



Department for  
Communities and  
Local Government

Martyn Twigg  
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Our Ref: APP/R0660/A/12/2187264

18 July 2013

Dear Sir,

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL BY GLADMAN DEVELOPMENTS LIMITED  
AT LAND OFF QUEENS DRIVE, NANTWICH, CHESHIRE  
APPEAL REF: APP/R0660/A/12/2187264**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, Jennifer Vyse DipTP DipPBM MRTPI, who held a public local inquiry on 5 and 6 March 2013 into your appeal for non-determination of an application by Cheshire East Council (the Council) for residential development of up to 270 dwellings, a convenience store/tea room, access details, highway works, public open space and associated works at land off Queens Drive, Nantwich, Cheshire in accordance with application number 12/2440N, dated 26 June 2012.
2. On 21 February 2013 the appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 to Schedule 6 to, the Town and Country Planning Act 1990 because it involves a proposal for residential development of over 150 units, and is on a site of more than 5 hectares, which would have a significant impact on the Government's objective to secure a better balance between housing demand and supply, and create high quality, sustainable, mixed and inclusive communities.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission be granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions and agrees with her

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recommendation. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

### **Procedural Matters**

4. The Secretary of State notes that the application was submitted in outline with all matters, other than access, reserved for future consideration (IR1.1).
5. The Secretary of State has considered carefully the background history to this appeal, as set out by the Inspector at IR1.2-1.4, and he notes the putative reasons for refusal set out by the Inspector at IR1.5. The Secretary of State is aware that, since the appeal was lodged, the Council has granted planning permission on the site for a scheme of up to 240 dwellings. He notes the appellant's request at the Inquiry (IR1.8) that consideration be given to the application as originally submitted, for up to 270 dwellings, but, if the outcome was likely to be unfavourable, that consideration be given to a condition restricting the number of dwellings to up to 240. The Secretary of State agrees with the Inspector, for the reasons given by her at IR1.9, that no-one's interests would be unduly prejudiced were the appeal to be considered on this basis.
6. The Secretary of State further notes that, in relation to this appeal, and as set out in the statement of common ground between the appellant and the Council, dated 21 February 2013, the Council were not pursuing the last of its putative reasons for refusal relating to housing land supply and prematurity (IR1.7). Additionally, he notes that, although the Council was represented at the Inquiry, it had withdrawn its evidence in its entirety (IR1.7). As a result of this stance, it was not possible for objectors or the Inspector to test the reasons for the Council's stance or to explore policy or related matters.
7. Finally, the Secretary of State observes that the Council made a short oral submission to the Inquiry on housing land supply in which it confirmed that, in the circumstances of this appeal, it cannot demonstrate a five year supply of deliverable housing land; that it was not seeking to change its case in the light of the 2013 Strategic Housing Land Availability Assessment (SHLAA) published shortly before the Inquiry; that it offered no challenge to the evidence of the appellant on this matter; and that paragraph 14 of the National Planning Policy Framework (the Framework) was therefore engaged (IR6.1-6.2).

### **Matters arising after the Inquiry**

8. Following the close of the inquiry, the Secretary of State received representations from those listed at Annex A. The Secretary of State has given careful consideration to this correspondence, but is satisfied that it does not raise any new issues not covered at the inquiry and upon which he requires further information. Copies of this correspondence may be obtained, on written request, from the address at the bottom of the first page of this letter.
9. On 20 May 2013, after the Secretary of State had received the Inspector's report, the Regional Spatial Strategy for the North West (RSS) was revoked. He referred back to parties on 30 May 2013 seeking comments on whether the revocation of the RSS affected the case put to the Inquiry, or subsequently to

the Secretary of State, in respect of the appeal. Responses to this letter were copied to the main parties on 24 June for any final comments. A schedule of correspondence received is at Annex B to this letter. The Secretary of State has taken this correspondence into account in reaching his decision. Copies of this correspondence may be obtained, on written request, from the address at the bottom of the first page of this letter.

### **Policy considerations**

10. In deciding this appeal, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
11. The Secretary of State notes that the Inspector, at IR4.2, refers to the RSS as part of the statutory development plan. As stated above, he is aware that, since receiving the Inspector's Report, the RSS has been revoked and no longer forms part of the development plan. He has therefore given no weight to any RSS policies relevant to this appeal. He recognises that, therefore, the development plan consists of the saved policies in the Borough of Crewe and Nantwich Replacement Local Plan 2011.
12. The Secretary of State agrees with the Inspector that the development of the Cheshire East Core Strategy, which would form a part of the new Local Plan, is at a very early stage and he has, therefore, afforded little weight to it in his decision.
13. Other material considerations which the Secretary of State has taken into account include the Framework; Technical Guidance to the National Planning Policy Framework; Circular 11/95: Use of Conditions in Planning Permission; and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.
14. He has also had regard to Interim Planning Policy: Release of Housing Land (2011); Interim Planning Statement on Affordable Housing (2011); the draft Nantwich Town Strategy 2012; shaping our future: a development strategy for jobs and sustainable communities 2013; Planning for Growth 2011; the Strategic Land Availability Statement 2012 update; the Local Transport Plan: Final Strategy 2011-2026; and the Strategic Housing Land and Availability Study 2013.
15. In determining this appeal, the Secretary of State has had special regard to the desirability of preserving the three listed structures, consisting of two accommodation bridges and a cast iron milepost, that lie in close proximity to the western site boundary and their settings, as well as the setting of Dorfold Hall, a grade I listed building, and any features of special architectural or historic interest the listed structures and building possess, as required under the provisions of sections 16 and 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Secretary of State has also had regard to the significance of the grounds of Dorfold Hall, which are a Registered Park.
16. In determining these appeals, the Secretary of State has had regard to the statutory duty to pay special attention to the desirability of preserving and

enhancing the character or appearance of the Nantwich Conservation Area, as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **Main issues**

17. The Secretary of State has considered carefully the Inspector's conclusions at IR10.1-10.6. Whilst he notes that the Council's position in this case regarding a 5 year housing land supply relates to this appeal, he considers that the requirement of a 5 year housing land supply, as set out in the Framework, is in respect of the local planning authority's area, and is not site specific.
18. The Secretary of State agrees with the Inspector's conclusion at IR10.3 that the Council's housing land supply policies cannot be considered as up-to-date and, unless material considerations indicate otherwise, permission should be granted.
19. The Secretary of State agrees with the Inspector that the main considerations are those set out at IR 10.7.

### The suitability of the site for housing

20. The Secretary of State agrees with the Inspector, for the reasons given at IR10.9 to IR10.14, with the exception of references to policy within the RSS which has now been revoked, that the quantum of development proposed would have no greater impact than the approved scheme on the suitability of the site for residential development in terms of national and local planning policy and guidance (IR10.15).
21. The Secretary of State notes the Inspector's comment at IR10.12 that Nantwich is identified as a key service centre in the emerging Core Strategy as well as the appellant's representations in their letter dated 3 June 2013. The Secretary of State is aware that policy RDF2 has been revoked and, as he affords little weight to the emerging Core Strategy, has not taken account of this policy in his decision.
22. The Secretary of the State notes the Inspector's assessment of the proposal against the North West Sustainability Checklist which formed part of the RSS (IR10.11). Whilst he recognises that RSS policy DP9 has now been revoked and, therefore, there is no longer a requirement to meet at least the minimum standards of the checklist, he considers the Inspector's assessment of the proposal against the checklist useful in demonstrating the sustainability of the site.

### Highway capacity and safety

23. The Secretary of State notes that the highway authority is satisfied that the new junction proposed to serve the appeal site would operate with considerable reserve capacity during peak hours; takes no issue with the capacity or safety of the three-arm priority arrangement; and considers that the development would have no significant adverse impact on the wider strategic highway

network (IR10.16). He has paid special attention to the desirability of preserving and enhancing the character or appearance of the Nantwich Conservation Area. He is aware that the initial traffic scheme proposed in relation to the Queens Drive/Welsh Row junction has been discarded due to the adverse implications for the character and appearance of the Conservation Area. The Secretary of State is satisfied that, as agreed by the Highway Authority, upgrading the current pedestrian link between Edmund Wright Way and Taylor Drive, so that it could take traffic, would divert sufficient traffic away from the junction to mitigate any concerns in relation to junction capacity (IR10.17-10.19).

24. The Secretary of State agrees with the Inspector's conclusion that, whilst the development proposed would result in a material increase in traffic on the local highway network, there is no reason to suppose that up to 30 more dwellings on the site would have a materially greater impact in terms of highway capacity and safety than the permitted scheme, and that there would be no conflict with the development plan in this regard (IR10.20).

#### Other Matters

25. The Secretary of the State agrees with the Inspector, for the reasons she gives at IR10.21 that the additional 30 dwellings would not result in harm to the provision of open space. He has had special regard to the desirability of preserving the listed structures and building and their settings, including the significance of the registered park, and any features of special architectural or historic interest they possess. He agrees with the Inspector, for the reasons given at IR10.22-10.23 that the additional 30 dwellings would not result in material harm to the listed structures or building or their settings or to the significance of the registered park. With regards to flooding the Secretary of State agrees with the Inspector that the risk of over topping or breach of the canal would not increase as a consequence of the additional 30 dwellings proposed and that mitigation could be secured in detailed submissions (IR10.24). With regards to drainage he agrees with the Inspector that a detailed drainage scheme could be secured by condition (IR10.25).

#### Conditions

26. The Secretary of State has considered the proposed conditions and the Inspector's comments at IR12.1 to IR12.13. He is satisfied that the conditions proposed by the Inspector are reasonable, necessary and comply with the provision of national policy as set out in Circular 11/95.

#### Obligation

27. The Secretary of State has considered the unilateral undertaking submitted by the appellant and the Inspector's comments at IR11.1 to IR11.9. He agrees with the Inspector that the contributions and obligations secured are necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development, and, therefore, comply with the Community Infrastructure Levy Regulations.

## **Overall Conclusions**

28. The Secretary of the State agrees with both the Council and the Inspector that, in this case, it cannot be demonstrated that there is a five year supply of deliverable housing land, despite the publication of the 2013 SHLAA, and that in these circumstances the Council's housing land supply policies are out of date, and paragraph 14 of the NPPF is therefore engaged. He further agrees that the quantum of development proposed would have no greater impact than that already approved for this site; that the additional dwellings would not materially impact on highway capacity and safety; and that all other matters can be satisfactory dealt with at the reserved matters stage.

## **Formal Decision**

29. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission for residential development of up to 270 dwellings, a convenience store/tea room, access details, highway works, public open space and associated works in accordance with application number 12/2440N, dated 26 June 2012 subject to the conditions listed in Annex C to this letter.

## **Right to challenge the decision**

30. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

31. A copy of this letter has been sent to Cheshire East Council. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

**Richard Watson**

Authorised by Secretary of State to sign in that behalf

**Post-Inquiry Representations**

<b>Correspondent</b>	<b>Date</b>
Mr R Hastie	17 March 2013
Martyn Twigg on behalf of Gladman Developments Limited	2 May 2013

**ANNEX B****Representations received with regards to the Secretary of State's letters dated 30 May 2013 and 24 June 2013**

<b>Correspondent</b>	<b>Date</b>
Martyn Twigg on behalf of Gladman Developments Limited	letter dated 3 June 2013 received by email
Jonathan Howell	email dated 20 June 2013
Martyn Twigg on behalf of Gladman Developments Limited	email dated 24 June 2013
Ben Haywood on behalf of Cheshire East Council	email dated 24 June 2013

**Conditions**

- 1) Details of 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 all 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 reserved matters submissions required by condition 1 shall accord with the provisions of the illustrative masterplan (Plan No 4973-L-03 Rev F) and the terms of the Design and Access Statement.
- 5) The reserved matters submissions required by condition 1 shall include a minimum of 9,450 sqm open space comprising at least 4,050 sqm shared recreational open space and 5,400 sqm shared children's play space within the development. The children's play space shall include at least six pieces of play equipment for younger children, plus at least six pieces for older children, and a Multi Use Games Area.
- 6) The development hereby permitted shall be carried out in accordance with the following approved plans: red line location plan 4973-L-01-Rev E (June 2012) and the Proposed Site Access 90189/101 Rev B (contained in the Transport Assessment).
- 7) Prior to commencement of development, details of the widths, finished levels, construction and drainage of the means of access to the site, internal estate roads, and any areas of hard surfacing, shall be submitted to and agreed in writing by the local planning authority. Development shall be carried out only in accordance with the approved details.
- 8) None of the dwellings hereby permitted shall be occupied until the existing signal junction at Waterlode/High Street/Welsh Row has been improved in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The details to be submitted shall include revised staging for right-turn vehicles, additional signal equipment and controller changes, and revised carriageway markings.
- 9) None of the dwellings hereby permitted shall be occupied until a detailed Travel Plan has been submitted to and approved in writing by the local planning authority. Among other things, the Travel Plan shall include a timetable for implementation and provision for monitoring and review. The Travel Plan shall be implemented in accordance with the agreed timetable and details and shall remain operative as long as any part of the development is occupied.

