



Representations - Woodford Neighbourhood Plan

Clients: Mr and Mrs G Petch

Consultation stage: Regulation 14

Project : 14-248
Plan : Woodford
Neighbourhood Plan
Stage : Regulation 14
Date : June 2018
Author : Rawdon Gascoigne

This report has been prepared for the client by Emery Planning with all reasonable skill, care and diligence.

No part of this document may be reproduced without the prior written approval of Emery Planning.

Emery Planning Partnership Limited
trading as Emery Planning.

Contents:

1. Introduction	1
2. The Basic Conditions	2
3. National Planning Policy and Guidance	3
4. The Development Plan	12
5. Response to draft policies	13
6. Proposed allocation – Land at Crest Hill, Wilmslow Road	21
7. Summary and conclusions	23
8. Appendices	24



1. Introduction

- 1.1 Emery Planning is instructed to submit representations to the Woodford Neighbourhood Plan (hereafter referred to as the 'WNP') on behalf of Mr and Mrs Petch.
- 1.2 These representations are submitted in addition to and consistent with other representations made on behalf of the same client for their wider interests and strategic proposals. This is submitted on behalf of the client in the interests of addressing their site interest at Crest Hill, Wilmslow; a site location plan of land within their interest is appended at EP1. The references to wider strategic matters within these submissions are necessary to set the context and do not supersede and should be read in addition to any of the submissions made by other parties on behalf of our client or their land interests.
- 1.3 In summary, we support the principle of production of a WNP. However, we consider that a number of changes are needed to ensure that the plan meets the basic conditions. In particular, we have concerns in relation to the WNP's interpretation of Green Belt policy, and furthermore the placing of unduly restrictive policies in relation to views and countryside / 'green space' in light of future housing need in the area. The plan fails to acknowledge the significant unmet housing needs in the area, and the proposed allocation of 2,400 dwellings in Woodford through the emerging Greater Manchester Spatial Framework.
- 1.4 Our detailed representations are set out below, under the following key headings:
 2. The Basic Conditions
 3. National Planning Policy and Guidance
 4. The Development Plan
 5. Response to the draft policies
 6. Summary and conclusions

2. The Basic Conditions

- 2.1 The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by Section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:
- a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
 - b. having special regard to the desirability of preserving any listed building or its setting or any features of special architectural or historic interest that it possesses, it is appropriate to make the order. This applies only to Orders.
 - c. having special regard to the desirability of preserving or enhancing the character or appearance of any conservation area, it is appropriate to make the order. This applies only to Orders.
 - d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.
 - e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
 - f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
 - g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).

3. National Planning Policy and Guidance

National Planning Policy Framework (NPPF)

- 3.1 The NPPF was adopted in March 2012. It sets out the Government's planning policies for England and how these are expected to be applied. The purpose of the planning system is to contribute to the achievement of sustainable development. The policies in paragraphs 18 to 219 of the NPPF, taken as a whole, constitute the Government's view of what sustainable development in England means in practice for the planning system.
- 3.2 Paragraph 14 of the NPPF sets out the presumption in favour of sustainable development, which is the golden thread running through both plan-making and decision-taking. For plan-making this means that:
- local planning authorities should positively seek opportunities to meet the development needs of their area;
 - Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:
 - any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - specific policies in this Framework indicate development should be restricted.
- 3.3 Paragraph 16 states that the application of the presumption will have implications for how communities engage in neighbourhood planning. Critically, it will mean that neighbourhoods should:
- develop plans that support the strategic development needs set out in Local Plans, including policies for housing and economic development;
 - plan positively to support local development, shaping and directing development in their area that is outside the strategic elements of the Local Plan; and
 - identify opportunities to use Neighbourhood Development Orders to enable developments that are consistent with their neighbourhood plan to proceed.

- 3.4 Paragraph 17 identifies that within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. All of the principles set out (not repeated here for brevity) are relevant to the neighbourhood plan must be considered.
- 3.5 Paragraph 47 requires that to boost significantly the supply of housing, local planning authorities should:
- use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area, as far as is consistent with the policies set out in this Framework, including identifying key sites which are critical to the delivery of the housing strategy over the plan period;
 - identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land;
 - identify a supply of specific, developable sites or broad locations for growth, for years 6-10 and, where possible, for years 11-15;
 - for market and affordable housing, illustrate the expected rate of housing delivery through a housing trajectory for the plan period and set out a housing implementation strategy for the full range of housing describing how they will maintain delivery of a five-year supply of housing land to meet their housing target; and
 - set out their own approach to housing density to reflect local circumstances.
- 3.6 Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.

3.7 Paragraph 156 requires local planning authorities to set out the strategic priorities for the area in the Local Plan. This should include strategic policies to deliver:

- the homes and jobs needed in the area;
- the provision of retail, leisure and other commercial development;
- the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- the provision of health, security, community and cultural infrastructure and other local facilities; and
- climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape.

3.8 Paragraph 159 states that local planning authorities should have a clear understanding of housing needs in their area. They should:

- prepare a Strategic Housing Market Assessment to assess their full housing needs, working with neighbouring authorities where housing market areas cross administrative boundaries. The Strategic Housing Market Assessment should identify the scale and mix of housing and the range of tenures that the local population is likely to need over the plan period which:
 - meets household and population projections, taking account of migration and demographic change;
 - addresses the need for all types of housing, including affordable housing and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes); and
 - caters for housing demand and the scale of housing supply necessary to meet this demand;

- prepare a Strategic Housing Land Availability Assessment to establish realistic assumptions about the availability, suitability and the likely economic viability of land to meet the identified need for housing over the plan period.

3.9 Paragraph 184 states that Neighbourhood plans must be in general conformity with the strategic policies of the Local Plan. To facilitate this, local planning authorities should set out clearly their strategic policies for the area and ensure that an up-to-date Local Plan is in place as quickly as possible. [our emphasis]

3.10 Paragraph 198 sets out that where a Neighbourhood Development Order has been made, a planning application is not required for development that is within the terms of the order. Where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted.

National Planning Practice Guidance (PPG)

- 3.11 The PPG was launched in March 2014. It replaced a number of practice guidance documents that were deleted when the PPG was published.
- 3.12 The Government's guidance sets out the correct sequence of events in neighbourhood plan preparation set out at Paragraph: 080 Reference ID: 41-080-20140306 A summary of the key stages in neighbourhood planning which provides (so far as relevant) and subsequent PPG paragraphs:

"Step 1: Designating neighbourhood area and if appropriate neighbourhood forum

...

Step 2: Preparing a draft neighbourhood plan or Order

Qualifying body develops proposals (advised or assisted by the local planning authority)

- gather baseline information and evidence
- engage and consult those living and working in the neighbourhood area and those with an interest in or affected by the proposals (e.g. service providers)
- talk to land owners and the development industry
- identify and assess options

- **determine whether European Directives might apply**
- **start to prepare proposals documents e.g. basic conditions statement**

Step 3: Pre-submission publicity & consultation

The qualifying body:

- **publicises the draft plan or Order and invites representations**
- **consults the consultation bodies as appropriate**
- **sends a copy of the draft plan or Order to the local planning authority**
- **where European Obligations apply, complies with relevant publicity and consultation requirements**
- **considers consultation responses and amends plan / Order if appropriate**
- **prepares consultation statement and other proposal documents"**

Step 4: Submission of a neighbourhood plan or Order proposal to the local planning authority

- **Qualifying body submits the plan or Order proposal to the local planning authority**
- **Local planning authority checks that submitted proposal complies with all relevant legislation**
- **If the local planning authority finds that the plan or order meets the legal requirements it:**
 - **publicises the proposal for minimum 6 weeks and invites representations**
 - **notifies consultation bodies referred to in the consultation statement**
 - **appoints an independent examiner (with the agreement of the qualifying body)..."**

3.13 Paragraph: 001 Reference ID: 41-001-20140306 **What is neighbourhood planning?** provides (so far as relevant):

"...Neighbourhood planning provides a powerful set of tools for local people to ensure that they get the right types of development for their community where the ambition of the neighbourhood is aligned with the strategic needs and priorities of the wider local area."

3.14 Paragraph: 003 Reference ID: 41-003-20140306 What are the benefits to a community of developing a neighbourhood plan or Order? provides:

“...Neighbourhood planning provides the opportunity for communities to set out a positive vision for how they want their community to develop over the next ten, fifteen, twenty years in ways that meet identified local need and make sense for local people. They can put in place planning policies that will help deliver that vision or grant planning permission for the development they want to see....”

- 3.15 Paragraph: 004 Reference ID: 41-004-20140306 **What should a Neighbourhood Plan address?** provides:

“...A neighbourhood plan should support the strategic development needs set out in the Local Plan and plan positively to support local development (as outlined in paragraph 16 of the National Planning Policy Framework.”

- 3.16 Paragraph: 007 Reference ID: 41-007-20140306 **What weight can be attached to an emerging neighbourhood plan when determining planning applications?** provides:

“...The consultation statement submitted with the draft neighbourhood plan should reveal the quality and effectiveness of the consultation that has informed the plan proposals....”

- 3.17 Paragraph: 009 Reference ID: 41-009-20140306 **Can a Neighbourhood Plan come forward before an up-to-date Local Plan is in place?** provides:

“...Where a neighbourhood plan is brought forward before an up-to-date Local Plan is in place the qualifying body and the local planning authority should discuss and aim to agree the relationship between policies in:

the emerging neighbourhood plan

the emerging Local Plan

the adopted development plan

with appropriate regard to national policy and guidance.

The local planning authority should take a proactive and positive approach, working collaboratively with a qualifying body particularly sharing evidence and seeking to resolve any issues to ensure the draft neighbourhood plan has the greatest chance of success at independent examination.

The local planning authority should work with the qualifying body to produce complementary neighbourhood and Local Plans....”

- 3.18 Paragraph: 040 Reference ID: 41-040-20140306 **What evidence is needed to support a neighbourhood plan or Order?** provides:

“While there are prescribed documents that must be submitted with a neighbourhood plan or Order there is no ‘tick box’ list of evidence required for neighbourhood planning. Proportionate, robust evidence should support the choices made and the approach taken. The evidence should be drawn upon to explain succinctly the intention and rationale of the policies in the draft neighbourhood plan or the proposals in an Order.

A local planning authority should share relevant evidence, including that gathered to support its own plan-making, with a qualifying body. Further details of the type of evidence supporting a Local Plan can be found here Local Plan.”

- 3.19 Paragraph: 041 Reference ID: 41-041-20140306 How should the policies in a neighbourhood plan be drafted? provides:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

- 3.20 Paragraph: 042 Reference ID: 41-042-20140306 Can a neighbourhood plan allocate sites for development? provides:

“A neighbourhood plan can allocate sites for development. A qualifying body should carry out an appraisal of options and an assessment of individual sites against clearly identified criteria. Guidance on assessing sites and on viability can be found here and here.” [These link to PPG, Housing and economic land availability assessment and Viability]

- 3.21 Paragraph: 043 Reference ID: 41-043-20140306 What if a local planning authority is also intending to allocate sites in the same neighbourhood area? provides:

“If a local planning authority is also intending to allocate sites in the same neighbourhood area the local planning authority should avoid duplicating planning processes that will apply to the neighbourhood area. It should work constructively with a qualifying body to enable a neighbourhood plan to make timely progress. A local planning authority should share evidence with those preparing the neighbourhood plan, in order for example, that every effort can be made to meet identified local need through the neighbourhood planning process.”

- 3.22 Paragraph: 047 Reference ID: 41-047-20140306 What is the role of the wider community in neighbourhood planning? provides:

***“A qualifying body should be inclusive and open in the preparation of its neighbourhood plan or Order and ensure that the wider community:
is kept fully informed of what is being proposed
is able to make their views known throughout the process
has opportunities to be actively involved in shaping the emerging neighbourhood plan or Order
is made aware of how their views have informed the draft neighbourhood plan or Order.”***

- 3.23 Paragraph: 048 Reference ID: 41-048-20140306 Should other public bodies, landowners and the development industry be involved in preparing a draft neighbourhood plan or Order? provides:

“A qualifying body must consult any of the consultation bodies whose interest it considers may be affected by the draft neighbourhood plan or Order proposal. The consultation bodies are set out in Schedule 1 to the Neighbourhood Planning (General) Regulations 2012 (as amended). Other public bodies, landowners and the development industry should be involved in preparing a draft neighbourhood plan or Order. By doing this qualifying bodies will be better placed to produce plans that provide for sustainable development which benefits the local community whilst avoiding placing unrealistic pressures on the cost and deliverability of that development.”

- 3.24 Paragraph: 051 Reference ID: 41-051-20140306 Is additional publicity or consultation required where European directives might apply? provides:

“European directives, incorporated into UK law, may apply to a draft neighbourhood plan or Order. Where they do apply a qualifying body must make sure that it also complies with any specific publicity and consultation requirements set out in the relevant legislation. The local planning authority should provide advice on this.

The legislation that may be of particular relevance to neighbourhood planning is:

- the Environmental Assessment of Plans and Programmes Regulations 2004 (as amended)***
- the Conservation of Habitats and Species Regulations 2010 (as amended)***
- the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (as amended)***

It may be appropriate, and in some cases a requirement, that the statutory environmental bodies English Heritage, the Environment Agency and Natural England be consulted.”

- 3.25 Paragraph: 053 Reference ID: 41-053-20140306 Does the local planning authority consider whether a neighbourhood plan or Order meets the basic conditions when a neighbourhood plan or Order is submitted to it? provides:

“...The local planning authority should provide constructive comments on an emerging plan or Order before it is submitted.”

- 3.26 Paragraph: 066 Reference ID: 41-066-20140306 When should a qualifying body consider the basic conditions that a neighbourhood plan or Order needs to meet? provides:

“Throughout the process of developing a neighbourhood plan or Order a qualifying body should consider how it will demonstrate that its neighbourhood plan or Order will meet the basic conditions that must be met if the plan or order is to be successful at independent examination. The basic conditions statement is likely to be the main way that a qualifying body can seek to demonstrate to the independent examiner that its draft neighbourhood plan or Order meets the basic conditions. A qualifying body is advised to discuss and share early drafts of its basic conditions statement with the local planning authority.”

- 3.27 Paragraph: 067 Reference ID: 41-067-20140306 What should a local planning authority do to assist a qualifying body in considering the basic conditions? provides:

“A local planning authority should provide constructive comments on the emerging neighbourhood plan or Order proposal prior to submission and discuss the contents of any supporting documents, including the basic conditions statement. If a local planning authority considers that a draft neighbourhood plan or Order may fall short of meeting one or more of the basic conditions they should discuss their concerns with the qualifying body in order that these can be considered before the draft neighbourhood plan or Order is formally submitted to the local planning authority.”

4. The Development Plan

- 4.1 Neighbourhood Plans must be in general conformity with the strategic policies of the wider local area, which in this instance are set out within the saved policies of the Stockport Unitary Development Plan (UDP) and the Stockport Core Strategy.
- 4.2 The Core Strategy was adopted in March 2011. It is not an allocations plan, and therefore the allocation of sites to meet the requirements set out within the Core Strategy was intended to be met through a Site Allocations DPD. The Core Strategy provided a mechanism for Green Belt release through the Site Allocations DPD. However work on the Site Allocations DPD has been abandoned in light of the emerging Greater Manchester Spatial Framework (GMSF).
- 4.3 The housing requirement within the Core Strategy was based upon the RSS, and the adoption of the plan pre-dates the Framework. Consequently the housing requirement does not represent the full, objectively assessed needs of the borough. The household projections and the emerging GMSF indicate that the annual need for housing significantly exceeds the housing requirement in the adopted Core Strategy. However despite this artificially low requirement, Stockport Council has been unable to meet its housing requirement or demonstrate a 5 year supply since the plans adoption.
- 4.4 As a result of the above, the development plan cannot provide an up-to-date housing requirement for the Neighbourhood Plan area. There are however significant unmet housing needs in the borough, and this must be considered in the production of the WNP. It is likely that significant development will be required in order to contribute to meeting the needs of the borough.
- 4.5 The draft GMSF proposes a significantly increased housing requirement of 19,300 dwellings for the period 2015-2035, equating to 965 per annum. This is approximately double the annual requirement in the adopted Core Strategy. An allocation for 2,400 dwellings is proposed for Woodford (draft Policy OA20).
- 4.6 In relation to Green Belt policy, again it is important to note that the Stockport UDP and Core Strategy pre-date the publication of the Framework. Consequently the emerging policies of the Neighbourhood Plan in relation to the Green Belt should be consistent with the Framework.

5. Response to draft policies

Policy ENV1: Protecting views and vistas

- 5.1 There is no justification for applying an additional restrictive policy tier across much of the WNP area. An allocation for residential development is proposed for Woodford in the emerging GMSF. In seeking to protect an extensive range of views across the draft allocation, the WNP is inconsistent with the emerging strategic plan for the area.
- 5.2 The policy requires that any new development “**does not affect the openness of the Green Belt**”. This wording is inconsistent with national planning policy, and therefore contrary to basic test (a). The Framework is permissive of certain types of development which are “**not inappropriate**” in the Green Belt, and does not limit those types of development to only those which do not affect openness. Furthermore, paragraphs 87 and 88 of the Framework allow for inappropriate development in the Green Belt, where there are very special circumstances which clearly outweigh the harm to the Green Belt.
- 5.3 The policy requires new development to respect and enhance the local landscape quality. There is no justification for requiring all new development to enhance the local landscape quality.
- 5.4 The policy also requires important views and vistas within and out from the Neighbourhood Area and the rural skylines to be maintained. These are listed in the table on page 26 and the map on page 27. Firstly, it is not clear what evidential basis there is for seeking to protect such views. Secondly, the number of views identified is extremely extensive, such that most greenfield land across the WNP area is affected. The policy does not distinguish between a significant view in terms of landscape and visual impact, and one that is less significant.

ENV2: Protecting the countryside and green spaces

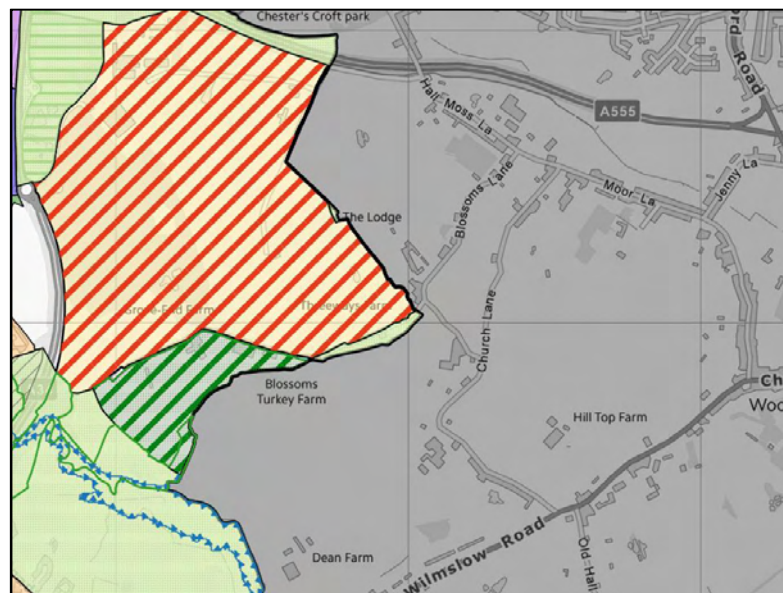
- 5.5 Firstly, the policy refers to the sites identified as countryside and ‘green spaces’. It is not clear if the policy is seeking to designate land as ‘Local Green Space’ which is a very specific planning policy designation. The policy is not entitled ‘Local Green Space’, so we assume that it is not. Furthermore the land does not meet the tests of the Framework for designation as Local Green Space as set out at paragraph 77 of the Framework, and in particular:
 - There is no evidence that each site is demonstrably special; and,

- Each parcel represents an extensive tract of land.

5.6 Secondly, and as we have set out in our response to ENV1, there is no justification for applying an additional restrictive policy tier across nearly all of the WNP area. An allocation for residential development is proposed for Woodford in the emerging GMSF. In seeking to protect virtually all greenfield land across the draft allocation through an additional blanket policy tier, the WNP is inconsistent with the emerging strategic plan for the area.

5.7 Furthermore, the WNP must have due regard for the allocation of the North Cheshire Growth Village through the adopted Cheshire East Local Plan Strategy (July 2017). Although outside of the WNP area, this strategic allocation for 1,500 new homes and other uses will fundamentally change the character of the landscape across the WNP area, and views and vistas. There is no reference to this allocation through the WNP and this is a fundamental flaw in the drafting of the various policies, particularly with regard to landscape impact and views. See the plan below, which shows the close proximity of this strategic site allocation (the allocation is shown hatched red):

Image showing the Cheshire LPS Policies Map and the North Cheshire Growth Village Allocation adjacent to the WNP area



ENV3: Protecting natural features which are a key aesthetic component of the landscape

- 5.8 There is no justification for seeking to protect all of the features listed. For example, not all trees in public places and bordering roads will be of high value and/or worthy of retention.
- 5.9 The table of Natural Features lists key aesthetic components of the Woodford Landscape including 'ponds visible along roads, tracks and public rights of way across farmland'. It would not be feasible, practical or necessary to protect views of all ponds and certainly not all ponds would be deemed to be a key aesthetic component. No definition or criteria is given as to how the ponds have been assessed to fall within this category in terms of quality, size etc.
- 5.10 Furthermore where the loss of such features does occur, the policy should be permissive of this provided that adequate mitigation is provided.

ENV4: Supporting biodiversity

- 5.11 The Cheshire Wildlife Trust mapping only provides a very broad overview of current ecological conditions, and detailed survey work has not been undertaken for all sites identified in the maps on pages 36 and 37 of the plan. It is therefore wholly inappropriate for the policy to protect, enhance or retain sites identified on the maps (as per points i and iii of the draft policy), or to provide specified buffer zones (point v). As a minimum the plan should also recognise individual development proposals will need to be assessed on their own merits, having regard to appropriate site specific survey work.

EMP2: Loss of Employment

- 5.12 The policy to only permit a change of use if the existing business is unviable is unduly restrictive. It has not been demonstrated that there is a strategic need for such a restrictive approach in terms of employment land supply, and the relative need for other land uses including residential. The proposed requirements in relation to efforts made to save or sell the business are unduly onerous, and furthermore provide an applicant with little guidance or certainty as to what would be an acceptable outcome from such efforts.

EMP3: Use of Rural Buildings

- 5.13 Whilst we are supportive of the reuse of redundant buildings, the proposed approach to 'prioritise' the reuse of redundant buildings is inconsistent with the Framework, which seeks to encourage (but not prioritise) the use of previously developed land. The issue has arisen in numerous Local Plan examinations, but is probably best summarised in the Secretary of State appeal decision for Burgess Farm, Salford, which was issued shortly following the publication of the Framework (PINS ref: APP/U4230/A/11/2157433). Paragraph 14 of the decision letter clarifies the Secretary of State's position:

"He gives less weight to the sequential approach to release of sites. National planning policy in the Framework encourages the use of previously developed land, but does not promote a sequential approach to land use. It stresses the importance of achieving sustainable development to meet identified needs."

- 5.14 The proposed policy approach is also inconsistent with the Framework's requirement to maintain a 5 year supply of housing land, which cannot currently be demonstrated in Stockport and is unlikely to be demonstrated for some time moving forward.
- 5.15 There is no justification for the requirement for reconstruction / improvement works to provide evidence for low carbon technologies, and such a policy is inconsistent with national policy. Furthermore the approach introduces an additional cost for developers, which has not been subject to viability testing.
- 5.16 The part of the policy relating to applications for the change of use of agricultural buildings (including stables) is unduly onerous, and inconsistent with the Government's support for the re-use of buildings. It also ignores that many such buildings currently benefit from permitted development rights to change use to residential or commercial use without the need for planning permission.

DEV1: Exceptions for new housing development

- 5.17 The proposed policy is inconsistent with national planning policy in relation to the Green Belt. The 'rural exceptions to Policy DEV1' do not fully or accurately reflect the development that is considered to be 'not inappropriate' in the Green Belt as set out at paragraphs 89 and 90 of the Framework.

- 5.18 Specifically in relation to limited infilling, the definition provided in the WNP is unduly restrictive, and not a reasonable interpretation of limited infilling. Numerous appeal decisions have found that more than one dwelling can comprise limited infilling. In particular we refer to a recent appeal decision in relation to a site in Church Lawton, Cheshire East, where a development of 5 dwellings was found to comprise limited infilling. Copies of the decision letter and site location plan are appended at EP3. Planning permission was granted for the demolition of a dwelling and the construction of 3 dwellings on land at 115 Coppice Road Poynton, Cheshire East. The Delegated Officer Report, local plan and approved proposed site plan are at Appendix EP4. Two further appeals allowed infill development for two dwellings on and land at 23 Sandbach Road, Church Lawton, Cheshire East and land at Hollands Lane, Kelsall, Cheshire West. The appeal decisions, location plans and approved site plans for both cases are at Appendices EP5 and EP6 respectively.
- 5.19 These appeal decisions clearly demonstrate that Policy DEV1 is unduly restrictive and unjustified.

DEV2: Limited infilling in Woodford Village

- 5.20 The policy adds further restrictions to those set out in Policy DEV1 in relation to limited infilling within the Green Belt. There is a degree of inconsistency between the policies; for example Policy DEV1(a) is only permissive of infilling for one dwelling, whereas Policy DEV2(c) refers to the filling of a narrow gap normally capable of taking one or two dwellings. The requirements in relation to infilling should be consistent, and preferably set out in one policy only.
- 5.21 The policy states that any proposed development should preserve and not have an adverse impact upon the openness of the Green Belt. However the limited infilling exception in the Framework provides no such restriction. Notably the Framework draws a distinction between limited infilling within a village, which does not refer to openness in the penultimate bullet point of paragraph 89, and the redevelopment of previously developed land which does refer to the impact upon openness in the final bullet point. Consequently the references to preserving openness should be deleted.
- 5.22 As with Policy DEV1, we do not consider that the proposed approach accords with the Framework. Again we refer to the Church Lawton appeal decision appended at EP3. The requirements in relation to the completion of a narrow gap in a road frontage, scale, building line and low density areas represent an unduly restrictive interpretation of limited infilling which

is not supported by national planning policy, appeal decisions or caselaw in particular those appeal decisions and planning approval listed at paragraphs 5.16 – 5.17 above and the appeal decision below.

Appeal APP/A0665/W/14/3000557 - 115 Hilltop Road, Acton Bridge

- 5.23 This appeal was made following planning refusal 14/03768/OUT for the erection of a single dwelling on an infill plot at 115, Hill Top Road, Acton Bridge. The appeal was allowed on 12 February 2015. The appeal decision and proposed site plan are appended to this statement at EP7.
- 5.24 This site is a relatively wide plot that fronts the western side of Hill Top Road. The site (115 metres) is comparable with the site at Hall Moss Lane but forms part of a much less defined and built up ribbon of development along Hill Top Road than the gap that exists between Green Hedges and Long Acre. Furthermore, built development lies opposite the site, on Church Lane, to the south west. The proposed scheme was a single dwelling and the case was made that it represented infill development in the Green Belt.
- 5.25 This further supports our case that the site Hall Moss Lane is suitable for infill development.
- 5.26 There are a number of other appeal decisions that can be drawn upon which clearly illustrate that an 'infill' development does not have to fit the restrictive description as set out in Policy DEV1.

DEV3: Affordable housing

- 5.27 The draft policy requires 50% provision on sites of more than 5 dwellings. Policy H-3 of the Core Strategy only requires 40% affordable housing in Woodford. The draft policy is therefore inconsistent with the adopted development plan. Furthermore there is no justification, and in particular no viability evidence, to justify seeking a higher proportion of affordable housing than that set out in adopted policy.
- 5.28 In relation to the site size threshold, this reflects the threshold in Policy H-3 of the Core Strategy. However, both the Core Strategy and the emerging WNP conflict with advice contained within the PPG and the Written Ministerial Statement in relation to planning obligations, which state that where sites fall under 10 units / 1,000m² floor area, they should be exempt from tariff style contributions. The threshold is lower for designated rural areas; however Woodford is not such

an area. Consequently the minimum threshold should be raised to 10 units to reflect national planning policy.

- 5.29 The residency qualification for affordable housing is too restrictive. There are very significant levels of unmet need in Stockport borough for affordable housing, including in neighbouring settlements such as Bramhall. If there are suitable sites available Woodford should not be viewed in isolation from Stockport borough.
- 5.30 We refer to a recent appeal decision in High Peak, which is a rural authority. We were the agents for this appeal. The Inspector addressed the Written Ministerial Statement referred to above and clarified that it was unjustified to request affordable housing provision for fewer than 10 units; see the Inspector's comments at paragraphs 37-40 of the appeal decision letter at Appendix EP8:

"Policy H4 of the Local Plan sets out the local approach to securing affordable housing contributions. For development proposals including between 5 and 24 units the policy requires a 20% provision of onsite affordable housing- which in the case of the appeal proposal would equate to one dwelling.

My attention has also been drawn to the Government's Planning Practice Guidance (PPG), which, expands on the national policy expressed in the Written Ministerial Statement of 28 November 2014 (the WMS). This outlines the specific circumstances where contributions for affordable housing should not be sought, including from developments of 10 units or less or which have a maximum combined floorspace of no more than 1,000 SqM. Whilst a lower threshold of 5-units applies to designated rural areas, the Council confirmed that the appeal site is not within one of these. As the WMS and the related PPG constitute clear and unequivocal statements of national policy on this matter they are considerations to which I attach very considerable weight in the overall planning balance.

Although I note that the adoption of the Local Plan post-dates the issue of the WMS, it was adopted at a point where a Declaration order of the High Court quashed the contents of the WMS. However, that order was overturned by the Court of Appeal on 13 May 2016, and from that date the national policy expressed in the WMS once again constitutes a material planning consideration.

It is clear that the contents of the WMS and the PPG do not automatically displace the statutory primacy of the development plan in the assessment of the planning merits of a proposal. However, I have been supplied with no substantive evidence in this case to demonstrate the specific circumstances pertaining in the Borough that justify a departure from the unambiguous and most up to date expression of national policy on this matter expressed in the WMS. Consequently, in this instance I consider that the national policy expressed in the WMS and related advice in the PPG are matters that justify a departure from Policy H4 of the Local Plan, and therefore find that the

necessity of an affordable housing contribution has not been established in this instance."

DEV5: Replacement of existing dwellings

- 5.31 The Framework states that the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces, is not inappropriate within the Green Belt. The additional requirements and restrictions are inconsistent with national planning policy.

DEV8: Design of new development

- 5.32 Part (d) of the policy sets out a number of requirements in relation to environmental and energy standards for construction, with reference to the SMBC Sustainability Checklist. However this document is no longer up-to-date, as it does not reflect the Government's 2015 Written Ministerial Statement and subsequent guidance in relation to streamlining housing standards. Only specific optional technical standards can be set by a local planning authority, and furthermore this must be justified (including through viability evidence).

