



# Department for Communities and Local Government

Emma Tutton  
Gladman Developments  
Gladman House  
Alexandria Way  
CW12 1LB

Our Ref: APP/A0665/A/14/2229269

15 October 2015

Dear Madam,

## **TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78 APPEAL BY GLADMAN DEVELOPMENTS LTD LAND OFF RILSHAW LANE, WINSFORD, CHESHIRE, CW7 3PE**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, David Prentis BA BPI MRTPI, who held an inquiry which sat for 3 days from 9 to 11 June 2015, into your client's appeal against the decision of Cheshire West and Chester Council (the Council) to refuse planning permission for a residential development of up to 215 dwellings, public open space with recreational facilities, site access, associated highways and infrastructure works, in accordance with application ref: 14/0266/OUT.
2. The appeal was recovered for determination by the Secretary of State by letter dated 4 February 2015, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, on the grounds that the appeal involves proposals for residential development of over 150 units or on sites of over 5 hectares which would significantly 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 granted subject to conditions. For the reasons given below, the Secretary of State agrees with the Inspector's 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. At the close of the Inquiry the Council's position was that planning permission ought to be granted, subject to the suggested conditions relating to the development brief

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and other suggested conditions (IR1.12). The Council also maintained that all of the obligations within the Agreement are necessary and compliant with the CIL Regulations.

5. An application for costs was submitted by the appellant at the Inquiry (IR1). This application is the subject of separate decision letter.

### **Matters arising after the close of the inquiry**

6. The Secretary of State has had regard to correspondence submitted by your company after the close of the inquiry dated 29 September 2015. He has carefully considered this representation and is satisfied it does not raise matters which would require him to refer back to parties again prior to reaching his decision. Copies of this letter can be made available on written request to the address at the foot of the previous page.

### **Policy considerations**

7. 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.
8. In this case, the adopted development plan for the area comprises the saved policies of the Vale Royal Borough Local Plan First Alteration (VRBLP); the Cheshire West and Chester Local Plan (Part One): Strategic Policies (LP) adopted on 29 January 2015; and the Winsford Neighbourhood Plan (WNP) made on 19 November 2014. The Secretary of State agrees with the Inspector that the most relevant policies are those detailed at IR2.6-2.12.
9. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework (the Framework) and associated planning practice guidance; and the Community Infrastructure Levy (CIL) Regulations 2010 as amended.

### **Main issues**

10. The Secretary of State agrees with the Inspector that the main consideration in this case is whether the proposal would prejudice the achievement of a coordinated and sustainable form of development within the Winsford Station Quarter Urban Extension (SQUE) (IR11.1).

### **Compliance with the development plan**

11. The Secretary of State considers the Inspector's overview of the compliance of the scheme with the development plan at IR11.8-11.17 and agrees that the proposal would not accord with LP policy STRAT 6 or WNP policy S1-S3 (IR11.8) which seek a properly planned comprehensive development of the SQUE (IR11.10). He also agrees that this is not a minor or technical conflict and the harm that arises must be weighed against the benefits of the scheme. Other than the conflict identified with these policies the Secretary of State agrees that in all other respects the scheme is compliant with the development plan (IR11.17).

## **The consequences of development in advance of an agreed development brief**

12. The Secretary of State has carefully considered the Inspector's assessment of the consequences of potential prejudice to a comprehensive approach in regard to land use, access and infrastructure contributions at IR11.18-11.27. For the reasons given he agrees that the appellant has carefully considered the way the appeal scheme would integrate with the wider SQUE and that the risk of prejudice to the comprehensive development of the SQUE is slight (IR11.27). The Secretary of State has also taken account of the Council's position at the close of the inquiry as per paragraph 4 above.

## **The Council's suggested conditions**

13. Having considered the Inspector's reasoning and conclusions on conditions, as set out at IR11.28-11.32, and the conditions which he proposes as set out in Annex B to the IR, the Secretary of State agrees that conditions to tie the submission of reserved matters to the emerging development brief would not be necessary and therefore would not meet the terms of paragraph 206 of the Framework (IR11.29). The Secretary of State has omitted these from the conditions set out at Annex A to this letter and is otherwise satisfied that the conditions are reasonable and necessary and would meet the tests of the Framework and the guidance.