- 10) Prior to the commencement of development, an Environmental Management Plan (EMP) with respect to the construction stage of the development, shall be submitted to and approved in writing by the local planning authority. No development shall take place except in complete accordance with the approved EMP.
- 11) Prior to the commencement of development, a Landscape Management Plan, including long term design objectives, management responsibilities, and maintenance schedules for all areas of existing and proposed landscaping, shall be submitted to, and approved in writing by, the local planning authority. The Landscape Management Plan shall be implemented in accordance with approved details.
- 12) No development or other operations, including site clearance, shall commence until details of a scheme for the protection, during construction, of trees, shrubs and hedges growing on or adjacent to the site, has been submitted to and approved in writing by the Local Planning Authority. The measures set out in the protection scheme shall be provided on site, in accordance with approved details, prior to development or other operations, including site clearance, commencing and shall be retained at all times during the construction works, unless the local planning authority gives prior written consent for any variation. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any protected area.
- 13) No development shall commence (including any tree felling, tree pruning, soil moving, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the local planning authority. No development shall take place except in complete accordance with the approved Method Statement. The Method Statement shall include the following:
  - i) specification details for any proposed treework;
  - ii) implementation, supervision and monitoring of the approved specification details;
  - iii) timing and phasing of arboricultural works in relation to the approved development;
  - iv) specification for any works within root protection areas; and,
  - v) supervision and monitoring of works within root protection areas.
- 14) Prior to the commencement of development, details of the routes of any services under the crown spreads of existing trees, or within 1 metre of any retained hedgerow, and a detailed Construction Specification/ Method Statement for their installation, shall be submitted to and approved in writing by the local planning authority. The installation of any underground service shall not take place other than in complete accordance with the approved Construction Specification/ Method Statement.

- 15) Prior to any commencement of development, a scheme detailing measures, including the timing of works, to protect newts, bats, badgers and breeding birds from disturbance and harm, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out only in accordance with agreed scheme.
- 16) Prior to commencement of development, details of bat and bird nest boxes to be provided at the site shall be submitted to and approved in writing by the local planning authority. The approved boxes shall be provided in accordance with a timetable that shall previously have been agreed in writing by the local planning authority and shall be retained thereafter.
- 17) Prior to commencement of development, details of the design and layout of the habitat creation/mitigation areas, including ponds, hedgerow creation, protection and enhancement, a timetable for implementation and a ten year habitat management plan for all mitigation areas, shall be submitted to and approved in writing by the local planning authority. The measures secured shall be carried out in accordance with the approved details and the areas shall thereafter be managed in accordance with the approved plan.
- 18) No external lighting, other than within a private residential curtilage, shall be installed other than in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.
- 19) Prior to the commencement of development, a scheme for protecting the occupiers of the dwellings hereby permitted from noise from the adjacent road and railway shall be submitted to, and approved in writing by, the local planning authority. All works that form part of the scheme shall be implemented prior to the first occupation of the dwellings hereby permitted and retained thereafter.
- 20) Prior to the commencement of development, a Phase II Site Investigation shall be carried out in relation to the former pond in the southeastern corner of the site (shown hatched on site investigation plan No 5428/01-01 at Appendix 3A to the Lees Roxburgh Limited Phase I Geotechnical Assessment (Desk Study) dated December 2011) and the results submitted to, and approved in writing by, the local planning authority. If the investigations indicate that remediation is necessary, a remediation scheme, including details of the timescale for the work to be undertaken, shall be submitted to and approved in writing by the local planning authority. The approved scheme must be carried out in accordance with its terms prior to the commencement of development (other than that required to carry out remediation) unless otherwise agreed in writing by the local planning authority. Following completion of the measures identified in the remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out, must be submitted to, and approved in writing by, the local planning authority prior to first occupation of any dwelling on the site.
- 21) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted, an assessment shall be

carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:

- i) include information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 22) None of the dwellings hereby permitted shall be occupied until works for the disposal of foul sewage have been provided in accordance with details that shall previously have been submitted to, and approved in writing by, the local planning authority.
- 23) No development shall commence until details of measures to prevent any risk of pollution or harm to the adjacent Shropshire Union Canal have been submitted to and approved in writing by the local planning authority. Development shall be carried out only in accordance with the approved details.
- 24) The development hereby permitted shall not be commenced until such time as a scheme to manage the risk of flooding from the Shropshire Union Canal has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of any dwelling on the site and shall be retained thereafter.
- 25) The development hereby permitted shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to, and approved in writing by, the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing set out in the Glossary to the National Planning Policy Framework. The scheme shall include:
- i) the numbers, type, and location on the site of the affordable housing provision to be made, which shall consist of not less than 30% of the dwellings;
  - ii) the tenure shall be split 65% social rented or affordable rented and 35% intermediate;
  - iii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - iv) the arrangements for the transfer of the affordable housing to an affordable housing provider, or the management of the affordable housing if no Registered Social Landlord is involved;

- v) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and,
  - vi) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
- 26) No development shall commence until a scheme that makes provision for at least 10% of the energy requirements of the development to be obtained from decentralised and renewable or low-carbon sources has been submitted to and approved in writing by the local planning authority. The approved scheme for each dwelling shall be installed and be fully operational prior to first occupation of that dwelling and shall thereafter be retained.



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# Report to the Secretary of State for Communities and Local Government

by Jennifer Vyse DipTP DipPBM MRTPI

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

Date: 3 April 2013

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TOWN AND COUNTRY PLANNING ACT 1990

CESHIRE EAST COUNCIL

APPEAL MADE BY

GLADMAN DEVELOPMENTS LIMITED

Inquiry held on 5 and 6 March 2013

Site visit made on 5 March 2013

Land off Queens Drive, Nantwich, Cheshire

File Ref: APP/R0660/A/12/2187264

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**File Ref: APP/R0660/A/12/2187264**  
**Land off Queens Drive, Nantwich, Cheshire**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for outline planning permission.
- The appeal is made by Gladman Developments Limited against Cheshire East Council.
- The application No 12/2440N, is dated 26 June 2012.
- The appeal scheme comprises residential development of up to 270 dwellings, a convenience store/tea room, access details, highway works, public open space and associated works.

**Summary of Recommendation: That the appeal be allowed, and that planning permission be granted.**

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## 1. Procedural and Background Matters

*References in round brackets () are to documents listed in Appendix B*

- 1.1 The application was submitted in outline with all matters, other than access, reserved for future consideration. The site location plan, and the documents and illustrative information relating to the general location of buildings, routes through the development, green infrastructure etc that accompanied the application, are listed at CD1 in Appendix B. The site access plan, which is not listed there, can be found at Appendix 2 of SoCG1 (plan No 90189/101B) and at Appendix AEDA of GDL/2/A (plan No AED0003B).
- 1.2 The application was due to be considered at the meeting of the Strategic Planning Board on 3 October 2012. The scheme was recommended for refusal on the basis that it failed to demonstrate how 270 dwellings could be accommodated on the site, whilst providing an adequate level of public amenity space and a satisfactory standard of layout and design (CD5.1). Following a request by the appellant, the application was withdrawn from the agenda for that meeting, to allow for further discussion (CD2.10A - CD2.17 and SoCG1 paragraph 2.1.9).
- 1.3 Revised details were then submitted for consideration (GDL/1/P paragraph 2.1.13). These included a reduction in the density of development (up to 240 dwellings, as opposed to up to 270 dwellings) with more detailed information in relation to the layout of areas within the site, a revised development framework, green infrastructure plan, and footpaths and cycleways plan (Appendix 5 of GDL/3/A) plus a revised Design and Access Statement (Appendix 1 to SoCG1). It also transpired that the comments of the Highway Authority had not been received at the time that the original committee report was drafted. Subsequent discussions confirmed that there were still concerns with the traffic light controlled junction of High Street/Welsh Row/Waterlode, together with other unspecified concerns (GDL/1/P paragraph 2.1.17).
- 1.4 In the absence of any subsequent decision on the application, an appeal against non-determination was lodged in early November. The appeal was recovered for determination by the Secretary of State (letter dated 21 February 2013 on the appeal file) for the reason that it involves a proposal for residential development of over 150 units, or is on a site of more than 5 hectares, which would have a significant impact on the Government's objective to secure a better balance between housing demand and supply, and create high quality, sustainable, mixed and inclusive communities. That appeal is the subject of this Report.
- 1.5 At its meeting on 5 December 2012, the Strategic Planning Board resolved that, had it been in a position to determine the application, permission would have been refused for reasons relating to the capacity of the High Street/Waterlode/Welsh Row signal junction; the safety of pedestrians using that same junction; accessibility of the site by means other than the private car; and prematurity, having regard to the countryside location of the site and policies relating to the scale, location and phasing of development in the Draft Cheshire East Local Plan Development Strategy, and notwithstanding a shortfall in the Council's five year supply of housing land (CD5.2).
- 1.6 In the meantime, on 30 November 2013, the appellant had submitted a separate outline application, for residential development of the site with up to

240 dwellings, convenience store/tea room, access details, highway works, public open space and associated works (Application No 12/4654N). At a meeting of the Strategic Planning Board on 8 February 2013, consideration of that application, which was recommended for approval, was deferred on highway grounds, and to allow for an assessment of the proposal in the light of the Council's emerging 2013 Strategic Housing Land Availability Assessment (GDL/4/SP paragraph 1.6 and CD1.9). The application was reported back to the Strategic Planning Board on 20 February 2013, where it was resolved to grant approval subject to a planning obligation to secure various financial contributions, the establishment of a management company, and highway improvements (CD20). The planning obligation was subsequently executed (ID7) and the permission was issued on 1 March 2013 (ID6) shortly before the Inquiry opened.

- 1.7 The statement of common ground between the appellant and the Council (SoCG1) which is dated 21 February 2013, confirmed that the Council would not be pursuing the last of its four putative reasons for refusal, which related to housing land supply and prematurity. However, on opening the Inquiry, I was advised that, in light of the recent planning permission for a similar scheme on the site, but for up to 240 dwellings, the Council, although represented at the Inquiry, was no longer pursuing any of the putative reasons for refusal, and that its evidence was withdrawn in its entirety. **Accordingly, this Report does not contain a statement of the Council's case.**
- 1.8 At the Inquiry, the appellant requested that consideration be given to the application as originally submitted (ie up to 270 dwellings) but, if the outcome was likely to be unfavourable, that consideration be given to a condition restricting the number of dwellings to up to 240 (GDL/1/P paragraph 2.1.21). Counsel's opinion on that approach, sought by the appellant, is at CD2.15).
- 1.9 Although revised details had been submitted to the Council, the original description of development (ie including up to 270 dwellings) was not amended (GDL/1/P paragraph 2.1.20) the revised details providing simply an illustration of how a lesser number of dwellings might be accommodated on the site. Since the two schemes are not, in substance, materially different, and having regard to the recent permission for up to 240 dwellings on the site (ID6) I consider, with the 'Wheatcroft' principles in mind, that no-one's interests would be unduly prejudiced were the appeal to be considered on the basis suggested by the appellant.

## 2. The Site and its Surroundings

- 2.1 The site and its surroundings are described in detail in the Design and Access Statement that accompanied the original application (CD1.5) in section 1 of the planning officer's report to the Strategic Planning Board (CD5.2) and in section 3 of GDL/3/P.
- 2.2 In summary, the site comprises a broadly square grassed area of agricultural land, extending to almost 10 hectares, located adjacent to the southwestern edge of the town of Nantwich. The site is contained to the north by Queens Drive, a residential estate road, and to the west, beyond a boundary of intermittent hedgerow, by the Shropshire Union Canal. A public right of way with footpath status runs along the canal towpath at this point. Fields Farm, and its associated outbuildings, manège and yards, lies to the east on a roughly

triangular area of land between the appeal site and the Shrewsbury - Crewe railway line. The southern boundary is defined by hedgerow and trees, beyond which are further fields. A public right of way with bridleway status, which forms part of a number of long distance circular routes (ID5A, ID5B and ID5C) runs along the southern boundary, crossing the railway by means of a level crossing. Ground levels within the site generally fall from west to east but, in the wider context, the landscape is relatively flat, with gently rising land to the west, towards Acton.

- 2.3 A number of designated heritage assets lie in close proximity to the site (CD1.15). Three listed structures on the canal lie adjacent to the site. The bridges over the canal at the northwestern and southwestern corners of the appeal site, Marsh Lane bridge and Green Lane bridge respectively, are grade II listed structures, as is the canal milepost that lies approximately half way along the western site boundary. In addition, Dorfold Registered Park and Garden (grade II) lies further to the northwest (ID8). Dorfold Hall itself, which lies within the Park, is a grade I listed building (ID9).