6. Proposed allocation – Land at Crest Hill, Wilmslow Road

- 6.1 Mr and Mrs Petch are promoting the site at Crest Hill, Wilmslow Road, through the emerging Greater Manchester Spatial Framework (GMSF). A site location plan is appended at EP1. A copy of their site specific representations to the GMSF is appended at EP2.
- 6.2 A pre-application enquiry was submitted to the local planning authority in June 2016. Its views were sought on the redevelopment of the site. Three alternative proposals were put forward:
1. Demolition of the existing dwelling and its replacement with four dwellings;
 2. Conversion of the existing dwelling to two dwellings and two further new dwellings;
 3. Retirement apartments and two new dwellings.
- 6.3 The pre-application advice that was received was that even if the LPA was to accept that the site falls within the village of Woodford, it was not considered that the proposal amounted to limited infilling due to the 'substantial gap' between Crest Hill and the Deanwater Hotel. The supporting statement that accompanied the pre-application enquiry is appended at EP8.
- 6.4 The site has an area of approximately 0.9 ha. It comprises a dwelling and large garden. The site is separated from Wilmslow Road by a wall and mature trees with trees along all the site's boundaries. The site is bounded to the west by the Deanwater Hotel and to the east by King Street which separates the site from the dwelling 'Deanfields' in a ribbon of development along the north side of Wilmslow Road.
- 6.5 The site is currently designated as Green Belt. It is recognised the WNP cannot amend Green Belt boundaries, and that the appropriate forum for full strategic review of the Green Belt boundaries is through the GMSF and/or the Stockport Local Plan. However, the draft revised Framework (which was subject to consultation earlier this year) proposes changes to national planning policy to allow greater flexibility for releasing Green Belt through a Neighbourhood Plan. In particular, paragraph 144 of the draft revised Framework states:

"Where a need for changes to Green Belt boundaries has been demonstrated through a strategic plan, detailed amendments to those boundaries may be made through local policies, including neighbourhood plans."

- 6.6 Furthermore paragraph 145(f) of the draft revised Framework provides that development brought forward under a Neighbourhood Development Order, should not be regarded as 'inappropriate development' in the Green Belt.
- 6.7 Consequently if these changes to national planning policy are implemented it may be possible for the WNP to allocate Green Belt land for development. Under these circumstances we propose that our client's site as an allocation for development through the WNP to meet the strategic need for Green Belt release in Woodford identified through the GMSF.
- 6.8 In our representations to the GMSF our client's site has been proposed as a specific allocation for 5 dwellings.
- 6.9 We propose that if the draft revised Framework is published as currently drafted, the WNP could bring forward an allocation on the same basis that the site has been put forward to the GMSF.

7. Summary and conclusions

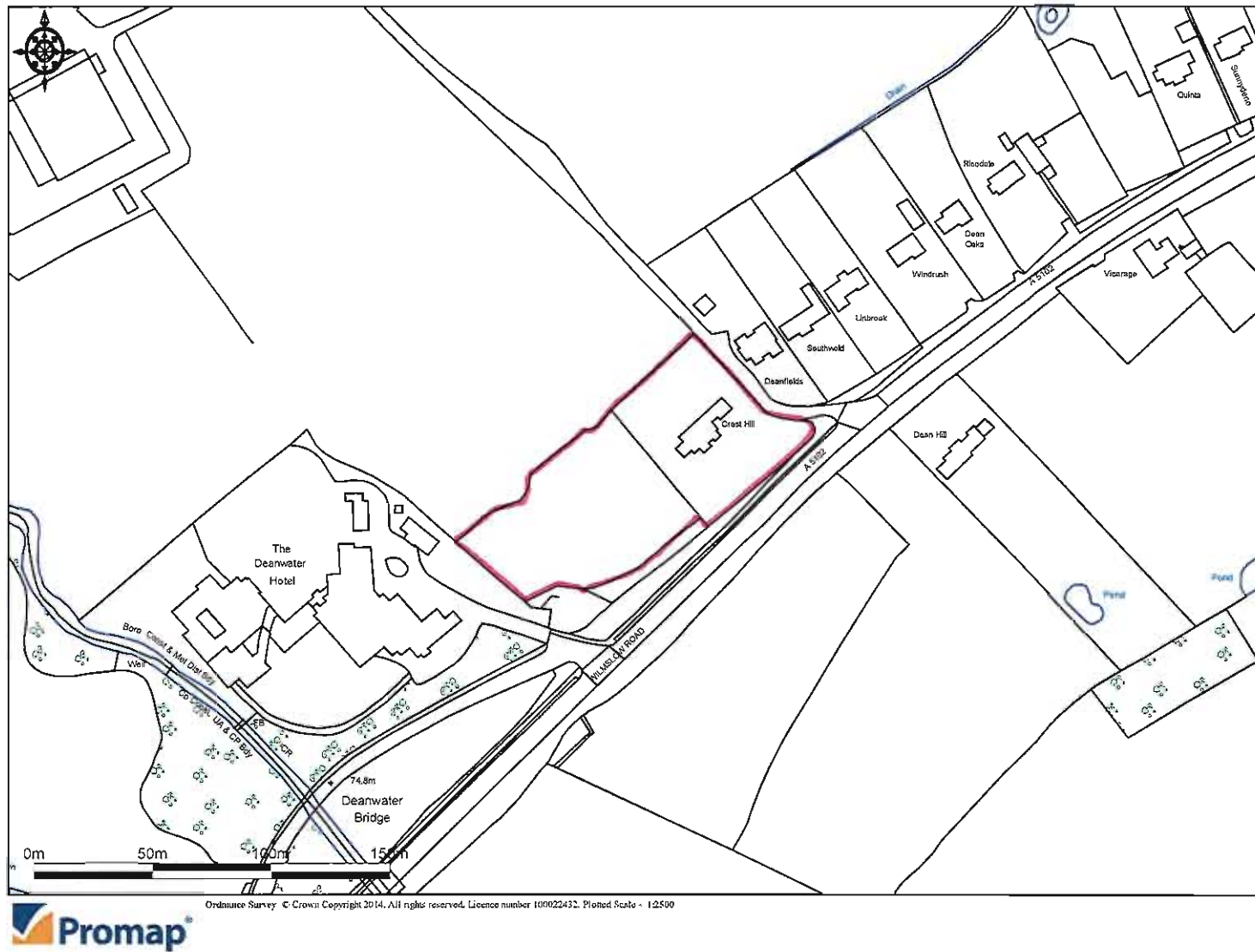
- 7.1 We support the principle of the production of the WNP. However, we consider that a number of changes are needed to ensure that the plan meets the basic conditions.
- 7.2 In particular, we have concerns in relation to the WNP's interpretation of Green Belt policy through policies DEV1, DEV2 and DEV5.
- 7.3 We also have significant concerns in relation to the placing of unduly restrictive policies in relation to views and countryside / 'green space' in policies ENV1 and ENV2. The plan fails to acknowledge the significant unmet housing needs in the area, and the proposed allocation of 2,400 dwellings in Woodford through the emerging Greater Manchester Spatial Framework.
- 7.4 This concludes our representations. Our clients wish to be kept informed of the process moving forward.

8. Appendices

- EP1. Site location plan – Crest Hill, Wilmslow Road, Woodford
- EP2. Site specific representations to the draft GMSF – Crest Hill, Wilmslow Road, Woodford
- EP3. Rectory Farm, Church Lawton appeal decision letter, site location plan and proposed site Plan (PINS ref: APP/R0660/W/17/3170279)
- EP4. 115 Coppice Road, Poynton delegated officer report, location plan and proposed site plan (application ref: 16/4972M)
- EP5. 23 Sandbach Road, Church Lawton appeal decision letter, site location plan and proposed site plan (PINS ref: APP/ R0660/W/16/3156493)
- EP6. Hollands Lane, Kelsall appeal decision letter, site location plan and proposed site plan (PINS Ref: APP/ A0665/A/14/2217226)
- EP7. 115 Hilltop Road, Acton Bridge, Cheshire West and Chester appeal decision letter and proposed site plan (PINS ref: APP/A0665/W/14/3000557)
- EP8. Land at Longclough Drive, Glossop appeal decision letter (PINS ref: APP/H1033/W/17/3177730)
- EP9. Pre-application Statement – Crest Hill

EP1

Crest Hill, Wilmslow Road, Woodford, SK7 1RH



EP2

Greater Manchester Integrated Support Team
PO Box 532
Town Hall
Manchester
M60 2LA

E-mail to: GMSF@agma.gov.uk

12 January 2017

EP ref: 14-248

Jane Griffin
T: 01625 442 795
janegriffin@emeryplanning.com

Dear Sir or Madam

Re: Greater Manchester Spatial Framework consultation

We are writing with regard to the above plan consultation. This representation is submitted on behalf of Mr and Mrs G Petch specifically with regard to the property and land at Crest Hill, Wilmslow Road, Woodford, Stockport SK7 1RH. (Location Plan enclosed).

The site is located to the north of Wilmslow Road, Woodford. It comprises the dwelling Crest Hill and garden. The site falls within the Green Belt.

The Village of Woodford is washed over by the Green Belt. However, Woodford is characterised by linear development along its roads with some gaps and open spaces and appears as being suburban in character.

Since the publication of the draft Greater Manchester Spatial Framework (GMSF) the site has also been submitted to the Greater Manchester Spatial Framework Call for Sites. This site would complement other sites nearby that are being promoted for family housing and the draft Woodford allocation in the GMSF consultation document.

In light of the above, the Green Belt boundaries should be reviewed comprehensively to take account of the draft allocation in the GMSF and should be amended to reflect actual development along the ground, specifically in relation to Mr and Mrs Petch's interest, the ribbon of residential properties along Chester Road and continuing along Wilmslow Road up to the Deanwater Hotel. These properties should be removed from the Green Belt if the Woodford allocation comes forward. We enclose a plan which shows the area referred to.

Yours faithfully
Emery Planning

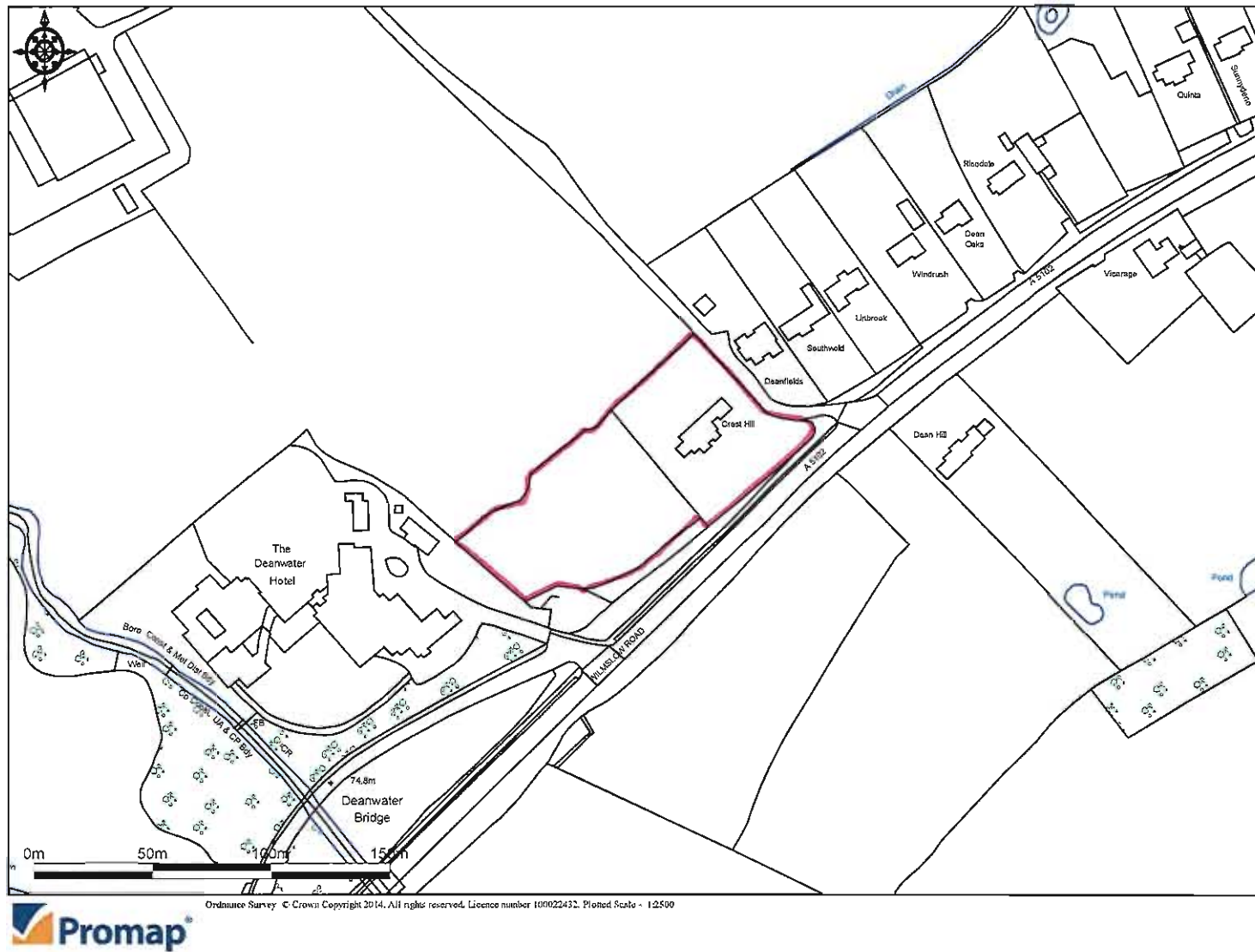
Jane Griffin

Jane Griffin MSc URP, MRTPI
Consultant

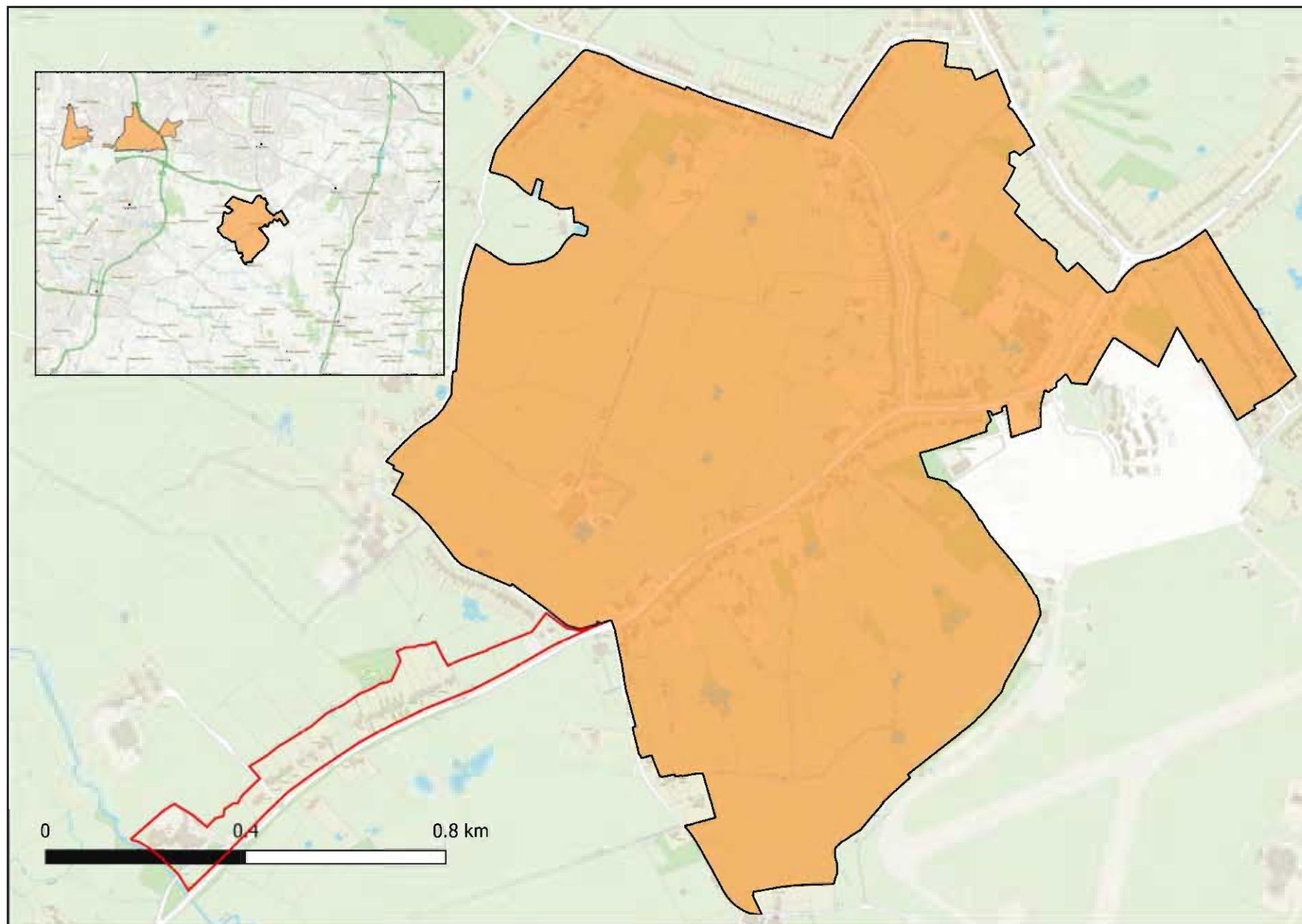
Encs: Plans x 2


Copy to: Client

Crest Hill, Wilmslow Road, Woodford, SK7 1RH



Plan to show suggested Green Belt Boundary changes



 Suggested Green Belt boundary change shown edged red

EP3

Appeal Decision

Site visit made on 13 June 2017

by V Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 14 July 2017

Appeal Ref: APP/R0660/W/17/3170279

Rectory Farm, Old Knutsford Road, Church Lawton, ST7 3EQ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by North West Heritage Ltd against the decision of Cheshire East Council.
 - The application Ref 16/5562C, dated 15 November 2017, was refused by notice dated 1 February 2017.
 - The development proposed is erection of up to 5 residential dwellings, with primary access defined up to 20 metres, ancillary facilities and associated infrastructure.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the erection of up to 5 residential dwellings, with primary access defined up to 20 metres, ancillary facilities and associated infrastructure at Rectory Farm, Old Knutsford Road, Church Lawton, ST7 3EQ in accordance with the terms of the application, Ref 16/5562C, dated 15 November 2017, subject to the conditions set out in the Schedule attached to this Decision.

Procedural Matter

2. The application to which this appeal relates was submitted in outline with all matters except access reserved for determination at a later date. I have dealt with the proposal on that basis.

Main Issues

3. The main issues are:
 - Whether the proposal would be inappropriate development in the Green Belt having regard to any relevant development plan policies and the National Planning Policy Framework; and
 - If the proposal would be inappropriate development whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.
-

Reasons

Whether inappropriate development

4. The appeal site is formed by fields on the edge of Church Lawton. My attention has been drawn to the planning history for the site, including a planning appeal for residential development that was previously dismissed¹.
5. The site is next to but outside of the settlement boundary for Church Lawton as defined by the Congleton Borough Local Plan First Review (Adopted 27 January 2005) (LP). The settlement is washed over by the Green Belt. Policy PS6 of the LP refers to a defined infill boundary line within which limited development in the settlement will be permitted, subject to matters including those relating to design and appearance. Policy PS7 restricts the type of new development that will be permitted in the Green Belt and is permissive of controlled infilling within those settlements identified in policy PS6.
6. Paragraph 89 of the National Planning Policy Framework (Framework) states that the construction of new buildings in the Green Belt should be regarded as inappropriate. The paragraph goes on to list exceptions to this including limited infilling in villages and the limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
7. The Framework exception does not therefore make specific reference to settlement boundaries or infill boundary lines in relation to limited infilling in villages in the Green Belt. Paragraph 215 of the Framework states that due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. Policies PS6 and PS7 of the LP are therefore not consistent with the Framework in restricting infill development in villages in the Green Belt to sites only within an infill boundary line.
8. Case law² has also established that it is necessary to consider whether, as a matter of fact on the ground, a site appears to be within a village and whether or not a site lies outside a village boundary as designated in the development plan is not determinative of the point. I note that an Inspector followed a similar approach in a recent appeal³ relating to a site that is also within Church Lawton.
9. I shall therefore now go on to consider whether the appeal site can be **considered to be within a village taking account of the Framework's paragraph 89 exception and the relevant case law**.
10. The appeal site is adjacent to a large established housing estate that forms part of the main developed area of Church Lawton. These houses line the boundary of the site along two sides. The rear gardens and rear elevations of the houses are visible across the site when viewed at close quarters and from more distant viewpoints such as from the nearby elevated canal towpath.

¹ APP/R0660/A/13/2201056 Decision date: 14 July 2014

² Wood v Secretary of State for Communities and Local Government [2014] EWHC 683 (Admin)

³ APP/R0660/W/16/3156493 Decision date: 14 November 2016

11. The development proposed would see the construction of a small group of up to five houses on a small site. The site is adjacent to the established housing that forms part of Church Lawton and would be viewed within this visual context.
12. There has also been a recent planning permission granted on the neighbouring site between the appeal site and Old Knutsford Road. This permission allows for the construction of a small group of dwellings. The scheme has been implemented with the access having been laid out and the site cleared. The appeal scheme before me would take its access from that provided for the neighbouring development.
13. As a consequence of this scheme, the appeal site will be surrounded by houses that are within the village on three sides. The proposed development would also not extend to the north beyond the defined built extent of the settlement. It would therefore be contained within the envelope of existing development within the village. I am therefore satisfied that the appeal site relates well both physically and visually to the existing settlement.
14. As to whether or not Church Lawton can be considered a village for the purposes of the Framework, the supporting text to policy PS6 of the LP identifies the settlements listed as containing established dwellings that may provide limited community services or other facilities for the population living within them or within the surrounding parishes. During the site visit I was able to observe a Public House, petrol station and horticultural nursery selling plants to the public. These would all be within walking distance of the development proposed. There are also bus stops nearby on Knutsford Road that provide a regular service to nearby towns including Alsager and Congleton where a wider range of services and shops are available. Whilst the settlement may not have a defined core in terms of its lay out, that is often the case for many villages and it is not necessarily a decisive factor. I am therefore satisfied that Church Lawton can be considered a village for the purposes of paragraph 89 of the Framework.
15. For these reasons, I consider that the proposal comprises limited infilling in a village for the purposes of paragraph 89 of the Framework. The proposal would not therefore be inappropriate development in the Green Belt.
16. I note that in the previous appeal at the site, the Inspector referred to the appellant acknowledging that the proposal would be inappropriate development in the Green Belt. However, the Inspector did not undertake a detailed assessment in this regard, rather observing that he saw no reason to disagree. My attention has **also been drawn to the Inspector's comments that it was not** for him to redraw the settlement boundary and that the process rests with the local planning authority and the residents of Church Lawton. However, circumstances have materially altered since the previous appeal was determined some three years ago. Specifically, the case law I have referred to, the more recent 2016 appeal in Church Lawton that had regard to this case law and the grant of planning permission on the neighbouring site for residential development. I have determined this appeal with regard to the up to date circumstances.
17. Whilst the proposal would result in a very limited scale of development on a small site being situated slightly closer to the canal than the existing situation, a margin of open fields and woodland would be retained as a form of visual

separation between viewpoints along the elevated canal towpath. Existing views across the site are already defined by the established housing estate and the proposal would be seen in this context. Furthermore views from the canal towpath and the footpath link from the towpath to Old Knutsford Road towards the site are limited to those experienced at close quarters. As one walks along the towpath in either direction there is dense woodland that restricts medium to long distance views of the site. It is the countryside on the opposite side of the canal that makes the more significant contribution to the openness and visual amenity of the area as it is undeveloped and comprises rolling agricultural fields. I am therefore satisfied that any impact on the openness of the Green Belt or conflict with the purposes of including land within it would be very limited indeed and this could be further mitigated by suitable design and landscaping at reserved matters stage.

18. The appellant has also referred to the appeal site as comprising previously developed land in reference to the relevant paragraph 89 exception. I did observe a small concrete block building with a corrugated iron roof. However, apart from this any previous activity relating to the horse business including the storage of carriages on the site has now ceased. The appeal site has the visual appearance of greenfield land, albeit somewhat overgrown. There is therefore insufficient evidence before me to come to a firm view on whether or not the appeal site does constitute previously developed land. However, given my finding in the preceding paragraphs this has not been a decisive factor in reaching a conclusion on this main issue.
19. Accordingly, I conclude on this main issue that the development proposed would be limited infilling in a village and it is not therefore inappropriate development in the Green Belt. Whilst there would be some conflict with policies PS6 and PS7 of the LP, the development proposed would not conflict overall with paragraph 89 of the Framework.
20. The Council have also referred to a policy from the emerging plan for Cheshire East. Policy PG3 essentially re-states the two Framework paragraph 89 exceptions listed above whereby limited infilling in villages or previously developed land will be permitted in the Green Belt. Whilst the emerging Local Plan has not yet been formally adopted, it has been examined and the **Inspector's Main Modifications have been subject to public consultation.** It is therefore at an advanced stage in its preparation and I attach weight to this policy in accordance with paragraph 216 of the Framework. However, policy PG3 does not specifically refer to limited infilling in villages within a defined boundary line. The development proposed would therefore not specifically conflict with this policy.

Other considerations

21. In light of my conclusion on the first main issue above, it is not necessary for me to go on to consider this issue further.

Other Matters

22. I note that several local residents, Councillors and other third parties, along with the main parties to this appeal, have referred to the housing land supply situation in the area and the correct application of paragraph 49 of the Framework in light of recent case law. Whilst I have had regard to the submissions, as I have concluded that the appeal proposal would not be

inappropriate development in the Green Belt the issue of housing land supply has not been a decisive factor in my determination of this appeal.

23. I appreciate that for those local residents living close to the appeal site, the view from their properties will change as a result of the proposal. However, there is little evidence before me to suggest that the proposal would be harmful in terms of its impact on living conditions in relation to outlook or privacy as acceptable separation distances could be achieved. Whether or not the proposal should comprise bungalows in order to reflect the neighbouring housing is a matter to be determined at reserved matters stage.
24. I note concerns have also been raised regarding whether trees on the site have been plotted accurately. However, the Council is satisfied that they have been and a condition requiring an Arboricultural Impact Assessment will ensure the effect of the proposal on existing trees is taken account of at reserved matters stage.
25. Several letters of objection have also referred to concerns relating to flooding and surface water drainage. The Council have provided a copy of an updated Committee report which states that **the Council's Flood Risk Team originally** objected to the proposal based on a lack of information relating to drainage calculations. However, further information on this matter was provided and therefore the Flood Risk Team no longer object to the proposal, subject to conditions. I also note that neither the Environment Agency nor United Utilities objected to the proposal on this basis, subject to conditions. I am therefore satisfied that the proposal would be acceptable in this regard.
26. The proposal would use an existing access with appropriate visibility splays as per the approved development on the adjacent site. Taking this into account and the small scale of the development proposed, I am satisfied that there would be no harm to highway safety.
27. **I note the Council's appeal statement** refers to paragraph 55 of the Framework and an appeal Decision on this issue. However, given that this does not form **part of the appellant's substantive grounds of appeal it is not clear to me** in what way this is directly relevant to the appeal before me.

Conclusion and Conditions

28. For the reasons given above, I conclude that the appeal should be allowed.
29. **I have considered the Council's suggested conditions in line with the advice in the Framework and the Planning Practice Guidance (PPG).**
30. I have attached the standard conditions for an outline permission including the definition of the reserved matters. As access is not a reserved matter I have also attached a condition requiring the development to be in accordance with the plans for the avoidance of doubt. Whilst the submitted plans do show an indicative layout and landscaping these are reserved matters and do not form part of the appeal scheme before me.
31. I have also attached conditions requiring details of a water drainage scheme to be submitted to and approved by the local planning authority. This is to ensure that the proposed development can be adequately drained and to ensure that there is no flood risk on or off site resulting from the appeal scheme. The suggested wording of the condition required the scheme to be submitted to and

approved by the Lead Local Flood Authority (LLFA). However, the PPG states that it is not appropriate to require in a condition that a requirement should be carried out to the satisfaction of a third party as this decision rests with the local planning authority. I have therefore altered the wording of this condition accordingly. For the same reasons, and also in the interest of the amenity of neighbouring occupants, I have also attached a condition requiring the submission of a scheme confirming details of existing and proposed land levels.

32. Whilst I note that the appellant requested the form of words as originally suggested by the LLFA, the Council has combined the four conditions suggested into two conditions. As the wording of the condition requiring a water drainage scheme to be submitted is more flexible than that suggested by the LLFA I **have adopted the Council's proposed wording (conditions Nos. 5 and 8 for reference)**.
33. As the development is close to existing residential properties a condition is required should pilling be necessary to ensure there will be no undue harm to the living conditions of neighbouring occupants in relation to noise or disturbance. For the same reason it is reasonable to require a condition for the submission of a scheme to minimise dust during the construction phase of the scheme.
34. A habitat survey of the appeal site did identify a disused badger sett and a method of soft closing was recommended. However, as the status of badgers on a site can change within a short time scale it is reasonable to require that the reserved matters include appropriate badger mitigation measures.
35. A contaminated land condition is also necessary in the event that contaminates are discovered during the construction process, taking account of the previous use of the site.
36. The Council have also suggested a condition relating to Electric Vehicle Infrastructure. Whilst paragraph 35 of the Framework does refer to this, there is no evidence before me to indicate whether this would be practical or viable to provide on the site. The condition is therefore not justified.
37. A condition was also suggested removing the Permitted Development Rights of future occupants in relation to development under Classes A, B, C, D, E and F. The PPG states that conditions restricting the future use of permitted development rights will rarely pass the test of necessity and should only be used in exceptional circumstances. The PPG goes on to state that the blanket removal of freedoms to carry out small scale domestic and non-domestic alterations that would otherwise not require an application for planning permission are unlikely to meet the tests of reasonableness and necessity.
38. **I note that the Council's reasons for suggesting this condition involve wanting** to prevent further additions which could be added which would result in harm to both the character/appearance of the area and the living conditions of adjoining neighbouring properties. However there is little evidence before me to indicate that this reason would amount to exceptional circumstances that would justify the imposition of such a condition in this case.
39. I note that the appellant requested that the conditions be worded so as to be suitable for self-builders. However, no alternative words that would be

considered acceptable were provided. I have therefore referred to the **Council's suggested wording.**

V Lucas-Gosnold

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) Details of the appearance, landscaping (including replacement hedgerow planting, Arboricultural Impact Assessment and tree protection measures), layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved. The reserved matters should also include badger mitigation measures.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: 1101 101 Rev E; 1109 102 Rev E; 1109 103; and 1109 LO1 Rev A
- 5) The development hereby permitted shall not commence until details of the detailed design, implementation, maintenance and management of a water drainage scheme have been submitted to and approved in writing by the Local Planning Authority.
- 6) Should piling be required as part of the development, prior to the commencement of development the applicant shall submit a method statement, to be approved by the local planning authority. The piling work shall be undertaken in accordance with the approved method statement. The method statement shall include the following details:
 - (a) Details of the method of piling
 - (b) Days / hours of work
 - (c) Duration of the pile driving operations (expected starting date and completion date)
 - (d) Prior notification to the occupiers of potentially affected properties
 - (e) Details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint
- 7) No development shall take place until a scheme to minimise dust emissions arising from demolition / construction activities on the site has been submitted to and approved in writing by the local planning authority. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The demolition / construction phase shall be implemented in accordance with the approved scheme, with the approved dust

suppression measures being maintained in a fully functional condition for the duration of the demolition / construction phase.