## **Disputed planning obligations**

14. The Secretary of State agrees with the Inspector that the contributions toward Education (IR11.35-11.39); the Flashes Country Park (IR11.40); and the community/village hall (IR11.41) are all necessary to make the development acceptable in planning terms. However, he also agrees with the Inspector at IR11.42-11.44 that it has not been shown that the proposed contribution towards health facilities would be used in a way which was directly related to the development or that it is necessary to make the development acceptable in planning terms. Therefore, in line with the Inspector's recommendation, the Secretary of State gives this obligation no weight.

## **Other matters**

15. The Secretary of State has carefully considered the other matters raised by third parties in response to consultation on the planning application as described by the Inspector at IR11.45-11.46, and he agrees there would be no unacceptable impacts in relation to any of these matters. He also agrees with the Inspector at IR11.47 that, subject to conditions, there would not be material harm in relation to protected species or to ecology in general.

## **Overall Conclusions**

16. The appeal relates to land which has been allocated for development in the LP and WNP and in general terms is compliant with policies therein. The Secretary of State acknowledges there is conflict with policies in the development plan which seek an adopted development brief prior to granting permission for any scheme within the proposed SQUE. However, for the reasons given, he finds that the degree of harm caused by allowing this appeal in advance of the development brief and in conflict with policies in the LP and WNP would be very limited. He is satisfied that the appeal scheme would not prejudice the achievement of a coordinated and sustainable form of development within the SQUE; it would bring forward significant market and affordable housing which would materially boost supply and this benefit

is attributed significant weight. Overall, the Secretary of State considers that although the proposed development would pre-empt a comprehensive development brief for the SQUE, it represents a sustainable form of development which will provide much needed housing and which accords with the policies of the development plan and Framework taken as a whole.

### **Formal Decision**

17. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendations and hereby allows your client's appeal and grants planning permission for a residential development of up to 215 dwellings, public open space with recreational facilities, site access, associated highways and infrastructure works at land off Rilshaw Lane, Winsford, Cheshire CW7 3PE, in accordance with application ref: 14/0266/OUT, subject to the imposition of the conditions set out at Annex A to this letter.
18. An applicant for any consent, agreement or approval required by a condition of this permission for agreement of reserved matters has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally or if the Local Planning Authority fail to give notice of their decision within the prescribed period.
19. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the Town and Country Planning Act 1990.

### **Right to challenge the decision**

20. 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.
21. A copy of this letter has been sent to Cheshire West and Chester Council. Notification has been sent to all other parties who asked to be informed.

Yours faithfully,

*Jean Nowak*

**Jean Nowak**

Authorised by the Secretary of State to sign in that behalf

## Annex A

### CONDITIONS

1. Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for each phase of the development shall be submitted to and approved in writing by the local planning authority before any development of that phase begins and the development shall be carried out as approved.
2. Application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission.
3. The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
4. The development hereby permitted shall be carried out in accordance with the following approved plans, but only in respect of those matters not reserved for later approval:
  - Drawing 5349-L-01 C Location Plan
  - Drawing 1343/01 Proposed Site Access Arrangements (Ashley Helme)
5. No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the local planning authority. The details of the phasing shall include a site layout plan identifying the proposed number of dwellings in each phase, the provision of internal roads, footpaths, cycleways and public open space for each phase, and temporary highway and pedestrian routes. The scheme shall include a schedule identifying the order of commencement and completion of these key elements within each phase of construction. In relation to roads, footpaths and cycleways the scheme shall specify when the binder course and the final surface course will be completed. Development shall only be carried out in accordance with the approved phasing details.
6. The residential development hereby permitted shall not exceed 215 dwelling units and shall not exceed a maximum height of 10.5m.
7. The layout submitted as part of any reserved matters application shall include details of a scheme for vehicular and pedestrian access routes to be provided through the site from the approved site access (shown on drawing 1343/01 Proposed Site Access Arrangements (Ashley Helme)) to:
  - (a) Rilshaw Lane (at a point east of the access road to Clive Farm and west of the existing dwelling named 'Barnford');
  - (b) Rilshaw Lane (at a point to the west of Rilshaw Farm); and
  - (c) the eastern boundary of the site

as shown for illustrative purposes on drawing 5349-L-02-N Framework Plan as 'Potential future vehicular access point'.