### **3. The Proposal**

- 3.1 Although in outline at this stage, with all matters apart from access reserved for future consideration, the development is intended to provide up to 270 dwellings, 30% of which would be affordable (CD1.20 and GDL/1/P paragraph 4.2.31) and a convenience store/tea room, which is shown on the illustrative masterplan as located within the north western corner of the site, adjacent to the canal/Queens Drive/Marsh Lane (CD1.4). That same plan shows, among other things, an illustrative layout, potential pedestrian and cycle routes through the site, a play area, and retained trees and hedgerows, together with green corridors around and through the site.
- 3.2 The development would be served by a single access point off Queens Drive (Plan No 90189/101B at Appendix 2 of SoCG1 and Plan No AED003B at Appendix A of GDL/2/A) with the development framework plan (CD1.3) showing pedestrian links to the canal towpath, the Marsh Lane canal bridge, and the bridleway along the southern site boundary.
- 3.3 The Design and Access Statement (CD1.5) gives a more detailed description of what is envisaged.

### **4. Planning Policy and Guidance**

- 4.1 The planning policy context for the development proposed is set out at section 3 of the officer's report (CD5.2) with more detail provided in sections 4 and 5 of GDL/1/P.
- 4.2 The statutory development plan for the site includes the North West of England Plan Regional Spatial Strategy to 2021 (CD7.1) and the saved policies of the Borough of Crewe and Nantwich Replacement Local Plan 2011 (CD7.2).

#### *The Regional Spatial Strategy*

- 4.3 The Regional Spatial Strategy for the North West of England (RSS) was published in September 2008. The Localism Act 2011 makes provision for the abolition of Regional Strategies but, until those that remain extant are duly revoked, they remain a part of the development plan.

- 4.4 Policy DP1 sets out spatial principles that underpin the RSS, which includes promotion of sustainable communities and increasing accessibility. Policy DP2 promotes sustainable communities, with policy DP4 indicating, among other things, that development should build upon existing concentrations of activities and existing infrastructure. Policy DP5 seeks to manage travel demand, reduce the need to travel, especially by car, and increase accessibility, in order to enable people, as far as possible, to meet their needs locally. All new development is required to be genuinely accessible by public transport, walking and cycling, with priority to be given to locations where such access is already available. Policy DP7 requires that environmental quality should be protected and enhanced. Policy DP9 seeks to secure a reduction in carbon emissions and to ensure that new development is resilient to the effects of future climate change.
- 4.5 Together, and among other things, policies RT2, RT3, RT4 and RT9 seek to reduce reliance on the private car, enhance accessibility to public transport, mitigate the impact of road traffic and ensure new development enhances walking and cycling provision.
- 4.6 Policy RDF1 sets out spatial priorities for growth and development, with policy RDF2 directing new development in rural areas to Key Service Centres. Among other things, policy L1 requires that housing developments should ensure appropriate health, cultural, recreational, sport, education and training provision from the outset, with policy L2 requiring the preparation of Strategic Housing Market Assessments. Policy L4 relates to regional housing provision, and requires that local authorities should monitor and manage the availability of land to achieve stated housing targets - the RSS requirement for Cheshire East is a minimum of 1,150 dwellings per annum (GDL/1/P paragraph 4.2.27). Policy L5 seeks to ensure that affordable housing needs are met.
- 4.7 Among other things, policy MCR4 requires that continued protection and enhancement should be provided for the historic environment of Nantwich, and its contribution to the economy, tourism, quality of life and regeneration of the sub-region.
- 4.8 Policies EM15, EM16 and EM17 seek to minimise energy consumption and demand and promote maximum efficiency and minimum waste, promote sustainable energy consumption and, in line with the North West Sustainable Energy Strategy, promote renewable energy resources.

#### *The Local Plan*

- 4.9 The Crewe and Nantwich Replacement Local Plan 2011 was adopted in February 2005. In February 2008, the Government Office for the North West issued a saving direction, which prevented a number of policies of the Local Plan from expiring in accordance with the Planning and Compulsory Purchase Act 2004.
- 4.10 Housing numbers in the Local Plan, at policy RES.1, were based on the then extant Cheshire 2011 Structure Plan, which required 7600 new dwellings within the Borough between 1996-2011. RES.3 sets out that new housing development should be at a density of between 30-50 dwellings per hectare. The appeal site lies adjacent to, but outside the development boundary for Nantwich. Outside defined settlement boundaries, policies NE.2 and RES.5 resist new housing development other than in particular circumstances. Policy

RES.7 includes a requirement that development on windfall sites should provide for 30% affordable housing.

- 4.11 Policies NE.5 and NE.9 seek to protect, conserve and enhance natural conservation resources and protected species, with policies BE.1, BE.2 and BE.4 aiming to ensure that the man-made environment is maintained and, where possible, enhanced.
- 4.12 Together, policies TRAN.1, TRAN.3 and TRAN.5 are generally supportive of development in locations that can be well served by public transport, where appropriate provision is made for pedestrians, and where safe cycle access is provided. Policy BE.3 requires safe and adequate access to new development.
- 4.13 Policy RT.3 seeks to secure the provision of an appropriate level of recreational open space and children's play space in new housing developments, with policy RT.9 being permissive of development that improves the condition and appearance of the existing footpath and bridleway network.

#### *The Local Development Framework*

- 4.14 Work has commenced on a replacement for the Local Plan, to cover the period up to 2030. Although consultation on the Cheshire East Local Development Framework Core Strategy Issues and Options Paper took place in November/December 2010 (CD14) with a Place Shaping Consultation for each town and village taking place in July and September 2011 (GDL/1/P paragraph 4.6.1) the development of the Core Strategy, which would form a part of the new Local Plan, is still at a very early stage. Consultation on the Core Strategy Submission document is not expected until summer 2013.
- 4.15 The *Interim Planning Policy: Release of Housing Land* (CD10) produced in 2011, sets out the Council's approach to maintaining a five year supply of deliverable housing land to be used as an interim measure pending adoption of the Core Strategy.
- 4.16 The *Interim Planning Statement on Affordable Housing* (CD9) produced in 2011 within the framework of the adopted Local Plan, sets out the Council's definition of affordable housing and specific site requirements, as well as providing guidance on development considerations and means of securing provision.
- 4.17 The *Draft Nantwich Town Strategy 2012* (CD15) is one of a series of strategies that have been prepared for the larger towns in Cheshire East to inform the emerging Local Plan. It was produced following the Place Shaping Consultation referred to in paragraph 4.10 above and was, itself the subject of consultation in March 2012. The appeal site is not favoured as a potential development option within the document.
- 4.18 *Shaping our future: a development strategy for jobs and sustainable communities 2013* (CD16) is a consultation document on the overall number of homes and jobs that will be needed in the Cheshire East Borough over the next 20 years and will feed into the emerging Local Plan.

#### *Other documents*

- 4.19 The *Planning for Growth* Ministerial Statement made by the Minister of State for Decentralisation on 23 March 2011, which sets out the Government's

commitment to reforming the planning system so that it promotes sustainable growth and jobs.

- 4.20 The *Strategic Land Availability Assessment Update 2012 update* (CD21 site No 3428) does not identify the appeal site as 'currently developable', although the site is indicated as having a potential capacity of up to 297 dwellings.
- 4.21 To help deliver the Council's Sustainable Community Strategy priorities and key strategies, the *Local Transport Plan; Final Strategy 2011-2026* sets out seven key objectives for the next 15 years. (ID4) Objective 2 includes a reduction in the need to travel, with Objective 7 seeking an improvement to road safety for all users.

## 5. Agreed Matters

5.1 Two statements of common ground were submitted prior to the Inquiry. The first, between the appellant and the Council as local planning authority (SoCG1) confirms that:

- A five year supply of housing land cannot be evidenced for the purposes of this appeal.
- Layout, design and density of the development are acceptable.
- 30% of the dwellings will be affordable and will be provided on site.
- 10% of the predicted energy requirements will be supplied from renewable energy sources.
- No significant adverse landscape or visual impact.
- Detailed design at reserved matters stage will ensure no adverse impact on residential amenity.
- Acceptable impact on trees and hedgerows.
- No significant ecological impact.
- Amount of open space within the development is acceptable.
- Agreed commuted sum payment for education.
- Flood risk and drainage issues are addressed satisfactorily.
- Loss of agricultural land is acceptable.
- No mitigation measures required in relation to any archaeological interest.
- No significant adverse effect on designated heritage assets.

5.2 A second statement of common ground, between the appellant and the Council as highway authority (SoCG2) confirms that:

- The proposed site access junction layout and location is acceptable.
- The internal site layout, which will accord with the principles outlined in *Manual for Streets*, will provide a safe environment for non-motorised users, including cyclists, and will allow for access by delivery and refuse vehicles, is accepted.

- Car parking, which will be provided in accordance with the minimum standards set out in the Local Plan, comprising a mix of garaging and off-street parking spaces, is accepted.
- The details set out in the Interim Travel Plan that accompanied the application (CD 1.8) are acceptable, with a detailed Travel Plan to be secured by condition.
- The site is located adjacent to an existing residential area where pedestrian facilities exist and are generally of a high standard. It is close to existing primary and secondary schools, is close to services on Welsh Row, and the availability of good pedestrian links to Nantwich town centre demonstrate that the site is accessible by pedestrians.
- Cycling would be a viable choice for future residents to access local services and facilities.
- The site is served by existing bus services, with bus stops within 400m of the site.
- Nantwich railway station lies within approximately 1600 metres walking distance, with bus stops next to the station that link to the bus station. The rail service runs between Carmarthen and Manchester Piccadilly. Journey time to Crewe – 10 minutes, journey time to Manchester – 45/60 minutes. The service also links to other interchange stations.
- Agreed modelling demonstrates that both the Marsh Lane/Queens Drive and the Marsh Lane/Welsh Row priority junctions operate with considerable reserve capacity during both peak hours in both the base and the base plus development scenarios, up to 2017. There would be no severe residual highway impacts as a result of the proposed development in relation to these junctions.
- The Queens Drive/Welsh Row priority junction would, at times, operate above theoretical capacity and a signalised junction layout is proposed that would mitigate the traffic impact of the development at this location. There may be concerns however, in terms of the effect of the scheme on the character and appearance of the Nantwich town centre Conservation Area.
- The High Street/Waterlode/Welsh Row signalised junction would operate above practical capacity during both peak periods in 2017. The mitigation scheme proposed is not agreed.
- The Queens Drive/proposed site access would operate with considerable reserve capacity during both peak hour periods up to 2017.
- The development would have an immaterial impact on the capacity of the Chester Road/Waterlode/Welsh Row/Taylor Drive signalised junction.

## 6. Council's Position Regarding Housing Land Supply

- 6.1 Although the Council presented no evidence to the Inquiry, it wished to clarify its stance on the matter of housing land supply. This took the form of a short oral submission. It was confirmed that the Council's position, **insofar as it relates to this appeal**, remained as set out in SoCG1. Namely, that the Council accepts that it cannot demonstrate a five year supply of deliverable

housing land and was not seeking to change its case in the light of the 2013 Strategic Housing Land Availability Assessment, which became available shortly before the Inquiry opened (CD21).<sup>1</sup>

- 6.2 I was advised that the Council stood by the housing figures set out in SoCG1, confirming that, even with the development proposed, it still could not demonstrate a five year supply and it offered no challenge to the evidence of the appellant on this matter. That said, the Council went on to confirm that its position should not be interpreted as accepting the position on housing land supply set out in the appellant's evidence, the material point being, **for the purposes of this Inquiry**, that, even with the appeal scheme in place, its housing land supply policies are out of date and that paragraph 14 of the National Planning Policy Framework is therefore engaged. In this particular case, the Council accepts that it has a shortfall in housing land supply, the exact amount being a matter that is not relevant to this appeal.

## 7. The Case for Gladman Developments Limited

*The material points are:*

- 7.1 Against the backdrop of the grant of consent for the second scheme of up to 240 dwellings, the parties have reviewed their respective positions in the light of the appeal scheme. The outcome is that the Council no longer advances what had been the remaining three grounds of resistance. Accordingly, on the basis that the conditions and obligations associated with the appeal scheme reflect those imposed and executed in connection with the second scheme, which they do, the Council does not oppose the grant of planning permission for the appeal scheme and the main parties at the Inquiry agree that the appeal should be allowed.

*Character and Appearance (GDL/3/P and Appendix 1 to SoCG1)*

- 7.2 The site is currently an open field comprising improved pasture and has a generally unremarkable character. Key features include mature trees and hedges along the boundary, that would be retained and enhanced, and the canal corridor along the western boundary. The land has never benefitted from any form of qualitative landscape designation, lying within a character area of medium sensitivity. The zone of visual influence is relatively small, and it does not fulfil any material role in providing a setting for, or strategic views into or out of, Nantwich.
- 7.3 Although in open countryside for planning policy purposes, the site is, from a landscape and visual viewpoint, strongly related to the existing settlement framework. Whilst the housing proposed will be visible in the locality, the area already has an urban fringe feel, due to existing residential development on Queens Drive and Marsh Lane, and the railway line to the east.
- 7.4 The Shropshire Union Canal is an attractive local feature with several listed structures in close proximity to the site. These will become focal landscape features in views from within the proposed development. In addition, new wildlife habitats will be created, with protection afforded to existing wildlife corridors, which will be enhanced.