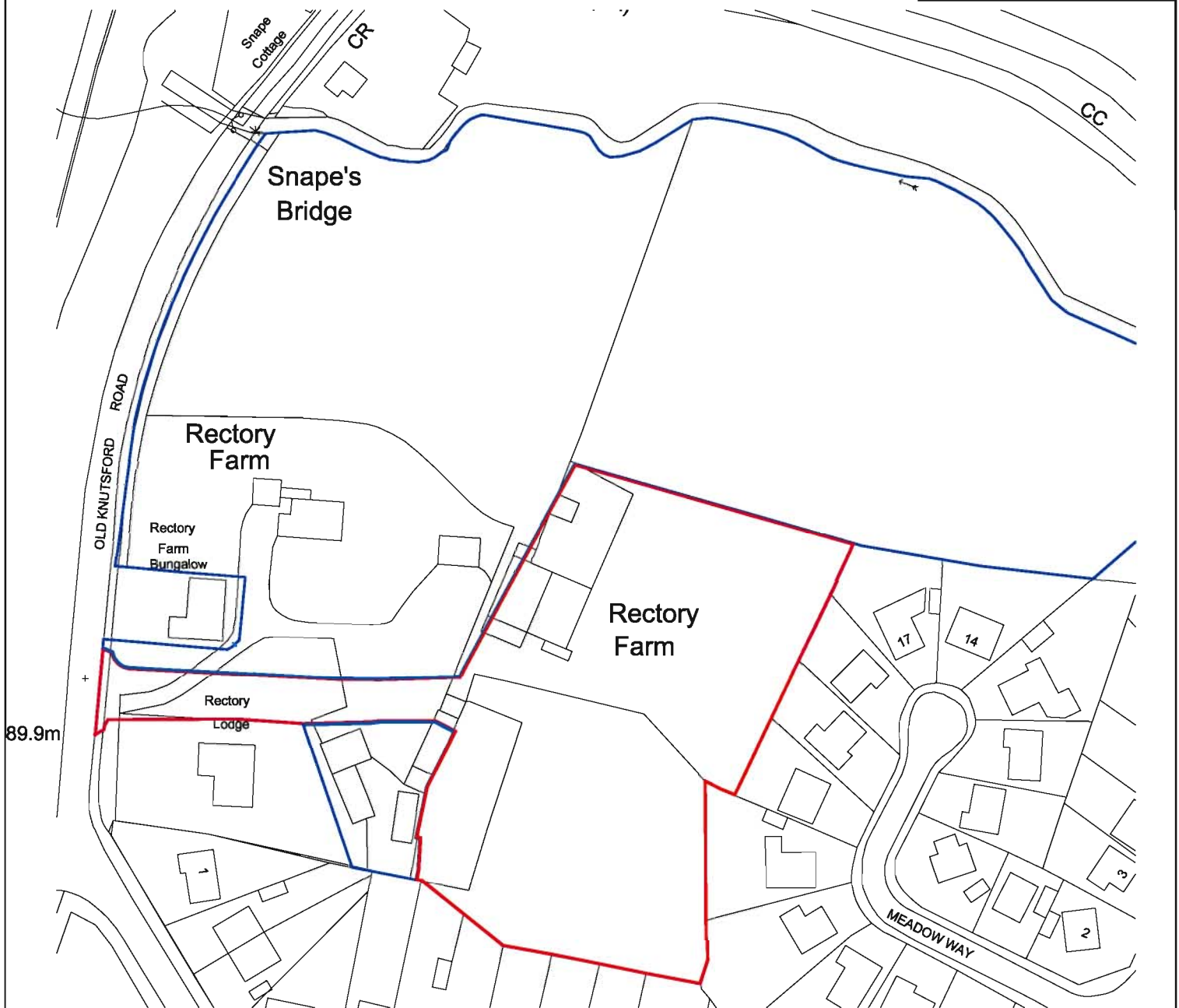
- 8) Prior to commencement of the development hereby approved details of proposed and existing land levels shall be provided in writing to the Local Planning Authority for approval. The development shall then only be constructed to the approved details.
 - 9) Development shall not commence until:
 - (a) A Phase I Preliminary Risk Assessment has been submitted to, and approved in writing by, the local planning authority (LPA) AND if required:
 - (b) A Phase II ground investigation and risk assessment has been completed. A Phase II report shall be submitted to, and approved in writing by, the LPA AND:
 - (c) If Phase II ground investigations indicate that remediation is necessary, a Remediation Strategy shall be submitted to, and approved in writing, by the LPA.

Prior to the occupation of the development:

 - (d) The remedial scheme in the approved Remediation Strategy shall be carried out.
 - (e) A Verification Report prepared in accordance with the approved Remediation Strategy, shall be submitted to, and approved in writing by, the LPA, prior to the occupation of the development.
 - 10) Any soil or soil forming materials to be brought to site for use in garden areas or soft landscaping shall be tested for contamination and suitability for use prior to importation to site.

Prior to occupation, evidence and verification information (for example, laboratory certificates) shall be submitted to, and approved in writing by, the local planning authority.
 - 11) If, during the course of development, contamination not previously identified is found to be present, no further works shall be undertaken in the affected area and the contamination shall be reported to the Local Planning Authority as soon as reasonably practicable (but within a maximum of 5 days from the find). Prior to further works being carried out in the identified area, a further assessment shall be made and appropriate remediation implemented in accordance with a scheme also agreed in writing by the local planning authority.
-

Revision Schedule		
Revision	Revision Description	Revision Date
A	Red Line	07.11.16



89.9m

NOTES

All building work is to conform with full planning approval, application drawn and stipulated planning conditions approved by the Local Planning Authority.

All building work is to conform with 1991 Building Regulations and all subsequent revised documents and to the satisfaction of the building control officer or equally approved.

The contractor is to check all dimensions and conditions on site before commencing. Figured dimensions shall be preferred to scaled dimension. All adjoining properties are indicative layouts and are not to be scaled.

Drawing to be read in conjunction with the Employers Requirements and relevant specification documents.

It is intended that this drawing has been produced and issued for sole purpose noted within the title block. It is not intended that this drawing be used by any other person or for any other purpose.

Rectory Farm - Site B
Church Lawton

DRAWING NAME:
Location Plan

DRAWING:- 1109 L01 Outline Planning	Rev A
--	-----------------

SCALE: 1:1250 @ A4 **DATE:** Oct 2016

JAP
Jay Ashall Partnership
Chartered Architects

Location Plan
1:1250

EP4

DELEGATED REPORT

Application Number	16/4972M
Proposal	Demolition of existing dwelling and construction of 3 residential dwellings.
Location	115, COPPICE ROAD, POYNTON, SK12 1SN
LDFC	15-Dec-2016
Expiry Date	15-Dec-2016
Constraints	MBC Local Plan Green Belt MBC Local Plan Borough of Macclesfield Boundary

SUMMARY RECOMMENDATION:

Approve subject to conditions.

MAIN ISSUES:

Greenbelt, Design, Amenity, Access to Highways, Forestry, Nature Conservation.

DESCRIPTION OF THE SITE

The proposed site comprises of 115 Coppice Road. A detached dwelling located on a ribbon of development within the North Cheshire Greenbelt near Poynton. Coppice Road runs north to south adjacent to the site's western boundary. The proposed site is surrounded by agricultural land to the east, 113 Coppice Road to the north and 119 Coppice Road to the south. There is no 117 Coppice Road.

DETAILS OF PROPOSAL

Demolition of existing dwelling and construction of three residential dwellings.

CONSULTATION RESPONSES

Cheshire East Highways – No Objection

Cheshire East Nature Conservation Officer – No Objection

Cheshire East: Environmental Protection – No Objection

Cheshire East: Arboriculture and Forestry- No Objection

United Utilities – No Objection

VIEWS OF THE PARISH COUNCIL

Poynton Town Council – No objection but raised concerns regarding highway safety in relation to the proposed site being accessed from Coppice Road.

REPRESENTATIONS

The council has received seven representations objecting to the proposed development. These objections refer to:

- Overdevelopment of the plot
- Design not reflecting that of surrounding properties.
- Possible overlooking due to living rooms being positioned on the first floor with Juliet balconies.
- Concerns regarding safe access and parking, including the refusal of application 00/0352m.
- Overshadowing of habitable rooms located on the ground floor of 113 Coppice Road.
- Town housing not being suitable for families or people with mobility issues.
- Concerns regarding damage to bat habitat.
- The proposals encroaching upon surrounding buildings.
- Location of bin storage.
- Objections to internal garages.
- No site notice erected.
- Poor quality drawings supplied by the applicant.

RELEVANT PLANNING HISTORY

80364P: DETACHED DWELLING- Refused: 22-Mar-1995.

79717P: DETACHED DWELLING- Refused: 30-Nov-1994.

00/0352P: NEW VEHICULAR ACCESS- Refused: 19-Apr-2000.

POLICY

BE1: Design Guidance
H13: Protecting residential Areas
DC1: New Build
DC2: Extensions and alterations
DC3: Amenity
DC6: Circulation and Access
DC8 : Landscaping
DC9: Tree Protection
DC38: Space, Light and Privacy
NE11: Nature Conservation
GC1: New Buildings within the Greenbelt

All of the above policies are considered to be consistent with the NPPF.

Cheshire East Local Plan Submission Version

The following are considered relevant material considerations as indications of the emerging

strategy:

MP1: Presumption in Favour of Sustainable Development

SE1: Design

SD2: Sustainable Development Principles.

Appendix C: Parking Standards

Other Material Considerations

National Planning Policy Framework (NPPF):

National Planning Policy Guidance (NPPG)

Poynton Neighbourhood Plan: Is currently at Regulation Stage 15: Pre-submission Consultation.

KEY ISSUES

Greenbelt

The key considerations when assessing development within the Green Belt are:

- Whether the proposals represent inappropriate development in the Green Belt;
- If the development is inappropriate, whether there is any additional harm; and
- whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

NPPF paragraph 89 states that:

"A local planning authority should regard the construction of new buildings as inappropriate in Green Belt." Although this policy lists a number of exceptions which include limited infilling within a village.

Macclesfield Local Plan Policy GC1 relates to new buildings in the Green Belt. Criterion 5 of the policy refers to infilling and allows for "limited infilling within the settlements of Gawsworth, Henbury, Lyme Green and Sutton provided that the development is in scale and character with the settlement in question". Recent appeal decisions have stated the wording within Macclesfield Local Plan Policy GC1 which states that limited infilling in villages in the Green Belt is only potentially acceptable within certain settlements is not consistent with the NPPF. And therefore it shall not be considered within this assessment.

Infilling is defined within the Macclesfield Local Plan as: "The filling of a small gap in an otherwise built-up frontage. (A small gap is one which could be filled by one or two houses). The proposals are considered to meet this definition. Whilst the proposed development will create three dwellings, one of the three dwellings will replace the current dwelling at 115 Coppice Road and on this basis the proposals are considered too amount the infilling of a small gap and therefore acceptable within the Greenbelt.

Highways

Neighbour comments regarding parking and road safety are noted. This application has been assessed by the Council's Highways Team who have not raised any objections. Two

parking places will be provided by each dwelling between the driveways and garages within the development. This is compliant with the parking guidelines provided within Cheshire East Local Plan Strategy Submission Version – Appendix C: Parking Guidance, which requires three bedroom dwellings outside of Principle Towns and Key Service Centres to be served by two parking spaces.

Neighbour comments regarding application number 00/0352P for an additional access at 115 Coppice Road having been refused in 2000 are noted. The councils highways team were asked if they wish to make any changes to their consultation response in light of this decision, and they maintained their stance of raising no objection. Furthermore, the report associated with the refusal of application 00/0352P states that this decision was reached due to the fact that the new access would create an additional point of conflict within the highway network. However, this could be said about the creation of any new access onto an existing highway. Some 17 years have passed since this decision was made and nowadays a presumption in favour of sustainable development lies at the heart of planning policy, as such this would not be considered an appropriate reason for refusal within the current policy climate.

On this basis the proposals are considered to comply with Macclesfield Local Plan Policy DC6

Design

Neighbour comments regarding the proposed designs are noted.

Macclesfield Local Plan Policy BE1: Design Guidance states that:

“The Borough Council will promote high standards of design. New development and changes in the built environment, particularly in the town and district centres, should achieve the following design principles:

- 1 reflect local character*
- 2 respect form, layout, siting, scale and design of surrounding buildings and their setting*
- 3 contribute to a rich environment and add to the vitality of the area*
- 4 be human in scale and not normally exceed 3 storeys in height*
- 5 use appropriate materials.”*

The original designs submitted with this planning application were not considered to reflect the design of surrounding buildings. Since then the applicant has submitted revised plans which are now considered to be acceptable within the context of surrounding properties. The changes to the drawings consisted of the introduction of gable dormers in order to introduce a design feature to the roof and allow the properties to better correlate with 119 Coppice Road; as well as,

- Increased roof height;
- Introduction of lean-to porches; and

- Adjustment of the size of first floor windows, and the addition of coping stones above and below these windows,

In order to allow the proposed dwellings to better respect scale and design of surrounding properties, through greater correlation with the roof line of 111 and 113 Coppice Road.

Neighbour comments regarding the use of integral garages are noted. Whilst integral garages are not typical features within the surrounding street scene it is not considered that they use will result in significant harm to the character and appearance of the immediate area.

Neighbour comments regarding overdevelopment of the plot are noted. Whilst the proposed dwellings will extend to the proposed site's boundaries. There sufficient parking and amenity space on site to serve the proposed dwellings effectively, therefore the proposed development is not considered to be overdevelopment of the plot. Furthermore, the proposed site plan shows gap of approximately 3m between the proposed dwellings and dwellings at 113 and 119 Coppice Road.

On the basis of the above, the proposals are considered to comply with Macclesfield Local Plan Policies BE1 and DC1.

Amenity

Macclesfield Local Plan Policy DC3: Amenity states that:

“Development, including changes of use, should not significantly injure the amenities of adjoining or nearby residential property or sensitive uses due to:

- 1. Loss of privacy*
- 2. Overbearing effect*
- 3. Loss of sunlight and daylight*
- 4. Noise, vibration, smells, fumes, smoke, soot, ash, dust or grit*
- 5. Environmental pollution*
- 6. Hazardous substances and industrial processes*
- 7. Traffic generation, access and car parking.”*

Neighbour comments regarding loss of privacy due to living rooms located on the first floor the proposed dwellings being served by Juliet balconies are noted. It is not considered that Juliet balconies will result in any greater loss of privacy then fully opening windows. Whilst, as objectors have stated, it is possible to lean over the handrail of a Juliet balcony, it is also possible to lean out of a fully opening window. Furthermore, the creation of a first floor Juliet balcony within the existing dwelling is permitted without the need for planning permission by virtue of General Permitted Development Order: 2015; Schedule 2; Part One; Class A.

Due to the scale and position of the proposed development it is not considered that it will result in any significant loss of light or privacy to 119 Coppice Road.

Impact on 113 Coppice Road

Neighbour comments regarding loss of light to windows serving 113 Coppice Road are noted.

There are several windows serving a porch located on the side elevation of 113 Coppice Road in addition to a small window serving a reception room. A window serving a kitchen diner is located on the rear elevation of 113 Coppice Road adjacent to the proposed site. The internal walls of the porch and kitchen diner are partially constructed using glass providing additional light to the rear reception room served by the aforementioned small window.

A window serving a bathroom is located at first floor level on 113 Coppice Road's rear elevation adjacent to the proposed site.

From assessing the proposed site plan and undertaking a site visit it is not considered that the proposed development will enter within 45° or 14 m of the centre point of windows located on the rear elevation 113 Coppice Road, although the North East corner of the dwelling referred to as Unit A within Drawing Number 2016/E/06 Rev C is located close to this point. Whilst the proposed development will be located closer to the window serving the side elevation of the proposed development it is not considered that the proposals will result in a loss of light which is more significant than that experienced within the current situation.

Removal of Permitted Development Rights

Subject to certain exclusions and conditions General Permitted Development Order 2015; Schedule Two; Part One; Class A allows for terraced dwellings such as those which are the subject of this application to be extended from their rear elevation by 3m at both ground and first floor level. If following the construction of the proposed development, future owners of Unit A were to extend this dwelling from the rear elevation at either ground or first floor level, depending on the position of the extension, it could enter within 45° or 14 m of the centre point of the window serving a kitchen diner located on the rear elevation 113 Coppice Road. Therefore it is considered that this would result in a significant loss of light to both the kitchen diner and rear reception room at 113 Coppice Avenue, as well as an overbearing impact upon the rear garden of this property, if Unit A were to be extended at first floor level. Therefore it is considered necessary to include a condition on the decision notice stating that the aforementioned permitted development rights are to be removed from Unit A.

In addition a condition will be placed upon the decision notice to ensure that no windows are to be inserted on the north elevation of a Unit A. In order to prevent overlooking of 113 Coppice Road.

The council's environmental health team have been consulted regarding this application and raised no objections regarding noise, vibration, smells, fumes, smoke, soot, ash, dust or grit.

On the basis of the above, the proposals are considered to comply with Macclesfield Local Plan Policies DC3 and DC38.

Ecological Issues

Neighbour comments regarding loss of bat habitat are noted.

This application has been assessed by the Council's Nature Conservation Officer who raised no objections to the proposals.

Evidence of bat activity in the form of a single Common Pipistrelle has been recorded within the existing buildings. There is no evidence that bats have a breeding roost on the site. The loss of the building in the absence of mitigation is likely to have only a minor impact upon a very small number of individual bats and a negligible impact upon the conservation status of the species as a whole.

The submitted report recommends the installation of permanent bat tubes within the gable ends of the new build, as a means of compensating for the loss of the current roost site and also recommends the timing and supervision of the works to reduce the risk posed to any bats that may be present. The proposed outline mitigation is acceptable and is likely to reduce the potential adverse impacts of the proposed development to a negligible level.

Article 12 (1) of the EC Habitats Directive requires EU member states to take requisite measures to establish a system of strict protection of certain animal species, including bats, prohibiting the deterioration or destruction of breeding sites and resting places.

In the UK, the Habitats Directive is transposed as The Conservation of Habitats and Species Regulations 2010. This requires the local planning authority to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.

It should be noted that since a European Protected Species (a bat) has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must consider the three tests in respect of the Habitats Directive, i.e. (i) that there is no satisfactory alternative, (ii) that the development is of overriding public interest, and (iii) the favorable conservation status of the species will be maintained. Evidence of how the LPA has considered these issues will be required by Natural England prior to them issuing a protected species license.

Current case law instructs that if it is considered clear, or very likely, that the requirements of the Directive cannot be met because there is a satisfactory alternative or because there are no conceivable “other imperative reasons of overriding public interest” then planning permission should be refused. Conversely if it seems that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

Alternatives

The application is for the replacement of the existing detached dwelling with three terraced houses, which has to be assessed on its own merits. There are no known alternatives.

Overriding public Interest

The replacement of the existing dwelling with three dwellings is considered to be an acceptable scheme in terms of planning policy and suitable mitigation means that protected species would not be threatened by the proposed development.

Mitigation

The submitted report recommends the installation of bat tubes as a means of compensating for the loss of the roost and also recommends the timing and supervision of the works to reduce the risk posed to any bats that may be present when the works are completed.

The nature conservation officer advises that if planning consent is granted the proposed mitigation/compensation is acceptable to maintain the favourable conservation status of the species of bat concerned.

On the basis of the above it is considered that requirements of the Habitats Directive would be met.

The proposals comply with Macclesfield Local Plan Policy NE11.

Forestry and Arboriculture

The Councils Arboricultural and Forestry Team have been consulted regarding this application. They concluded that there are no significant arboricultural implications accompanying with this application; none of the trees associated with the rear boundary are considered worthy of formal protection.

Other Matters

- Neighbour comments regarding the site notice are noted. A site notice was erected close to the proposed site on 24 November 2016, which expired on 15 December 2016.
- Neighbour comments regarding the quality of the proposed plans are noted. Whilst these plans are drawn by hand rather than using a computer aided design program, they are considered acceptable in terms of their legibility.
- Neighbour comments regarding town houses not being suitable for families and disable people are noted. Firstly, with regard family use, this is a matter of personal preference. And secondly, housing for use by other household demographics aside from families is also required within the borough. Therefore, this is not a relevant consideration in assessing this application.
- Neighbour comments regarding the location of the refuse storage area, causing issues with regards adjacent planting and requiring access to surrounding properties in order to be maintained are noted. However, this is considered to be a civil matter outside of the planning process.
- Neighbour comments regarding the proposed site encroaching upon surrounding properties are noted. This is due to an error on the applicants original location plan, the Red Line boundary to which has now been corrected within a revised plan.

PLANNING BALANCE

Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and that where this is the case housing applications

should be considered in the context of the presumption in favour of sustainable development

It is therefore necessary to make a free-standing assessment as to whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

In this case, the development would make the following economic, social and environmental benefits:

ENVIRONMENTAL ROLE

Subject to reserved matters the principle of constructing a dwelling on the site in question would have a neutral impact upon:

- greenbelt
- protected species/ecology;
- drainage;
- space, light and privacy
- highway safety;
- trees

SOCIAL ROLE

The proposed development will make a positive contribution of two units to the borough’s housing land supply. Although because none of the proposed dwellings are considered to be affordable homes only limited weight can be given to these benefits.

ECONOMIC ROLE

The proposals will create negligible economic benefits through the provision of employment during the construction phase, and negligible benefits for local businesses once the additional homes are occupied.

CONCLUSION

On the basis of the above, it is considered that the proposal represents sustainable development and paragraph 14 is engaged. Accordingly it is recommended for approval.

CONCLUSION

To conclude, the proposed development will not have any significant negative impact upon the surrounding area and is deemed to be in accordance with all relevant policies in the development plan. Therefore a recommendation of approval is made, subject to conditions.

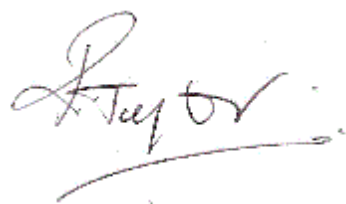
Recommendation: **Approve subject to following conditions**

Case officer: Michael Coburn

Date: 16-Feb-2017

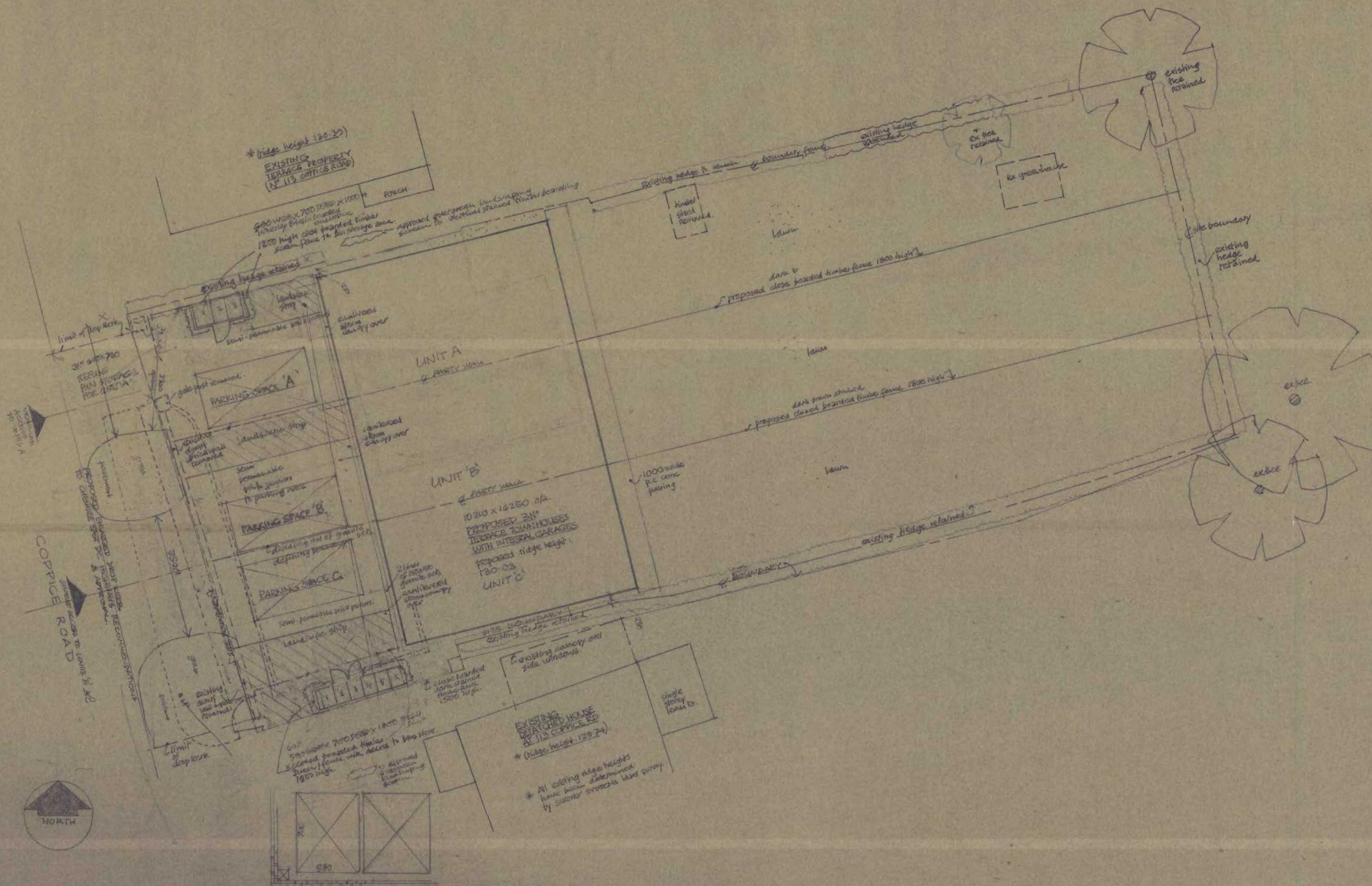
Noted and Agreed ; RT

17 February 2017

A handwritten signature in dark ink, appearing to read "Michael Coburn", with a long horizontal flourish extending to the right.

Land at 115 Coppice Road, Higher Poynton - Location Plan





WREPLAN

MR & MRS PETER TYLER

PROPOSED 3N 3-BEDROOM TERRACE TOWNHOUSES WITH INTEGRAL GARAGES ON LAND AT 115 COPPICE ROAD POYNTON, CHESHIRE SK12 1SN

PROPOSED SITE PLAN SHOWING CAR PARKING & ACCESS ARRANGEMENTS FROM COPPICE ROAD & REAR GARDENS

1:100 AUGUST '16 - PY

Revision C: 17.01.2017
Where the site enclosure reduced in height to 1800mm, the existing fence was removed.
See 1:100 plan.

Revision B: 05.12.2016
Original footprint of existing house retained. An addition of a new wing, removed or altered.

Revision A: 03.10.16
Volume access to Copple Rd altered. Additional landscaping strip added to south of units W, B & C.

PETER YOUNG RIBA
CHARTERED ARCHITECT
50 HUGHES LANE
POYNTON
CHESHIRE SK12 1NT
Tel: 01293 850800
p.young@p.young.co.uk

2016 E 06

EP5

Appeal Decision

Site visit made on 31 October 2016

by Anne Jordan BA (Hons) MRTPI

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

Decision date: 14th November 2016

Appeal Ref: APP/R0660/W/16/3156493

Land adjacent to 23 Sandbach Road, Church Lawton, Stoke-On-Trent, ST7 3DW

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr Anthony Chadwick against the decision of Cheshire East Council.
 - The application Ref 15/5508C, dated 5 December 2015, was refused by notice dated 30 March 2016.
 - The development proposed is two dwellings.
-

Decision

1. The appeal is allowed and outline planning permission is granted for two dwellings at land adjacent to 23 Sandbach Road, Church Lawton, Stoke-On-Trent, ST7 3DW in accordance with application Ref 15/5508C, dated 5 December 2015 and the plans submitted with it and subject to the following conditions:
 - 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 4) The development hereby approved shall be carried out in total accordance with the approved Location Plan, received by the Local Planning Authority on the 7th December 2015 and the Proposed Indicative Site Layout Plan (access arrangements only), numbered 2015/TC/SR/08(A), received by the Local Planning Authority on the 9th March 2016.
 - 5) The visibility shown on plan 2015/TC/SR/08(A) should be cleared of any obstructions before first occupation and retained clear from obstruction in perpetuity.
 - 6) The reserved matters application shall be supported by a comprehensive package of arboricultural information following BS 5837: 2012 guidelines
-

which shall provide details of all trees and hedgerows on site and measures for their protection. The development shall be implemented in accordance with any mitigation proposed.

- 7) Prior to any works taking place that involve the loss of any hedgerow, tree or shrub between 1st March and 31st August in any year, a detailed survey shall be undertaken to check for the existence of nesting birds. Where nests are found, a 4m exclusion zone shall be created around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a report submitted to and approved in writing by the Local Planning Authority before any works involving the removal of the hedgerow, tree or shrub take place.
- 8) Prior to the commencement of development, the applicant shall submit a piling method statement, to be approved by the Local Planning Authority. The piling work shall be undertaken in accordance with the approved method statement. The method statement shall include the following details:
 - Details of the method of piling
 - Days / hours of work
 - Duration of the pile driving operations (expected starting date and completion date)
 - Prior notification to the occupiers of potentially affected properties
 - Details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint
- 9) No development shall take place until a scheme to minimise dust emissions arising from groundworks and construction activities on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The groundwork / construction phase shall be implemented in accordance with the approved scheme, with the approved dust suppression measures being maintained in a fully functional condition for the duration of the construction.
- 10) No development shall take place until a detailed design and associated management and maintenance plan of surface water drainage for the site using sustainable drainage methods has been submitted to and approved in writing by the Local Planning Authority. The approved drainage system shall be implemented in accordance with the approved detailed design prior to the use of the building commencing.

Procedural Matters

2. The parties have confirmed that the application seeks outline permission with details of access. Notwithstanding the details on the submitted plans the matters of appearance, landscaping, layout, and scale are reserved for later approval.
3. The parties have confirmed that the application was determined on the basis of amended plan ref 2015/TC/SR/08(A). I have therefore determined the appeal on the same basis.