The scheme shall be implemented in accordance with the approved details and shall be constructed in accordance with the phasing details agreed pursuant to condition No 5.

No vehicular access shall be permitted to/from Rilshaw Lane using the accesses at (a), (b) and (c) above until notice has been served by the local planning authority to permit and/or require the opening of the accesses; and each access shall be

opened/provided within three months of the service of such notice. The scheme shall include temporary measures to control/restrict use of the accesses until use of the access(es) is/are permitted and/or required.

8. Prior to the occupation of any dwelling hereby permitted the developer must submit to and have approved in writing by the local planning authority detailed plans in respect of the works required within the highway. The details shall include works proposed on (i) Drawing 1343/01 Proposed Site Access Arrangements (Ashley Helme), (ii) Drawing 1343/17 Rev E Proposed Pedestrian/Cycle Improvements A54 Rail Station Access to Site (Ashley Helme), (iii) Drawing 1343/16 Rev D Proposed Pedestrian Improvements Scheme Footpath FP47 (Ashley Helme) including provision of a new bus shelter and associated works at the existing eastbound stop on Station Road in the vicinity of footpath FP47.

No dwelling hereby permitted shall be occupied until the works under (i) have been completed in accordance with the approved plans.

No more than 100 dwellings hereby permitted shall be occupied until the works shown on the approved drawings under (ii) and (iii) have been completed in accordance with the approved plans.

9. No development shall take place until details of the design and construction of all highways, footways and cycleways within the development hereby approved have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
10. No phase of the development hereby permitted shall be occupied until a Travel Plan for that phase has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be developed in accordance with the Framework Travel Plan (Land off Rilshaw Lane Winsford (Ashley Helme) 1343/4/C dated March 2014) and shall include provision for the appointment of a Travel Plan Coordinator, an implementation timetable, an enforcement mechanism and arrangements for monitoring of the proposals and review thereof. The Travel Plan shall be implemented and maintained in accordance with the approved timetable and scheme of monitoring and review as long as any part of the relevant phase of development is occupied.
11. Notwithstanding the provisions of Schedule 2 Part 2, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, and with the exception of the accesses specifically permitted under this permission, there shall be no vehicular access from any part of the application site onto Rilshaw Lane.
12. No dwelling hereby permitted shall be occupied 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 in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
  - (a) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of the housing units, with a split of 70:30 affordable rent/ intermediate or such other mix as may be approved;
  - (b) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;

- (c) the arrangements for the transfer of the affordable housing to an affordable housing provider or for the management of the affordable housing (if no registered provider is involved);
  - (d) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - (e) 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.
13. No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system. Foul drainage shall be kept separate from clean surface and roof water and only foul drainage shall communicate with the public sewerage system.
14. No development shall take place until a surface water regulation scheme, based on sustainable drainage principles, and a scheme to manage the risk of flooding from overland flow of surface water have been submitted to and approved in writing by the local planning authority. The schemes shall include timetables for implementation and management and maintenance plans for the lifetime of the development, which shall include the arrangements for adoption by any public body, or statutory undertaker, or any other arrangements to secure the operation of the schemes throughout the lifetime of the development. The schemes shall be implemented and thereafter managed and maintained in accordance with the approved details.
15. The layout submitted as part of any reserved matters application shall include details of the proposed public open space (formal and informal open space) and details of the retained existing structural landscape (including existing ponds), such details to include details of play equipment within a Local Area of Play together with a timetable for implementation. The scheme shall be implemented in accordance with the approved details.
16. A Habitat and Landscape Management Plan (HLMP) shall be submitted to and approved in writing by the local planning authority prior to the occupation of any dwelling hereby permitted. The plan shall include:
- (a) description and evaluation of the features to be managed
  - (b) ecological trends and constraints on site that may influence management
  - (c) aims and objectives of habitat management and enhancement, including the recreational open space
  - (d) appropriate management responsibilities for achieving aims and objectives
  - (e) prescriptions for management actions
  - (f) preparation of a work/maintenance schedule (including a project register, an annual work plan and the means by which the plan will be rolled forward annually)
  - (g) body/organisation responsible for implementation of the plan
  - (h) monitoring and remedial/contingency measures triggered by monitoring
  - (i) funding resources and mechanisms to ensure sustainable long-term delivery of the proposed management, including maintenance schedules for not less than 15 years for the habitat and landscape areas