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<sup>1</sup> See GDL/4/SP for further information about the 2013 SHLAA

- 7.5 The current edge of Nantwich creates an abrupt edge to the built form of the town. The development proposed will provide a more gradual transition, with the creation of green corridors and a reduction in housing density along the southern and eastern edges of the site. New public open space will be provided within the site and the existing footpath network will be extended into the site to provide separate and safe routes for pedestrians to the town centre and surrounding facilities.
- 7.6 The appeal site provides an excellent location for a genuinely sustainable urban development, which will not protrude out into truly open countryside. The development will complement the existing settlement of Nantwich and there is no overall conflict with the design objectives set out in the National Planning Policy Framework, or the saved policies of the Local Plan. Any residual landscape and visual effects are, at worst, moderately adverse at the outset, reducing to slightly adverse in the longer term. As a consequence, and bearing in mind the proven need for sustainable growth in the region, it can be concluded that the site can be sensitively developed in a way that reduces any harm to the visual amenity of the countryside to an acceptable level, when balanced against the benefits that will accrue from the development.

*Housing Land Supply (GDL/4/P and GDL/4/SP)*

- 7.7 Initial evidence in relation to housing land supply was based on the Council's Strategic Housing Land Availability Assessment 2012 (2012 SHLAA) (CD13.1) which has a base date of 31 March 2011. That set out a 4.16 year supply of deliverable housing land, excluding any allowance for previous under-performance and corresponding buffer. However, the Council has, since 2008, consistently under-performed in respect of the average housing requirement of the RSS (1,150 net dwellings per annum). By the end of March 2011, the shortfall had reached 632 dwellings. Completions data included in the Council's emerging Development Strategy, placed on deposit in January 2013, indicates that the shortfall is growing – only 577 dwellings are claimed to have been completed between 1 April 2011 and 31 March 2012, the effect of which is to increase the shortfall (as of 31 March 2012) to 1,205 dwellings, nearly doubling that which existed as of 31 March 2011, equivalent to more than one year of the annual RSS requirement.
- 7.8 Moreover, having regard to the provisions of the National Planning Policy Framework, and as established in previous appeal decisions<sup>2</sup> and in the preliminary conclusions of the Inspector dealing with the Bath and North East Somerset Core Strategy Examination<sup>3</sup>, the Council's previous under-performance should be spread across five years, rather than the remainder of the plan period ie 2011-2016.
- 7.9 If the Council's claimed completion figures are accepted, then there has been a persistent under-performance in housing delivery over the last four years. The scale and period of previous under-performance warrants the adoption of an additional 20% buffer. Moreover, an examination of the 2012 SHLAA reveals that a significant number of dwellings that the Council considers contribute to its supply are not deliverable. When those sites are excluded from the

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<sup>2</sup> Appendices 6, 9, 10 and 11 of GDL/1/S

<sup>3</sup> Appendix 12 of GDL/1/S

calculations, the Council can demonstrate a supply of only 1,624 deliverable dwellings, equating to a supply of 1.08 years, including a buffer of 20% for previous under-performance.

- 7.10 Since preparation of that evidence, and shortly before the Inquiry, the Council released its 2013 SHLAA (CD21). The first of the case officer's reports relating to the scheme for up to 240 dwellings on the appeal site (CD19) which post-dates the lodging of this appeal, refers to a 3.75 year supply of deliverable housing, based on the 2012 SHLAA. However, consideration of that report was deferred to allow, among other things, for an assessment of the proposal in the light of imminent 2013 SHLAA. The second report (CD20) includes reference to the 2013 SHLAA, which identifies a 7.15 year supply of deliverable housing sites. However, the report goes on to note that the five year supply is a minimum requirement, and that it is necessary to consider whether the scheme amounts to sustainable development in deciding whether planning permission ought to be granted. The report concludes that a refusal on sustainability grounds could not be sustained, and that the benefits to housing land supply would not be outweighed by any of the adverse impacts of developing this greenfield site.
- 7.11 Notwithstanding the differences between the Council and the appellant as to whether, having regard to footnote 11 of the National Planning Policy Framework, sites without planning permission should be included in the supply of deliverable housing, the 2013 SHLAA includes sites that have permission for non-residential development in the deliverable supply, and sites under construction, where the number of units actually being built differs from the data included in the SHLAA. When these are taken into account, the 2013 SHLAA only identifies a deliverable supply of 1.55 years having regard to the RSS and, accounting for previous under-performance, applying a buffer of 20%.

*Affordable Housing (GDL/5/P)*

- 7.12 The 2010 Strategic Housing Market Assessment (CD11) demonstrates a considerable pent up demand for market housing, along with a considerable imbalance between affordable requirements and supply. In accordance with Local Plan policy RES.7, the appeal scheme would provide 30% affordable housing, which would be accommodated on the site. The size of the dwellings to be provided, their tenure mix, and location within the site, are matters that could be secured by condition in the event that the appeal were to succeed. In light of the Government's commitment to an increase in the delivery of housing, the provision of a fully compliant package of affordable housing constitutes a very considerable benefit of the proposed development which should be weighed positively in assessing the balance of planning merits.

*Accessibility (GDL/2/P and CD1.7)*

- 7.13 The planning application was accompanied by a Transport Assessment (CD1.7) and an Interim Travel Plan (CD1.8). The appeal site is located some 1.2 kilometres to the southwest of Nantwich town centre. It occupies a sustainable location with ready access to key local facilities on foot, by bicycle and by public transport, in line with current local and national transport policy.
- 7.14 The nearest school to the site is Millfields Primary School and Nursery, some 830 metres from the centre of the appeal site, along a safe pedestrian route,

well within the 1000 metres walking distance indicated as being 'acceptable' in the Chartered Institution of Highways and Transportation document entitled '*Providing for Journeys on Foot*'. The school would also, therefore, be readily accessible by cycle. The closest secondary school is Malbank School and Sixth Form College, approximately 1.3 kilometres from the centre of the site. Although beyond 'acceptable' walking distance, it is well within the 'preferred maximum' of 2 kilometres and is well within the cycle catchment.

- 7.15 With regard to food retail, a small convenience store is proposed within the appeal site. In any event, there is small convenience store on Meeanee Drive, some 710 metres from the centre of the site. Major supermarkets are located in Nantwich. Although beyond walking distance, they are within the cycle catchment and are accessible by public transport, albeit with a change required in Nantwich. In relation to other retail offer, shops on Welsh Row, within 1000 metres of the north of the site, include a delicatessen, takeaways, licensed premises, opticians, restaurants, cycle sale, hair stylist and home good store. They are also accessible by bus from the appeal site. Nantwich town centre affords all the usual town centre shops, accessible by walking and bus services.
- 7.16 Employment opportunities are available in the town centre in the retail and service sectors. There are also business premises off Middlewich Road. Employment in the wider area can be accessed by car, bus and train.
- 7.17 The closest dental practice is on Welsh Row, within 1000 metres of the centre of the site, with a further dentist within 1500 metres, the latter being also accessible from the site by bus. Nantwich Health Centre lies some 1.7 kilometres from, the site, within the 'preferred maximum' walking distance and well within the cycle catchment. Nantwich swimming pool and leisure centre lies 1.8 kilometres from the site. Although almost at the 'preferred maximum', it is well within cycling distance. The site is also well served by cycle routes: Queens Drive is part of the Sustrans Regional Cycle Route 74 (Wrenbury to Sandbach) and Regional Route 75 (Audlem to Winsford). Both routes pass through the riverside park to the east of the site and link to the town centre via a toucan crossing.
- 7.18 The site has been assessed against the North West Sustainability Checklist and is as well located, if not better located, than other schemes recently approved by the Council. (GDL/2/A Appendix B)

#### *Highway Capacity and Safety (GDL/2/P and CD1.7)*

- 7.19 It is proposed that the development will be served via a new access onto Queens Drive, in the form of a three-arm priority junction. (GDL/2/A Plan AED003B at Appendix A) Both the new junction, and the internal layout of the site, will be designed to conform with the guidance outlined in Manual for Streets, with additional reference to local guidance in the Local Plan. The new access will include 2 metre wide footways on both sides, providing the primary means of pedestrian access onto the wider network. In addition, there are opportunities for further linkages, via the existing public rights of way close to the site.
- 7.20 The highway authority has confirmed that the scheme would have no significant major adverse impact on the wider road network. However, traffic surveys undertaken following an outline scoping discussion with the authority,

revealed capacity problems at the High Street/Waterlode/Welsh Row signal controlled junction and at the Queens Drive/Welsh Row priority junction.

- 7.21 By 2017, with no improvements, the High Street/Waterlode/Welsh Row junction would have very limited reserve capacity during the morning and evening peaks. The highway authority has confirmed that an improvement scheme for this junction, that results in a 'no worse off' end result following development of the appeal site, would be acceptable (CD2.12).
- 7.22 The mitigation measures proposed (Section 7 GDL/2/P) involve alterations to the existing staging arrangement, with no major physical infrastructure works to the highway. In order to reduce the number of right turning conflicts, the Waterlode southern arm would have an 'early start', with vehicles turning right into High Street unopposed during this period. All existing infrastructure would be retained, including the 'green man' crossing facilities to ensure that pedestrians are suitably provided for across all four arms of the junction and an 'all red' pedestrian stage is to be called every third cycle, as agreed with the authority. The proposed junction layout provides for road markings within the junction to enable right turning vehicles to wait safely without blocking 'straight ahead' traffic on Waterlode. It is generally accepted that the inter-green period within the signal timings makes allowance, where necessary, for cyclists to clear the junction safely.
- 7.23 The staging arrangements proposed include for five stages:
- Stage 1: Waterlode South – all movements
  - Stage 2: Waterlode north and Waterlode south – all movements
  - Stage 3: Welsh Row – all movements
  - Stage 4: High Street – all movements
  - Stage 5: All red pedestrian stage
- 7.24 The LinSig<sup>4</sup> analysis demonstrates that the mitigation measures proposed would significantly improve junction performance, offering more reserve capacity in the 2017 base plus development scenario than would be the case for the existing layout in 2017. To this end, the results more than satisfy the aspirations of a 'no worse off' position and would amount to an improvement. In addition, it is proposed that MOVA<sup>5</sup> would be implemented to further increase the capacity of the junction. This would replace the current 'fixed time' signal control with a system that would continually change the signal timings, in order to maximise the performance and efficiency of the junction.
- 7.25 With regard to pedestrian safety at the junction, there has been only one accident on any approach during the preceding five years and that resulted in only a slight injury and did not involve pedestrians.<sup>6</sup> The alterations proposed would retain the existing pedestrian 'on demand' crossing facilities at the junction, as well as including an 'all red' pedestrian phase every third cycle. In summary, based on recognised guidelines<sup>7</sup>, the junction design is not expected

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<sup>4</sup> A design and assessment software tool for traffic signal junctions

<sup>5</sup> Microprocessor Optimised Vehicle Actuation

<sup>6</sup> A rear end shunt as a result of the vehicle in front stalling.

<sup>7</sup> Design Manual for Roads and Bridges and the COBA Manual

to result in any material increase in the likelihood of personal injury accidents at this location.

- 7.26 The mitigation package proposed will result in an improvement on the base traffic scenario relating to this junction, benefitting existing residents of the area. In addition, the measures more than adequately mitigate the operational impact of the development proposed on the junction.
- 7.27 In relation to the Queens Drive/Welsh Row junction, its theoretical capacity would be exceeded following development of the appeal scheme. Whilst the highway authority accepted that this could be addressed through signalisation of the junction, the junction lies within the Nantwich Conservation Area. The introduction of traffic lights here was considered unwelcome, given the improvements that have recently been undertaken on Welsh Row to street surfacing and street furniture. (CD5.2 pages 113, 114)
- 7.28 In relation to the scheme for up to 240 dwellings, an alternative arrangement to address those capacity concerns was agreed with the highway authority, involving a reduction in the flow of traffic from the development through the junction by diverting trips to Taylor Drive. That would involve upgrading the current pedestrian link between Edmund Wright Way and Taylor Drive, so that it could take vehicular traffic allowing for an alternative route onto Welsh Row/Chester Road for vehicles heading west from Nantwich (CD20). The financing of the necessary works is secured by the planning obligation (ID11).
- 7.29 In accordance with the National Planning Policy Framework, the development proposals limit the impacts of the development in a cost effective manner, minimise conflict between vehicles, pedestrian and cyclists and ensure that there would be no cumulative impacts in terms of highway capacity and safety. There would be no conflict either, with policy BE.3 of the Local Plan, as the scheme would provide for safe junction arrangements for vehicles and pedestrians.

## **8. The Case for Interested Parties**

- 8.1 Oral representations made in addition to those of the main parties are summarised below. Only Mr Bradley submitted speaking notes and supporting evidence at the Inquiry (ID2).