Main Issue

4. The main issue for the appeal is whether the proposal is inappropriate development in the Green Belt having regard to the ***National Planning Policy Framework*** (the Framework) and development plan policy.

Reasons

Inappropriate Development

5. Policies PS6 and PS7 of the ***Congleton Borough Local Plan First Review 2005*** (Local Plan) outline circumstances in which the construction of new buildings in the Green Belt can be considered acceptable. Policy PS6 allows for limited infilling in the Green Belt within a designated infill boundary line. These policies predate the ***National Planning Policy Framework*** (The Framework) which states that new buildings are inappropriate within the Green Belt unless they comprise one of the exceptions outlined in paragraph 89. These include limited infilling within villages. **The terms "limited" and "infilling" are not defined in the Framework.**
6. The site lies outside the infill boundary lines of Lawton Gate and Lawton Heath as shown in the Local Plan. However, in this case I consider the location of the site and its juxtaposition with existing development to be more relevant. I am mindful of recent case law¹ which advises that the physical circumstances of a site and its relationship to a settlement are more relevant than a designated village boundary in determining whether a site can be considered to be infill development. In this case the site comprises an open field which lies between two residential dwellings. These face the strip of continuous development along Sandbach Road which lies within the boundary lines of the settlement. The plots would adjoin open land to the rear but would not extend beyond the residential curtilages of development on either side. I note that development on the western side of the road is more sporadic than that on the eastern side, nevertheless, the proposed plots would be commensurate in size with the dwellings either side, and would sit comfortably within the gap in the frontage, reflecting the established pattern of development.
7. I therefore consider that having regard to the position and nature of the site, the proposal can be considered to be physically and visually related to the existing settlement and to comprise limited infilling. Although the proposal would conflict with policies PS6 and PS7 of the Local Plan, these are not consistent with the Framework, insofar as they rely on settlement boundaries, and this significantly reduces the weight which can be attached to them. The construction of 2 infill dwellings in this location should not be considered to constitute inappropriate development in the Green Belt and the proposal would not conflict with guidance within the Framework.
8. The appellant has put forward various matters which he considers to amount to the very special circumstances needed to outweigh Green Belt harm. The Council dispute these. However, as I have not found that Green Belt harm would arise in this case, I do not consider it necessary to consider these particular matters in further detail.

¹ Wood v Secretary of State for Communities and Local Government [2014] EWHC 683 (Admin).

Other Matters

9. Although not referred to in the decision, the Council consider that the proposal would conflict with the requirement within policy H6 of the Local Plan for new development in the Green Belt to be appropriate to the local character in terms of its use, intensity, scale and appearance. I am satisfied that the site is suitable for the number of dwellings proposed and so, subject to conditions to ensure that the form of development is appropriate for its context, and takes account of the physical nature of the site, including any changes in land level, I find no conflict with policy H6.
10. I note concerns that the proposal would give rise to an undesirable precedent for other similar development. As the proposal would not conflict with guidance in the Framework, it would not cause harm to the Green Belt. It follows that it would not set a precedent for developments which would be harmful. I therefore attribute no weight to the matter.
11. Local residents have expressed concerns in relation to the impact of the proposal on highway safety. I noted on site that the sites lie within a 40mph zone and at the time of my visit, which was mid morning on a weekday, had low levels of passing traffic. I take into account that traffic levels would be higher at peak times. Nevertheless, the road is straight and offers good visibility in both directions. The proposal would also result in a very small increase in local traffic. I therefore concur with the views of the local highways authority, who had no objections to the proposal. They have advised that subject to the provision of acceptable visibility splays at the access, the proposal would not be harmful to highway safety.
12. I also take into account concerns relating to the impact of the proposal on living conditions. Having regard to the proximity of adjoining occupiers and the extent of the site, I am satisfied that an appropriate layout could be provided which would not lead to harm by way of noise or loss of privacy. I am also satisfied that concerns in relation to flooding could be adequately mitigated by conditions relating to the surface water drainage of the site, and that conditions requiring the protection of trees would be an acceptable means of ameliorating any potential harm in this regard. Lastly, I take into account concerns relating to the impact of the development on local ecology. I have been provided with no substantive evidence of harm in this regard. Nevertheless I am satisfied that the potential impact on nesting birds could be mitigated by a condition aimed at controlling invasive work during the breeding season.

Conclusion

13. The proposal would not be inappropriate development within the Green Belt and accordingly would not cause harm to the Green Belt. I have taken into account the concerns raised by local residents and I am satisfied that none would lead to material harm. Accordingly, the appeal is allowed.
14. In addition to conditions relating to commencement, reserved matters and clarification of the approved plans, in order to protect the living conditions of nearby residential occupiers it is reasonable and necessary to require details of piling and measures to control dust emissions during construction. In the interests of highway safety it is necessary to require details of visibility splays

at the proposed access. In order to ensure the protection of trees and hedgerows and to allow for their enhancement it is also necessary to impose conditions relating to tree and hedgerow protection. Finally, a condition relating to surface water drainage is necessary in order to ensure existing and future occupiers are not put at risk from flooding as a result of the development.

Anne Jordan

INSPECTOR



90.9m



EP6

Appeal Decision

Site visit made on 23 June 2014

by Alison Partington BA (Hons) MA MRTPI

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

Decision date: 1st July 2014

Appeal Ref: APP/A0665/A/14/2217226

Land at Hollands Lane, Kelsall CW6 0QT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr A Maidment against the decision of Cheshire West & Chester Council.
 - The application Ref 13/02171/OUT, dated 15 May 2103, was refused by notice dated 5 February 2014.
 - The development proposed is the construction of 2 No. detached dwellings complete with associated parking, landscaping and access.
-

Decision

1. The appeal is allowed and outline planning permission is granted for the construction of 2 No. detached dwellings complete with associated parking, landscaping and access at Land at Hollands Lane, Kelsall CW6 0QT in accordance with the terms of the application, Ref 13/02171/OUT, dated 15 May 2103, subject to the following conditions.
 - 1) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved.
 - 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
 - 3) Details of the access, appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to, and approved in writing by, the local planning authority before any development begins and the development shall be carried out as approved.
 - 4) The development hereby permitted shall be carried out in accordance with the following approved plan: Site Location Plan Scale 1:1250
 - 5) The development hereby permitted shall be carried out in full accordance with the mitigation methods contained within Protected Species Assessment and Habitat Survey by EVR Ecology dated September 2013.

Procedural Matters

2. The application was submitted in outline with all matters reserved for future consideration. I have dealt with the appeal on this basis, treating the plan that shows the site layout and access as indicative.

3. The location plan submitted with the application showed the red line round the entire site whereas the indicative layout plan showed a smaller site edged red and the remainder of the site edged blue. A revised location plan was submitted with the appeal based on the boundaries shown on the indicative layout plan. It is agreed by both parties that the smaller site shows the proposed site for the appeal scheme and I have determined the appeal on this basis.

Main Issues

4. The main issues in the appeal are:
 - whether or not the proposal would be inappropriate development in the Green Belt for the purposes of the Framework;
 - the effect of the proposal on the openness of the Green Belt and the character and appearance of the surrounding area; and
 - if the proposal is inappropriate development, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.

Reasons

Whether inappropriate development

5. Paragraphs 89 and 90 of the Framework set out those categories of development which may be regarded as not inappropriate, subject to certain conditions. The proposed development is for 2 new dwellings within a village. The Framework establishes in paragraph 89 that new buildings within the Green Belt are inappropriate unless, amongst other things, they represent limited infilling in villages.
6. Policy ENV63 of the Chester District Local Plan (adopted May 2006) (CDLP) seeks to control new development within the Green Belt and does not support the construction of new buildings within it unless there are very special circumstances, or it is for one of the purposes set out in policies in the CDLP and meets the relevant criteria of those policies and national policy on Green Belt.
7. The Framework does not provide a definition of what constitutes limited infilling in villages. Policy HO4 of the CDLP defines limited infilling as the construction of one or two dwellings in a small gap in an otherwise built up frontage. Both parties have referred me to a number of appeal decisions that relate to new houses within villages in Green Belt locations. However, I do not have the full details of these proposals and so cannot be sure that they represent a direct parallel to the appeal scheme, particularly in terms of the location of the site within the village and the nature of development within the village. In any case, they indicate that what constitutes infilling needs to be determined in the light of the circumstances of each case.
8. The appeal site lies on the northern edge of Kelsall and is currently an overgrown field that fronts onto Hollands Lane. The majority of the village does not lie in the Green Belt, and although the appeal site, together with the houses to the north and west does, the Council have accepted in paragraph 4.2

of their appeal statement that it forms part of the urban area of Kelsall. I observed at my site visit that the site is located in close proximity to the various shops and services located at the junction of Hollands Lane with Chester Road. The site is surrounded by residential properties to the south, west and north and these houses form part of a built up frontage that extends south into the village. As a result, both functionally and visually the site forms part of the village.

9. The frontage of the site is approximately 100m. In many circumstances this would not constitute a small gap. However, this needs to be judged in the context of each site. In this case, the surrounding houses are detached houses in substantial plots, a number of which also have lengthy frontages to the lane. Consequently, in this context, the site can be considered to constitute a small gap in an otherwise built up frontage.
10. Overall therefore, the proposed development of the site for 2 dwellings would represent limited infilling within the village. Accordingly, I consider that it would not represent inappropriate development within the Green Belt for the purposes of the Framework.

Openness and Character and Appearance

11. Openness is an essential characteristic of the Green Belt. The proposed development of two dwellings on what is currently an undeveloped site would lead to a reduction in openness. However, in the context of the site's location within the village, the surrounding residential development and the scale of the site, the loss would be a small one. In deeming some forms of building in the Green Belt not inappropriate, the Framework allows for a reduction in the openness of the Green Belt in some circumstances. Given my findings above (that the proposal is not inappropriate) this is one of those circumstances. Therefore, I am satisfied that significant harm to the openness of the Green Belt would not be caused by the scheme.
12. In the vicinity of the appeal site, Hollands Lane has a distinctly rural feel. The mature vegetation that forms the boundary treatment of the houses and the views of open countryside to the west of the lane contribute to the lane having a different character here than it does closer to its junction with Chester Road. The hedge and trees located along the boundary of the appeal site contribute to this character, despite it being acknowledged that they are of poor quality and overgrown. Although landscaping is to be determined at a later stage, it is indicated that the existing trees and hedges would be removed and replaced with a new retaining wall, mixed species hedge and trees. Such a boundary treatment would be consistent with other dwellings along this part of the road and would ensure that the contribution the site's boundary treatment currently makes to the character of the lane would be maintained.
13. The land to the east of the lane is at a higher level than the road and so the houses on this side occupy an elevated position. Despite this, the mature vegetation around their boundaries, and the distance they are set back from the road, means that they are not prominent features in the streetscene. As a result, I am satisfied that with an appropriate layout and landscaping the proposed houses on this site would be able to be accommodated without having a detrimental impact on the character and appearance of the area.

14. The Council have suggested that the indicative layout would result in an uncharacteristically urban form of development which was dominated by hardstanding and the access. However, I noticed that due to the distance the other houses in the vicinity are set back from the road, they have lengthy driveways and many have quite extensive areas of hardstanding around the houses. Given this, and the fact that the layout is not to be determined at this stage, I consider that it would be possible to design a scheme that would be in keeping with the area. In addition, the houses would be able to be situated in a way that would be consistent with the linear form of development established by the 5 dwellings to the north of the site.
15. As a result, I consider that two dwellings would be able to be accommodated on the site whilst maintaining the character and appearance of the area. I therefore find that the proposed development accords with Policy ENV24 of the CDLP which seeks to ensure that development in the rural area respects key landscape features and is not detrimental to its character.

Other Matters

16. Concerns have been raised about the visibility of the proposed access. However, the indicative plan shows that adequate visibility splays would be able to be provided and I note that the Highways Engineer had no objections to the scheme subject to certain conditions. The evidence and observations made at the site visit lead to the conclusion that there is no reason to disagree with this professional assessment. As a result, I consider that the proposal would be able to be developed without adversely affecting highway or pedestrian safety. In addition, there are no supported reasons to believe the proposed development would have any detrimental impact on drainage.
17. It has been suggested that there is no need for more detached houses as there is already a surplus of them in the village. However, I have not been provided with any firm evidence to show there is an oversupply of detached houses in the village. As a result I have determined the appeal on the basis of the scheme before me.
18. Occupiers of the dwelling opposite have expressed concern in relation to the impact the proposal would have on their privacy. Although the position of the dwellings and the landscaping of the site are not subject to approval at this stage, the Council have indicated that the proposed houses would be approximately 40m from this house. As a result I am satisfied that the proposal could be designed to ensure that there would be no loss of privacy to this house, or those at either side.

Conclusion and Conditions

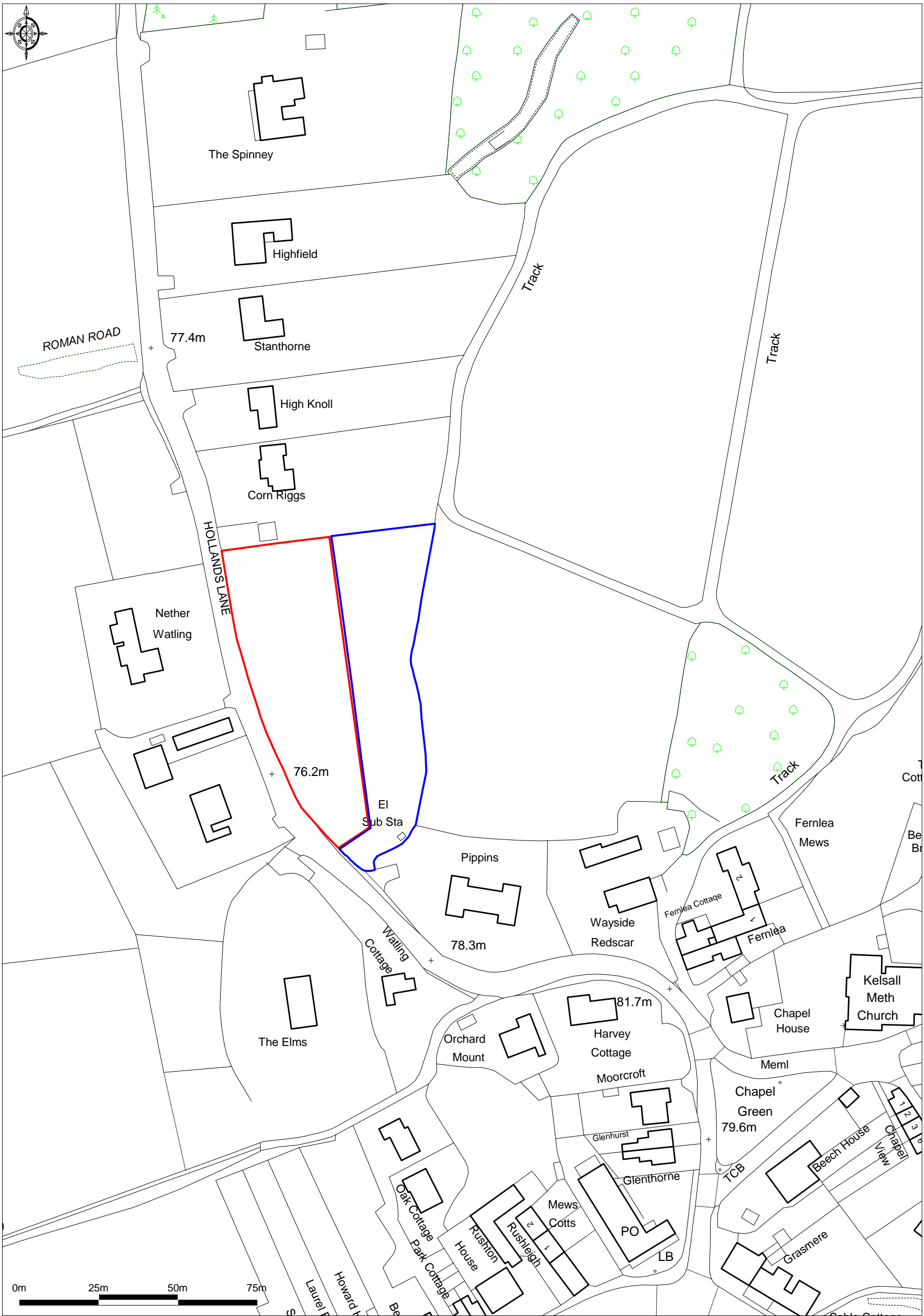
19. For the reasons set out above I consider that the proposal would not be inappropriate development and would not harm the character and appearance of the area. I therefore conclude the appeal should be allowed.
20. I have attached conditions limiting the lifetime of the planning permission and setting out requirements for the reserved matters in accordance with the requirements of the Act. For the avoidance of doubt it is necessary to define the plans with which the scheme should accord. A condition to ensure that mitigation measures for protected species are carried out as part of the development is necessary for nature conservation reasons. As all matters are

reserved for future consideration I consider it is neither necessary, nor appropriate, to apply any of the other conditions suggested by the Council at this stage.

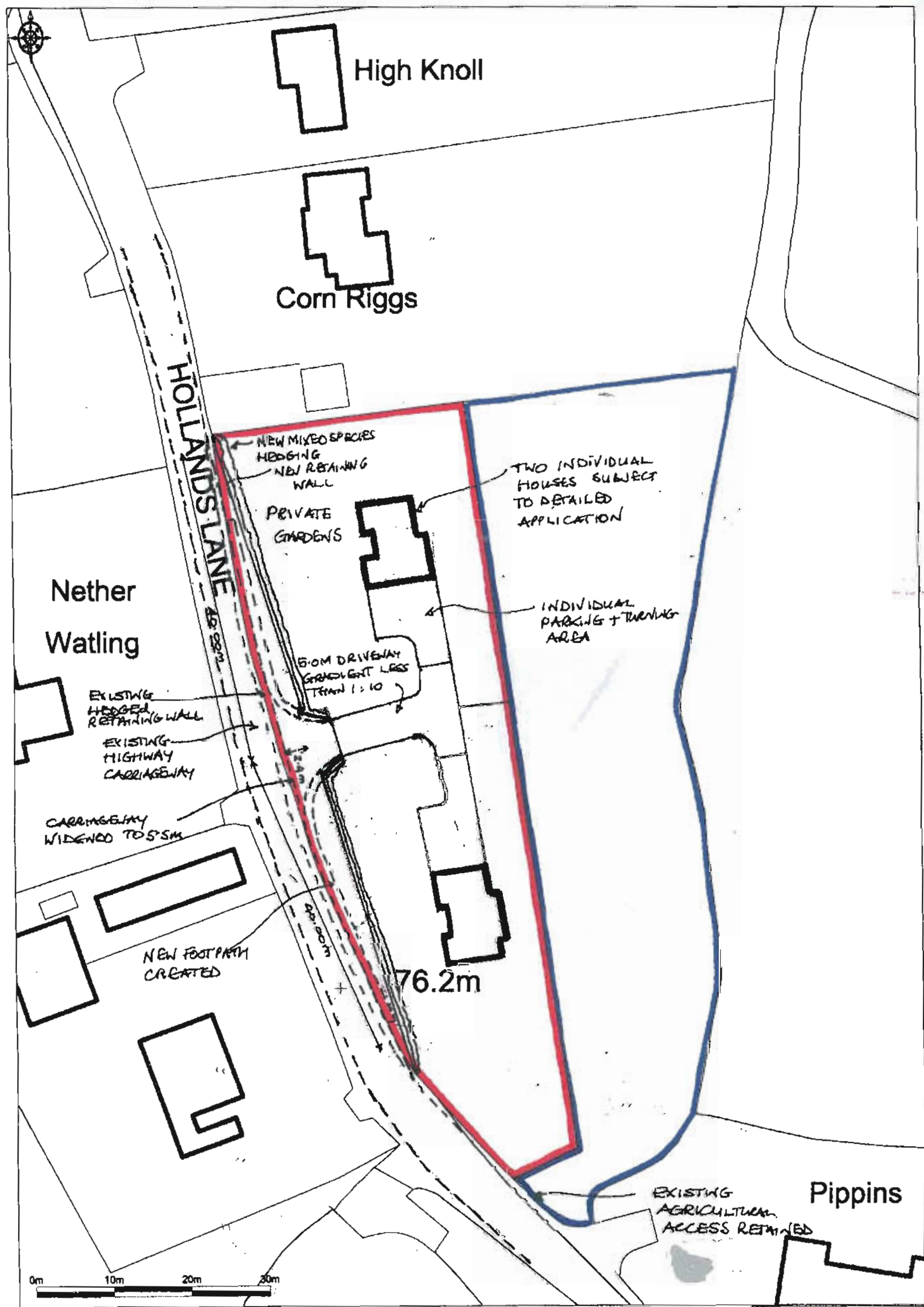
Alison Partington

INSPECTOR

Land at Hollands Lane, Kelsall, CW6 0QT



PROPOSED RESIDENTIAL DEVELOPMENT AT HOLLANDS LANE, KELSALL.



EP7

Appeal Decision

Site visit made on 24 August 2015

by Tom Cannon BA DIP TP MRTPI

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

Decision date: 4 January 2016

Appeal Ref: APP/A0665/W/15/3017904

Hill Top Road, Acton Bridge, Northwich CW8 3RA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr John Edward Woodward against the decision of Cheshire West & Chester Council.
 - The application Ref 15/00428/OUT, dated 29 January 2015, was refused by notice dated 1 April 2015.
 - The development proposed is the erection of 1 dwelling.
-

Decision

1. The appeal is dismissed.

Procedural Matter

2. The application is in outline with all matters reserved for future determination apart from access.

Main Issues

3. The main issues are:
 - Whether the proposal is inappropriate development in the Green Belt;
 - The effect of the proposal on the openness of the Green Belt;
 - The effect on the character and appearance of the countryside; and
 - If the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm is clearly outweighed by other considerations, so as to amount to very special circumstances necessary to justify the development.

Reasons

Whether inappropriate development

4. The appeal site is situated in the Green Belt. Paragraph 89 of the National Planning Policy Framework (the Framework) states that, other than in connection with a small number of exceptions, the construction of new buildings should be regarded as inappropriate in the Green Belt. Included in **this list, and not therefore to be regarded as inappropriate, is 'limited infilling in villages.'** Policy STRAT9 of the Cheshire West and Chester Local Plan (Part One) Strategic Policies 2015 (LPP1) relates to the Green Belt and the

supporting text allows for the exceptions identified in the Framework, including limited infilling in villages.

5. Given that it is washed over by the Green Belt, Acton Bridge does not have a defined settlement boundary. However, the appeal site fronts the main road running through the settlement, with the Maypole Inn immediately opposite. There is a Village Hall nearby, where there are recreational facilities and a playground. Acton Bridge railway station is also situated 400 metres away at the southern end of this linear settlement.
6. Whilst the built up area of Acton Bridge is arranged in clusters, given the overall scale of the settlement and level of services and facilities within it, I accept that the appeal site forms part of a village. This is consistent with the conclusions of my colleagues in appeal refs: APP/A0665/W/14/3000557 and APP/A0665/A/13/2193160 who both considered that Acton Bridge constituted a village.
7. **The term 'limited infilling' is not defined in the Framework or in the extracts of the LP before me.** Nor is it restricted to certain specified settlements in the Green Belt. In my experience, limited infilling normally comprises the development of a modest sized gap in an otherwise substantially built-up frontage which is broadly linear in formation.
8. The appeal site consists of an enclosed paddock which is flanked by residential development on either side. The appellant estimates that the length of the site frontage between Hill Top Farm to the north, and the neighbouring dwelling to the south is approximately 35 metres. Whilst this exceeds the width of the approved infill plot between Long Barn and No 69 Hill Top Road directly opposite the appeal site, it would be broadly comparable to the adjacent residential frontages, and other sporadic dwellings on this side of Hill Top Road. Furthermore, it would be smaller than the infill plots permitted at 115 Hill Top Road, Acton Bridge, and under permission ref: 13/00077/FUL. Thus, in my view the proposal would fill only a modest gap.
9. However, the land is situated on the northern side of Hill Top Road which is characterised by occasional residential development interspersed with paddock land and agricultural fields. The large landscaped plots serving the small number of dwellings located along this part of Hill Top Road add to the sense of spaciousness in this area. Such development therefore punctuates the tapestry of agricultural fields and paddock land, of which the appeal site forms part, rather than providing a cohesive group of buildings. Consequently, despite being positioned between two existing properties, the appeal site is not situated in an otherwise substantially built-up frontage.
10. In contrast, the built form on the southern side of Hill Top Road appears to comprise of a largely unbroken linear collection of properties which front the highway. As such, the developments permitted between Long Barn and 69 Hill Top Road, and at 115 Hill Top Road would, on the evidence before me, appear to have been located within a small gap in an otherwise built-up frontage and therefore represent limited infilling in villages.
11. For the above reasons, I conclude therefore that the development would not amount to limited infilling in villages. As such, it would represent inappropriate development in the Green Belt, which paragraph 87 of the Framework states is, by definition, harmful to the Green Belt and should not be approved except in

very special circumstances. Paragraph 88 of the Framework states that in considering a planning application substantial weight should be given to any harm to the Green Belt.

Openness

12. I realise the development is in outline form, with all matters reserved for subsequent consideration apart from access. I am also mindful that any form of potential infill development permissible under the exceptions listed in paragraph 89 of the Framework and the LP may reduce openness. This is reflected in the observations of the Inspector in appeal ref: APP/R0660/W/14/3000822.
13. Nevertheless, the introduction of a new dwelling would inevitably reduce and harm the openness of the Green Belt to some degree by reason of its additional bulk and siting on land which is currently free from development. The indicative plans which show an extensive dormer style property with a frontage width of over 19 metres and detached double garage illustrate this point. For these reasons, I conclude that the proposed scheme would result in some material harm to the openness of the Green Belt.

Character and appearance

14. The appeal site comprises of a paddock which is enclosed to the rear by a post and wire fence and on either side by existing residential properties. Whilst the proposal would involve the development of this open field, the residential curtilage of the new dwelling would be tightly contained so that it does not extend out into the open countryside beyond the curtilage of the adjacent properties. As such, subject to the detailed design, layout and landscaping of the dwelling, matters which would be reserved for future determination, the appeal scheme would not have a detrimental effect on the character and appearance of the countryside.

