finished floor and site levels
 - Landscaping
 - In the interest of ecology and biodiversity conditions dealing with:
 - Application of the avoidance measures identified in the ecological report
 - Restriction on works during certain periods
 - Provision of bat and bird boxes
 - Eradication of Japanese Knotweed
 - Construction of the Poors Wood footpath

- In the interests of highway safety and to encourage travel other than in private vehicles conditions dealing with:
 - The design and construction of highway improvements
 - Accordance with the travel plan
- In order to protect the living conditions of on-site and nearby residents conditions dealing with:
 - Provision of acoustic fencing
 - Working and delivery hours on site
 - Location of site facilities
- In order to ensure a satisfactory form of development conditions dealing with:
 - Future maintenance of public open space
 - The provision of adequate drainage
 - The demonstration of energy saving measures
- In order to ensure the delivery of affordable housing a condition requiring that a scheme be submitted, approved and implemented.

70. **Planning Obligations.** I have 2 Unilateral Undertakings before me. The first of these makes provision for contributions towards traffic regulation order making, education provision and playing pitch provision. Each of these is fairly and reasonably related to the development and is necessary to make the development acceptable. The contributions meet the tests of the Community Infrastructure Regulations 2010. The submitted CIL compliance note⁵ sets out the justification for the contributions, and also confirms that in relation to the playing pitch provision this would be the third pooled contribution. There are no other pooled contributions to take into account. I am therefore satisfied that the Obligation can be taken into account and supports the decision to grant planning permission.

71. The second undertaking makes arrangements for the management of that part of the site which is being transferred to the management of the Cheshire Wildlife Trust. In the absence of such an Obligation I do not consider that it would have been necessary to refuse planning permission, but in any event it is a lawful document which adds some weight to the Appellant's case in relation to the connectivity to be provided for the site and the commitment to protecting ecology and biodiversity. I have therefore taken it into account as offering further support to the grant of planning permission.

Overall Conclusion

72. For the reasons given above I conclude that the appeal should be allowed.



INSPECTOR

⁵ Document 6

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:
 - Site location plan W0999/LP/105;
 - Site layout plan W0999/PL/101/B;
 - Poors Wood Open Space plan W0999/PWOS/501;
 - Landscape plans (4483.05D, 4483.06D, 4483.03G);
 - Boundary Treatment Plan (W0999/BTP/DAV/102A,103,104,105); and
 - House type plans and boundary treatment plans as set out in the table below.

HOUSE TYPE and BOUNDARY TREATMENT PLANS:		
Plan Name	Plan Type	Drawing No.
Aberwood (Mid Terrace)	Elevations & floor plans	W0257-PD-101
Aberwood (End Terrace)	Elevations & floor plans	W0257-PD-102
Argyll	Elevations & floor plans	W0257-PD-103
Bathford (semi-detached)	Elevations & floor plans	W0257-PD-104
Caplewood (Mid Terrace)	Elevations & floor plans	W0257-PD-105
Caplewood (End Terrace)	Elevations & floor plan	W0257-PD-106
Corrywood (Detached)	Elevations	W0257-PD-107
Corrywood (Detached)	Floor plans	W0257-PD-108
Westwood (Detached)	Elevations	W0257-PD-109
Westwood (Detached)	Floor plans	W0257-PD-110
Denewood (Detached)	Elevations	W0257-PD-111
Denewood (Detached)	Floor plans	W0257-PD-112
Dukeswood (Detached)	Elevations	W0257-PD-113
Dukeswood (Detached)	Floor plans	W0257-PD-114
Glenmore (Detached)	Elevations	W0257-PD-115
Glenmore (Detached)	Floor plans	W0257-PD-116
Hampsfield (Detached)	Elevations	W0257-PD-117
Hampsfield (Detached)	Floor plans	W0257-PD-118
Hollandswood (Detached)	Elevations	W0257-PD-119
Hollandswood (Detached)	Floor plans	W0257-PD-120
Laurieston (Detached)	Elevations	W0257-PD-121
Laurieston (Detached)	Floor plans	W0257-PD-122
Detached Double Twin Garage	Elevations & floor plans	W0257-PD-123

HOUSE TYPE and BOUNDARY TREATMENT PLANS:		
Detached Double Garage	Elevations & floor plans	W0257-PD-124
Detached Single Garage	Elevations & floor plans	W0257-PD-125
1.8m Timber Screen Fence	-	W0257-PD-126
1.8m Timber Gate	-	W0257-PD-127
1.8m Brick Pier and 1.8m Timber Fence	-	W0257-PD-128
0.7m Post and Two Rail Divisional Fence	-	W0257-PD-129
Apartments	Front elevation	W0257-PD-130
Apartments	Rear elevation	W0257-PD-131
Apartments	Right Side elevation	W0257-PD-132
Apartments	Left Side elevation	W0257-PD-133
Apartments	Ground floor plan	W0257-PD-134A
Apartments	First floor plan	W0257-PD-135A
Apartments	Second floor plan	W0257-PD-136A