### ***The case for Mr A Bradley***

*The material points were:*

- 8.2 The development is on Green Belt land<sup>8</sup> in open countryside and is identified in the Draft Nantwich Town Strategy (CD15) as being unsuitable for development. Policy NE.2 of the Local Plan resists development in the open countryside unless it is essential for the purposes of agriculture, forestry, outdoor pursuits etc or other purposes appropriate to a rural area. The erection of up to 270 houses ignores this.
- 8.3 Queens Drive is already difficult to negotiate, due to on-street parking. As it is, cars are parked on the pavement to avoid being struck by passing vehicles. The introduction of a signalised junction will cause gridlock when queues reach

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<sup>8</sup> It was confirmed at the Inquiry that the site is not within the Green Belt.

the parked cars. Adding a pedestrian facility will cause further congestion. Moreover, any traffic signals at the Queens Drive/Welsh Row junction will result in Marsh Lane becoming a rat run - it is already difficult to negotiate this road, due to pinch point and on-street parking. The nearby primary school also causes congestion at collection times. Any further traffic along Marsh Lane and Queens Drive will exacerbate existing problems.

- 8.4 Alterations to the High Street/Waterlode/Welsh Row traffic lights will only work if the pedestrian crossing facility is removed and Waterlode operates with both arms operating at the same time. A sizeable proportion of Nantwich citizens are elderly – they need sufficient time for them, or disabled persons, to cross this busy road - a pedestrian crossing phase is required. Moreover, the suggested alterations would use all the available capacity at peak hours, compromising any modifications that might be necessary in the future for other development in the area, such as the Council's Snow Hill project.
- 8.5 There is no evidence to support the appellant's contention that there is a wide range of employment opportunities within the preferred walking distance of 2000 metres and the assumption is not borne out by current unemployment figures. Future occupiers will have to travel further afield for employment. Nantwich town does not fall within the 'desirable' or 'acceptable' range of distances for pedestrians, but in the 'preferred maximum' range, which is the longest travel distance. With regard to public transport, there is no mention of the costs involved and whether they are sufficiently low to make it an attractive proposition for anyone other than bus pass holders. There is no mention either, as to whether the nearby schools can accommodate any additional pupils. There is already a thriving convenience store on Meeanee Drive.
- 8.6 There is planning approval for 11 homes on a brownfield site adjacent to Queens Drive, with a further 16 houses on Marsh Lane. These are within the development boundary for the town and area closer to the town centre than the appeal site. That is a sustainable approach, unlike the development proposed. There are at least 20 houses for sale in the local paper, with many more to let within the preferred maximum range of 2000 metres of the town centre, with approval for a further 150 dwellings at Stapeley. The demand for housing in Nantwich can be met within the development boundary. There is no need for this proposal and no need to develop green field land.

### ***The case for Mr J Howell***

*The material points were:*

- 8.7 Nantwich has significant historic and amenity value, with Welsh Row being the main thoroughfare. Pevsner refers to it as the best street in Nantwich. However, it is now very congested, even with the relief road and signalling. As has already been mentioned, on-street parking makes passage along Queens Drive very difficult.
- 8.8 The development proposed will have an adverse impact on the character of the area and will harm the setting of Dorfold Hall, a listed building and the listed parkland.
- 8.9 Queens Drive is a route into the countryside. It is difficult to cycle along as it is. Facilities are not too far to walk from the appeal site, but occupiers will feel

isolated and will drive everywhere. Other developments elsewhere are better located in terms of access to facilities and are better served by road. Local residents do not want this development which lies beyond the urban boundary.

- 8.10 The existing stream along the northern site boundary does not have the capacity to accommodate surface water from the site. It is a minor brook that is used, on occasion, to take surplus water from the canal, via a sluice gate near to the northwestern corner of the site. For most of the time, water is slow moving, allowing for a greater variety of wildlife. Any run-off from the site will enter the nearby River Weaver and there are concerns about the potential for pollution. Concern was also expressed at the loss of agricultural land and established hedgerow, which are important to wildlife.
- 8.11 With regard to access, there is an old people's home near the site and a number of residents in the locality are disabled. Increased use of Queens Drive will have implications for their safety. In addition, an area of open space crosses Queens Drive, providing access to the river and linking through to the town. This provides a valuable amenity for local residents. The cars from the 270 houses proposed will drive past this open space, resulting in a significant change to its character and attractiveness as a leisure resource.

### ***The case for Mr Robinson***

*The main points were:*

- 8.12 This development is on a Sustrans route and the anticipated increase in traffic will have safety implications for cyclists.
- 8.13 If permitted, the development would set an undesirable precedent for development on the next field. There is no objection to development in general, but it should not be on greenfield sites. There is already a lot of building on Marsh Lane on much more appropriate sites, which do not involve the development of open fields and harm to the associated wildlife.

## **9. Written Representations**

- 9.1 ***Acton, Edleston and Henhull Parish Council:*** This was the least favoured development site of the options considered as part of the Nantwich Town Strategy (CD15). Part of the site is grade 2 agricultural land and should remain in agricultural use. There is concern at the increasing scale of development in and around Nantwich, which will change the character of the area. The piecemeal nature of these developments could result in deficiencies in local services, lack of transport systems and unduly long journeys to work.
- 9.2 The road network that lead to the site is narrow, congested, and involves difficult junctions. The increase in traffic on Welsh Row would also exacerbate existing problems. Even the proposed Taylor Drive link would do little to offset the impact. If the appeal were to succeed, this link should be completed before the houses are occupied and a rural footpath near to the canal bridge should be provided as part of the circular Crewe and Nantwich Walk.
- 9.3 ***Sustrans:*** Development of this scale will generate a significant level of additional traffic, most of which will be channelled onto Welsh Row via Queens Drive. Welsh Row defines the historic setting of the town and its character should be preserved. Queens Drive and Welsh Row were to have been traffic

calmed as part of the transport plan for the Kingsley Village scheme, with the Taylor Drive/Edmund Wright Way link being opened up. That link is still pedestrian only. Any attempt to open it up would be likely to lead to objections from local residents. Queens Drive is a quiet residential road and should be traffic calmed, not subjected to more traffic.

9.4 **Mr Leetham:** This is pasture land that has never been developed. Between 2005-2008 it was the subject of what proved to be an unlawful investment scheme, with individual plots being sold off.<sup>9</sup> The development proposed is simply a means of trying to recoup financial losses. The site lies outside the development boundary for Nantwich, with the SHLAA identifying it as being not suitable for residential development, and as being not available, not achievable or not developable. The absence of a five year housing land supply following expiry of the Local Plan has meant that the area has been inundated with applications for speculative housing developments. However, consultations are underway on a new plan which allocates major new housing on just two locations (Kingsley Fields and Stapeley). That will provide sufficient new housing for the next five years. The proposal amounts to an unjustified development that would constitute an unnecessary intrusion into open countryside, an area of countryside that the Council is considering including in the Green Belt.

9.5 A number of representations were also made to the Council at **application stage**. The main planning objections can be summarised as:

- The appeal site lies outside the established town boundary, on a green field site where there is a presumption against new residential development;
- Loss of valuable farmland to unwanted and unnecessary development;
- Loss of views across the countryside;
- Nantwich will be less attractive as a destination for tourists;
- Increased pressure on roads, the canal, schools and other infrastructure. The schools already struggle to accommodate rising intakes from recent development. The Marsh Lane bridge cannot accommodate any increase in traffic. The development would increase traffic on Welsh Row to an unacceptable level;
- Harm to the grade II parkland at Dorfold Hall;
- Lack of local employment opportunities;
- Light pollution;
- The development would destroy the peace and tranquillity of this canal side area;
- Unacceptable harm to wildlife and nearby site of nature interest<sup>10</sup>.

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<sup>9</sup> Remaining plots within the site that are not in the ownership of the appellant are shown hatched in red on the application boundary plan No 4973-L-01 Rev E.

<sup>10</sup> A site of biological importance lies some 700 metres to the south of the site.

## 10. Inspector's Conclusions

- 10.1 The following conclusions are based on my report of the oral and written representations to the Inquiry and on my inspection of the site and its surroundings. The numbers in square brackets thus [ ], refer to paragraphs in the preceding sections of the report from which these conclusions are drawn.
- 10.2 Paragraph 14 of the National Planning Policy Framework advises that, where a development plan is absent, silent, or relevant policies are out of date, permissions should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits (or specific policies in the Framework indicate that development should be restricted). Paragraph 49 of the Framework makes it clear 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 land.
- 10.3 At the time that the appealed application was initially considered, the Council could not demonstrate a five year deliverable supply of housing (SoCG1). Even though the 2013 SHLAA (CD21), published shortly before the Inquiry, seeks to demonstrate an oversupply of housing, the Council does not rescind from its position that, for the purposes of this appeal, it cannot demonstrate a five year supply of deliverable housing. [6.1, 6.2] Therefore, having regard to the provisions of the Framework, the Council's housing land supply policies cannot be considered as up-to-date and, unless material considerations indicate otherwise, permission should be granted.
- 10.4 The appeal site, which comprises a previously undeveloped greenfield site, lies adjacent to, but outside the development boundary for Nantwich, as defined in the Borough of Crewe and Nantwich Local Plan. [4.10] In terms of planning policy therefore, it lies within open countryside. [7.3] In such areas, Local Plan policies NE.2 and RES.5 restrict new development to uses appropriate to a rural area. [4.10] Residential development is restricted to agricultural workers' dwellings, affordable housing and limited infilling within built-up frontages. Whilst the development proposed includes provision for 30% of the units to be affordable [3.1, 5.1, 7.12] plus areas of open space and a children's play area, it would not, as a whole, fall within any of the categories of exception and would, therefore, conflict with those policies.
- 10.5 However, the Council has recently granted planning permission for residential development on the appeal site for up to 240 dwellings, a convenience store/tea room, access details, highway works, public open space and associated works. [1.6] Other than the maximum number of dwellings, the application the subject of this appeal is, by and large, the same as that now approved, in all respects, including off-site highway mitigation works.
- 10.6 At the Inquiry, it was confirmed for the appellant that, should this appeal fail, the approved scheme would be implemented. I have no reason to doubt the veracity of that statement, particularly since the appellant owns the site. That permission is, therefore, a material consideration in terms of the decision to be made on the appeal scheme. On that basis, the main considerations in relation to the appeal turn on any implications resulting from the difference in providing up to 270 dwellings on the site, as opposed to up to 240 in the already permitted scheme.

10.7 Accordingly, I consider **the main considerations** to be:

- whether the appeal site provides a suitable site for the quantum of development proposed in terms of national and local planning policy and guidance; and,
- the effect of the development on the capacity and safety of the local highway network

10.8 The Council took no real part in the Inquiry, submitting no evidence and calling no witnesses. [1.7] As a result, it was not possible for objectors, or myself, to test the reasons for the Council's stance, or to explore policy or related matters.

*The suitability of the site for housing*

10.9 The additional 30 dwellings proposed would make more efficient use of the site than would the extant permission, with little discernable difference in terms of visual impact, given that the amount of landscaping proposed, both within the development itself, and around the perimeter of the site, would be comparable. [CD1.4 and plan No 4973-L-03 Rev J at the end of the Design Appendix 4 to GDL/3/A) There would be no conflict therefore, with policy DP7 of the RSS and Local Plan policy BE.1, which seek to protect and enhance environmental quality and to ensure that development is compatible with its surroundings.

10.10 Detailed information on biodiversity and wildlife is set out in CD1.9. Although there are no ponds on the site, great crested newts have been identified as breeding at two ponds close to the southwestern corner of the site. However, any risks to the newt population would be sufficiently mitigated through the erection of exclusion fencing and the clearance of newts from the development footprint on commencement of development, under licence from Natural England. Whilst the dedicated habitat creation area proposed would be smaller than in the approved scheme (Appendix 3 of GDL/3/A) there would be no material harm to ecological interests. [5.1] (CD1.9) A site of biological importance (designated for its extremely diverse wetland flora) lies to the south of the site but, at a distance of some 700 metres, I have no reason to suppose that it would be harmed as a consequence of the additional dwellings. I find no conflict in this regard with policies NE.5 and NE.9 of the Local Plan, which seek to protect and enhance natural conservation resources, including protected species.