Other Considerations

15. The Council have confirmed that they can demonstrate a five year supply of deliverable housing land. However, I agree with the appellant that the main issues in this appeal do not turn on this matter.
16. My attention has also been drawn by the Council to appeal decisions refs: APP/A0665/W/15/3003645 and APP/A0665/A/14/2228579. In the first case the Inspector concluded that the site effectively demarked the transition between the built form of the settlement and the open countryside and thus did not represent limited infilling. Despite also concluding that the proposal is not limited infilling, I have found that this part of Hill Top Road comprises largely of open fields and paddocks with the occasional scattered residential property. Consequently, it does not denote the transition between the built-up form of the settlement and the open countryside. Therefore, it is not directly comparable to this case.
17. In the second appeal, although the Inspector accepted that the development constituted limited infilling he concluded that the proposal was unacceptable by virtue of its visual harm and loss of an open vista. Given that the current appeal site is contained by existing development its potential visual impact from public views on Hill Top Road and the surrounding open countryside is, in

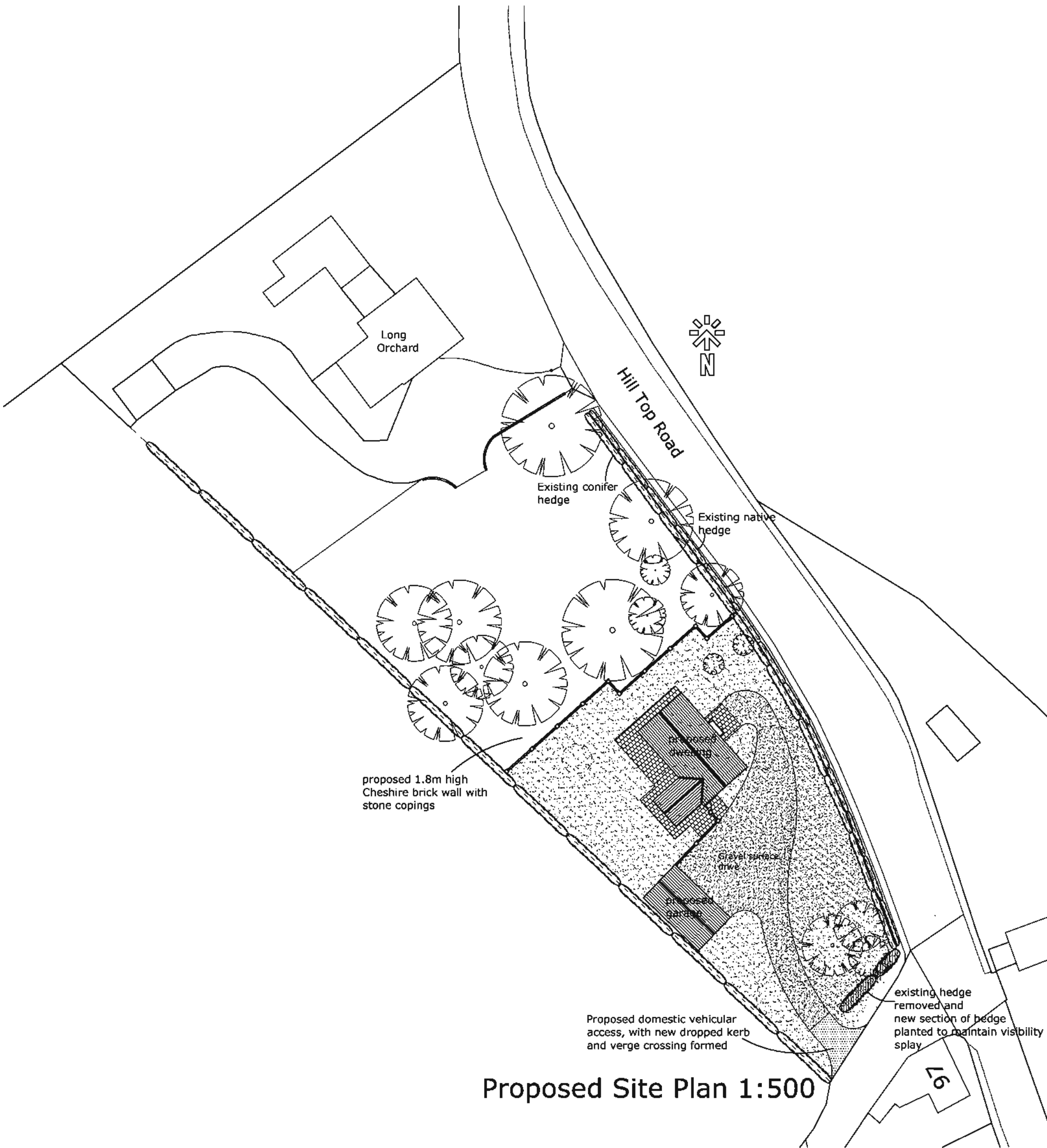
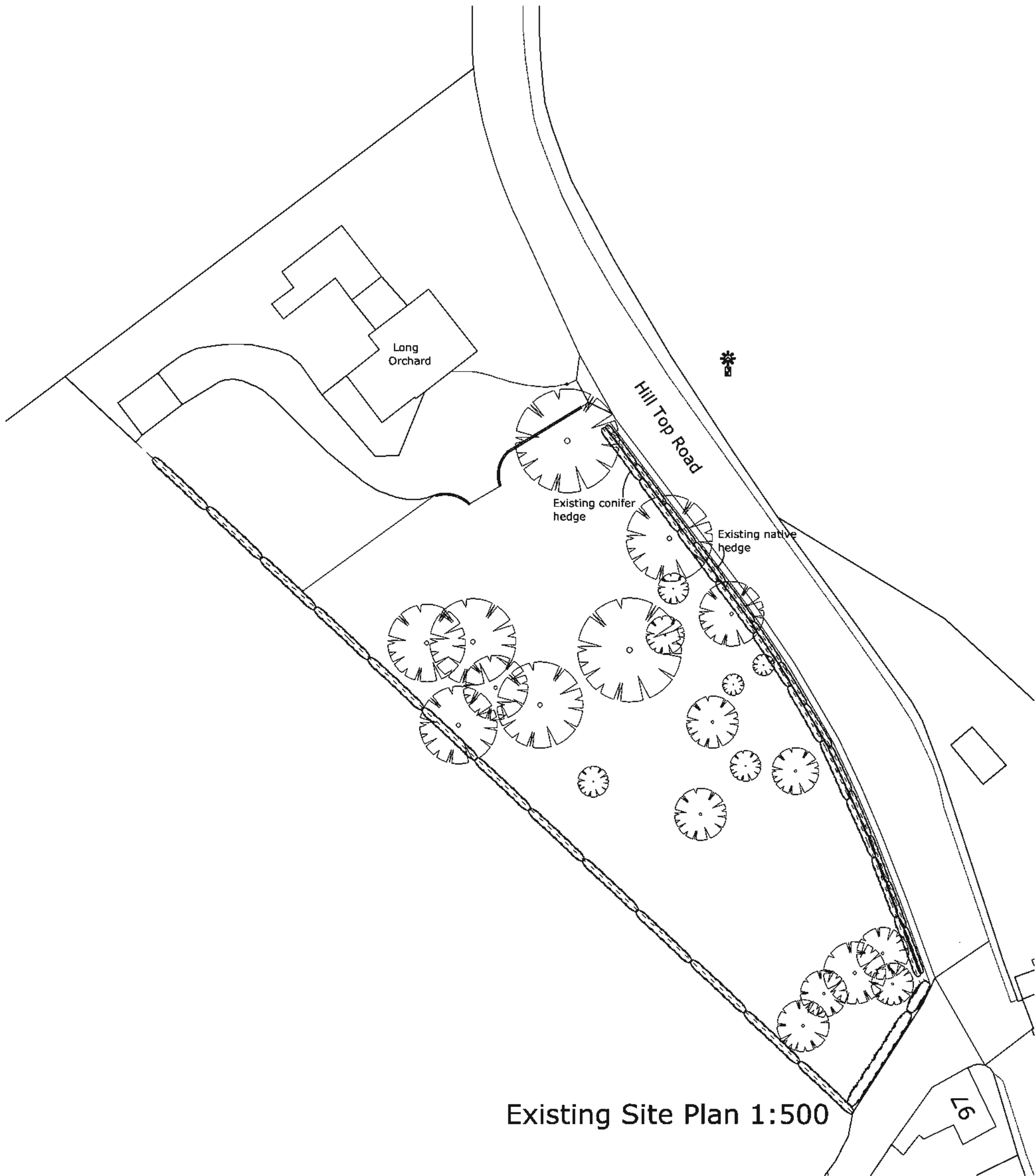
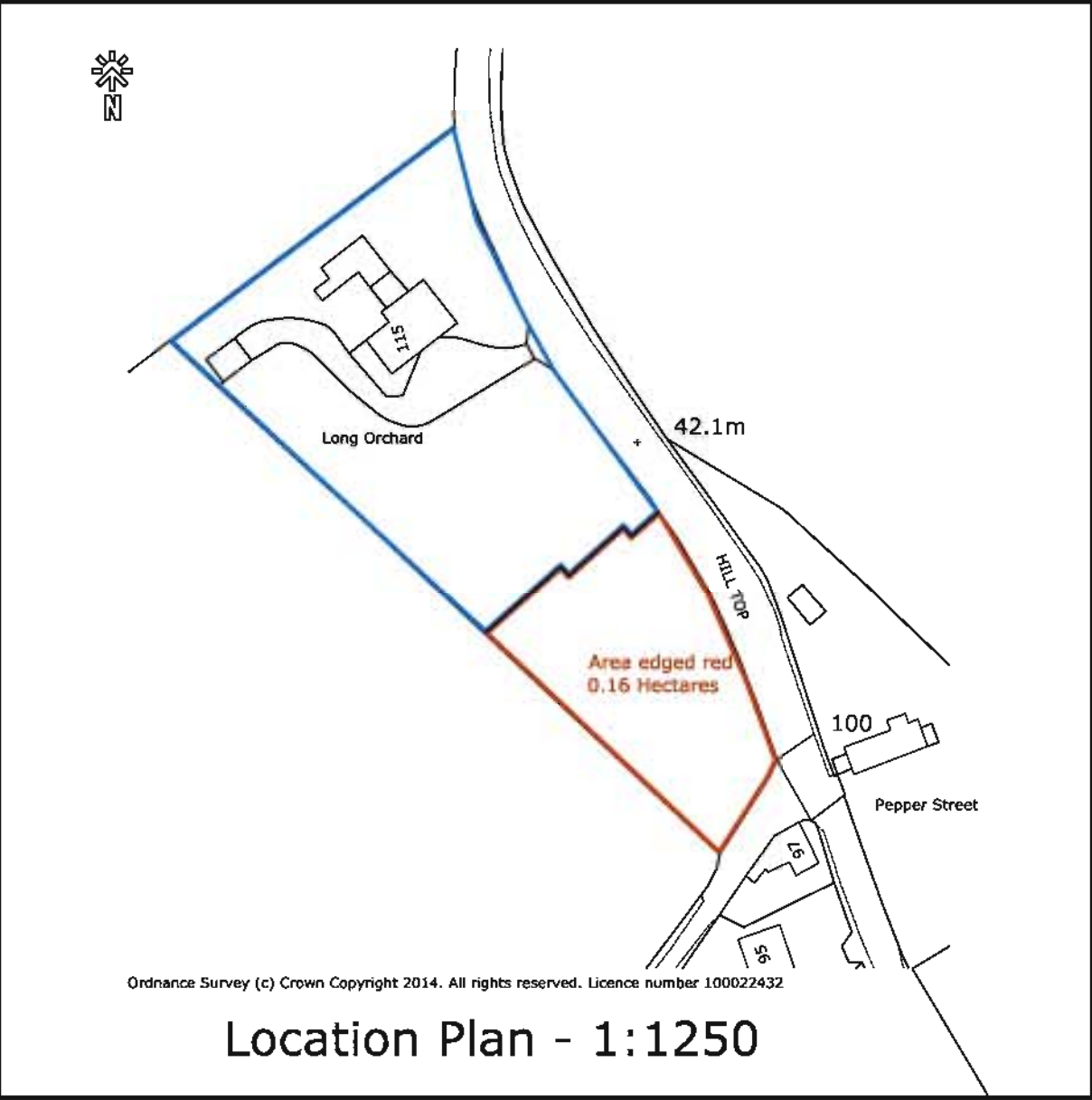
my opinion limited. Consequently, there are material differences between the two schemes.

Conclusions

18. The proposed development would be inappropriate development and the Framework establishes that substantial weight should be given to any harm to the Green Belt. The scheme would also result in some material harm to the openness of the Green Belt, to which I attribute moderate weight. In such circumstances, the Framework states that inappropriate development should not be approved except in very special circumstances.
19. As the appellant has failed to advance a case for very special circumstances, the appeal development would conflict with Green Belt Policy in both the LP and the Framework. For the reasons given the overall conclusion is therefore that the appeal should fail.

T Cannon

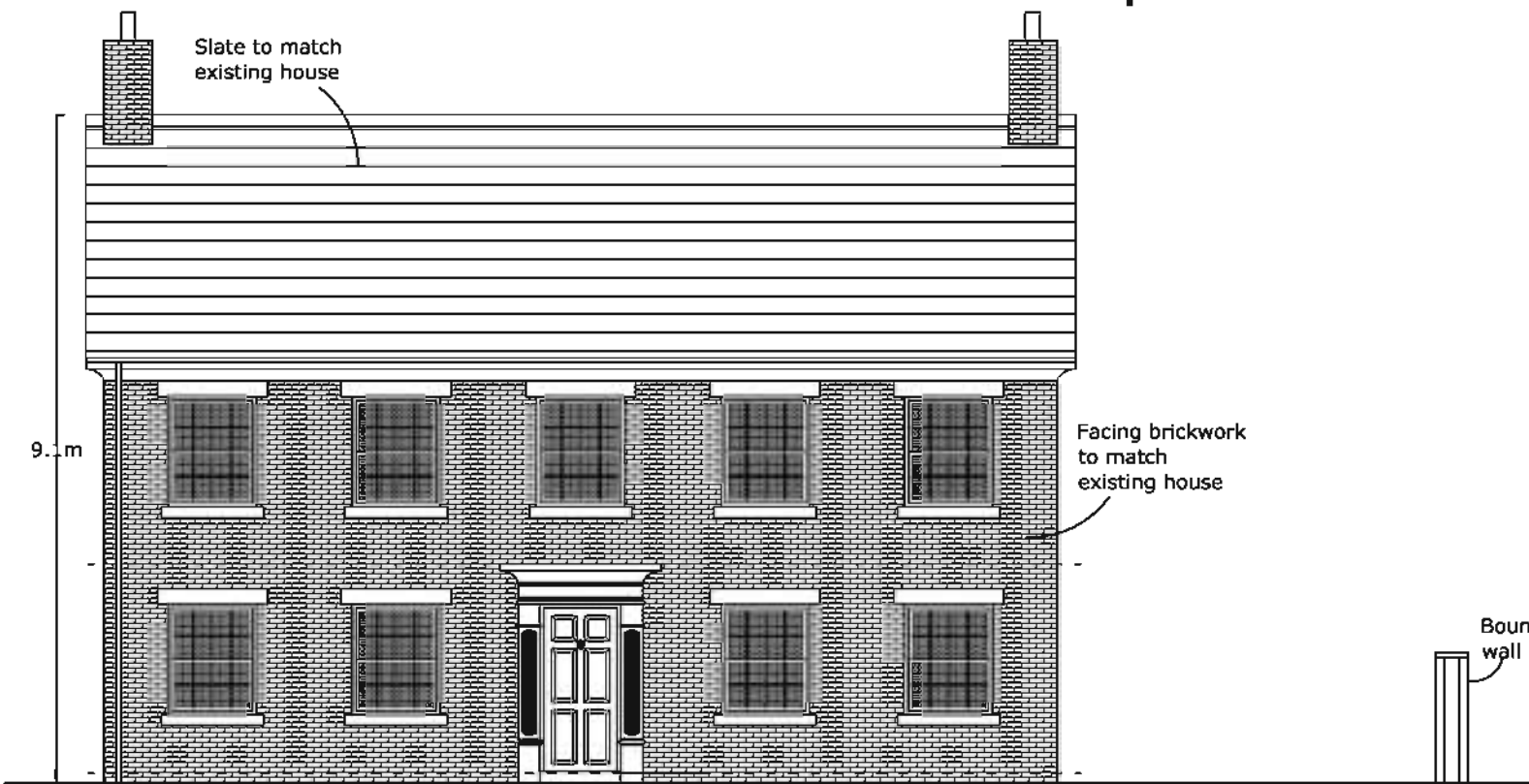
INSPECTOR



Indicative elevations from Hill Top Road



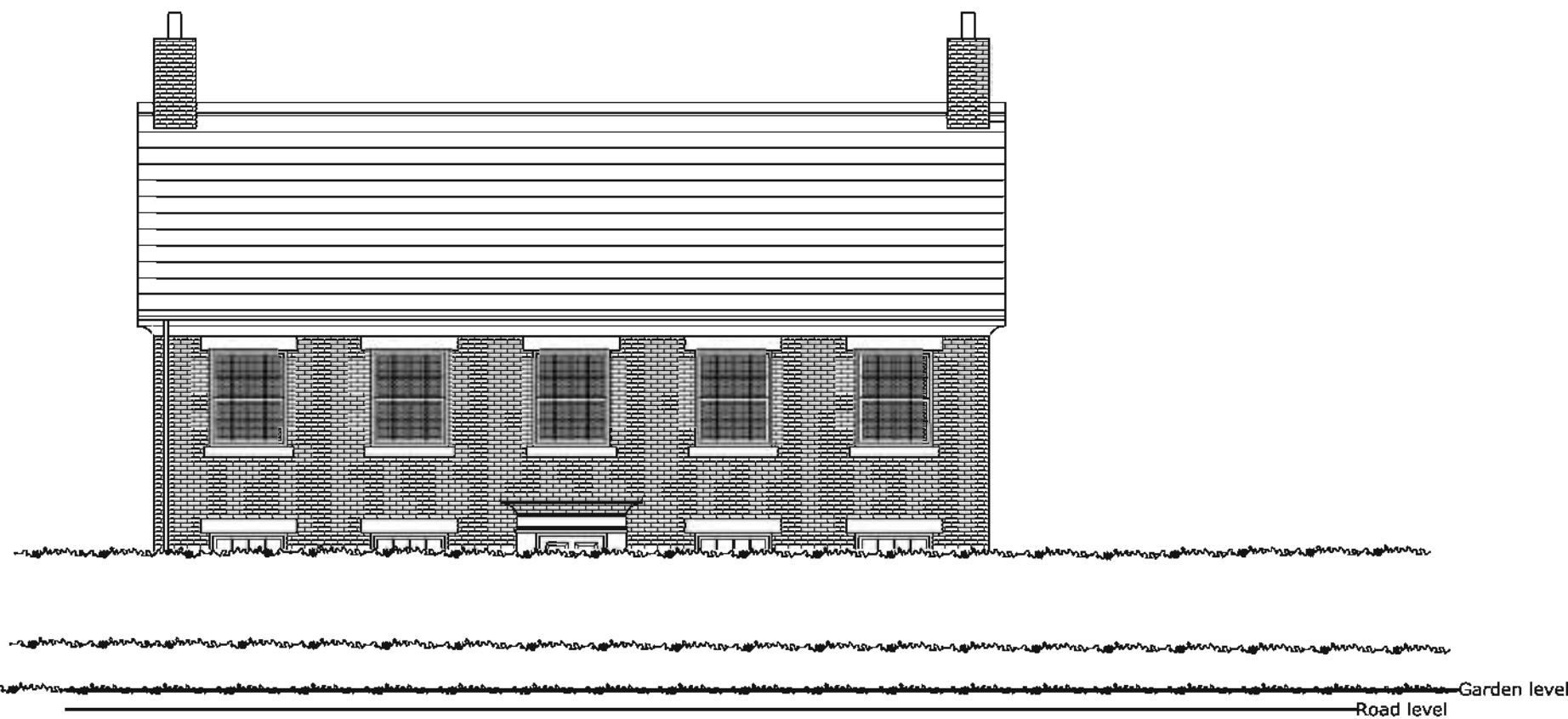
Proposed South Elevation



Proposed East Elevation



Proposed North Elevation



Street scene from Hill Top Road

- Revisions:
- i 23-07-14 SB Layout revised
 - ii 30-07-14 SB Layout revised
 - iii 31-07-14 AJF Boundary revised
 - iv 26-08-14 SB Boundary revised

Title: Proposed Dweling, Long Orchard, Hill Top Road, Acton Bridge, Cheshire, CW8 3RA		
Client: Mr & Mrs Jeffrey		
Scale: 1:100, 1:500 1:1250, @A1	Drawing number: 0427-01	
Date: 17/07/14	Drawn by: SB	Revision: iv

EP8

Appeal Decision

Hearing Held on 23 January 2018

Site visits made on 22 January 2018 and 24 January 2018

by G J Fort BA PGDip LLM MCD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 22 February 2018

Appeal Ref: APP/H1033/W/17/3177730

Land at Longclough Drive, Glossop SK13 8HN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by AM (2004) Limited against the decision of High Peak Borough Council.
 - The application Ref HPK/2016/0416, dated 15 July 2016, was refused by notice dated 13 December 2016.
 - The development proposed is the erection of 6 dwellings and the provision of an area of public open space.
-

Decision

1. The appeal is allowed and planning permission is granted for the erection of 6 dwellings and the provision of an area of public open space at Land at Longclough Drive, Glossop SK13 8HN in accordance with the terms of the application, Ref HPK/2016/0416, dated 15 July 2016, subject to the conditions in the schedule to this decision below.

Procedural Matters

2. The application that led to the appeal was in outline with only access for detailed consideration at this stage. I have assessed the appeal on this basis.
3. In the banner heading above I have used an abbreviated form of words for the description of development to that given on the application form¹. I have used this amended form of words as the outline nature of the proposal is clear from elsewhere within the heading.
4. At the hearing I was supplied with a certified copy of a planning obligation to secure landscaped open space at the site. As a copy had previously been submitted to me electronically, and both parties had signed this document, I consider that no prejudice would occur as a result of me taking it into account in my consideration of the planning merits of the appeal.
5. At the hearing I was supplied with a list of up-to-date conditions, which had **been seen by both the appellant and Council, a copy of the Council's *Designing Out Crime*** Supplementary Planning Guidance and Advice (adopted March 2004) (the Designing Out Crime SPG); and an annotated map showing the

¹ Which is: "Outline application for the erection of 6 dwellings and the provision of an area of public open space (with access considered)."

approximate position of the Long Clough site included in the Council's *Open Space Study Update Report*² (dated September 2017) (the Open Space Study). The documents were discussed at the hearing and the parties did not make any objections to me taking them into account in an assessment of the planning merits of the appeal. Consequently, I consider that no prejudice would occur to any party as a result of me taking these documents into account.

Main Issues

6. I consider the main issues in this case to be firstly, the effect of the proposed development on the provision of amenity space; secondly, the effect of the proposed development on the character and appearance of the area including its effect on protected trees; thirdly, the effects of the proposed development on crime and anti-social behaviour on the site; and fourthly, whether it is necessary for the appeal scheme to make provision for affordable housing in the context of national and local policy.

Reasons

Site, surroundings and proposed development

7. Situated within the settlement of Glossop, the roughly C-shaped appeal site is a wooded clough which slopes down from Longclough Drive to a meandering brook. Set within a broadly residential area, with differing scales and styles of property, including the short terraces of Longclough Drive and the detached houses of Brookside, the appeal site is a verdant open area. The mature trees present at the site contribute to the character and appearance of its surroundings, in combination with trees elsewhere within the gardens, and to the rear of the surrounding houses. The contribution of the trees on the appeal site to its visual amenity and that of its surroundings is reflected in the inclusion of several of them within a Tree Preservation Order³.
8. The proposed development seeks to secure a residential use of part of the appeal site to supply up to 6 dwellings, and provide publically accessible space on the remainder. An agreed planning obligation has been submitted which, amongst other things, would secure the use of the remaining open space for this purpose. Vehicular access would be taken to two parcels of land on the **appeal site's frontage** across from 1 to 3 Brookside, and in the corner of the site adjacent to 2 to 12 Longclough Drive. Indicative plans show two detached dwellings adjacent to Brookside and two pairs of semi-detached dwellings on Longclough Drive.

Planning Policy Background

9. The approach to **the delivery of the Borough's housing requirement is set out in the High Peak Local Plan** (adopted April 2016) (the Local Plan). Taken together, and amongst other things, Policies S2 and S3 of the Local Plan direct development to the most sustainable locations in accordance with a settlement hierarchy within which Glossopdale is identified as a focus for housing growth, with **27% to 35% of the Borough's overall housing requirement to be located there**.

² Produced by Knight, Kavanagh and Page

³ The High Peak Borough Council (Longclough Drive, Glossop) Tree Preservation Order 2001

10. In addition to sites allocated within the Local Plan, Policy H1 supports housing development on unallocated sites within defined built up areas of towns, subject to other policies in the plan. Policy S3 sets a requirement of 250 units to be developed on such sites over the plan period within Glossop.
11. Consequently, as the appeal site is not allocated and is within the built-up area of Glossop, I consider, subject to other policies in the plan, that it could **constitute a smaller 'windfall' site for the purposes of the Local Plan.** In reaching this view, **I have taken into account the Inspector's conclusions on this matter in their decision⁴** relating to a site elsewhere in the Borough, which has been drawn to my attention by the Council. Moreover, it is clear that the housing requirement of the Borough more widely, and Glossopdale in particular, relies to some extent on the delivery of dwellings on such sites.

Amenity Space

12. Amongst other things, Policy CF4 of the Local Plan seeks to protect, maintain, and where possible enhance existing open spaces. The policy restricts development that involves the loss of amenity greenspace except where it can be demonstrated that alternative facilities of equal or better quality would be provided in an equally accessible location.
13. The appeal site is unallocated for the purposes of the local plan and, aside from the TPO, has no formal designation regarding its use or status. However, I am mindful of references in the submitted material to a condition on the 1973 planning permission⁵ for the wider residential development, which aimed to ensure that the appeal site remained open. In previous appeal decisions⁶ focussed on outline applications for residential development related to the appeal site, the Inspectors found that the land, whilst privately owned, constituted a local recreational facility as a result of its informal use.
14. I note that the appeal site is used by the residents of dwellings in its surroundings, particularly children, for a variety of informal activities; and indeed I saw informal paths and accesses on to the site at my visits. I have also taken into account references to educational activities at the site, community events, and the informal maintenance and clearing undertaken by local residents. Moreover, I have had regard to the contents of the letter supplied to me by **Longclough Residents' Association⁷**, which makes reference **to an agreement to "dedicate [the appeal site] to the local authority as an open space"**. Whilst mindful that the appellant has sought clarifications from the Council regarding its adoption by the Council as public open space⁸, I am aware of no firm commitments by the Council in these regards. Consequently, I have no evidence before me to suggest that the private ownership of the site is liable to change and this arrangement means that its use for informal recreation could cease at any time- and indeed the potential for enclosing the space through implementing permitted development rights arising by virtue of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) has been drawn to my attention.

⁴ APP/H1033/W/16/3149003 Decision Date: 19 October 2017

⁵ GLO/373/9

⁶ T/APP/H1033/A/92/204954/P4 Decision date: 23 October 1992; and APP/H1033/A/02/1087319 Decision date: 16 September 2002

⁷ Letter to Mr D Phillips from Albert McLellan Ltd dated 22 October 1981

⁸ Letters from JRA Moorhouse to the Director of Housing and Planning High Peak Borough Council dated 13 November 2001 and 11 January 2002

15. At the hearing the findings of the recently published Open Space Study were discussed. The appeal site was not assessed as part of the Open Space Study, and so there is no formal identification of the site within it, or how it would fit into the open space typologies given in Table 1.1 of the Study, which include, amongst other categories, natural and semi-natural greenspace, and amenity greenspace. In terms of these typologies, the Statement of Common Ground and several responses of residents **focus on the appeal site's semi-natural character**. However, **I am also mindful of the Council's view, expressed at the hearing**, that the opportunities for informal activities at the appeal site combined with its contribution to the character of its surroundings, mean that it could also be classified as amenity greenspace. Whereas the Open Space Study identifies a healthy amount of natural and semi-natural greenspace in the Glossopdale area, it finds that there is a marginal undersupply of amenity greenspace.
16. I readily accept that the flexibility of the Open Space Study typologies allows some overlap between them and that sites could fulfil more than one function. However, whilst I am aware that the Council consider natural and semi-natural greenspaces to be on the whole larger than amenity greenspaces, the scale of such a space does not form part of the relevant typology definition given in Table 1.1 of the Open Space Study. Consequently, due to these factors, I consider that it has not been conclusively established that the appeal site comprises amenity greenspace for the purposes of the Open Space Study-or that the development as proposed would detrimentally affect the supply of such space in Glossopdale. Indeed as the site is not included in the Open Space Study, the proposals as presented could improve the level of provision in the Glossopdale area against the baseline of marginal undersupply presented within that document.
17. The proposed development would undoubtedly reduce the amount of open space present at the appeal site. However, I am mindful of the agreed planning obligation in this respect, which, through securing the use of the site as outlined in the description of development would clearly be necessary to make the development acceptable in planning terms. Given my conclusions in this regard, and that the measures it would secure are integral to the development as proposed, I consider that the obligation would be directly related to the development and fairly and reasonably related in scale and kind to it. Consequently, I conclude that the planning obligation would meet the tests given in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, paragraph 204 of the National Planning Policy Framework (the Framework), the requirements of Policy CF7 of the Local Plan, and the **Council's Planning Obligations Supplementary Planning Document-SPD1** (adopted December 2005). As a consequence, the obligation is a consideration to which I attach considerable weight.
18. Under the terms of the obligation the bulk of the site (some 4325 SqM) would remain undeveloped, including considerable elements of its street frontages offering opportunities for access. Moreover, submitted details and the **description of development indicate the appellant's intention to maintain this** remaining open area as public space, with access, biodiversity and maintenance improvements. As the submitted planning obligation introduces a legally enforceable mechanism to secure these measures, I give considerable weight to this aspect of the appeal scheme in my consideration of its merits.

19. Whilst I am conscious of comments regarding the efficacy of service charges levied on future occupants of the proposed dwellings **to fund the appeal site's** ongoing maintenance, I am also mindful that such charges are far from unusual in developments of this type, and that no other viable or feasible alternatives have been introduced by other parties to secure either public access to or maintenance of the appeal site. Consequently, I consider that the qualitative improvements that the appeal scheme could bring about would outweigh the quantitative reduction that it would cause, particularly as the private ownership of the site means that, as things currently stand the informal access to it could cease at any time.
20. Consequently, on this main issue I find that the proposed development would cause no material harm to the provision of amenity space, and would therefore not conflict with Policies CF4 and CF7 of the Local Plan insofar as, amongst other matters, they seek to ensure that where possible open spaces are enhanced and that alternative facilities of equal or better quality would be provided to offset the loss of local of green space and that provision is made for subsequent maintenance of facilities secured through planning obligations.
21. In reaching this view, I am mindful of the previous appeal decisions related to the site. However, there was evidence of considerable unmet need for recreation space in the local area pertaining at the time of those previous appeals-a position not supported by the current Open Space Study. Moreover, the Inspectors in those cases were not presented with finalised planning obligations to secure the use, access and biodiversity improvements, or management and maintenance of the open space, as I have been in this case. In both cases the amount of space left open would have been less than the amount secured in the agreed planning obligation in this instance.
22. Moreover, in the case of the latter appeal the Borough had an oversupply of housing at that time. On the contrary, in this instance the **Borough's housing** requirement and the development plan reliance on windfalls, such as the appeal site, to meet this requirement are material considerations of considerable weight which did not pertain at the time of the formerly dismissed appeals. In any event each proposal needs to be considered on its own planning merits.

Character and Appearance

23. The immediate surroundings of the appeal site are characterised by residential development, at varying levels due to the underlying topography of the area, which, whilst plot sizes and types of dwelling vary are in well-vegetated surroundings, to which the appeal site contributes. The appeal scheme could introduce a development pattern which could readily assimilate with this surrounding character, and could be responsive to both the street and its more open environs. Whilst detailed design, scale and appearance matters are for consideration at subsequent planning stages, the proposed development could involve dwelling types that responded to the character of the surrounding streetscene. Ample open space and mature vegetation would remain, along **the appeal site's frontages, and within**, which would ensure that the wider appeal site continued to contribute to the character and appearance of its surroundings in terms of the visual relief it offered. As a consequence, the proposed development would not read as a harmful intrusion, or result in

restricted and tunnelled views that would erode the visual amenity aspect of the appeal site.

24. In arriving at this view, I am mindful that the access aspects of the proposed development are for detailed consideration at this stage, and that the planning obligation relates to a proposed area of open space corresponding to the area not shown as houses and their grounds on the indicative layout plan. Whilst the Council consider that these aspects of the proposed development mean that the layout on the submitted plans is more than simply indicative, I consider that there would be still opportunity at the relevant reserved matters stages to firm these aspects up in more detail. Consequently, I consider that it has not been demonstrated at this stage that excessive engineering works requiring the installation of retaining walls and raised decks as a platform for the houses would be necessary, or the extent to which such aspects of any design would harm the character of the site and its surroundings.
25. The proposed development would remove several trees including some specimens protected by the TPO⁹. However, I note from the Statement of Common Ground and the **Council's Appeal Statement** on the scheme that the loss of these trees could be mitigated by management measures including additional planting, which taken together could have positive effects in these regards, and would allow adequate space to accommodate replacement trees. Furthermore, I am mindful that whilst the Inspector in their 2002 decision found harmful effects arising as a result of the removal of protected trees, this related to an indicative layout with a more intensive development pattern at the corner of Longclough Drive and Brookside, which could have removed more of the trees on that frontage than the indicative layout in the current instance. Moreover, conditions could ensure that retained trees are adequately protected during any construction activity related to the proposed development.
26. My attention has been drawn to a balsam poplar protected by the TPO of a large scale and some maturity¹⁰, which due to its presence in the streetscene and the overall symmetry of its crown is a specimen of considerable amenity value contributing to the character and appearance of its surroundings. This tree whilst not scheduled for felling in the submitted proposals is sited roughly to the south-west of the indicative plots at the corner of Brookside and Longclough Drive.
27. The appellant submitted an Arboricultural Appeal Statement¹¹ which assesses the shading implications of the poplar on the dwellings and gardens annotated on the submitted layout plans as Plots A and B. The shading assessment is based on the methodology set out in the relevant British Standard document¹² and whilst **I am aware of the Council's concerns regarding the limitations of this methodology**, I consider it to be a reasonable standard to use to assess potential effects at this stage in the planning process.
28. The Arboricultural Appeal Statement found that the shading impacts of the poplar on the gardens of indicative Plots A and B would, during the spring and summer months, be most marked during the mid-afternoon, with direct sunlight available in the morning and evening. Moreover, ambient light

⁹ The Officer Report references Trees T9 and T10 of the TPO

¹⁰ T8 of the TPO

¹¹ Produced by Cheshire Woodlands dated 13 June 2017

¹² BS5837

penetration to these plots could be further improved by selective pruning and works to the crown, progressed as part of an agreed management plan at reserved matters stage.