- 3) No development shall commence until samples of the materials to be used in the construction of external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. Development shall be carried out in complete accordance with the approved materials.
- 4) Prior to the commencement of the development full details of existing levels and proposed finished floor (slab) and site (garden) levels shall be submitted to and approved in writing by the Local Planning Authority. All submitted details must relate to adjoining land. Development shall be carried out in accordance with the approved details.
- 5) Notwithstanding the submitted details no development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include:
 - proposed finished levels or contours;
 - means of enclosure;
 - car parking layouts;
 - other vehicular and pedestrian access and circulation areas; and
 - hard surfacing materials.
- 6) If within a period of 5 years from the date of initial planting, any trees or shrubs planted in accordance with the approved landscaping works (plan reference 4483.05 Rev D, 4483.06 rev D and 4483.03 Rev G) are removed, die, become diseased or seriously damaged then replacement trees or shrubs shall be planted in the next planting season with others of similar size and species, unless the local planning authority gives its written approval to any variation.
- 7) The development shall be implemented in accordance with the reasonable avoidance measures contained within the Extended Phase 1 Habitat and

Bat Survey Report (REC Ecology, November 2013) in accordance with a timetable to be first agreed in writing with the local planning authority prior to commencement of development. No development shall take place until a method statement providing for protection and translocation of reptiles on the site and the location and number of bird and bat boxes have been submitted and approved in writing by the local planning authority. The works shall be carried out in strict accordance with the approved details.

- 8) No vegetation removal shall be undertaken during the bird breeding season (1st March to 31st August inclusive) unless otherwise approved in writing by the local planning authority after a request by the developer's ecologist.
- 9) Prior to the commencement of the development a scheme and programme for the eradication of the Japanese Knotweed (on land within the ownership of the applicant) in accordance with Environment Agency Guidelines shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the agreed timetable and methodology before commencement of construction, or such other time as may be approved in writing by the local planning authority.
- 10) Prior to the commencement of development an up to date badger survey shall be undertaken and method statement detailing any mitigation to avoid harmful impacts to badgers shall be submitted and approved in writing by the local planning authority, and shall be implemented in accordance with an agreed timetable.
- 11) Development shall not commence until a programme for the delivery of the footpath link through Poor's Wood has been submitted to and approved in writing by the LPA. The programme shall be accompanied by a method statement to include full details of the location of, design of and construction methods for the footpath through Poor's Wood, as indicated on plan W00999/PWOS/501, This shall first be agreed in writing with the LPA before development commences.. Part of the methodology shall include that post pits should be hand dug (not machine dug) and any roots less than 25mm in diameter may be cleanly severed (not with a spade or shovel). Roots greater than 25mm in diameter shall not be severed.
- 12) Notwithstanding drawing number drawing No DR/4006100/100/002 rev A, including interactive speed limiting features and the closing up of any existing accesses onto the A556, no development shall commence until the details and the specifications of the access that will serve the development from the A556 have been submitted to and approved in writing by the local planning authority. The agreed access shall be completed and made available for use prior to any residential occupation and shall thereafter be retained in the agreed form.
- 13) All highways, footways and cycleways within the approved development excluding the footpath link through Poor's Wood, as set out on drawing No WO999/PL/101/B shall be designed and constructed in complete accordance with the agreed highway specification (to be agreed in writing with the local planning authority). No dwelling/building shall be occupied until that part of the highway or footway which provides access to it has

been constructed in this way and up to binder-course level. The surface course shall then be completed within a timescale which has been agreed in writing by the Local Planning Authority prior to the occupation of any part of the development.

- 14) Development shall be carried out in accordance with the Travel Plan dated October 2013 and measures contained therein shall be implemented in accordance with the timetable set out within the approved plan.
- 15) Development shall be carried out in accordance with the details as set out in Hepworth Acoustics report number 22060.01V3 November 2013.
- 16) Prior to the commencement of development details of the acoustic fence to be installed at or near (and parallel) to the site boundary with the A556 as indicated on plan reference W0999/PL/101/B shall be agreed in writing with the local planning authority. The fence shall be 3m reducing to 2.5m in height where the site raises up above the road (as shown in Figure 2 of the Hepworth's Report) The fence shall be constructed of solid timber (min 20mm thickness) with no holes or gaps. It shall be maintained and retained thereafter. The fence shall be provided prior to the occupation of units 1-40 and 107-113.
- 17) No operations associated with the demolition and construction phases shall be carried out on the site except between the hours of 08:00 – 18:00 Monday to Friday and between the hours of 08:00 – 13:00 on Saturday. No activities shall take place on the site on Sundays and Bank Holidays.
- 18) No deliveries shall be taken at or dispatched from the site during the demolition and construction phases except between the hours of 08:00 – 18:00 Monday to Fridays, 08:00 – 13:00 on Saturdays and no deliveries Sundays or Bank Holidays.
- 19) Before the commencement of operations on site the location of the site office and construction compound shall be approved in writing by the local planning authority and shall remain in the approved position unless otherwise agreed beforehand with the local planning authority.
- 20) No operations requiring piling or subsurface vibration ground improvement techniques shall be carried out on the site unless, details of the work, monitoring and environmental controls proposed have been supplied to and agreed in writing with the local planning authority. All such works shall be undertaken in complete accordance with the agreed scheme.
- 21) Prior to the occupation of the first dwelling on the site details of the management and maintenance of the open spaces shall be submitted to and approved in writing by the Local Planning Authority.
- 22) Prior to the occupation of the first dwelling on the site details of the management and maintenance of the woodland (Poors Wood) shall be submitted to and approved in writing by the Local Planning Authority.
- 23) Prior to the commencement of the development, a drainage scheme for the site, showing how foul water, surface water and land drainage will be dealt with, shall be submitted to and agreed in writing by the Local