10.11 With regard to the suitability of the location in terms of access to services and facilities, the site has been assessed against the North West Sustainability Checklist, [7.18] which has been specifically designed for this region. The guidelines it provides are a useful starting point in assessing the sustainability of a location. Whilst the majority of the criteria are met when assessed against the Checklist [7.18], the proposal does not meet the minimum standards of accessibility to a supermarket, pharmacy/medical centre, and leisure facilities/community centre. (CD5.2) However, that is not untypical of many suburban dwellings, including some that have recently been approved by the Council. (GDL/2/A Appendix B) In any event, those facilities are available in the town. [7.13-7.17] (CD1.22 Appendix 1)

- 10.12 In this regard, I note that Nantwich is identified as a key service centre in the emerging Core Strategy (CD12) and, with regard to cycling, the 5 kilometre catchment includes the entirety of Nantwich and some of the nearby villages (Appendix A in GDL/2/A plan No AED005). Non-car mode accessibility is addressed, to some extent, in the submitted planning obligation (ID11) and a detailed Travel Plan can be secured by condition. The provision of 30 additional dwellings, over and above those already approved, would make no difference with regard to the accessibility of the site. There would be no conflict, therefore, with RSS policies DP1, DP2, DP4, DP5, RT2, RT3, RT9 and RDF2, or policies TRAN.1, TRAN.3 and TRAN.5 of the Local Plan, which promote sustainable and accessible communities, reducing the need to travel, particularly by private car.
- 10.13 Other aspects of sustainability include the meeting of general and affordable housing needs, given the acknowledged position of the Council in terms of its housing land supply. Although the appeal site is identified in the 2013 SHLAA as being not suitable, achievable, or currently developable (CD21 site No 3428), it was not possible, in the absence of any witness for the Council, to establish why it had been identified as such. I am mindful, however, that there are no physical constraints to development of the site, that it is not the subject of any special protection in terms of wildlife or landscape interest, that it is developer owned and is available for development now.
- 10.14 Moreover, planning permission has now been granted for residential development of the site. In the absence of any substantiated evidence to demonstrate that the land is not currently developable, the appeal scheme would make a slightly greater contribution to addressing the acknowledged shortfall in housing land supply. In addition, as with the approved scheme, 30% of the units would be affordable, in accordance with Local Plan policy RES.7. [3.1, 5.1, 7.12] Since the appeal scheme relates to more units, there would be a corresponding increase in the number of affordable units that would be delivered. That provision would help meet an identified local need (GDL/5/P) and can be secured by condition, were the appeal to succeed.
- 10.15 To conclude on this issue, the quantum of development proposed would have no greater impact than the approved scheme, on the suitability of the site for residential development in terms of national and local planning policy and guidance.

#### *Highway capacity and safety*

- 10.16 The planning application was accompanied by a Transport Assessment (CD1.7) and an Interim Travel Plan (CD1.8). Vehicular access to the appeal site would be via a new three-arm priority junction on Queens Drive. [7.19] The highway authority is satisfied that the new junction would operate with considerable reserve capacity during peak hours and takes no issue with the capacity or safety of this arrangement. (SoCG2) It also confirms that the development would have no significant adverse impact on the wider strategic highway network. [7.20]
- 10.17 However, the majority of trips from the development would pass along Welsh Row, the main historic thoroughfare through the town. The Transport Assessment submitted with the planning application (CD1.7) identifies capacity issues at two of the junctions on Welsh Row – Queens Drive/Welsh Row and

High Street/ Waterlode/Welsh Row (plan AED002 at Appendix A of GDL/2/A) [7.20].

- 10.18 With regard to the capacity and safety of the High Street/Waterlode/Welsh Row junction, it is proposed to alter the staging and timing of the existing signals, including the introduction of the MOVA system, together with complementary road markings, all of which would increase the capacity of the junction. [7.22, 7.23, 7.24, 7.25] The arrangement would retain the existing 'on demand' pedestrian crossing facility in addition to an 'all red' pedestrian crossing phase every third cycle. This package of improvements would be sufficient to secure significant improvements to the junction performance, offering more reserve capacity in the 2017 base plus development scenario, than the 2017 base for the existing layout. [7.26] As confirmed by the calculations at Table 7.1 of GDL/2/P, the results more than satisfy the 'no worse off' scenario suggested as being acceptable by the highway authority. [7.21] These measures can be secured by condition were the appeal to succeed.
- 10.19 In relation to the Queens Drive/Welsh Row junction, a traffic signal scheme was proposed initially. However, whilst that would have mitigated the impact of the development at that junction, it would have adverse implications for the character and appearance of the Conservation Area within which the junction is located. That is unfortunate, given the success of recent works involving improvements to the street surfaces and street furniture, to enhance the character and appearance of Welsh Row. [7.27] In response to discussions with the highway authority in relation to the approved scheme, it was agreed that upgrading the current pedestrian link between Edmund Wright Way and Taylor Drive, so that it could take vehicular traffic, would divert sufficient traffic away from the junction to mitigate any concerns in relation to junction capacity. [7.28] The same arrangement is proposed in relation to the appeal scheme, with the cost of those works being secured by the planning obligation (ID11).
- 10.20 The development proposed would, as a matter of fact, result in a material increase in traffic on the local highway network. However, the improvements set out above would sufficiently mitigate any adverse impact in terms of capacity and safety and are the same as those secured for the already approved scheme. There is no reason to suppose that up to 30 more dwellings on the site would have a materially greater impact in this regard, than would the permitted scheme. Accordingly, there would be no conflict with RSS policy RT4 and policy BE.3 of the Local Plan, which seek to mitigate the impact of traffic, and ensure safe and adequate access to new development.

#### *Other Matters*

- 10.21 The development makes provision for 19,600 sqm of shared recreational open space and children's play space (against a minimum requirement of 9,450 sqm as set out in Local Plan policy RT.3). In addition, although not required by policy, the scheme provides for an equipped play area of some 400 sqm. Together with the fenced habitat creation area, a total of some 21,500 sqm of open space of some form or another would be provided within the development, representing almost 22% of the total site area. That compares to a total of 22,500 sqm (23% of the total area) for the approved scheme.

(Appendix 3 to GDL/3/A). The additional 30 dwellings would not result in any harm in this regard.

- 10.22 There are no designated, or non-designated assets within the appeal site. For the reasons set out in the archaeological desk based assessment (CD1.15) the site has very low archaeological potential. However, three listed structures lie in close proximity to the western site boundary: two accommodation bridges over the canal that date from around 1826, and an early C19 cast iron milepost, all of which are grade II listed. Their significance derives from their association with the historic development of the canal, itself a non-designated heritage asset. As with the approved scheme, the masterplan (CD1.4) shows the buildings along this side of the site to be set well away from the site boundary, behind a landscaped buffer.
- 10.23 Dorfold Hall, a grade I listed building, the greater part of which dates from 1616, lies some way to the north east of the appeal site (ID8). Its special interest derives from its history and its architecture. The Hall is set within a roughly square park, comprising formal and woodland gardens, themselves a Registered Park or Garden (grade II), the southeastern corner of which lies close to the northeastern corner of the appeal site. However, the eastern limits of the Park are already abutted by modern housing development. As with the already approved scheme, the appeal site would be further from the registered Park than that existing residential development, separated from it by Marsh Lane/Queens Drive and the Marsh Lane canal bridge. The relationship of the development proposed with the Hall, and its grounds, would be no different from that already approved and there would be no material harm to the setting of the listed Hall or the significance of the registered Park as a consequence of the increased density of development proposed.
- 10.24 The appeal lies site within Flood Zone 1. Whilst the risk of over topping or breach of the canal cannot be discounted, measures to mitigate any risk in this regard, can be secured in detailed submissions should the appeal succeed. That risk would not increase as a consequence of the additional 30 dwellings proposed.
- 10.25 With regard to drainage, the submitted details indicate use of a ditch along the northern boundary of the site. During the site visit, however, it became clear that ditch is unlikely to provide a watercourse, being blocked off in many places. Nevertheless a detailed sustainable drainage scheme could be secured by condition. That is not a consequence of the additional dwellings proposed.

## **11. Planning Obligation**

- 11.1 A unilateral undertaking, in the form of a deed, was submitted by the appellant (ID11) and was discussed at the Inquiry. By and large, it mirrors the obligation that accompanies the recent grant of permission for up to 240 dwellings on the site (ID7). It is intended to meet a range of local policy objectives with the aim of overcoming, or substantially mitigating, a number of potential objections.
- 11.2 It secures future maintenance of the recreational open space, children's play space and an equipped play area within the development, by means of a management company. It is important that those areas are properly managed

once provided, since the space is required to provide a necessary facility for future occupiers of the development and other local residents.

- 11.3 The canal towpath contribution would pay for improvements to the towpath alongside the western boundary of the appeal site, between the listed canal bridges, necessary given the likely increased use as a consequence of the development proposed. The towpath would also provide a sustainable pedestrian and cycle link to the town. Details of how the figure is arrived at are set out in ID14. (The requested £10,000 for risk/contingency is not included in the contribution as that is a matter for the Canal and River Trust who would undertake the works.)
- 11.4 Details of how the education contribution has been calculated are set out at ID13. Whilst there is sufficient capacity at local secondary schools to accommodate students from the development, the education authority calculates that the development proposed would lead to a shortfall of 27 places at the local primary school. I was advised that the required contribution would provide for the necessary classroom extensions at Acton Primary School, which is within the catchment of the appeal site.
- 11.5 Accessibility of the town centre for future residents, by means other than the private car, is important in terms of the sustainability of the site. A key access route from the site would be via Nantwich Riverside Park. A contribution is secured, in this regard, to allow for an assessment of the bridges across the River Weaver to ensure that they are suitable for the anticipated increase in pedestrian and cycle traffic and to deal with necessary works arising therefrom. In addition, a contribution is secured towards necessary resurfacing of the path alongside the railway between Shrewbridge Road and Wellington Road, to facilitate pedestrian/cycle access to the station, for future residents.
- 11.6 The public footpath that runs along the southern boundary of the appeal site crosses the nearby railway by a level crossing. Initially, Network Rail sought a contribution towards the erection of a footbridge here. However, at the Inquiry, the Council confirmed that a lesser contribution towards necessary widening of the existing crossing and upgrading the crossing gates, given the likely increased use of this route, was acceptable. The agreement of Network Rail to this reduced figure is set out at ID12.
- 11.7 The development proposed is expected to cause capacity problems at the traffic light controlled High Street/Waterlode/Welsh Row junction in the town. In relation to the approved scheme for up to 240 dwellings (CD20) the highway authority confirmed that that impact could be mitigated to an acceptable degree through improvements to the signalling sequence and alterations to the carriageway markings (a matter that could be controlled by condition) and through a reduction in the flow of traffic through that junction, achieved in part by increasing the frequency of local bus services/improving bus stop waiting facilities. The obligation secures the sum of £50,000 towards improvements in this regard.
- 11.8 In addition, in order to address capacity concerns at the Queens Drive/Welsh Row junction, the approved scheme included upgrading the current pedestrian link between Edmund Wright Way and Taylor Drive, so that it could take

vehicular traffic. The same arrangement is proposed in relation to the appeal scheme. The obligation secures £235,000 towards those necessary works.

- 11.9 The National Planning Policy Framework confirms that planning obligations should only be accepted where they meet all the following tests: necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. For the reasons set out above, I consider that the contributions and obligations secured meet the Framework tests and comply with the Community Infrastructure Levy Regulations.

## **12. Conditions**

- 12.1 The recommended conditions in Annex C attached are based on those suggested by the Council (ID10), and are informed by the advice in Circular 11/95 *The Use of Conditions in Planning Permissions* and the related discussion at the Inquiry.
- 12.2 At the Inquiry, it was agreed that suggested condition 9 is unnecessary, as National Rail has agreed to improvements to the crossing, which matter is secured by the planning obligation; suggested conditions 10-13 should be replaced by the Planning Inspectorate's model condition on sustainable urban drainage, or could be dealt with by amendments to suggested conditions 14 and 15; suggested condition 17 is unnecessary, since it would be open to the Council to accept, or reject, any reserved matters details submitted in the future; and suggested conditions 23 and 29 are unnecessary, since the matters would be covered by other conditions, as amended.
- 12.3 Consideration was also given to the possibility of adapting the conditions in the event that the development might be built out in phases. However, it was confirmed for the appellant that it was not intended to deliver the scheme in discrete phases. If phasing were to be entertained in the future, the implications for discharge of the conditions would be a matter for the Council to consider in the first instance. I note, in this regard, that there is no suggestion of phased development in the conditions imposed on the extant permission for up to 240 dwellings.
- 12.4 In addition to the standard conditions relating to the submission of reserved matters details and commencement of development (1), (2) and (3) it is necessary, in order to safeguard the character and appearance of the area, to ensure that development is carried out in accordance with the illustrative masterplan and the Design and Access Statement. (4) Although the Council sought to include reference to a Design Code, this was resisted by the appellant. On balance, I am satisfied that the recommended conditions would provide the Council with sufficient control over matters of design.
- 12.5 It is necessary to secure the provision of adequate open space within the development, in the interest of visual amenity and the need to ensure an acceptable living environment for residents. (5)
- 12.6 For the avoidance of doubt, and in the interests of proper planning, it is necessary to list the plans to which the decision relates, but only insofar as they relate to the matter of access, which is not reserved for subsequent approval (6).