29. In my assessment of this aspect of the appeal scheme I am mindful of the references to research regarding complaints about trees ***Management of Tree Populations*¹³** in the Council's statement, which was further discussed at the hearing. This research found that complaints were likely to be triggered in response to trees within 20 to 25m of houses, and that shading impacts in the afternoons to early evenings were most likely to trigger complaints. However, I am mindful that the layout for the appeal scheme is merely indicative at this stage, and that detailed design elements such as fenestration and internal layouts are yet to be assessed.
30. **The research's findings that a relatively small proportion of the population** complain about a relatively small percentage of trees were also drawn to my attention at the hearing, along with its conclusions regarding the low proportion of complaints relating to poplars. **Whilst I note the Council's view, expressed** at the hearing, that leaf and branch fall could also lead to post-development pressure to progress works to the poplar, I have been supplied with no evidence **of the likelihood of such an outcome given the tree's distance from** the proposed plots and the indicative nature of the layout. Taking these matters together with the findings of the Arboricultural Appeal Statement leads me to the view that it has not been conclusively established at this stage that the poplar would lead to adverse impacts to the living conditions of the future occupants of the appeal scheme sufficient to trigger any irresistible pressure for excessive pruning or felling.
31. In terms of the other trees, not covered by the TPO to the north of the indicative Plots A and B, the Arboricultural Appeal Statement finds that any effects to ambient lighting to the rear of dwellings could be addressed by selective pruning and removal in a future management plan, and that planting of replacement trees could be progressed to avoid any unduly harmful shading effects. Whilst I note that this could have implications for the assessment of any future management and maintenance plan, I consider that it has not been demonstrated, due to the outline nature of the scheme, that the shading effects of these trees would be of a severity sufficient to justify works that would cause material harm to the character and appearance of the site.
32. Consequently, taking these aspects of the appeal scheme together, I consider that the proposed development would not lead to material harm to the character and appearance of the area, and would not have an unduly adverse effect on protected trees. In arriving at this view, I have taken into account the extracts of appeal decisions¹⁴ referred to me by the Council in respect of tree matters. Whilst mindful of their conclusions on the shading effects of the trees and post-development pressures, the site specific aspects of the appeal scheme, taken together with the outline nature of the proposal in this case, are aspects which constitute clear material differences and consequently, these other appeal decisions, whilst material, do not alter my conclusions in this regard.

¹³ Hopcraft IJ (2012) Arboricultural Journal 34 160-168

¹⁴ APP/H2835/A/11/2144635; APP/R3325/A/09/2103333; APP/L235/A/13/2190478; APP/L3245/A/13/2204965

33. For these reasons, I find no conflict with Policy EQ6 of the Local Plan insofar as it seeks, amongst other matters, to ensure that development contributes to local distinctiveness and a sense of place

Crime and Anti-social Behaviour

34. The indicative layout plan shows footpaths on the site that would skirt the rear of the proposed **dwelling**s. **Whilst I am mindful of the Council's view regarding** the relative fixity of the layout given the detailed consideration of access and the contents of the planning obligation at this stage, I saw that elements to the rear of the plots that could front Longclough Drive are already overlooked by 2 to 4 Longclough Drive and some natural surveillance also exists from the extensive glazed elements to the rear of 44a Primrose Lane set across the Brook at an elevated position from the appeal site. Moreover, detailed design matters at the reserved matters stage, including the layout of the path, the landscaping and boundary treatment of the proposed dwellings, and their fenestration and lighting arrangements could all, taken together, lead to natural surveillance of the proposed space. In these terms the appeal site could create a reasonably safe and overlooked environment and could thus avoid harm in these respects to its occupants and those of adjacent dwellings, and the users of the open space.
35. **Consequently, whilst the proposed development's indicative layout in siting** public space behind private rear gardens would be at variance to the advice given in the ***Residential Design*** Supplementary Planning Document- SPD2 (adopted December 2005) and the ***Designing Out Crime*** SPD, the site specific aspects of the appeal scheme, outlined above, justify a departure from this guidance in this instance.
36. Accordingly, taking these matters together with the lack of substantive evidence supplied in relation to incidences of crime and anti-social behaviour at the appeal site or within its environs, I conclude that it has not been demonstrated that the proposed development would lead to any adverse crime and anti-social behaviour effects. I therefore can find no conflict with Policy EQ6 of the Local Plan insofar as it seeks, amongst other matters, to ensure that development provides safe public and private spaces.

Affordable Housing

37. Policy H4 of the Local Plan sets out the local approach to securing affordable housing contributions. For development proposals including between 5 and 24 units the policy requires a 20% provision of onsite affordable housing- which in the case of the appeal proposal would equate to one dwelling.
38. **My attention has also been drawn to the Government's** Planning Practice Guidance (PPG), which¹⁵, expands on the national policy expressed in the Written Ministerial Statement of 28 November 2014 (the WMS). This outlines the specific circumstances where contributions for affordable housing should not be sought, including from developments of 10 units or less or which have a maximum combined floorspace of no more than 1,000 SqM. Whilst a lower threshold of 5-units applies to designated rural areas, the Council confirmed that the appeal site is not within one of these. As the WMS and the related PPG constitute clear and unequivocal statements of national policy on this

¹⁵ At Paragraph: 031 Reference ID: 23b-031-20161116

matter they are considerations to which I attach very considerable weight in the overall planning balance.

39. Although I note that the adoption of the Local Plan post-dates the issue of the WMS, it was adopted at a point where a Declaration order of the High Court quashed the contents of the WMS. However, that order was overturned by the Court of Appeal on 13 May 2016, and from that date the national policy expressed in the WMS once again constitutes a material planning consideration.
40. It is clear that the contents of the WMS and the PPG do not automatically displace the statutory primacy of the development plan in the assessment of the planning merits of a proposal. However, I have been supplied with no substantive evidence in this case to demonstrate the specific circumstances pertaining in the Borough that justify a departure from the unambiguous and most up to date expression of national policy on this matter expressed in the WMS. Consequently, in this instance I consider that the national policy expressed in the WMS and related advice in the PPG are matters that justify a departure from Policy H4 of the Local Plan, and therefore find that the necessity of an affordable housing contribution has not been established in this instance.

Other Matters

41. The proposed development would make adequate arrangements for off-street parking, and I note that the local highway authority tendered no objection to the appeal scheme subject to appropriately-worded planning conditions. Whilst I note comments about parking along Longclough Drive narrowing the effective width of the highway, and the potential for this to restrict access for emergency service and refuse vehicles, I consider that the limited reduction in on-street parking that would come about as part of the proposed development would not exacerbate this to any material degree. Neither do I consider that the parking implications of the appeal scheme, given appropriate splays from the proposed accesses, would lead to any harmful highway safety implications.
42. I am mindful that children cross the road to access the appeal site, including persons with autism. In my assessment of this aspect of the appeal, I have had due regard to the Public Sector Equality Duty (PSED) established by section 149 of the Equality Act 2010 (the Act), which sets out the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. Consequently, whilst autism constitutes a protected characteristic for the purposes of the Act, as I have found that the proposed development would not lead to any material increase in on-street parking, and would make acceptable arrangements for off-street parking in highway safety terms, I find that it would not impede the safe access to the site for children with or without these characteristics.
43. Consequently, taking these matters together leads me to the conclusion that the proposed development could enable safe and suitable access to the site for all people; and as a consequence these aspects of the proposal would not weigh against the appeal scheme in the overall planning balance.
44. The precise layout, scale, fenestration, landscaping, lighting and boundary treatments of the proposed development are reserved matters. Moreover, the

proposed dwellings could be adequately separated from their surrounding buildings. Consequently, I consider that it has not been demonstrated at this stage that the appeal scheme would cause harmful effects to the amenity of the occupants of adjacent dwellings and the adjacent bed and breakfast accommodation on Primrose Lane in terms of noise and disturbance, overlooking or privacy. Therefore whilst I am conscious of comments from the owner of the bed and breakfast in this regard, it has not been established that the proposed development would result in a negative impact on the holiday accommodation available in Glossop, or be at variance with the Local Plan's objectives relating to tourism.

45. I am mindful of the comments pertaining to part of the appeal site being within Flood Zone 2, that some houses in the immediate surroundings have had difficulties in securing insurance because of the local flood situation, and the photographic evidence showing pooling of water on Longclough Drive itself. However, the planning application was accompanied by a flood risk assessment (FRA)¹⁶, which recommends measures and design details for the proposed dwellings including finished floor levels and drainage arrangements. No objections were received from the Lead Local Flood Authority or other statutory consultees in regard the potential flood implications of the scheme, subject to appropriately worded conditions in respect of amongst other things, drainage matters, being attached to any permission. Consequently, due to these latter considerations, I consider it has not been demonstrated that the proposed development would lead to an increase in flood risk elsewhere, or would not be appropriate development in context of the flood risk status of the appeal site.
46. **The appellant's submitted Ecology Report¹⁷** and Update Protected Species Appraisal¹⁸ found no evidence of protected species on the site- and found that invasive species, including Japanese Knotweed were present. Moreover, the **appellant's Biodiversity Management Plan¹⁹**, and planning obligation would secure biodiversity enhancements, including, amongst other things, the removal of invasive species, the introduction of wildflower meadows, the deployment of bat and bird boxes, and the placement of hedgehog shelters. I note also that Derbyshire Wildlife Trust offered no objections to the proposed development. Consequently, whilst noting the anecdotal evidence submitted in respect of the presence of protected and other species on the site, I consider that it has not been demonstrated that the proposed development would have any adverse effects in these regards; and to the contrary could improve the level of biodiversity present on the site. In these respects, the appeal scheme would meet the requirements of Policy EQ5 of the Local Plan insofar as it seeks to ensure, amongst other matters, that developments include measures to contribute positively to the overall biodiversity of the plan area.
47. I have had regard to comments regarding the potential effects of noise and disturbance during construction of the proposed development. However, I consider that an appropriately worded condition regarding construction management would ensure that development would be progressed in a way to minimise its effects in these regards.

¹⁶ Produced by Peter Mason Associates February 2016

¹⁷ Longclough Drive- Preliminary Ecological Appraisal by Arc Ecology- Prepared December 2014

¹⁸ Longclough Drive, Glossop- Updated Protected Species Appraisal by Arc Ecology- Prepared February 2016

¹⁹ Produced by Avian Ecology Date 16 June 2016

48. I note assertions from residents regarding the potential effects of the proposed development on the house prices of properties in its surroundings. However, this is a matter that the UK Courts have consistently established is not a determinative factor in the assessment of the planning merits of such a case. Consequently, this matter has not weighed against the proposed development in the overall planning balance.
49. Consequently, none of these other matters, either taken individually or together alters my conclusions in respect of the main issues, or is of a sufficient weight to tip the planning balance against the appeal scheme.

Conditions

50. I have assessed the list of conditions supplied to me by the Council and appellant against the tests set out in paragraph 206 of the Framework, which states that they should only be attached where they are necessary, relevant to planning and the development to be permitted, enforceable, precise and reasonable in all other respects. I have made amendments to the wording of suggested conditions, where necessary, in the interests of clarity.
51. As the appeal is in outline I have attached the standard suite of conditions in respect of approval of reserved matters and implementation. In the interests of certainty, I have attached a condition which specifies the approved plans, in relation to the access arrangements and the red line boundary of the site.
52. In order that the development is delivered in line with its description, and following my conclusions in respect of the quantity of dwellings and residential space at the site not leading to a requirement for affordable housing, it is both necessary and reasonable to attach a condition which sets the parameters of the appeal scheme. Consequently, due to this condition, and for the reasons set out above, it is not necessary to attach a condition requiring the delivery of an affordable housing unit on the site.
53. As access is for detailed consideration at this stage I have attached conditions **requiring the submission of further details in this regard for the Council's** approval, for implementation prior to the occupation of the dwellings. I have amalgamated and simplified the various conditions suggested by the Council and appellant to secure these aims. In order that the proposed development makes acceptable arrangements for parking I have attached a condition requiring the approval and implementation of off-street space prior to occupation of the proposed dwellings.
54. In order that the development makes acceptable arrangements for drainage, and to avoid increasing flood risk, I have attached an amalgamated condition in respect to the submission of drainage details to the Council for its approval, and securing the implementation of these measures prior to the first occupation of the approved dwellings. Elements of this condition necessarily require compliance with them prior to commencement to ensure that the proposed development makes appropriate arrangements in these regards.
55. Also in order to ensure that the proposed development makes adequate arrangements to minimize flood risk for its future occupants, a condition is attached requiring the details of finished floor levels to be approved prior to the construction of the dwellings. This is by necessity a pre-commencement

condition to ensure that the proposed development makes adequate arrangements in these regards.

56. I have attached a condition requiring the submission of a construction management plan to the Council for its approval prior to the commencement of development on the site. This is necessarily a pre- commencement condition to ensure that development progresses in line with the approved details and that the living conditions of the occupants of adjacent dwellings, and the highway safety effects of the construction process are acceptable. As I have attached this condition, it is not necessary to attach the suggested condition in relation to the hours of construction, as this matter can be handled in the management plan.
57. As the landscaping of the scheme is a matter for detailed approval at a future reserved matters stage, I have not attached the conditions in respect of the removal of trees, shrubs or hedgerows, or in respect of tree protection measures at this stage. Similarly, as the planning obligation secures the implementation of a biodiversity and landscape management plan, I consider that any further details in these regards would be more properly required as part of a reserved matters application related to the landscaping aspects of the site. Similarly, it is not necessary at this stage to include the conditions requiring the removal of invasive species or relating to tree felling.
58. However, as an undeveloped buffer zone adjacent to the Brook would be a guiding principle of any landscaping scheme I consider it necessary to attach a condition requiring this aspect to be taken into account prior to commencement of the development. This is necessary in the biodiversity and water quality interests of the Brook and its immediate surroundings.
59. In order that the proposed development avoids harmful effects to nesting birds, **and in the light of the appellant's submitted Ecology Report, I consider it both** reasonable and necessary to attach a condition requiring any activity leading to the loss of trees, shrubs, hedgerows or site clearance to avoid taking place during the bird nesting season. For similar reasons, I have attached a condition requiring the submission of Reasonable Avoidance Measures in terms of reptiles to take effect pre-commencement to ensure that the development avoids any harm in these respects.
60. As matters of detailed design, layout and landscaping are reserved for future consideration, it is not necessary at this stage to attach a condition requiring the submission of details of a lighting scheme for the proposed development.
61. I have been supplied with no evidence to suggest that any contaminative uses have taken place on the appeal site. Nevertheless as residential developments are sensitive to the effects of contaminated land I have found it necessary to attach a condition relating to the submission of a risk assessment in this regard to the Council for its approval. This condition of necessity requires compliance with it prior to the commencement of development to ensure that any harmful effects to future occupants of the scheme, or the environmental quality of the appeal site and its surroundings are avoided. Given the scale of the proposal, I have amalgamated and simplified the requirements of the suggested conditions.

Conclusion

62. Whilst I have found that the national policy expressed in the WMS outweighs the Local Plan policy relating to affordable housing, in other respects the appeal scheme would comply with the aforementioned policies of the development plan. Furthermore, as the appeal scheme would lead to clear and considerable benefits firstly, through the qualitative improvement of the open space in terms of access and biodiversity; and secondly, as a result of the delivery of **additional housing to assist in meeting the Borough's requirements**, it would also accord with Policies S1, S1a and EQ9 of the Local Plan. These policies, amongst other things, require all new development to make a positive contribution to the sustainability of communities and protect and where possible enhance the environment; that proposals secure development that improves the economic, social and environmental conditions in the area; and that existing woodlands, healthy mature trees and hedgerows are retained and integrated within a proposed development unless the need for, and benefits of, the development clearly outweigh their loss.
63. Accordingly, for the reasons set out above, and taking into account all other matters raised, I conclude that the appeal should succeed.

G J Fort

INSPECTOR

Appearances

FOR THE APPELLANT

Rawdon Gascoine BA(Hons) MRTPI

Una Maginn BSc(Hons) MSc MCIEEM

Ben Pycroft BA(Hons) Dip TP MRTPI

Glyn Thomas DipArb (RFS) FICFor FArborA

Director

Emery Planning

Technical Director

Avian Ecology

Emery Planning

Cheshire Woodlands

FOR THE LOCAL PLANNING AUTHORITY

Monica Gillespie BSc(Hons) MSc MArborA

Chartered Biologist

Ben Haywood BA(Hons) MA MBA MRTPI MCM

Rachael Simpkin BA(Hons) DTP MRTPI

High Peak Borough Council

Development Services Manager

High Peak Borough Council

Senior Planning Officer

High Peak Borough Council

INTERESTED PERSONS

David Phillips

Ray Wrynne

Longclough Residents'

Association

Longclough Residents'

Association

DOCUMENTS submitted at the Hearing

1. List of suggested conditions
2. Certified copy of completed section 106 agreement dated 22 January 2018 between High Peak Borough Council and AM (2004) Ltd
3. **High Peak Borough Council's *Designing Out Crime Supplementary Planning Guidance and Advice***
4. Annotated Google Map showing location of Derbyshire Wildlife Trust's Long Clough site

Schedule of Conditions

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development takes place and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than 3 years from the date of this permission.
- 3) The development hereby permitted shall take place not later than 2 years from the date of approval of the last of the reserved matters to be approved.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Nos 1218.01 (Location Plan); 1218.04 Rev B (Proposed indicative site plan) but only in respect of those matters not reserved for later approval.
- 5) No more than six (6) dwellinghouses or 1,000 SqM of residential floorspace shall be provided on the site.
- 6) Notwithstanding condition No (4) no development shall take place until details of the access arrangements for each individual plot have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, and implemented prior to the first occupation of the dwellings hereby approved.
- 7) Notwithstanding condition No (4) no development shall take place until details of the parking spaces for each individual plot have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details, and implemented prior to the first occupation of the dwellings hereby approved. The approved parking spaces shall thereafter be kept available at all times for the parking of vehicles.
- 8) No development shall take place, including any works of demolition, until a Construction Management Plan has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) the provision of turning facilities for and parking of vehicles of site operatives and visitors;
 - ii) loading and unloading of plant and materials;
 - iii) storage of plant and materials used in constructing the development;
 - iv) wheel washing facilities;
 - v) measures to control the emission of dust and dirt during construction;
 - vi) a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - vii) delivery, demolition and construction working hours.

The approved Construction Management Plan shall be adhered to throughout the construction period for the development.

- 9) No development (including any works of site clearance, and removal of trees, shrubs and hedgerows) shall take place during the bird nesting season (1 March to 31 August inclusive) unless the local planning authority approves in writing the findings of a suitably qualified ecological consultant that affected trees, shrubs or hedgerows are not in use by nesting birds. If nested birds are located, work shall cease on that part of the site until nesting has completed and fledged young have departed the site.
- 10) No development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice **and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11)** (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 21 days of the works being completed and approved in writing by the local planning authority.
- 11) The approved development shall make provision for separate systems of drainage for foul and surface water. Prior to the commencement of development, a surface water drainage scheme, based on the hierarchy of drainage options in the National Planning Practice Guidance (or any subsequent national guidance that replaces this) with evidence of an assessment of the site conditions shall be submitted to and approved in writing by the Local Planning Authority.
The surface water drainage scheme must be in accordance with the Non-Statutory Technical Standards for Sustainable Drainage Systems (March 2015) or any subsequent replacement national standards and unless otherwise agreed in writing by the Local Planning Authority, no surface water shall discharge to the public sewerage system either directly or indirectly.
The development shall be completed in accordance with the approved details prior to the first occupation of the dwellings hereby approved.
- 12) No development shall take place until details of all finished site and floor levels have been submitted to and approved in writing by the local planning authority. The development shall take place in accordance with the approved scheme.

- 13) No development shall take place until a scheme for Reasonable Avoidance Measures with regard to reptiles, based on the recommendations set out within the Arc Ecology ***Longclough Drive, Glossop-Update Protected Species Report*** (dated February 2016), has been submitted to and agreed in writing by the local planning authority. Development shall take place in accordance with the approved Reasonable Avoidance Measures.
- 14) No development shall take place until a scheme for the provision of an undeveloped buffer zone adjacent to the Brook has been submitted to and agreed in writing by the local planning authority. Development shall take place in accordance with the approved scheme thereafter.

EP9



Pre-Application Statement

Demolition of existing dwelling and erection of 4 dwellings
– Crest Hill, Wilmslow Road, Woodford, Stockport, SK7 1RH

for Mr & Mrs Petch

EP Ref: 14-248



Project : 14-248
Site address : Crest Hill, Wilmslow Road,
Woodford, Stockport,
Cheshire SK7 1RH
Client : Mr & Mrs Petch

Date : 27 June 2016
Author : Jane Griffin

Approved by : Denise Emery

This report has been prepared for the client by Emery Planning with all reasonable skill, care and diligence.

No part of this document may be reproduced without the prior written approval of Emery Planning.

Emery Planning Partnership Limited
trading as Emery Planning.

Contents:

1. Introduction	1
2. Context	1
3. The application	2
4. Policy context	2
5. Planning considerations	5
6. Summary and conclusions	10
7. Appendices	11

1. Introduction

- 1.1 This statement supports an application for pre-application advice in respect of the redevelopment of Crest Hill, Wilmslow Road, Woodford.
- 1.2 This pre-application submission in particular seeks the Council's advice on the demolition of the existing dwelling and the erection of four new dwellings.
- 1.3 We also wish to ascertain the Council's views on the following alternative proposals:
 - The conversion of the existing dwelling to two, plus housing in the garden; or
 - Retirement apartments and two dwellings in the garden.
- 1.4 If the redevelopment of the site for four dwellings or the two alternative proposals above are not found to be acceptable then advice is sought from the Council on what level of development would be acceptable..
- 1.5 The documents submitted are in support of an application for the demolition of the existing dwelling and erection of four dwellings and comprise:
 - A completed pre-application advice request form;
 - A site location plan; and
 - A sketch site layout plan.

2. Context

Site location and description

- 2.1 The site is located to the south west of Woodford on the north side of the A5102 Wilmslow Road.
- 2.2 The site comprises an existing residential property and garden. The dwelling is situated in a large plot comprising 2.3 acres (0.9 ha).
- 2.3 The site falls within the Green Belt as defined by the Stockport UDP Review (2006) and is located within an extensive ribbon of development with the Deanwater Hotel to the west.

Relevant planning history

- 2.4 The planning history for the site is available on the Council's website. The most recent, relevant entry is below.
- 2.5 A Certificate of lawfulness of existing use or development under reference DC/056664 confirmed that the use of land as garden adjacent to Crest Hill was lawful (12/11/2014). A copy of the decision notice and location plan is at Appendix EP1.

3. The application

- 3.1 At this stage, no plans aside from a sketch site layout plan for 4 dwellings have been drafted for the site. This pre-application request seeks advice on the principle of the demolition of the existing dwelling and the erection of 4 dwellings on the site and the Council's view on:
- The conversion of the existing dwelling to two, plus housing in the garden; or
 - Retirement apartments and two dwellings in the garden.
- 3.2 The attached draft site layout plan shows the position of the 4 dwellings. The front of the proposed dwellings sit on the existing building line of Crest Hill. The sizes of the proposed dwellings as shown on the sketch are commensurate with those in the immediate locality. Due to the size of this plot the dwellings would not appear cramped within the site and would each benefit from sufficient amenity space and gardens.
- 3.3 The existing access to the site from King Street would be used for the development. This is shown on the draft site layout plan.

4. Policy context

National planning policy and guidance

- 4.1 The Framework was published in March 2012 and sets out the Government's national planning policy. The relevant sections for the purposes of this pre-application are:
- Achieving Sustainable Development, including the Presumption in Favour of Sustainable Development and Core Planning Principles;
 - Section 3: Supporting a Prosperous Rural Economy;

- Section 4: Promoting Sustainable Transport;
- Section 6: Delivering a Wide Choice of High Quality Homes;
- Section 9: Protecting Green Belt Land; and
- Annex 1: Implementation.

- 4.2 Of particular relevance is the Presumption in Favour of Sustainable development which states that proposals that accord with an up-to-date local plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.
- 4.3 In Section 4, paragraph 29 advises that opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
- 4.4 In Section 6, Paragraph 47 requires local planning authorities (LPA) to significantly boost the supply of housing. Paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. It adds that relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites.
- 4.5 Paragraph 55 in Section 6 states that in rural areas housing should be located where it would enhance and maintain the vitality of rural communities. It states however that new isolated dwellings in the countryside should be avoided unless it meets certain exceptions.
- 4.6 Paragraph 89 in Section 9 states that the construction of new buildings in the Green Belt should be regarded as inappropriate unless it meets one of a number of exceptions. One such exception (the sixth bullet point) is limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 4.7 Paragraph 215 in Annex 1 to the Framework states due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework.

Development plan context

- 4.8 The relevant development plan for the site includes:

- The saved policies of the Stockport Unitary Development Plan (UDP) Review (2006); and
- The Stockport Local Development Framework (LDF) Core Strategy (2011).

4.9 The following policies in these documents are considered to be relevant:

Stockport UDP Review

- Policy LCR1.1: Landscape Character Areas – requires development in the countryside to be sensitively sited and appropriate to the landscape character of the area;
- Policy GBA1.2: Control of Development in the Green Belt – sets out a presumption against the construction of new buildings in the Green Belt unless it is for a number of stated purposes.

4.10 These purposes however are not in conformity with those listed at paragraph 89 of the Framework. In particular, Policy GBA1.2 only refers to limited infilling of Major Existing Developed Sites and does not refer to limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land). Therefore, in accordance with paragraph 215 of the Framework, this policy is out-of-date; and

- Policy GBA1.5: Residential Development in the Green Belt

4.11 Similar to the above, this policy conflicts with paragraph 89 of the Framework as it does not allow for limited infilling or the partial or complete redevelopment of previously developed sites. It is therefore out-of-date.

Stockport LDF Core Strategy

- Development Management Policy H-2: Housing Phasing – states that when there is less than a five year deliverable supply of housing land the required accessibility score for new housing development will be lowered on an annual basis;
- Core Policy CS4: Distribution of Housing – gives priority to previously developed land in urban areas and sets out a sequential approach to development in the Green Belt. It states that small infill sites in the Green Belt, for example within residential ribbon development will not be used for housing due to the negligible contribution they would make to meeting local needs and the harmful cumulative impact such development would have on the openness of the Green Belt. This policy is considered to be contrary to paragraph 89, which allows for limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land) in the Green Belt. It is therefore considered to be out-of-date.

- Core Policy CS9: Transport and Development – requires that new development is located where it would be accessible by walking, cycling and public transport. Development that reduces the need to travel by car will be supported.

Other material considerations

- 4.12 The Council cannot demonstrate a deliverable five year supply of housing land as it is required to do so in accordance with paragraph 47 of the Framework. We note that the latest evidence states the supply at 1st April 2015 is 2,662 dwellings. Against a five year requirement, which must include the backlog accumulated since the start of the Core Strategy period, and only applying a 5% buffer, the Council claims that its supply equates to 4.2 years. If a 20% buffer were applied because there has been persistent under delivery in each and every year monitoring year since 2008/09, the supply would be even less than this (3.67 years).

National Planning Practice Guidance (NPPG)

- 4.13 The NPPG was published in March 2014 and provides guidance on the application of policies in the Framework. Section 50 of Rural Housing is considered to be relevant to this site.

5. Planning considerations

- 5.1 It is considered that the acceptability of the principle of four dwellings on the site is subject to three main factors:

- Whether the proposed development would be inappropriate development in the Green Belt;
- Whether the site is located in an appropriate location for four dwellings; and
- Whether the proposed development would be sustainable.

Development in the Green Belt

- 5.2 The site is located within the Green Belt. Paragraph 89 of the Framework states that the construction of new buildings is considered to be inappropriate in the Green Belt unless one of the exceptions listed in paragraph 89 are met. One such exception is limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use.

- 5.3 A recent High Court decision, *Dartford Borough Council v Secretary of State for Communities & Local Government* (CO/4129/2015) held that residential garden land, outside 'built up areas' is brownfield land and not as had been widely understood 'greenfield land.' The judgment is attached at Appendix EP2.
- 5.4 Paragraph 111 of The Framework states that the re-use of brownfield land should be a priority provided that it is not of high environmental value.
- 5.5 The application site comprises a dwelling and garden and is therefore defined as brownfield land.
- 5.6 Crest Hill lies at the end of a ribbon of development of 18 dwellings. King Street separates Crest Hill from the nearest dwelling Deanfields to the east. To the west the site is bounded by the driveway to the Deanwater Hotel. It is not considered that 3 additional dwellings in this location would have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
- 5.7 The dwelling known as Deanfields was granted planning permission 2005 and was built in the garden of the adjacent property Southwold to its east. Two dwellings, Bramwood House and Atwood House, on either side of the dwelling known as the Dutch House were granted permission in 2005. Similarly to Crest Hill, both Southwold and The Dutch House were situated in uncharacteristically large plots. Although these new dwellings were permitted prior to the adoption of the 2006 UDP, it is clear that these additional large detached dwellings have been easily accommodated within the former gardens of Southwold and The Dutch House and do not have an adverse impact on the openness of Green Belt.
- 5.8 Woodford is characterised by linear development along its roads with some gaps and open spaces.
- 5.9 Save for a small field near the junction of Wilmslow Road and Church Lane, the housing along the north side of Wilmslow Road is physically linked to the housing on Chester Road. The site and the adjoining houses are also functionally linked to the village of Woodford.
- 5.10 A similar view was taken by the Inspector in an appeal against the refusal of planning permission for 1 dwelling at 368 Chester Road, Woodford on the 15th October 2014 (ref:

APP/C4235/A/14/2222865). Similarly to the application site, this site is also within a linear area of housing along the A5102.

- 5.11 The site is located within a village; namely Woodford. Woodford does not contain one concentration of facilities or typical 'village centre' but does contain a range of services and facilities that would normally be associated with a village, including a church, hairdressers, a supermarket, public house, cricket club, garden centre and community centre. As Woodford does not have a defined 'village centre' these various facilities are dispersed in various locations around Woodford. The acceptance of Woodford as a 'village' for policy purposes has been accepted by Inspectors at appeal.
- 5.12 Woodford is easily accessible from wider areas as will be demonstrated.
- 5.13 The appeal decision, attached at Appendix EP3 confirmed that the Inspector considered that Woodford was a village and the site was within a continuous line of built development leading to the main area of the village (although there is also a small gap comprising fields). She therefore considered that the appeal site was visually and functionally linked to the main part of the village and was, therefore, part of the village.
- 5.14 The site, whilst lying slightly further away from the main part of Woodford is similarly located, as described above. It is therefore also considered to be within the village.
- 5.15 Four dwellings on this site would not represent an extension to the built up area nor encroachment into the countryside. The site is not an isolated location within the Green Belt but represents a logical site for development being within a ribbon of development of existing residential properties. The proposal is of a limited scale on a site which is currently in residential use and it would not encroach into the countryside or encourage unrestricted sprawl.
- 5.16 The proposal would comprise the redevelopment of a previously developed site (brownfield land), in a manner that would not impact upon the openness of the Green Belt. It would not therefore not be inappropriate development in the Green Belt under paragraph 89 of the Framework.