- (j) a community use policy for access to the open space and recreational areas

The HLMP shall be implemented as approved and thereafter managed and maintained in accordance with the approved details

17. No ground clearance, demolition, or construction work shall commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan in accordance with BS:5837:2012 has been submitted to and approved in writing by the local planning authority to avoid damage to any trees or hedgerows to be retained within or adjoining the site. The AMS shall include details of:

- (a) trees proposed for retention
- (b) trees proposed to be removed
- (c) trees to be pruned
- (d) evaluation of the impact of any proposed tree losses
- (e) evaluation of tree constraints

The AMS shall be carried out as approved and tree protection measures shall be retained on site for the duration of the construction works. No development shall take place except in accordance with the approved AMS.

18. The development hereby permitted shall be implemented in accordance with the mitigation measures contained in the Newt Mitigation Strategy - Rilshaw Lane, Winsford (FPCR 2014).

19. Prior to the commencement of development an up to date badger survey shall be undertaken and a method statement detailing any mitigation to avoid harmful impacts to badgers shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved method statement.

20. Development shall be implemented in accordance with the reptile mitigation measures contained within the Ecological Appraisal (FPCR January 2014).

21. No dwelling hereby permitted shall be occupied until a scheme for the provision of bird and bat boxes within the site has been submitted to and approved in writing by the local planning authority. The scheme shall include the proposed phasing of the provision and the bird and bat boxes shall be installed in accordance with the approved scheme. Thereafter, these boxes shall be permanently retained.

22. No vegetation removal shall be carried out on the site between the 1st March and 31st August inclusive, unless the site has first been surveyed for breeding birds and a scheme to protect breeding birds has been submitted to and approved in writing by the local planning authority. The development shall thereafter only be carried out in accordance with the approved scheme.

23. No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (a) temporary highway vehicle and pedestrian routings
- (b) times and days of large vehicle movements to/from the site
- (c) the parking of construction related vehicles and vehicles of site operatives and visitors
- (d) loading and unloading of plant and materials

- (e) storage of plant, materials and temporary structures used in constructing the development
- (f) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
- (g) vehicle cleaning facilities
- (h) measures to control the emission of dust and dirt during construction
- (i) a scheme for recycling/disposing of waste resulting from demolition and construction works
- (j) hours of demolition/construction operations and deliveries to/from the site
- (k) method statement including monitoring measures and environmental controls for any piling operations and/or subsurface vibration ground improvement techniques

24. No development shall take place until a scheme of sound insulation has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until any measures in the approved scheme which are relevant to it have been carried out in accordance with the approved details. The approved measures shall be permanently retained thereafter.

25. No development shall take place until the following components of a structured scheme to deal with the risks associated with actual or potential land instability have each been submitted to and approved in writing by the local planning authority:

- (a) a preliminary land stability risk assessment which reviews existing geological and salt extraction sources to identify land stability risks including from natural and extracted salt subsidence on or within influencing distance of the site, identifies actual or potentially unacceptable risks and identifies initial remediation options
- (b) a detailed scheme of site investigation based on component (a) from which a detailed assessment of risk to all current and future receptors that may be affected will be derived
- (c) a remediation options appraisal and implementation strategy, based on the detailed results of (b), giving full details of the remediation measures required and how they are to be undertaken
- (d) a verification plan providing details of the data that will be collected in order to demonstrate that the remediation works set out in (c) are complete and effective and identifying any requirements for longer-term monitoring, maintenance, contingency actions and reporting

The pre development structured scheme shall be implemented as approved.