- 12.7 In the interests of both highway safety and visual amenity, it is necessary to agree details of the internal estate layout roads, and any areas of hard surfacing. (7) It is also necessary, in the interest of highway safety to ensure that the highway improvement works to the High Street/Waterlode/Welsh Row junction are carried out prior to first occupation of any part of the development. (8) In order to promote the use of more sustainable modes of transport, in accordance with national and local planning policy and guidance, a travel plan is required. (9)
- 12.8 In the interests of safeguarding visual amenity, it is necessary to secure environmental and landscape management plans. (10)(11) For the same reason, it is necessary to protect existing trees and hedgerows during construction, (12)(14) and to control future arboricultural works. (13) Conditions are also necessary to protect and enhance wildlife. (15)(16)(17)
- 12.9 In the interest of visual amenity, the detail of any external lighting, other than lighting within an individual curtilage, needs to be agreed. (18)
- 12.9 A scheme for protecting future occupiers from noise from the adjacent road and railway is necessary to ensure that their living conditions are acceptable. (19)
- 12.10 Although this is a green field site, a phase II survey of a pond within the southeastern corner of the site, that is filled with unknown material, is necessary in order to prevent pollution. (20) Conditions relating to the submission of drainage details are also necessary to avoid pollution and to prevent increased risk of flooding. (21)(22)
- 12.11 Given the proximity of the site to the canal, conditions requiring the submission of a scheme to protect the canal from harm and pollution (23) and to manage risk from flooding (23) are necessary.
- 12.12 The provision of 30% affordable housing is necessary to meet an identified need and to comply with policy RES.7 of the Local Plan, the Council's Interim Statement on the Provision of Affordable Housing and the National Planning Policy Framework (25).
- 12.13 The growing emphasis on the use of decentralised and renewable or low-carbon energy in new housing is reflected in the RSS policy EM18. A condition to ensure that the development maximises energy efficiency is therefore warranted. (26)

### **13. Recommendation**

**File Ref: APP/R0660/A/12/2187264**

- 13.1 For the reasons set out above, I conclude that there would be no significant implications resulting from the difference in providing up to 270 dwellings on the site, as opposed to up to 240 in the already permitted scheme. I therefore recommend that the appeal be allowed and planning permission be granted subject to conditions 1-26 set out in Appendix C.

*Jennifer A Vyse*

INSEPECTOR

## Appendix A: APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr M Carter of Counsel

Instructed by the solicitor to Cheshire East Council

He called

Mr B Haywood

Principal Planning Officer with Cheshire East Council. Mr Haywood did not give evidence, but participated in the discussion on possible conditions and S106 contributions.

Mr N Jones

Principal Development Officer with Cheshire East Council. Mr Jones did not give evidence, but participated in the discussion on possible conditions and S106 contributions in relation highway matters.

### FOR THE APPELLANT:

Mr I Ponter of Counsel

Instructed by Mr M Twigg of Gladman Developments Limited

He called

Miss L Tilston  
BSc(Hons), MA, MRTPI

Planning Manager with Gladman Developments Limited

Mr G Venning MA

Director of Levvel Limited

Mr P Rech  
BA, BPhil, LD, CMLI

Director of FPCR Environment and Design Limited

Mr A Dolan  
IEng, FIHE, MCIHT, CMILT

Director of Curtins Consulting Engineers

Mr M Hourigan  
BA(Hons), BPL, MRTPI

Director of Hourigan Connolly

### INTERESTED PERSONS:

Mr A Bradley

Local resident

Mr J Howell

Local resident

Mr A Robinson

Local resident

**Appendix B: DOCUMENTS****CORE DOCUMENTS****FOLDER 1**

<b>CD1</b>	<b>Application Documents</b>
1.1	Application Covering Letter, Application Form and Certificates
1.2	Location Plan (including Application Red Line) Drawing No. 4973-L-01 Rev E
1.3	Development Framework Plan - Drawing No. 4973-L-02 Rev F
1.4	Illustrative Master Plan - Drawing No. 4973-L-03 Rev F
1.5	Design & Access Statement
1.6	Landscape & Visual Assessment
1.7	Transport Assessment
1.8	Travel Plan
1.9	Ecological Report
1.10	Arboricultural Report
1.11	Phase 1 Site Investigation
1.12	Flood Risk Assessment (FRA)

**FOLDER 2**

1.13	Air Quality Assessment
1.14	Noise Assessment
1.15	Archaeology Report
1.16	Agricultural Land Quality
1.17	Utilities Appraisal Report
1.18	Renewable Energy Statement
1.19	Statement of Community Involvement
1.20	Affordable Housing Report
1.21	Socio-Economic Report
1.22	Planning Statement
1.23	S106 Heads of Terms

<b>CD2</b>	<b>Correspondence with the Local Planning Authority</b>
2.1	21 November 2011 E-mail - CEC to Gladman re: TA
2.2	26 January 2012 E-mail - Gladman to CEC re: Potential for pre-application meeting
2.3	13 July 2012 E-mail - CEC to Gladman re: Application registration
2.4	20 August 2012 E-mail - Gladman to CEC re: Highways
2.5	31 August 2012 E-mail - Gladman to CEC re: Planning committee agenda
2.6	5 September 2012 E-mail - CEC to Gladman re: Viewing of application
2.7	6 September 2012 - E-mail - Gladman to CEC re: Amendments to application
2.8	14 September 2012 - E-mail - Gladman to CEC re: Outstanding highways issues
2.9	20 September 2012 - E-mail - Curtins to CEC re: Meeting with Highways
2.10	24 September 2012 - E-mail - Curtins to CEC re: Proposed signal arrangement
2.10A	26 September 2012 - E-mail - Gladman to CEC re: Planning officer's recommendation
2.11	26 September 2012 - E-mail - Gladman to CEC re: Pre-application consultation process
2.12	26 September 2012 - E-mail - Gladman to CEC re: Pre-application consultation process
2.13	26 September 2012 - E-mail - CEC to Gladman re: Pre-application consultation process
2.14	27 September 2012 - E-mail - CEC to Gladman re: Pre-application consultation advice
2.15	28 September 2012 - E-mail - Gladman to CEC re: Counsel advice
2.16	28 September 2012 - E-mail - CEC to Gladman re: Pre-application advice

2.17	28 September 2012 - E-mail - Gladman to CEC re: Relevant appeal decision
2.18	1 October 2012 - E-mail - Gladman to CEC re: Meeting arrangement
2.19	2 October 2012 E-mail - Gladman to CEC re: Meeting arrangement
2.20	4 October 2012 - E-mail - Gladman to CEC re: Design
2.21	9 October 2012 - E-mail - Gladman to CEC re: Meeting minutes review
2.22	16 October 2012 - E-mail - FPCR to CEC re: Development framework revisions
2.23	18 October 2012 - E-mail - Gladman to CEC re: Signal concerns
2.24	18 October 2012 - E-mail - CEC to Gladman re: Signalisation of junction
2.25	22 October 2012 - E-mail - Gladman to CEC re: Potentially progressing highway through meeting
2.26	24 October 2012 - E-mail - Gladman to CEC re: Highways issues outstanding
2.27	1 November 2012 - E-mail - CEC to Gladman re: Design and Access amendments
2.28	1 November 2012 - E-mail - CEC to Gladman re: Review of current situation
2.29	1 November 2012 - E-mail - CEC to Gladman re: Final highways comments
2.30	7 November 2012 - E-mail - Gladman to CEC re: Informing CEC of initial appeal

<b>CD3</b>	<b>Correspondence between Curtins (Appellant's highway consultants) and the Local Planning Authority</b>
3.1	21 November 2011 - E-mail - CEC to Curtins re: Initial draft of TA
3.2	Register of emails
3.3	1 August 2012 - E-mail - Curtins to CEC re: Additional TA information
3.4	6 August 2012 - E-mail - CEC to Curtins re: Meeting arrangements
3.5	6 August 2012 - E-mail - Curtins to CEC re: Additional TA information
3.6	6 August 2012 - E-mail - CEC to Curtins re: Junctions studied within the TA
3.7	10 August 2012 - E-mail - Curtins to CEC re: Junction sensitivity testing
3.8	16 August 2012 - E-mail - Curtins to CEC re: Chasing response
3.9	17 August 2012 - E-mail - CEC to Curtins re: Traffic impact
3.10	22 August 2012 - E-mail - Curtins to CEC re: Junction traffic Flows
3.11	24 August 2012 - E-mail - Curtins to CEC re: Meeting arrangements
3.12	10 September 2012 - E-mail - Curtins to CEC re: Chasing response
3.13	20 September 2012 - E-mail - Curtins to CEC re: Meeting Minutes
3.14	20 September 2012 - E-mail - CEC to Curtins re: Meeting Minutes
3.15	21 September 2012 E-mail - Curtins to CEC re: Proposed junction layout
3.16	24 September 2012 E-mail - Curtins to CEC re: Proposed junction layout
3.17	26 September 2012 - E-mail - CEC to Curtins re: Proposed junction layout
3.18	27 September 2012 E-mail - Curtins to CEC re: Proposed junction layout
3.19	27 September 2012 - E-mail - Curtins to CEC: Bus service
3.20	27 September 2012 - E-mail - CEC to Curtins re: Proposed junction layout
3.21	27 September 2012 - E-mail - Curtins to CEC re: Proposed junction layout
3.22	28 September 2012 - E-mail - CEC to Curtins re: Bus service
3.23	2 October 2012 - E-mail - Curtins to CEC re: Bus service
3.24	2 October 2012 - E-mail - Curtins to CEC re: Mitigation measures
3.25	4 October 2012 - E-mail - CEC to Curtins re: Bus service
3.26	5 October 2012 - E-mail - Curtins to CEC re: Chasing response
3.27	12 October 2012 - E-mail - CEC to Curtins re: Bus service
3.28	12 October 2012 - E-mail - Curtins to CEC re: Highways
3.29	18 October 2012 - E-mail - Curtins to CEC re: Chasing response
3.30	18 October 2012 - E-mail - Curtins to CEC re: Chasing response
3.31	22 October 2012 - E-mail - Curtins to CEC re: Chasing response
3.32	24 October 2012 - E-mail - Curtins to CEC re: Chasing response

3.33	24 October 2012 - E-mail - CEC to Curtins re: Reallocation of highways officer
3.34	2 November 2012 - E-mail - Curtins to CEC re: Proposed junction layout
3.35	7 November 2012 - E-mail - Curtins to CEC re: Chasing response
3.36	7 November 2012 - Telephone discussion notes - Curtins to CEC re: General highways review

**FOLDER 3**

<b>CD4</b>	<b>Consultation responses</b>
4.1	Consultation Response from Environment Agency
4.2	Consultation Response from United Utilities
4.3	Consultation Response from Cheshire Gardens Trust
4.4	Consultation Response from Canal & River Trust
4.5	Consultation Response from Nantwich Town Council
4.6	Consultation Response from Acton, Edleston & Henhull Parish Council
4.7	Consultation Response from Natural England
4.8	Consultation Response from Countryside Access Development Officer
4.9	Consultation Response from Environmental Health
4.10	Consultation Response from Electricity North West
4.11	Consultation Response from Public Rights of Way Officer
4.12	Letter from CEC requesting Transco Response
4.13	Consultation Response from Urban Design
4.14	Consultation Response from Ecology Officer
4.15	Consultation Response from Landscape Officer
4.16	Consultation Response from Forestry / Heritage
4.17	Consultation Response from Cheshire Archaeology Planning Advisory Service

<b>CD5</b>	<b>Committee reports</b>
5.1	Committee Report 05.10.12 (Withdrawn)
5.2	Committee Report 05.12.12

<b>CD6</b>	<b>Adopted RSS – September 2008</b>
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<b>CD7</b>	<b>Crewe and Nantwich Local Plan</b>
7.1	Extract of Adopted Local Plan
7.2	SOS Saving Direction & Schedule of Saved Policies
7.3	Extract of CNBC Local Plan 1st Review Map (Nantwich)

<b>CD8</b>	<b>SPD No4 Sustainable Development (April 2005)</b>
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<b>CD9</b>	<b>Interim Planning Statement on Affordable Housing (February 2011)</b>
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<b>CD10</b>	<b>Interim Planning Statement on the Release of Housing Land (February 2011)</b>
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<b>CD11</b>	<b>Cheshire East Strategic Housing Market Assessment (2010)</b>
11.1	CEC SHMA 2010
11.2	CEC SHMA 2010

<b>CD12</b>	<b>CEC - LDF Background Report - Determining the Settlement Hierarchy (November 2010)</b>
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<b>CD13</b>	<b>Strategic Housing Land Availability Assessment (2012)</b>
13.1	Strategic Housing Land Availability Assessment 2012
13.2	Nantwich Area SHLAA Map
13.3	Map Extract for Site 3428

**FOLDER 4**

<b>CD14</b>	<b>CEC LDF Core Strategy - Issues &amp; Options Paper (November 2012)</b>
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<b>CD15</b>	<b>Draft Nantwich Town Strategy</b>
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<b>CD16</b>	<b>Shaping our Future - A Development Strategy for Jobs &amp; Sustainable Communities</b>
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<b>CD17</b>	<b>Shaping our Future Emerging Policy Principles</b>
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**FOLDER 5**