Appropriateness of Location / Accessibility

- 5.17 The accessibility of potential housing sites is, in accordance with Core Strategy Policy H-2, determined with reference to an accessibility score given to individual sites by the LPA. This

score is generated by computer modelling. Stockport Council's interactive online map provides a method of calculating a site's sustainability. Using this method the application site's average score is 24. It is stated that sites for housing should score a minimum of 34. Due to the absence of a 5 year supply this score has been reduced since 2011. In 2011-12 and 2012-13 the score was reduced by 5 each year, and by 6 in 2012-14.

- 5.18 As stated in the Chester Road appeal decision, the computer generated accessibility score does not take into account the shops and services located in the centre of Woodford. As stated in the appeal decision, it is therefore flawed. The delivery of housing set against an absence of a 5-year supply is in itself a sustainable form of development.
- 5.19 In light of the above, it is considered that the accessibility score is no longer the most appropriate method of determining the accessibility of sites, particularly as the LPA has not been applying the policy consistently by not reducing the score since April 2013. We consider that the most appropriate method would be to assess accessibility against the actual distance and physical access to services and public transport and by having regard to the character of the area which accommodates numerous dwellings.
- 5.20 Woodford is within Greater Manchester and benefits from its public transport services. The above appeal decision made reference to the appeal site being close to the administrative boundary with Cheshire East and its proximity to Poynton. It did not fully take into consideration the bus services available from the nearest stop to Bramhall and wider locations.
- 5.21 There are bus stops approximately 750m to the east on Chester Road, at the junction with Church Lane and are served by two bus services, the 157 and X57. These services stop twice hourly throughout the day at this stop and travel to destinations including Bramhall, Cheadle, Didsbury, the University of Manchester and Manchester City Centre. The bus stops along the bus route in Woodford include those at the cricket club, scout hut and British Legion, Budgens Supermarket, and Woodford Community Centre.
- 5.22 These services also stop within 400 m of Bramhall Railway Station. Trains from this station travel to destinations including Manchester, Macclesfield and Stoke-on-Trent and London.
- 5.23 The nearest bus stop on Chester Road is also served by the 877 Woodford to Bramhall High School bus service.

- 5.24 In addition to the information above, the application for the redevelopment of Woodford Aerodrome was approved in 2014. The first phase of construction of the dwellings has commenced. The distance to former aerodrome site from the application site is 1.45km (0.9 miles).
- 5.25 The proposals at the former aerodrome include up to 950 dwellings, a new primary school, employment provision, community facilities and open space, a public house and shops.
- 5.26 This will enable future occupiers and existing residents of Woodford to have access to a wide range of services that are currently located in Bramhall, Poynton and wider destinations. The development will also generate funding to subsidise and ensure the continuation of the two existing bus services with links to Wilmslow, Bramhall and Stockport, further improving accessibility and sustainability.
- 5.27 Future occupiers of the site would therefore have access to many essential services and facilities in Woodford and further afield through the use of public transport. This would offer an alternative to private car use and would therefore comply with Policy CS9 of the Stockport LDF Core Strategy.
- 5.28 Furthermore, in assessing whether the development of 4 dwellings on the site would comply with the requirements of paragraph 55 of the Framework, as the site is located within a ribbon of development. It is not considered that the proposal would not be an isolated form of development.

Sustainability

- 5.29 The development of four dwellings on the site would in itself have minor economic and social benefits. However the cumulative effect of allowing small residential developments on similar sized sites would make a significant contribution to the absence of a five year supply of housing land. It was found in a number of appeal decisions that were dismissed around the time of the housing moratorium in Stockport Borough that the addition of one or two or more dwellings would cumulatively affect the oversupply of housing in Stockport. These include the three decisions listed below:

- 5 Ridge Avenue Marple for 3 dwellings (APP/C4235/A/05/1180898) dismissed 27.09.05

- Land to the rear of 124-130 Bramhall Lane South, Bramhall for 1 dwelling (APP/C4235/A/05/1188642) dismissed 13.01.06
- Land adjacent to 1a Bulkeley Road, Cheadle for 1 dwelling (APP/C4235/A/05/1184574) dismissed 05.12.05.

- 5.30 The converse reasoning therefore applies in this case that the addition of 3 new dwellings would have a beneficial social impact, and cumulatively benefit the current undersupply of housing in the borough in an area where there is a high demand for housing.
- 5.31 There would be a minor beneficial impact on the local economy during the construction phase through the use of local contractors and suppliers
- 5.32 Whilst the beneficial impacts of the proposed development would be small, cumulatively there would be substantial benefits. It is not considered that there would be any negative impacts that would outweigh the beneficial impacts. As identified above, the proposed development would not be inappropriate in the Green Belt. This would not therefore lead to negative environmental impacts. Furthermore, as the site offers access to public transport services to the wider area, there is the potential to encourage use of public transport rather than private car use. There would not therefore be any negative environmental impact in this respect.
- 5.33 The existing dwelling, Crest Hill occupies the eastern part of the plot which is bounded by King Street separating the site from the nearest dwelling, Deanfields. The sketch site layout plan shows that the proposed dwellings would be positioned to reflect the existing building line set by Crest Hill and properties to the east. There would be no negative impact on the occupiers of Deanfields.
- 5.34 It is therefore considered that the benefits resulting from the proposed development would outweigh any negative impacts. The development of four dwellings on the site would therefore deliver sustainable development and should be supported in accordance with the presumption in favour of sustainable development in the Framework.

6. Summary and conclusions

- 6.1 This statement supports an application for pre-application advice of the principle of the redevelopment of the existing site and the construction of four dwellings at Crest Hill, Wilmslow Road, Woodford.

- 6.2 We also seek the Council's views on the redevelopment of the site for the conversion of the existing dwelling to two plus housing in the garden; or retirement apartments and two dwellings in the garden.
- 6.3 The redevelopment of the site for four dwellings or more would make a significant contribution to the absence of a five year supply of housing land in an area in which there is a high demand.
- 6.4 The site is located within the Green Belt however; the proposal would not be inappropriate development as it would comprise the redevelopment of a brownfield site in accordance with paragraph 89 of The Framework.
- 6.5 If the redevelopment of the site for four dwellings or the above suggested proposals are not found to be acceptable then advice is sought on what level of development would be acceptable.
- 6.6 It is also considered to be within an appropriate location for housing development being accessible to existing services and facilities by public transport links.
- 6.7 Furthermore, the site will benefit from the new services and facilities to be provided as part of the Woodford Aerodrome redevelopment including a new primary school, employment area, community and recreation facilities and shops.
- 6.8 In light of the above, the proposed development would not be inappropriate development in the Green Belt and would deliver sustainable development. It would comply with the up-to-date policies in the Stockport UDP and Core Strategy as well as the Framework.

7. Appendices

- EP1. Certificate of lawfulness DC/056664 and location plan
- EP2. Judgment – Dartford Borough Council v Secretary of State for Communities & Local Government
- EP3. Appeal decision for 368 Chester Road, Woodford

EP1



STOCKPORT
METROPOLITAN BOROUGH COUNCIL

STOCKPORT METROPOLITAN BOROUGH COUNCIL

DECISION NOTICE

**Town and Country Planning Act 1990: Section 191 and 192
Town and Country Planning (Development Management Procedure)
(England) 2010: article 35**

**CERTIFICATE OF LAWFULNESS OF EXISTING USE OR
DEVELOPMENT: Number DC056664**

Applicant Details:	Agent Details:
Mr & Mrs Petch Crest Hill Wilmslow Road Woodford Stockport, Cheshire SK7 1RH	Mrs Emery Emery Planning Partnership Ltd 2 - 4 South Park Court Hobson Street Macclesfield Cheshire SK11 8BS
Location	Description of Development
LAND ADJACENT TO CREST HILL, WILMSLOW ROAD, WOODFORD, STOCKPORT, SK7 1RH	Use of land as garden

This Authority hereby certifies that on 03/10/2014 the change of use described in the First Schedule in respect of the land specified in the Second Schedule and hatched on the plan attached to this certificate **was lawful** within the meaning of section 191 of the Town and Country Planning Act 1990 (as amended), for the following reasons:

The applicant has demonstrated on the balance of probability that the use of the land as a garden commenced at least 10 years prior to the date of application. The use is therefore lawful.

First Schedule

Use of land as garden

Second Schedule

LAND ADJACENT TO CREST HILL, WILMSLOW ROAD, WOODFORD,
STOCKPORT, SK7 1RH

Signed:



Dated: 12/11/2014

On behalf of
Emma Curle - Head of Development Management
BSc (Hons), MRTPI

Informative

This certificate is issued for the use of the land as a garden only. The land does not therefore form part of the curtilage of Crest Hill and is in fact separated from it by a hedge & gates.

As such the issue of the certificate does not grant any permitted development rights within Schedule 2, Part 1, Class A to H (inclusive) of the Town & Country Planning (General Permitted Development) Order 1995 as amended by the Town & Country Planning (General Permitted Development) (amendment) (No. 2) (England) Order 2008.

Therefore any buildings, hard surfaced areas, paths or other forms of development will require the submission of a planning application.

NOTES

The drawings approved by this notice may be viewed (usually in electronic form) at Fred Perry House, Stockport Council, Edward Street, Stockport, SK1 3UR, by appointment, and are available on line via the Planning & Building pages of the Stockport Council website.

1. , by appointment, and are available on line via the Planning & Building pages of the Stockport Council website.
www.stockport.gov.uk/planningdatabase [Planning and Building; Search our database].
2. This certificate is issued solely for the purposes of section 191 of the Town and Country Planning Act 1990 [as amended].
3. It certifies that the use specified in the First Schedule taking place on the land described in the Second Schedule was lawful, on the specified date and, thus was not liable to enforcement action under Section 172 of the 1990 Act on that date.
4. This certificate applies only to the extent of the use described in the First Schedule and to the land specified in the Second Schedule and identified on the attached plan. Any use which is materially different from that described or which relates to other land may render the owner or occupier liable to enforcement action.
5. The effect of the certificate is also qualified by the proviso in Section 191(4) of

the 1990 Act, as amended, which states that the lawfulness of a described use or operation is only conclusively presumed where there has been no material change, before the use is instituted or the operations begun, in any of the matters relevant to determining such lawfulness.

EP2

Neutral Citation Number: [2016] EWHC 635(Admin)

CO/4129/2015

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
THE ADMINISTRATIVE COURT

Royal Courts of Justice
Strand
London WC2A 2LL

Thursday 21 January 2016

B e f o r e:
CHARLES GEORGE QC

(Sitting as a Deputy High Court Judge)

Between:
THE QUEEN ON THE APPLICATION OF DARTFORD BOROUGH COUNCIL
Claimant

v

SECRETARY OF STATE FOR COMMUNITIES AND LOCAL GOVERNMENT
Defendant

Computer-Aided Transcript of the Stenograph Notes of
WordWave International Limited
Trading as DTI Global
165 Fleet Street London EC4A 2DY
Tel No: 020 7404 1400 Fax No: 020 7831 8838
(Official Shorthand Writers to the Court)

Mr Ashley Bowes (instructed by Sharpe Pritchard) appeared on behalf of the Claimant

Mr Charles Banner (instructed by Government Legal Department) appeared on behalf of the Defendant

J U D G M E N T
(Approved)
Crown copyright©

1. DEPUTY JUDGE: This is a challenge brought by the local planning authority, Dartford Borough Council ("the council"), to a decision letter dated 29 July 2015 of an inspector appointed by the defendant, the Secretary of State for Communities and Local Government. Following an informal hearing, the Inspector allowed the appeal of the second and third defendants Mr and Mrs Beaney Snr against the council's refusal of a retrospective application for the change of use of land within the ownership of Mr and Mrs Beaney Snr at Shirehall Farm Shirehall Road, Hawley, Kent to a private gypsy and traveller caravan site comprising one mobile home and one touring caravan occupied by Mr and Mrs Beaney Jnr and their two daughters. The claim is brought under Section 288 of the Town and Country Planning Act 1990.
2. The site measures some 45 metres by 65 metres. To the south and west is open countryside as also to the north, apart from the existing farmhouse on the site, in which Mr and Mrs Beaney Snr live, and a separate garage. To the east there are some industrial units. The area in front of the house and garage has been hard-surfaced and provides parking and turning for the house.
3. The Issues for the Court
4. These are (1) whether the Inspector misdirected himself that the site was previously-developed land; (2) whether his reasoning in relation to previously-developed land was adequate; (3) whether the Inspector misdirected himself in finding that there were very special circumstances to justify the grant of permission for inappropriate development in the Green Belt and/or reached an irrational conclusion.
5. The decision letter
6. The key parts of the carefully structured decision letter are:
 - i. "Openness and purposes of the Green Belt and character and appearance

- ii. 9. The mobile home and tourer would be within the residential curtilage of Shirehall Farm. As a result there would be no encroachment into the countryside and none of the 5 purposes of the Green Belt would be infringed.
- iii.
- iv. 11. [In the light of Policy C1 of the Dartford Local Plan and paragraphs 12 and 23 of Planning Policy for Traveller Sites] the proposal should not be ruled out as a matter of principle due to its location outside of any settlement.
- v.
- vi. 14. the proposal would not be intrusive or incongruous and would not harm the character and appearance of the surrounding area. As any adverse impact on the countryside would be minimised it would accord with Local Plan Policy C2. Openness would be reduced by a limited degree.
- vii.
- viii. General need for and provision of traveller sites in the Borough

ix.

- x. 21. there is an outstanding need for sites in the Borough it is likely to be some time before general needs will be addressed. This adds further support to the immediate provision of a pitch at Shirehall Farm

xi. Alternatives for the appellants

xii.

- xiii. 24. there are no suitable, authorised alternative sites available to the current occupiers of the mobile home. In the event that the appeal failed and they were forced to leave it the likely outcome would be a roadside existence or an unauthorised site elsewhere The absence of alternatives therefore favours the proposal Requiring the mobile home to be vacated would therefore represent an interference with their home and family life.

xiv.

- xv. 26. From the evidence available the best interests of children would be served by staying at the site.

xvi. Further considerations

xvii. 27. The definition of previously-developed land in Annex 2 of the National Planning Policy Framework excludes land in built-up areas such as private residential gardens. However, the appeal site is within a rural area and as the mobile home and tourer would be located within the curtilage of developed land it should be treated as previously-developed land. In turn, the PPTS indicates that weight should be attached to the effective use of such land. There is nothing to suggest that the land was previously untidy or derelict but it is preferable for traveller sites to be located on land of this type rather than on 'greenfield' sites. I therefore give significant weight to the fact that the appeal site is previously-developed land.

xviii. 28. Policy CS20 of the Core Strategy confirms that in identifying sites to meet an agreed requirement account will be taken of the protection of the openness of the Green Belt. In the absence of other policies it is reasonable to use its criteria in the consideration of individual applications. There is no conflict with the other factors. My findings in relation to openness are set out earlier. However, given that future traveller sites are likely to be located in the Green Belt, the policy does not seek to prevent any impact on openness. In this case the consequences of a single pitch within a domestic curtilage are as about as low as they could be. Therefore whilst taking criterion c) into account there is no conflict with that development plan policy.

xix. 29. The PPTS advises that traveller sites should be sustainable

economically, socially and environmentally. Many of the factors referred to in paragraph 11 would be met. The Council does not dispute that the appeal site is within 1km of services and facilities and many other gypsy sites are further away. However, Shirehall Road is not conducive to walking so that most journeys would be likely to be undertaken by car contrary to the aim of the Framework of making the fullest possible use of public transport, walking and cycling. As such, the location of the site is neutral in the overall balance.

xx.

xxi. Overall balancing

xxii. 33. The proposal would be inappropriate development within the Green Belt which Policy CS13 of the Core Strategy seeks to resist. Policy S4 of the Local Plan has similar aims. According to the Framework substantial weight should be given to any harm to the Green Belt. The Written Ministerial Statements also underline that protection of the Green Belt is an explicit policy intent. In addition, there would be a limited reduction in openness. However, there would be no conflict with the purposes of the Green Belt and no harm to the character and appearance of the area subject to certain further works.

xxiii. 34. Although the general level of need for pitches in Dartford is relatively modest it does exist and policies to deal with this in the

longer term are still some way from being finalised. Similarly the provision of adequate sites is not imminent. Furthermore, there is a lack of realistic, suitable alternatives for Mr and Mrs Beaney junior and the best interests of their children would be served by staying where they are. Their personal circumstances in supporting the appellants attract limited weight. However, I give significant weight to the fact that the proposed location would be on previously-developed land and that the most directly relevant development plan policy would be met.

xxiv. 35. In the Written Ministerial Statement of July 2013 the Secretary of State makes clear that the single issue of unmet demand for traveller sites is unlikely to outweigh harm to the Green Belt so as to constitute the “very special circumstances” to justify inappropriate development in the Green Belt. This is re-emphasised in the further Statement of January 2014. However, in this case, the factors that weigh in favour of the proposal do not only relate to unmet demand for sites.

xxv. 36. In the final analysis, the other considerations clearly outweigh the totality of harm that would arise including the conflict with the broad policy aim of protecting the Green Belt. Looking at the case as a whole and having regard, in particular, to the location of the site on previously-developed land and the compliance with the policy relating to gypsies and travellers, I am satisfied that very special circumstances exist. As such a permanent permission is justified and there is no need to consider a temporary permission as discussed at the hearing or any human rights implications for the appellants.

xxvi. 37. Some representations raised concerns about precedent and regarded the appeal as a 'test case' for traveller sites in the Green Belt. I disagree with those views since the factors that I have assessed in this case are unlikely to be exactly repeated elsewhere "

7. Finally, in allowing the appeal and granting permission, the Inspector imposed conditions to limit the visual impact, the number of caravans, the siting of the mobile home, the extent of the pitches and the size of the vehicles to be kept on site.

8. The National Planning Policy Framework (NPPF)

9. The Core planning principles in paragraph 17 include -

- take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting rural communities within it;
- encourage the effective use of and by re-using land which has been previously developed (brownfield land) provided that it is not of high environmental value.

10. Included in the provision of housing section are:

i. "48. Any allowance [for windfall sites] should be realistic having regard to the Strategic Housing Land Availability Assessment and should not include residential gardens.

ii.

iii. 53. Local planning authorities should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

iv.

v. 55. To promote sustainable development in rural areas, housing should be located where it will enhance the vitality of rural communities "

11. The five purposes of the Green Belt are set out in paragraph 80. These are:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

12. Development control policy in the Green Belt is contained in two paragraphs:

- i. "87. As with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.

- ii. 88. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. “Very special circumstances” will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly
- iii. outweighed by other considerations."

13. Then,

14. "Conserving and enhancing the natural environment

- i. 111. Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value "

15. The Glossary to the NPPF includes:

- i. **"Previously-developed land:** Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and

land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time."

16. Planning Policy for Traveller Sites (CLG, 2012) ("PPTS")

17. The relevant paragraphs are -

- i. "1. This document sets out the Government's planning policy for traveller sites. It should be read in conjunction with the National Planning Policy Framework
- ii.
- iii. 14. When assessing the suitability of sites in rural or semi-rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest settled community.
- iv.
- v. 25. Local planning authorities should very strictly limit new traveller site development in open countryside that is away from existing settlements or outside areas allocated in the development plan. Local planning authorities should ensure that sites in rural areas respect the scale of, and do not dominate, the nearest settled community, and avoid placing an undue pressure on the local infrastructure.

vi. 26. When considering applications, local planning authorities should attach weight to the following matters:

a) effective use of previously-developed (brownfield) untidy or derelict land;

vii. "

18. Policy CS20 of the Dartford Core Strategy 2011

19. Headed "Gypsies and Travellers" and described in paragraph 35 of the decision letter as "the most directly relevant Development Plan Policy", the relevant part provides:

- i. "1. The Council will work with Kent authorities to agree a sub-regional distribution of traveller and travelling showpersons pitches. In identifying sites to meet an agreed requirement, the Council will take into account:
 - a) Impact of proposed pitch provision on adjacent residential communities;
 - b) Accessibility of a proposed location to educational, health, community facilities
- ii. and public transport;

iii. c) Protection of the openness of the Green Belt;

iv. d) The availability and delivery of sites;

v. e) Other planning constraints, including flood risk."

20. Issue 1

21. There are a number of matters of common ground between the parties: (1) that the appeal site is not part of the built-up area but rather forms part of the countryside, and therefore subject to countryside policies; (2) that the mobile home and touring caravan would be located within the curtilage of developed land, that is in the curtilage of the farm house at Shirehall Farm; (3) that the Inspector's finding in paragraph 27 of the decision letter that the appeal site should be treated as previously-developed land turned on two matters, that it was in the curtilage of developed land and that since it was not in a built-up area the appeal site was not excluded as a private residential garden. This last matter turned on his interpretation of the phrase in the Glossary to the NPPF that "land in built-up areas such as private residential gardens" is excluded from the definition of previously-developed land; (4) that the wording of the exclusion of private residential gardens from previously-developed land in the Glossary to the NPPF is almost identical to that in Planning Policy Statement 3: Housing (PPS3) 2010, re-issued 2011, where the exclusion is also prefaced by the words "in built-up areas"; (5) that the Inspector's interpretation of the definition of previously-developed land to include private residential gardens in non-built-up areas went on to play a major part in the reasoning (in paragraphs 34 and 36 of the decision letter) for allowing the appeal, so that if the Inspector's interpretation was wrong the decision would have to be quashed.

22. The claimant's submissions

23. For the claimant, Mr Bowes's first argument is that, read entirely on its own, there is nothing in the definition of previously-developed land in the Glossary to the NPPF to require that only private residential gardens in built-up areas are excluded. Private residential gardens (and parks, recreation grounds and allotments) are primarily found in built-up areas, and the reference to "land in built-up areas" can and should be read as no more than an acknowledgement of that. Thus, private residential gardens in non-built-up areas are also excluded from the definition.
24. If the first argument were not to succeed, Mr Bowes's second argument was that the same broad interpretation of the exclusion can be reached by reading the definition in the Glossary to the NPPF in the light of paragraphs 45 and 53 of the same document, both of which referred to residential gardens, but without any differentiation between those in built-up areas and those in the countryside.
25. This second argument was further bolstered by the wording of a Written Ministerial Statement in the House of Commons on 9 June 2010, in which the Minister explained the Policy ambition to remove residential gardens from the ambit of previously-developed land so as to prevent the phenomenon of "garden grabbing"; and a circular letter to local planning authorities from the chief planning officer of 15 June 2010 in like terms.
26. Third, argued Mr Bowes, given the planning implications of land being classified as previously-developed land (see in this case paragraph 111 of the NPPF and paragraph 24 a) of the PPTS), there was no sensible reason for the Government to differentiate between private residential gardens in built-up areas and those in the countryside. This supported the wider interpretation of the exclusion and the narrower definition of previously-developed land.
27. Fourthly, bearing in mind the observation of Sullivan LJ in Redhill Aerodrome Ltd v Secretary of State for Communities and Local Government [2014] EWCA Civ 1386, paragraph 16, that where the Government seeks to effect a change in national planning policy it is reasonable to expect a "clear statement to that effect", and Eady J's holding in Dartford Borough Council v Secretary of State for Communities and Local Government [2012] EWHC 634 (Admin), paragraph 23, that the changed definition of

previously-developed land was not confined to small or intensively used gardens, but to all gardens, the definition in both planning documents of previously-developed land should be read to exclude all private residential land, whether or not in a built-up area.

28. In the second sentence of paragraph 27 of the decision letter the Inspector had regarded the appeal site as previously-developed land because it was "within a rural area" and not within a built-up area. That was to misconstrue the current definition of previously developed land.

29. Submissions of the defendant

30. For the defendant, Mr Banner contends that the words "land in built-up areas" in the definition of "previously-developed land" in the Glossary to the NPPF and in PPS3 cannot simply be ignored. Mr Bowes's construction meant either omitting the words "in built-up areas" or writing in words which were not there. That was impermissible. As Richards LJ said in Timmins v Gedling Borough Council [2015] EWCA Civ 10; [2015] 2 P & CR 12, paragraph 14, in relation to the NPPF -

- i. "24 Policy statements of this kind should be interpreted objectively in accordance with the language used

31. It was wrong to use other passages in the NPPF to force an artificial interpretation on the definition in the Glossary. It was the Glossary which was the interpretation provision. In any case, paragraphs 48 and 53 were not dealing with previously-developed land and did not compel an artificial interpretation of the definition in the Glossary. The Ministerial Statement and the chief planning officer's circular letter were issued in the context of, and with express cross-reference to, PPS3 (2010) which, in its definition of previously-developed land, differentiated between gardens etc in built-up areas and those which were not so situated. Therefore, the Ministerial Statement and the chief planning officer's letter did not assist Mr Bowes.

32. There was no anomaly. The objectively ascertained intention by the exclusion of private

residential gardens from the definition of previously-developed land was to address concerns about "garden grabbing" in suburban or urban areas, where green space is more limited than elsewhere. Redhill concerned an entirely different situation where an attempt was being made to read down a provision, rather than (as here) to delete express wording in a definition. In Dartford, the court had been considering a private residential garden in a built-up area and anything said there had no relevance to the arguments now advanced by the claimant.

33. In the NPPF there were numerous policies distinguishing between built-up areas and the countryside, for example paragraphs 17, 55 and 80. The approach to previously-developed land was not inconsistent, especially given the fall-back of paragraph 53 (which was available in rural areas as well as built-up areas).

34. The appeal site was not within the built-up area but within the countryside. As a result, the Inspector rightly concluded in paragraph 27 of the decision letter that the exclusion did not apply.

35. Conclusion on Issue 1

36. Mr Banner is plainly right and Mr Bowes plainly wrong. It is impossible to read the definition of previously-developed land in the two Policy documents in such a way as to exclude from it private residential gardens which are not in built-up areas. To do so is to contradict the clear words used in the definition.

37. The exclusion of residential gardens in built-up areas has a rational explanation in that "garden grabbing" is a particular (and some feel undesirable) phenomenon of built-up areas. The observation of Sullivan LJ in Redhill, at paragraph 16, commented upon and distinguished by Richards LJ in Timmings, paragraph 28, does not give carte blanche to disregard the express words of a definition in a policy document.

38. The reasoning of Eady J in Dartford does not assist Mr Bowes. Eady J uncontroversially found at paragraph 21 that the exclusion of residential gardens from the definition of previously-developed land related to "garden grabbing", and in paragraph 23 that there was nothing "to support the notion that it would only be small and intensively used

gardens that should not be 'grabbed'". The issue now raised by Mr Bowes simply did not arise.

39. If the wording of the exclusion in the definition of previously-developed land is due to an oversight (and there is no evidence of this) or, whilst intended, is now thought to have undesirable consequences, then the remedy lies with the Minister to widen the exemption and narrow the scope of previously-developed land. That is not a task for the court (see Timmins, paragraph 28).

40. The challenge on Issue 1 fails.

41. Issue 2

42. Submissions Of the Claimant

43. Mr Bowes here takes issue with another aspect of the second sentence of paragraph 27 of the decision letter, namely the reference to the mobile home and touring caravan being located within the curtilage of developed land. He agrees that the appeal site did include this curtilage and that the mobile home and touring caravan were being permitted to remain on it, but he questions how the Inspector has approached the bracketed phrase in the Glossary's definition of previously-developed land "(although it should not be assumed that the whole of the curtilage should be developed)". Mr Bowes says that in granting permission the Inspector seems to have assumed that the whole of the curtilage of Shirehall Farm "should be developed", without explaining why.

44. As a new point not previously raised, he referred to the absence of any condition attached to the planning permission removing permitted development rights at Shirehall Farm, and

the risk that the planning permission would now lead to additional development taking place under the Town and Country Planning (General Permitted Development) (England) Order 2015. He referred to Schedule 2 Part 1 (Class F) (which permits hard surfacing) and Part 2 (Class A) (gate, fence, wall or other means of enclosure).

45. Submissions of the defendant

46. Mr Banner considers that the point simply does not arise. There is no basis for the allegation that the Inspector assumed the whole curtilage should be developed. Indeed, the conditions he imposed relating to the siting of the mobile home and the extent of the pitch area of the mobile home and touring caravan to include hardstanding, parking and amenity areas showed that he made no assumption.

47. There had been no suggestion at the hearing that the Inspector should impose a condition limiting permitted development rights; and this matter was not therefore an issue on which he should be expected to have given consideration in the decision letter. Permitted development rights under Part 1 (Class F) only applied to the householder, that is to Mr and Mrs Beaney Snr, and not to the occupiers of the mobile home and tourer. Therefore, the position was unchanged as a result of the appeal permission. Any permitted development rights that would accrue to Mr and Mrs Beaney Jnr as occupiers under Part 1 (Class A) were trivial, since, in any event, Mr and Mrs Beaney Snr had those same rights. The only fence that the occupiers of the mobile home were likely to want was one between it and the farmhouse, where that was already the subject of a specific condition in the planning permission providing for replacement of the existing fence.

48. Conclusion on Issue 2

49. There is no basis to find that the Inspector has assumed that the whole curtilage should be developed. The conditions imposed strongly suggest that he has not done so. There is nothing of substance in the new points relating to permitted development rights.

50. The reasons given by the Inspector for his decision in relation to previously-developed land are intelligible and adequate so as to enable the reader to understand why the matter was decided as it was and what conclusions were reached on the important controversial

issues (see South Buckinghamshire District Council v Porter (No 2) 2004 UKHL 33; [2004] 1 WLR 1953, paragraph 36). This is not a case where the local planning authority is substantially prejudiced because the planning considerations on which the decision was based were not explained sufficiently clearly to explain what, if any, impact they may have in relation to the decision on future applications (see Save Britain's Heritage v No 1 Poultry Ltd [1991] 1 WLR 153,167.)

51. Accordingly, this ground must fail.

52. Issue 3

53. Submissions of claimant

54. Mr Bowes claims that the decision letter errs in its approach to "very specific circumstances" in three respects. First, there was an error of law in treating compliance with Policy CS20 of the Core Strategy as capable of contributing to the very special circumstances required for development in the Green Belt to take place by, amongst other policies, paragraph 87 of the NPPF. This is what the Inspector did in paragraph 36 of the decision letter. Second, if Mr Bowes were wrong on this, more reasoning was needed to explain why this compliance could so contribute. Third, and in any event, the Inspector's decision that there were very special circumstances to justify the development was irrational. The first two matters, but not the rationality challenge, were confined to Policy CS20.