26. The development hereby approved shall not be occupied until:

- (a) all remediation measures approved pursuant to condition 25 have been completed, and
- (b) written evidence of satisfactory remediation and of the suitability of the site for occupation have been submitted to and approved in writing by the local planning authority.

27. No development shall take place until the following components of a structured scheme to deal with the risks associated with actual or potential contamination of the site have each been submitted to and approved in writing by the local planning authority:

- (a) a preliminary risk assessment which identifies all previous uses on or within influencing distance of the site, potential contaminants associated with those uses, a conceptual model indicating the sources, pathways and receptors of contamination, actual or potentially unacceptable risks arising from contamination and initial remediation options
- (b) a detailed scheme of site investigation based on component (a) from which a detailed assessment of risk to all current and future receptors that may be affected, including those off site, will be derived
- (c) a remediation options appraisal and implementation strategy, based on the detailed results of (b), giving full details of the remediation measures required and how they are to be undertaken
- (d) a verification plan providing details of the data that will be collected in order to demonstrate that the remediation works set out in (c) are complete and effective and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance, contingency actions and reporting

The pre development scheme shall be implemented as approved.

28. If during site preparation, demolition or development works contamination is encountered or is suspected in areas where it had not been anticipated

- being from an existing risk assessed source, and
- containing comparable risk assessed substances, and
- affecting an already risk assessed pathway or receptor

that could be addressed by simple extension of the approved measures to a larger area, then the local planning authority shall be notified promptly in writing confirming the areas affected, the approved investigation, remediation and validation measures to be applied and the anticipated completion timescale.

If the contamination is

- from a different source, or
- contains a new contaminative substance, or
- affects a new pathway or receptor

then revised proposals for detailed investigation, risk assessment, remediation and verification shall be submitted for the written approval of the local planning authority prior to all but any urgent remediation works necessary to secure the area and control pollution risks.

The remediation of the site shall incorporate the approved additional measures.

29. The development hereby approved shall not be occupied until:

- (a) all components of the remediation measures approved pursuant to conditions 27 and/or 28 have been completed
- (b) written evidence of satisfactory remediation and of the suitability of the site for occupation has been submitted to and approved in writing by the local planning authority, and
- (c) written evidence of arrangements for the implementation of any long-term monitoring of pollutant linkages, including any maintenance and arrangements for contingency action included in the verification plan, have been submitted to and approved in writing by the local planning authority.

30. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions shall be made to any dwelling hereby permitted. In the event that the verification report submitted pursuant to conditions 27, 28 and 29 shows that it is not necessary to control permitted development rights for extensions on certain dwellings then a site layout plan may be submitted for the written approval of the local planning authority to show those parts of the application site and those dwellings where the restriction of extensions is considered to be unnecessary. If such a plan is approved by the local planning authority any dwellings so identified will be exempt from this condition.
31. No development shall take place until a scheme to demonstrate that not less than 10% of the total energy consumption of the development will be provided by means of renewable energy or that alternative measures will achieve at least 10% less energy consumption than similar development constructed in accordance with the current Building Regulations has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

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

by David Prentis BA BPI MRTPI

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

Date 13 July 2015

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**TOWN AND COUNTRY PLANNING ACT 1990**  
**CHESHIRE WEST AND CHESTER COUNCIL**  
**APPEAL MADE BY**  
**GLADMAN DEVELOPMENTS LTD**

Inquiry opened on 9 June 2015

Land off Rilshaw Lane, Winsford, Cheshire CW7 3PE

File Ref: APP/A0665/A/14/2229269

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**File Ref: APP/A0665/A/14/2229269**

**Land off Rilshaw Lane, Winsford, Cheshire CW7 3PE**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Gladman Developments Ltd against the decision of Cheshire West and Chester Council.
- The application Ref 14/01266/OUT, dated 26 March 2014, was refused by notice dated 20 November 2014.
- The development proposed is residential development of up to 215 dwellings, public open space with recreational facilities, site access, associated highways and infrastructure works.