<b>CD18</b>	<b>Correspondence between appellant (Gladman &amp; Curtins Highways Consultants) and Local Planning Authority (CEC)</b>
18.1	1 October 2012 - E-mail - Gladman to CEC re: Highways reason for refusal
18.2	8 January 2013 - E-mail - Gladman to CEC re: Enclosed Letter
18.3	10 January 2013 - E-mail - Curtins to CEC re: Potential resolution to highways issues
18.4	15 January 2013 - E-mail - Gladman to CEC re: Housing Land Supply
18.5	15 January 2013 - E-mail - Gladman to CEC re: Draft Statement of Common Ground
18.6	15 January 2013 - E-mail - Curtins to CEC re: Chasing response
18.7	16 January 2013 - E-mail - Gladman to CEC re: Chasing response
18.8	16 January 2013 - E-mail - CEC to Gladman re: Preparing Evidence
18.9	16 January 2013 - E-mail - CEC to Curtins re: Preparing Evidence
18.10	16 January 2013 - E-mail - Gladman to CEC re: Highways matters
18.11	22 January 2013 - E-mail - Curtins to CEC re: High Street / Waterlode / Welsh Row signal staging
18.12	23 January 2013 - E-mail - Gladman to CEC re: Preparing Evidence
18.13	24 January 2013 - E-mail - Curtins to CEC re: Highways matters
18.14	24 January 2013 - E-mail - CEC to Curtins re: Highways Evidence
18.15	25 January 2013 - E-mail - CEC to Curtins re: Draft Statement of Common Ground
18.16	28 January 2013 - E-mail - Gladman to CEC re: High Street / Waterlode / Welsh Row signal staging
18.17	28 January 2013 - E-mail - Gladman to CEC re: Housing Land Supply
18.18	29 January 2013 - E-mail - CEC to Curtins re: Draft Statement of Common Ground
18.19	29 January 2013 - E-mail - Curtins to CEC re: Draft Statement of Common Ground
18.20	29 January 2013 - E-mail - CEC to Gladman re: Housing Land Supply
18.21	30 January 2013 - E-mail - Curtins to CEC re: Draft Statement of Common Ground
18.22	31 January 2013 - E-mail - CEC to Curtins re: Draft Statement of Common Ground
18.23	31 January 2013 - E-mail - Curtins to CEC re: Draft Statement of Common Ground
18.24	8 February 2013 - E-mail - CEC to Gladman re: CEC not offering evidence on Housing Land Supply

<b>CD19</b>	<b>Committee Report 8.2.13</b>
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<b>CD20</b>	<b>Committee Report 20.2.13</b>
<b>CD21</b>	<b>Cheshire East SHLAA Update 2012 (January 2013)</b>

## STATEMENTS OF COMMON GROUND

<b>SoCG 1</b>	Statement of common ground between Gladman Developments Limited and Cheshire East Council
<b>SoCG 2</b>	Statement of common ground between Curtins Consulting Engineers and Cheshire East Council (as the Local Highway Authority)

## APPELLANT'S DOCUMENTS

<b>GDL/1/P</b>	Proof of evidence of Miss Tilston
<b>GDL/1/A</b>	Appendices to the proof of Miss Tilston
<b>GDL/1/S</b>	Bundle of appeal decisions
<b>GDL/2/P</b>	Proof of evidence of Mr A Dolan
<b>GDL/2/A</b>	Appendices to the proof of Mr A Dolan
<b>GDL/3/P</b>	Proof of evidence of Mr P Rech
<b>GDL/3/A</b>	Appendices to the proof of Mr P Rech
<b>GDL/4/P</b>	Proof of evidence of Mr M Hourigan
<b>GDL/4/A</b>	Appendices to the proof of Mr M Hourigan
<b>GDL/4/SP</b>	Supplementary proof of evidence of Mr M Hourigan
<b>GDL/4/SA</b>	Appendices to the supplementary proof of Mr M Hourigan
<b>GDL/5/P</b>	Proof of evidence of Mr G Venning

## DOCUMENTS SUBMITTED AT THE INQUIRY

<b>ID1</b>	Appearances for the appellant
<b>ID2</b>	Written statement of objection by Mr A Bradley
<b>ID3</b>	Map showing Nantwich Conservation Area
<b>ID4</b>	Extract from the Local Transport Plan
<b>ID5A</b>	Discover Cheshire footpath route: Walking the Past
<b>ID5B</b>	Discover Cheshire footpath route: Nantwich Riverside Loop
<b>ID5C</b>	Discover Cheshire footpath route: A walk around Nantwich and Acton
<b>ID6</b>	Decision Notice 12/46654N dated 1 March 2013
<b>ID7</b>	Executed Planning Obligation that accompanied the 12/46654N Decision
<b>ID8</b>	Map showing the boundary of Dorfold Hall Registered Park and Garden
<b>ID9</b>	List description for the grade I listed Dorfold Hall
<b>ID10</b>	Draft Conditions
<b>ID11</b>	Executed Planning Obligation relating to the appeal scheme
<b>ID12</b>	Email from Network Rail re S106 contribution (25 February 2013)
<b>ID13</b>	Email from the Council's Land and Sites coordinator (Children and Families Organisation and Capital Strategy) re S106 contribution towards education (9 August 2012)
<b>ID14</b>	Email from the Canal River Trust re S106 contribution towards towpath improvements (26 and 27 February 2013)
<b>ID15</b>	Draft Travel Plan condition
<b>ID16</b>	Closing submissions for the appellant

## **Appendix C: RECOMMENDED CONDITIONS**

### RESERVED MATTERS

- 1) Details of 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 all 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 reserved matters submissions required by condition 1 shall accord with the provisions of the illustrative masterplan (Plan No 4973-L-03 Rev F) and the terms of the Design and Access Statement.
- 5) The reserved matters submissions required by condition 1 shall include a minimum of 9,450 sqm open space comprising at least 4,050 sqm shared recreational open space and 5,400 sqm shared children's play space within the development. The children's play space shall include at least six pieces of play equipment for younger children, plus at least six pieces for older children, and a Multi Use Games Area.

### PLANS

- 6) The development hereby permitted shall be carried out in accordance with the following approved plans: red line location plan 4973-L-01-Rev E (June 2012) and the Proposed Site Access 90189/101 Rev B (contained in the Transport Assessment).

### HIGHWAYS

- 7) Prior to commencement of development, details of the widths, finished levels, construction and drainage of the means of access to the site, internal estate roads, and any areas of hard surfacing, shall be submitted to and agreed in writing by the local planning authority. Development shall be carried out only in accordance with the approved details.
- 8) None of the dwellings hereby permitted shall be occupied until the existing signal junction at Waterlode/High Street/Welsh Row has been improved in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The details to be submitted shall include revised staging for right-turn vehicles, additional signal equipment and controller changes, and revised carriageway markings.

### TRAVEL PLAN

- 9) None of the dwellings hereby permitted shall be occupied until a detailed Travel Plan has been submitted to and approved in writing by the local planning authority. Among other things, the Travel Plan shall include a timetable for implementation and provision for monitoring and review. The Travel Plan shall be implemented in accordance with the agreed timetable

and details and shall remain operative as long as any part of the development is occupied.

#### ENVIRONMENTAL MANAGEMENT, TREES AND LANDSCAPING

- 10) Prior to the commencement of development, an Environmental Management Plan (EMP) with respect to the construction stage of the development, shall be submitted to and approved in writing by the local planning authority. No development shall take place except in complete accordance with the approved EMP.
- 11) Prior to the commencement of development, a Landscape Management Plan, including long term design objectives, management responsibilities, and maintenance schedules for all areas of existing and proposed landscaping, shall be submitted to, and approved in writing by, the local planning authority. The Landscape Management Plan shall be implemented in accordance with approved details.
- 12) No development or other operations, including site clearance, shall commence until details of a scheme for the protection, during construction, of trees, shrubs and hedges growing on or adjacent to the site, has been submitted to and approved in writing by the Local Planning Authority. The measures set out in the protection scheme shall be provided on site, in accordance with approved details, prior to development or other operations, including site clearance, commencing and shall be retained at all times during the construction works, unless the local planning authority gives prior written consent for any variation. No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any protected area.
- 13) No development shall commence (including any tree felling, tree pruning, soil moving, temporary access construction and/or widening, or any operations involving the use of motorised vehicles or construction machinery) until a detailed Arboricultural Method Statement has been submitted to and approved in writing by the local planning authority. No development shall take place except in complete accordance with the approved Method Statement. The Method Statement shall include the following:
  - i) specification details for any proposed treework;
  - ii) implementation, supervision and monitoring of the approved specification details;
  - iii) timing and phasing of arboricultural works in relation to the approved development;
  - iv) specification for any works within root protection areas; and,
  - v) supervision and monitoring of works within root protection areas.
- 14) Prior to the commencement of development, details of the routes of any services under the crown spreads of existing trees, or within 1 metre of any retained hedgerow, and a detailed Construction Specification/ Method Statement for their installation, shall be submitted to and approved in writing by the local planning authority. The installation of any underground

service shall not take place other than in complete accordance with the approved Construction Specification/ Method Statement.

#### ECOLOGY

- 15) Prior to any commencement of development, a scheme detailing measures, including the timing of works, to protect newts, bats, badgers and breeding birds from disturbance and harm, shall be submitted to and approved in writing by the local planning authority. Development shall be carried out only in accordance with agreed scheme.
- 16) Prior to commencement of development, details of bat and bird nest boxes to be provided at the site shall be submitted to and approved in writing by the local planning authority. The approved boxes shall be provided in accordance with a timetable that shall previously have been agreed in writing by the local planning authority and shall be retained thereafter.
- 17) Prior to commencement of development, details of the design and layout of the habitat creation/mitigation areas, including ponds, hedgerow creation, protection and enhancement, a timetable for implementation and a ten year habitat management plan for all mitigation areas, shall be submitted to and approved in writing by the local planning authority. The measures secured shall be carried out in accordance with the approved details and the areas shall thereafter be managed in accordance with the approved plan.

#### LIGHTING

- 18) No external lighting, other than within a private residential curtilage, shall be installed other than in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority.

#### NOISE

- 19) Prior to the commencement of development, a scheme for protecting the occupiers of the dwellings hereby permitted from noise from the adjacent road and railway shall be submitted to, and approved in writing by, the local planning authority. All works that form part of the scheme shall be implemented prior to the first occupation of the dwellings hereby permitted and retained thereafter.

#### CONTAMINATION

- 20) Prior to the commencement of development, a Phase II Site Investigation shall be carried out in relation to the former pond in the southeastern corner of the site (shown hatched on site investigation plan No 5428/01-01 at Appendix 3A to the Lees Roxburgh Limited Phase I Geotechnical Assessment (Desk Study) dated December 2011) and the results submitted to, and approved in writing by, the local planning authority. If the investigations indicate that remediation is necessary, a remediation scheme, including details of the timescale for the work to be undertaken, shall be submitted to and approved in writing by the local planning authority. The approved scheme must be carried out in accordance with its terms prior to the commencement of development (other than that required to carry out remediation) unless otherwise agreed in writing by the local planning authority. Following completion of the measures identified in the remediation scheme, a verification report that demonstrates the

effectiveness of the remediation carried out, must be submitted to, and approved in writing by, the local planning authority prior to first occupation of any dwelling on the site.

#### DRAINAGE

- 21) No building hereby permitted shall be occupied until surface water drainage works have been implemented in accordance with details that have been submitted to and approved in writing by the local planning authority. Before these details are submitted, an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system in accordance with the principles set out in the National Planning Policy Framework, and the results of the assessment provided to the local planning authority. Where a sustainable drainage scheme is to be provided, the submitted details shall:
- i) include information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site, and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - ii) include a timetable for its implementation; and,
  - iii) provide a management and maintenance plan for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker, and any other arrangements to secure the operation of the scheme throughout its lifetime.
- 22) None of the dwellings hereby permitted shall be occupied until works for the disposal of foul sewage have been provided in accordance with details that shall previously have been submitted to, and approved in writing by, the local planning authority.

#### CANAL

- 23) No development shall commence until details of measures to prevent any risk of pollution or harm to the adjacent Shropshire Union Canal have been submitted to and approved in writing by the local planning authority. Development shall be carried out only in accordance with the approved details.
- 24) The development hereby permitted shall not be commenced until such time as a scheme to manage the risk of flooding from the Shropshire Union Canal has been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the first occupation of any dwelling on the site and shall be retained thereafter.

#### AFFORDABLE HOUSING

- 25) The development hereby permitted shall not begin until a scheme for the provision of affordable housing as part of the development has been submitted to, and approved in writing by, the local planning authority. The affordable housing shall be provided in accordance with the approved scheme and shall meet the definition of affordable housing set out in the Glossary to the National Planning Policy Framework. The scheme shall include:

- i) the numbers, type, and location on the site of the affordable housing provision to be made, which shall consist of not less than 30% of the dwellings;
- ii) the tenure shall be split 65% social rented or affordable rented and 35% intermediate;
- iii) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
- iv) the arrangements for the transfer of the affordable housing to an affordable housing provider, or the management of the affordable housing if no Registered Social Landlord is involved;
- v) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and,
- vi) the occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

#### ENERGY

- 26) No development shall commence until a scheme that makes provision for at least 10% of the energy requirements of the development to be obtained from decentralised and renewable or low-carbon sources has been submitted to and approved in writing by the local planning authority. The approved scheme for each dwelling shall be installed and be fully operational prior to first occupation of that dwelling and shall thereafter be retained.
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## Department for Communities and Local Government

### **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

#### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS;**

The decision may be challenged by making an application to the High Court under Section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application under this section must be made within six weeks from the date of the decision.

#### **SECTION 2: AWARDS OF COSTS**

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

#### **SECTION 3: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.