Planning Authority. The approved scheme shall be implemented in accordance with the approved drainage scheme.

- 24) Prior to the commencement of the development a scheme for the provision of affordable housing shall be submitted to and approved in writing by the Local Planning Authority.
- 25) The affordable housing shall be 30% of the total number of dwellings to be provided on site and must be provided in accordance with the approved scheme and shall meet the definition of affordable housing in the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
 - a. the numbers, tenure and location on the site of the affordable housing provision to be made;
 - b. the type and mix of affordable dwellings shall be a split of 50:50 intermediate/affordable rent, unless otherwise agreed in writing by the Local Planning Authority;
 - c. the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
 - d. the arrangements for the transfer or management of the affordable housing;
 - e. the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - f. 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.
- 26) All parts of the agreed scheme for the provision of affordable housing shall be implemented in full.
- 27) No development, hereby permitted, shall commence until a scheme to demonstrate that not less than 10% of the total energy consumption of the development will be provided by means of renewable energy or that alternative measures will achieve at least 10% less energy consumption than similar development constructed in accordance with the current Building Regulations has been submitted to and approved in writing by the Local Planning Authority. The development shall be completed wholly in accordance with the approved details.

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Carter of Counsel	Instructed by Karen McIlwaine, Acting head of Governance, Cheshire West and Chester Council
He called	
Mrs D Fifer BSc(Hons) DipTP MRTPI	Principal Planning Officer, Planning Policy Team, Cheshire West and Chester Council
Mr N Howard BSc(Hons) MRTPI	Senior Planner, Development Management Services, Cheshire West and Chester Council

FOR THE APPELLANT:

Mr D Manley, Queen's Counsel	Instructed by Emery Planning
He called	
Mr B Pycroft BA(Hons) DipTP MRTPI	Principal Consultant, Emery Planning
Mr R Hindhaugh BSc PGCert(TEP) FIHE MIHT MIOEE	Director, Bob Hindhaugh Associates Ltd
Mr D Griffin BA(Hons) DipLA(Hons) CMLI	Director, Trevor Bridge Associates Ltd
Mrs A Freeman MRTPI	Director, Emery Planning

INTERESTED PERSONS:

Cllr A Wood	Davenham Parish Council
Cllr H Weltman	Cheshire West and Chester Council
Mr G Lewis	Local Resident
Mr R Matthew	Landowner

DOCUMENTS SUBMITTED AT THE INQUIRY

Doc 1	Letter of notification of the inquiry date and venue
Doc 2	Opening Statement of the Council
Doc 3	Statement of Common Ground
Doc 4	Statement of Common Ground on Housing Land Supply
Doc 5	Table of disputed sites
Doc 6	Statement of Compliance with Community Infrastructure Levy Regulations 2010
Doc 7	High Court Judgement: Bloor Homes East Midlands Ltd v SoS
Doc 8	High Court Judgement: Wainhomes (South West) Holdings Ltd v SoS
Doc 9	Plan showing the boundary between Davenham and Kingsmead
Doc 10	Extract from the Strategic Housing Land Availability Assessment 2013
Doc 11	Schedule and plan of housing sites around Northwich
Doc 12	Rebuttal response of Mr Hindhaugh to the highway concerns of

- Doc 13 Davenham Parish Council
Concept Masterplan and extract of planning conditions for School Lane, Hartford
- Doc 14 Statement of Davenham Parish Council
- Doc 15 Draft Unilateral Undertaking relating to Traffic Regulation Order, Education, and Pitch Provision contributions
- Doc 16 Draft Unilateral Undertaking relating to works within and management of Poors Wood
- Doc 17 Draft agreed list of planning conditions
- Doc 18 Closing submissions of the Council
- Doc 19 Closing notes of the Appellant

DOCUMENTS SUBMITTED POST INQUIRY

- Doc 20 Bundle of correspondence relating to the HLM
- Doc 21 Planning Obligations