55. On the first aspect Mr Bowes's oral submissions contained two strands. The first was that, properly construed, the decision in R (Wychavon District Council) v Secretary of State for Communities and Local Government [2008] EWCA Civ 692; [2009] 1 P & CR 15 (which was in fact, like the present claim, a Section 288 application and not a judicial review contrary to what the reported case name would suggest) supported the view that

the circumstances had to be very special on their own, as distinguishable from being of sufficient strength to justify an exception to Green Belt policy.

56. The second strand was that a proper direction on very special circumstances must "go beyond satisfaction of development control policies": R (Lee Valley Regional Park Authority) v Broxbourne Borough Council [2015] EWHC 185 (Admin), paragraph 71.
57. Applied to the facts of this case, the Inspector was entitled to pay regard to Policy CS20, even though it was a policy on site allocation rather than development control. Nevertheless, the mere fact that the application accorded with "the most directly relevant development plan policy" (see paragraphs 28 and 34 of the decision letter) was incapable of contributing to a finding of very special circumstances.
58. Mr Bowes said that there was a real danger otherwise that proposed development in the Green Belt which accorded with other policies in the Development Plan would be held, on that account, to be permissible because justified by very special circumstances.
59. If he were right on this head then there was no alternative to quashing since one of the two particular and principal matters to which the Inspector had regard in finding very special circumstances was "compliance with the policy related to gypsies and travellers" (see paragraph 36 of the decision letter).
60. If he were wrong on this head, and there could be circumstances where accordance with a policy such as CS20 could contribute to very special circumstances, then more reasoning was needed as to why this was so as had been the case on the facts of Lee Valley, paragraph 71, where the challenge on this head had failed. Absent such reasoning, the local planning authority was prejudiced in its role in relation to other sites.
61. On the third aspect Mr Bowes realised the heavy burden on him to show irrationality. Nevertheless, he drew attention to the way in which the decision in R (Chelmsford Borough Council) v First Secretary of State [2003] EWHC (Admin), [2004] 2 P & CR 34, had been analysed in Wychavon (paragraph 27). The conclusion that the circumstances in this appeal amounted to very special circumstances was a conclusion that no reasonable inspector could have reached in accordance with paragraphs 87 to 88

of the NPPF.

62. Submissions of defendant

63. Mr Banner did not argue that the decision could be saved if any of these three related submissions were to succeed.

64. There was no reason why compliance with Policy CS20 should not be one of the matters which together made up a composite bundle of very special circumstances which was found clearly to outweigh the harm. This was particularly so in circumstances where (a) in the local planning authority's area there was "an outstanding need for sites" (paragraph 21 of the decision letter); (b) "future traveller sites [identified by the local planning authority to meet the need] are likely to be located in the Green Belt" (paragraph 28 of the decision letter); (c) CS20 "does not seek to prevent any impact on openness" and in this case "openness would be reduced by a limited degree" (paragraphs 28 and 14 of the decision letter); (d) "in this case the consequences of a single pitch within a domestic curtilage are about as low as they could be" (paragraph 28 of the decision letter); and (e) "the factors in this case are unlikely to be repeated elsewhere" (paragraph 37 of the decision letter). Thus, there were special factors which explain why the compliance with CS20 was of particular relevance in this case. That was enough to render it capable of being part of the composite bundle.

65. The reasoning in Wychavon, paragraph 26, showed that the factors which make a case very special could be the same or at least overlap with those which justify holding that Green Belt considerations are clearly outweighed, any rigid division between the two sets of factors not being required.

66. The facts of Lee Valley were distinguishable. There, the only factor relied upon as a very special circumstance was a design issue. Even so, given the treatment which had been given to that matter in the officer's report, the challenge on that head failed (see paragraph 71). Here, the Inspector did not suggest that compliance with CS20 was sufficient on its own to constitute very special circumstances.

67. The argument on lack of adequate reasons lacked merit since the Inspector clearly

explained the relevance of CS20 to his decision.

68. The irrationality challenge was hopeless. It was within the range of reasonable planning judgments for the Inspector to accord the bundle of considerations sufficient weight that they clearly outweighed the harm so as to justify the conclusion that very special circumstances existed.

69. Conclusion on Issue 3

70. I accept Mr Banner's contentions that reference to Wychavon and Lee Valley are of no assistance to the claimant. The Inspector plainly had the reasoning in Wychavon in mind in the way he worded his decision letter.

71. This was not a case where mere compliance with other development control policies was claimed to constitute very special circumstances. The Inspector was clearly finding that a search for alternative gypsy sites was unlikely to yield a site with so few adverse consequences as in the present case (see paragraph 28 of the decision letter) and which accorded in so many respects with the allocation policy CS20. If that had stood on its own it might well have been capable of constituting very special circumstances justifying this development. I do not have to decide that point. But I can see no reason whatever why this policy compliance should not form part and indeed a particular part in the constitution of the bundle of circumstances found to be very special. That is enough to dispose of the first aspect of Issue 3.

72. The reasons challenge under issue 3 was initially expressed differently in the Grounds where the allegation went wider than policy CS20 and it was claimed that "the Inspector's reasons as to why very special circumstances existed were inadequate". Mr Bowes was wise to abandon that claim because the Inspector's reasons as a whole are very clearly reasoned and explained. The challenge is however no better when confined to the reasoning in relation to CS20. The Inspector has adequately explained why he took CS20 into account in the appellants' favour and why he placed reliance on it along with other matters in finding that very special circumstances existed to justify the development in the Green Belt. There is no failure or inadequacy of reasoning in the decision letter to

embarrass the council in dealing with future development control decisions. In particular, the Inspector has found that the factors which he assessed which included the unusual extent of compliance with CS20 were unlikely to be exactly repeated elsewhere (paragraph 37 of the decision letter). Whilst factors in planning applications are seldom "exactly repeated", the local planning authority should have no difficulty in drawing appropriate lessons from this appeal decision for application in other cases.

73. The rationality challenge is most surprising. I set out the way in which it was pleaded in paragraph 27 of the grounds:

- i. "The Inspector's conclusion at DL, 33 to 36, in a nutshell, is that the site's compliance with the site allocation selection criteria within CS20 Core Strategy 2011, the moderate shortfall of sites, the lack of alternatives, the limited weight attached to personal circumstances, and the fact that the land fell within what the Inspector understood as being previously-developed land, amounted collectively to 'very special circumstances', even assuming the Inspector had been correct to treat the site as previously developed, the circumstances relied upon cannot reasonably be said to be 'very special'."

74. Mr Bowes confirmed in oral argument that if he were wrong on Issue 1 he did not deny that the fact that the land fell within the definition of previously-developed land was a matter capable of going into the bundle of considerations which were eventually held to be very special. None of the other matters in my view was irrationally included in that bundle. There was in my opinion no overall irrationality. Given the bundle of factors, the facts and findings in this case are readily distinguishable from those in, for example, Chelmsford, which is why the factors in that case could be described as "unremarkable" (see Wychavon, paragraph 27). That in no way assists the claimant here.

75. Accordingly, the claim in respect of Issue 3 must also fail.

76. Disposal

77. Despite the clarity of Mr Bowes' presentation of the council's case, the application to quash is dismissed on all grounds.

78. MR BANNER: My Lord, thank you very much for that judgment. There are a few consequential matters. The first one is a small point. On a few occasions, if I heard it correctly, when Policy CS20 of the Core Strategy was referred to it came out as C20 (without the S).

79. DEPUTY JUDGE: That is helpful. The shorthand writer will note that we are dealing with CS20.

80. MR BANNER: I am also told that there were references to an Inquiry which ought to be to a hearing because the hearing procedure was used as well.

81. DEPUTY JUDGE: I said in the fourth line "following an informal hearing". I will bear that in mind.

82. MR BANNER: My friend says it was and I have no reason to doubt him.

83. The next thing that follows is an application for costs. Perhaps I may deal first with the principle. I simply rely on the principle that costs follow the event. I have won on all grounds and therefore my client is entitled to his costs.

84. DEPUTY JUDGE: I do not suppose, Mr Bowes, that that can be opposed, can it?

85. MR BOWES: It cannot. I do have two very small matters.

86. DEPUTY JUDGE: The next matter is to turn to your costs schedule which I have.

87. MR BANNER: The total claim - we have not included today's costs and I do not claim, add those - is £6,812 which is a little less than the costs the claimant would have claimed

had it been successful. I simply say at this stage that is a reasonable and proportionate amount for a claim of this nature. I think my friend has a couple of small points.

88. DEPUTY JUDGE: Mr Bowes, you have some submissions.

89. MR BOWES: There are two matters. The first is that my Lord will note that there is multiplicity of fee earners incurred in this case. First, section 3, Grade 7 fee earners £160 an hour.

90. DEPUTY JUDGE: I think that is done so that the £200 is very seldom charged and most of the work is done by those who charge the lesser fee rates. I think in most of these cases that is intended to benefit you rather than otherwise. Instead of simply getting Gary Howard and Clare Jones to do all the work, the others have been used. You say there is an excessive number.

91. MR BOWES: We say there must be some overlap between those three individuals. I see no reason why the council should bear that. The second point is a short point over the page. You will see attendance on others: counsel, court, co-defendant etc. The first category: personal attendances.

92. DEPUTY JUDGE: Which page am I on?

93. MR BOWES: Page 2, personal attendances: 3.7 hours at £160 an hour, £592. I have had the benefit of discussing this with my friend. He confirms that is not conference with him as counsel. Therefore, in my submission - - - -

94. DEPUTY JUDGE: It is not what?

95. MR BOWES: It is not a conference with my friend, conference with counsel. It is therefore attendance on somebody else. We say that is awfully high for a straightforward 288 claim. Therefore, what flows from that is that we invite the court to summarily assess costs in the quantum of £6,000.

96. DEPUTY JUDGE: What you say is that something should come off the 6,812?

97. MR BOWES: Yes.

98. DEPUTY JUDGE: You do not say precisely how much.

99. MR BOWES: We would invite the court to summarily assess at 6,000.

100. DEPUTY JUDGE: You would be content at 6,000.

101. MR BOWES: Yes.

102. DEPUTY JUDGE: Has that point previously been notified to Mr Banner or was that new to him?

103. MR BOWES: No. It was new to him this morning. I took instructions on it.

104. DEPUTY JUDGE: Mr Banner, what do you say on those two points?

105. MR BANNER: On those two points, if I may deal with the multiplicity of fee earners first. Mr Lord summarises the point very accurately, if I may say so, that the division of labour is intended to save costs rather than add to them. Principally the costs were done by the mid-ranging fee earners subject to the supervision of the higher-earning fee earners where appropriate, and where tasks could be delegated to the more junior solicitor that was done. That was very sensible and reduced costs. As to the fact that there were - - - -

106. DEPUTY JUDGE: I am just looking through. Where is the £200 ever claimed?

107. MR BANNER: It may not even be on the facts of this case.

108. DEPUTY JUDGE: I am just looking. Page 1, the only reference is to £160.

109. MR BANNER: It is in the schedule. If you go to the very final page - where the work done on documents which then feeds its way through into the form - there is a small amount, in fact barely over one hour, of work done by the more senior lawyers.

110. DEPUTY JUDGE: Where do I find that?

111. MR BANNER: You should have the spreadsheet.
112. DEPUTY JUDGE: I have the spreadsheet.
113. MR BANNER: Do you see "A hours"?
114. DEPUTY JUDGE: Yes.
115. MR BANNER: "A hours". There is 1.2 hours. A is grade A.
116. DEPUTY JUDGE: A is grade A. I have got it.
117. MR BANNER: That is how I understand it anyway.
118. DEPUTY JUDGE: We have a total of 1.2 hours. Of the entire claim, only 1.2 is being claimed at the £200 rate.
119. MR BANNER: That is correct. In my submission it is reasonable for the Secretary of State to have his more senior lawyers keep an eye on - a degree of scrutiny - material that goes out in his name. There is no excess here.
120. As to the fact that there were multiple grade B (£160 an hour lawyers), there was no overlap. I can certainly speak for the division of labour between Mr Torru and Miss Fern because when I prepared my skeleton argument between Christmas and the New Year Mr Torru was away and he had arranged for Miss Fern to receive my skeleton argument, pass it to material clients and to obtain those clients' instructions and then correspond with me. So there was no overlap there. It was simply to cover the absences from time to time of particular individuals.
121. DEPUTY JUDGE: What do you say about the other point raised which is the excessive number of personal attendances - 3.7?
122. MR BANNER: Unfortunately, all I can do is speculate because despite the fact that my friend and his clients have had their schedules since the beginning of this week, these points were only put to me this morning. My instructing solicitor is in the Court of Appeal at the moment. I can only speculate. What I can say is that specific instructions

were taken from the Inspector. I had the benefit of a note from the Inspector at the outset of these proceedings to inform me of various points. Some of the documents in this case produced by my client were filed at court by the Government Legal Department as opposed to by my clerks. Either or both of those may have been within that. There may have been other quite legitimate things but I simply do not know.

123. DEPUTY JUDGE: Does filing at court count as personal attendances?

124. MR BANNER: I think it probably would do because it is attendance on others, including court, so turning up at court with a document would appear to fall within that. I am put in a difficult position by this point being raised only at the last minute this morning.

125. What I would say by way of a higher-level observation is that - contrary to what my friend suggested - it is not an obviously egregious amount of time to spend on attendances in a claim of this nature. There are a significant number of attendances in the claimant's statement of costs amounting to some £450 which are not grossly dissimilar to the amount claimed by my client. In my submission there is nothing overtly untoward that justifies suggesting that the time claimed is not reasonable and nor is it disproportionate, either individually or in terms of its effect. Rounded down, my friend suggests 6,000 which is, in fact, greater than the sum claimed for those attendances in any event.

126. That is all I can say on the matter.

127. DEPUTY JUDGE: I think he was suggesting that you rounded it down, that dealt with the two matters which he was raising broadly.

128. MR BANNER: What I would say also, again by way of interesting observation of my friend's client's costs, is that there were three different fee earners referred to in their statement of costs too. So the council must accept the principle of an appropriate division of labour between more expensive, more senior lawyers, mid-ranking lawyers and junior lawyers depending upon the nature of the task in hand. One sees that in the description of fee earners at the top of the page.

129. DEPUTY JUDGE: It is slightly unusual - this case - in that the claimant's costs only slightly exceed the defendant's costs whereas claimant's costs usually very considerably exceed defendant's costs partly because they do not have the economies which a local authority conducts because they have the primary burden of presenting the case and that usually, therefore, inflates the costs. It is commendable in this case that their costs have been kept low. Mr Bowes, is there anything more you want to say on the matter?

130. MR BOWES: No. It is in the hands of my Lord to summarily assess the matter and so I invite my Lord to do.

131. Ruling on Costs

132. DEPUTY JUDGE: I have heard the arguments on this matter. There is no justification for saying that the Treasury Solicitor had involved too many people or too much time by a grade A fee earner, it being clear that only 1.2 hours has been done by a grade A fee earner and it being plain from the claimant's own schedule that in their case three solicitors were involved at different rates of pay, including one at £300 an hour which was much higher than any rate of pay charged by the Treasury Solicitor.

133. So far as the suggestion that the 3.7 hours for personal attendances on others was excessive, that had been raised very much at the last moment when this statement has been available for several days and was provided before the hearing on Wednesday of this week. I am simply not in a position to say that it was an unreasonable or disproportionate amount.

134. Accordingly, I decline to reduce the amount and I summarily assess the costs in the total claim which is £6,812.

135. Are there any other matters arising?

136. MR BOWES: There is one application, and that is to seek from my Lord permission to appeal. It has two strands, this application. It relates to Ground 1. The first strand is that there is a reasonable, compelling prospect of success, and that is that

notwithstanding my Lord found that there was a rational explanation for a distinction between land in a built-up area and land not in a built-up area when safeguarding the phenomena of "garden grabbing", that in my submission does not reveal itself from the contemporaneous policy statements of the Department or the Department's (Inaudible).

137. My second point that arises from that is that my Lord has not given effect to the intention of the Minister in producing these amendments. That intention was clear, and it is proper, as I think my Lord accepted, to read Policy Statements in the context of their intention.

138. On that basis I seek permission to appeal on the basis that it has a reasonable, good, prospect of success.

139. The second basis on which permission to appeal is sought is that there is a compelling argument, compelling reason, that the Court of Appeal hear this argument in that it is a matter of acute public interest - the status of residential gardens - in that there is a significant difference in the planning system as to how brownfield and greenfield are treated identified within my Lord's judgment and, secondly, as demonstrated from the Minister's Statement himself, taking the trouble to draw this matter to the attention of the House of Commons.

140. On those two bases I respectfully seek from my Lord permission to appeal.

141. Ruling on Permission to Appeal

142. DEPUTY JUDGE: So far as the first ground is concerned, I do not consider that there is a reasonable prospect of success.

143. So far as the second ground, I do not consider that that is a compelling reason for the Court of Appeal to consider it. But of course if application is made to the Court of Appeal for permission they will have the opportunity, if they see fit and if they were to feel that there were not grounds on the first matter but that there were on that matter, to grant leave on that matter on the grounds of that consideration.

144. Accordingly, I refuse leave.

145. I think that as this has been a read-out judgment, your time for appealing should not begin to run until there is issued the perfected transcript. (Pause) I may get it next week but then I have to turn it around so there may be a delay. Accordingly, your time for appeal will not start until you receive that. I do not think, Mr Banner, that is going to prejudice anyone in any way.

146. MR BANNER: I did have in mind there are some people, the beneficiaries of the planning permission, who will want to agree finality but it sounds like it is not going to be a delay of months as opposed to days.

147. DEPUTY JUDGE: In any event, they are living in the caravan there so I do not think it is going to make too much difference to them, the extra time.

148. MR BOWES: I am grateful to you. You anticipated my further application.

149. DEPUTY JUDGE: I am grateful to both counsel and of course those behind you for the way the case has been prepared and presented. We got through it very speedily earlier this week.

EP3

Appeal Decision

Site visit made on 30 September 2014

by Victoria Lucas-Gosnold LLB MCD MRTPI

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

Decision date: 15 October 2014

Appeal Ref: APP/C4235/A/14/2222865

368 Chester Road, Woodford, Cheshire, SK7 1QG

- 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 Bernard Waywell against the decision of Stockport Metropolitan Borough Council.
 - The application Ref DC053889, dated 25 October 2013, was refused by notice dated 2 April 2014.
 - The development proposed is erection of detached dwelling.
-

Decision

1. The appeal is dismissed.

Main Issues

2. One of the Council's reasons for refusal related to whether or not the development proposed would make sufficient provision for recreation and amenity open space. In this regard, a Unilateral Undertaking was submitted by the appellant which aims to ensure that this requirement is met via the payment of a financial contribution to the Council. In light of this, the Council have indicated in their appeal statement that this would overcome their concerns and that they no longer wish to pursue this particular reason for refusal. I shall therefore consider the appeal on that basis.
3. Accordingly, I consider the main issues to be:
 - Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework and development plan policy;
 - Whether the proposal would be acceptable, having regard to the principle of sustainable development; and
 - If the proposal is inappropriate development whether the harm by reason of inappropriateness and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify it.

Reasons

Planning policy context

4. The appeal site forms part of the side garden currently associated with No. 368 Chester Road (No. 368). The appeal proposal would see the construction of a two storey, five bedroom detached dwelling. The plans and documents submitted show that it would be of a similar scale to existing dwellings in the area. The appeal site is within the Green Belt and the Woodford Landscape Character Area.
5. Policy GBA1.2 of the Stockport Unitary Development Plan review (May 2006) (UDP) states that within the Green Belt, there is a presumption against the construction of new buildings unless it is for certain specified purposes, which include limited infilling or redevelopment of Major Existing Developed Sites. Based on the information before me, the appeal site is not a 'Major Existing Developed Site'.
6. Policy GBA1.5 of the UDP also states that within the Green Belt new residential development will be restricted to certain specific types of development, such as dwellings essential for the purposes of agriculture. The policy also goes on to list types of proposals relating to existing residential uses in the Green Belt which may be permitted. None of the exceptions listed are relevant to the appeal proposal before me.
7. Policy CS4 of the Council's Core Strategy (March 2011) (CS) sets out the Council's approach to the distribution of housing. Policies within the CS, such as CS4, set out the Council's approach to the provision of housing. Essentially, priority is given to the development of previously developed land within urban areas. With regard to Green Belt development, a sequential approach is set out with the fourth (and last) criteria stating, among other things, that only if it is essential to release additional land to accommodate the Borough's local needs, a limited number of the most suitable Green Belt sites will be used for housing. The policy also states that small infill sites within the Green Belt, for example residential ribbon development, will not be used for housing due to the negligible contribution they would make to meeting local needs and the harmful cumulative impact such development would have on the openness of the Green Belt. The policy also states that when considering Green Belt release, regard will be had to, amongst other things, maintaining openness and the purposes of including land in Green Belts.
8. Paragraph 89 of the National Planning Policy Framework (the 'Framework') states that the construction of new buildings should be regarded as inappropriate in the Green Belt, with certain specific exceptions. These include limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan.
9. I note the Council officer's report does state that the particular exception in the Framework regarding 'limited infilling in villages' only refers to where these issues are covered by policies set out in the Local Plan. However, that is not precisely what the Framework says. Regard must be had to the structure of the sentence concerned as a whole. The comma that has been inserted in the sentence is therefore crucial in understanding its meaning. Essentially it divides this particular exception into two different types of development. As

such, the reference to 'local plan policies' is relevant to limited affordable housing only and not limited infilling in villages. Whilst I note the Council's reference to PPG2, I must have regard to the extant national policy document.

10. Therefore whilst the Framework does specify limited infilling in villages as a specific exception as to what can be considered to be inappropriate development in the Green Belt, local policy does not. Accordingly, whilst the general thrust of the Council's approach in seeking to restrict new development in the Green Belt is largely consistent with the Framework, there is a conflict in this particular regard. In such circumstances, local policies carry less weight in accordance with paragraph 215 of the Framework. I shall therefore determine this issue with regard to the Framework.
11. I note that in the previous appeal¹ decision which the appellant has referred to, the Inspector has followed a similar approach albeit that the circumstances were different and it was within a different Council area.

Whether inappropriate development – National policy

12. This appeal therefore turns on whether or not the appeal proposal would amount to limited infilling in a village. There is little information before me to indicate whether or not the appeal site is within any defined settlement boundary for Woodford.
13. Woodford does have a church, some local shops including a small supermarket, a pub, restaurant and bus services connecting it with nearby towns, including Poynton and Bramhall. There is also a cricket club, garden centre and a community centre. There is also the Woodford Aerodrome site which I understand is in the process of being re-developed. Therefore, Woodford does have many of the key elements of a community that you would expect to find within a village.
14. The appeal site itself is located within an envelope of existing linear development which fronts onto Chester Road. There is a continuous line of built development between the appeal site and the local shops. As such, the Council have described the appeal site as being within a line of existing 'ribbon development' within the Green Belt. However, the appeal site is visually and functionally linked with the rest of Woodford. Based on the information before me, I am therefore satisfied that the appeal site is within an existing village for the purposes of the Framework.
15. My attention has been drawn to the Stockport Unitary Development Plan Inspector's report. The Inspector concluded that in areas of ribbon development (as opposed to villages), infilling would be neither sustainable nor in keeping with the appearance of the countryside. However, since that report was issued, the Framework has since been published and a material change in national policy has occurred. Therefore, whilst I have had regard to it, I have determined this appeal in relation to the particular circumstances of the appeal site. Similarly, although the Council have referred to PPG2, this has since been cancelled and I must have regard to the extant national policy document.
16. The appeal dwelling itself is a substantial, detached property set within a large, spacious plot. Neighbouring dwellings are similarly situated. The appeal site

¹ APP/A0665/A/13/2195160 Decision date: 30 September 2013

can therefore be described as an infill plot within a line of existing dwellings within a village.

17. For the reasons given above, I therefore conclude that the proposal would be not inappropriate development in the Green Belt as described in paragraph 89 of the Framework.

Openness

18. The proposed dwelling would be located on garden land adjacent to No. 368 and would be within a continuous line of similar dwellings along Chester Road. The appeal site is therefore already surrounded by various domestic paraphernalia including landscaping, driveways and parked cars. Therefore, having regard to the existing situation, although there may be a moderate intensification of residential usage at the site as a result of the proposal, this would not be significant. There would also be no significant encroachment into the countryside as a result of the proposal as the appeal site is already within residential use and would be situated within an established envelope of existing development. Therefore whilst the proposal would have some effect on openness, bearing in mind that it is not inappropriate development, I am satisfied that significant harm to the Green Belt would not be caused by the scheme. There would also be no conflict with the purposes of including land within it.

Whether sustainable development

19. The Council accepts there it is currently unable to demonstrate a five year supply of housing land with either a 5% or 20% buffer in line with the requirements set out in the Framework. Policy H-2 of the Council's CS states that when there is less than a five year deliverable supply of housing during the first ten years of the plan period, a previously developed land (PDL) target of 80% will apply to all developments and the required accessibility score for sites will be gradually lowered on an annual basis.
20. There is little specific information before me as to the council's progress towards any set PDL target. As the appeal site is garden land, it is specifically excluded from the definition of previously developed land contained within the Framework (Annex 2). It is therefore greenfield for the purposes of planning policy. I accept that both national and local policy encourage the effective use of land by reusing land that has been previously developed. However, there is nothing in the Framework, or indeed the development plan policies before me, which explicitly excludes the development of greenfield land. This is rather a neutral consideration which does not weigh in favour of the development proposed.
21. The appeal site has been given an accessibility score of 31 using a computer based criteria system. The Council accepts that different properties on the same road may be awarded a different score. I understand that this is because the time and distance from different properties to access different facilities and services will vary. This seems to me to be a reasonable approach.
22. The Council state that the minimum score required in order for the appeal site to be deemed accessible would be 34. Although there is little specific information before me as to how the specific score for the appeal site was arrived at, I understand that it is based on an assessment of whether

amenities, retail opportunities, education, health and employment are accessible from a site via sustainable transport mode (public transport, walking and cycling).

23. As previously stated, there is a small supermarket which is approximately 800 metres from the site and there are also a few shops slightly further away. I understand that as the Council consider the centre of Woodford to be small, the shops were not taken account of when the accessibility of the appeal site was scored. This does represent a slight weakness in the assessment, as the supermarket in particular will be likely to meet some needs of future occupants to a limited extent. Although the supermarket may be close enough to walk to in order to purchase a small amount of shopping, I am in agreement with the Council that future occupants would be unlikely to choose to walk this distance in order to undertake a large weekly food shop. In addition, due to the small scale of that store, I consider that future occupants would be likely to travel to larger supermarkets further afield via a car in order to do their weekly shop. The other shops in Woodford include a hairdresser and a bathroom store and would therefore be less likely to meet the day to day needs of future occupants. I also understand that there is no school or GP surgery within Woodford.
24. The appeal site is close to the administrative boundary of Cheshire East, within which the nearby town of Poynton is situated. The Council have confirmed that the accessibility score for the appeal site has taken into account the services and facilities available in Poynton. My attention has been drawn to the existence of a number of bus services which connect the area of Woodford with nearby towns such as Poynton, where a greater range of facilities including banks, schools and large supermarkets are available. The railway station in Poynton also provides services to the wider area, including Stockport city centre. Whilst that may be so, I understand that the nearest bus stop to the appeal site is approximately 100 metres away and is served by only one bus route. Although there may be other bus stops or a train station in the locality, these are further away from the appeal site. In particular, the appellant has referred to bus stops which are between approximately 1km and 2km from the appeal site and train station 2km away.
25. Future occupants would therefore need to walk or cycle for a greater distance before being able to access bus or train routes providing onward connections to centres where a greater range of services and facilities are available. Whilst I accept that future occupants may be physically capable of undertaking such a journey, the likelihood is that they are less likely to choose to do so if they are required to walk some distance to the nearest bus stop or train station. Whilst this does not mean that the appeal site can be considered 'remote', it does mean that future occupants of the development proposed would be more likely to be reliant on the car. Although the appellant has referred to travel distances set out in PPG13 and suggests that 2km for walking and 5km for cycling would be acceptable, this document has been cancelled and there is no such reference in the Framework which replaced it.
26. The appellant has also referred to a pre-bookable local link service which residents in Woodford are able to book between one week and one hour in advance. This operates on Mondays to Saturdays throughout the day and up until 7pm. I accept that this service would seem to improve accessibility to sustainable transport options for future occupants of the appeal proposal.

However, as any return journey would also need to be booked in advance this may not always prove to be the most convenient option. Future occupants may desire the greater flexibility offered by a regular bus service with a wider range of travel options rather than having to fix their travel plans in advance. Therefore future residents may, in reality, be less likely to choose to use this service as they may perceive it as more restrictive.

27. The advent of online shopping and banking may mean that a range of goods and services can now be ordered via the web thereby reducing the need for some car journeys. However, this factor alone would be unlikely to remove the need for future occupants to undertake the majority of journeys via a car in order to access the necessary range of goods and services.
28. The appellant has referred to improvements to the accessibility of the area which are likely to be brought forward through measures associated with the Woodford Aerodrome Scheme. I understand that the Council has since approved the scheme, subject to a s. 106 agreement and referral to the Secretary of State. Whilst the scheme may see additional services and facilities within the Woodford area, it has not yet been implemented. I therefore attach limited weight to this consideration.
29. I must also have regard to paragraph 49 of the Framework which is clear that housing applications should be considered in the context of the presumption in favour of sustainable development. The proposal would see the creation of one additional dwelling which would be of limited social benefit, given the scale of the appeal proposal. There is also likely to be a limited economic benefit during the construction phase of the proposal, were the appeal to succeed.
30. Drawing matters together, I have found that there are limited social and economic benefits which weigh in favour of the proposal. However, I have also found that future occupants would be likely to be reliant on the car in order to access a range of goods and services. As such, the appeal proposal would not be within a location which would maximise sustainable transport options and it would be harmful in this regard.
31. Accordingly, I conclude that the proposal would not be acceptable, having regard to the principles of sustainable development. The proposal would therefore conflict with policies CS4, H-2, CS9 and T-1 of the Council's CS which, among other things, state that all housing developments will be in locations that are amongst the most accessible; that development is in locations which are accessible by walking, cycling and public transport; and to facilitate a reduction in the need to travel, development will be focused in the Town Centre in particular and also other existing centres, as these locations are the most accessible and already contain a wide provision of services and amenities.

Other Considerations

32. As the proposal would not be inappropriate development in the Green Belt, it is not necessary for me to consider this matter further.

Conclusion

33. Accordingly, I have found that the proposal would not be inappropriate development as described in the Framework (paragraph 89). Therefore whilst the proposal would have some effect on openness, bearing in mind that it is

not inappropriate development, I am satisfied that significant harm to the Green Belt would not be caused by the scheme. There would also be no conflict with the purposes of including land within the Green Belt.

34. However, I have found that the proposal would not be acceptable with regard to the principles of sustainable development. This is because the lack of sustainable transport options in proximity to the site outweighs the limited economic and social benefits that I have identified.
35. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Victoria Lucas-Gosnold

INSPECTOR