**Summary of Recommendation: That the appeal be allowed subject to conditions**

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**PROCEDURAL MATTERS**

- 1.1 At the Inquiry an application for costs was made by Gladman Developments Ltd against Cheshire West and Chester Council. This application is the subject of a separate report.
- 1.2 The Inquiry sat for 3 days from 9 to 11 June 2015. I carried out unaccompanied visits to the site and surroundings on 8 and 10 June 2015.
- 1.3 The application was in outline with all matters other than access reserved for subsequent consideration. The application plans showed the means of access to the site but did not include access and circulation routes within the site. At the Inquiry the Council and the appellant agreed that details of the access and circulation routes within the site could be submitted pursuant to a condition. The conditions I have recommended reflect this approach.
- 1.4 The appeal was recovered for determination by the Secretary of State by letter dated 4 February 2015<sup>1</sup> for the following reason:

*The appeal involves proposals for residential development of over 150 units or on sites of over 5 hectares which would significantly 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.*

- 1.5 The Council refused outline planning permission for the following reasons:
  - (1) The current proposal represents a piecemeal approach, and fails to include provisions (including delivery mechanisms) to ensure the mixed-use development of the wider strategic Station Quarter Urban Extension allocation, which requires comprehensive planning to provide a sustainable mixed development in accordance with Policy STRAT 6 of the emerging Local Plan (Part One) Strategic Policies, and Policy S 1 – S 3 of the Winsford Neighbourhood Plan, and the Framework.
  - (2) In the absence of planning obligations (or other mechanism) relating to the planned provision of the mixed-use development and infrastructure of the

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<sup>1</sup> LPA6

Station Quarter Extension (including provision towards the Primary School, recreational open space and the Country Park adjacent to Bottom Flash, health and community facilities) the development fails to satisfy Policy STRAT 11 of the emerging Local Plan (Part One) Strategic Policies and Policy BE4 of the Vale Royal Borough Local Plan (First Review Alteration).

- 1.6 The development plan has moved on since this decision with the adoption, on 29 January 2015, of the Cheshire West and Chester Local Plan (Part One) Strategic Policies.
- 1.7 The Council is preparing a Development Brief for the Winsford Station Quarter<sup>2</sup>. At the time of the Inquiry a draft document had been approved for the purposes of public consultation. The consultation process had yet to commence. In May 2015 the Council informed the appellant that, having regard to the progress made on the draft development brief, it now considered that the first reason for refusal could be resolved by the imposition of planning conditions. These would tie the submission of reserved matters to the emerging development brief. The Council's intention was that the reserved matters application should await the adoption of the development brief. A 'long stop' date would be included to provide certainty and prevent unnecessary delay. The wording suggested by the Council was as follows:
- (1) Applications for approval of the reserved matters shall be made to the local planning authority within three years<sup>3</sup> from the date of this permission, save that no reserved matters application shall be submitted before the earlier of the two following dates: (i) notification of the approval by the local planning authority of the Winsford Station Quarter Development Brief; or (ii) 31 December 2015. The Reserved Matters submission shall be in substantial accordance with the adopted Winsford Station Quarter Development Brief (subject to its approval at the time of Reserved Matters submission).
  - (2) Any Reserved Matters application shall include an addendum to the Design and Access Statement Rev F (5349 Land off Rilshaw Lane, Winsford July 2014) (fpcr), which (if applicable) shall demonstrate how the development accords substantially with the adopted Winsford Station Quarter Development Brief.
- 1.8 The appellant did not agree that these conditions were necessary and this difference of view was explored at the Inquiry.
- 1.9 An Agreement under s106 of the Town and Country Planning Act 1990 was completed during the course of the Inquiry<sup>4</sup>. The Agreement would provide for financial contributions relating to the following: (1) off-site playing pitches, (2) a primary school, (3) the Flashes Country Park, (4) a village hall and (5) health facilities. The Agreement also contains provisions relating to the provision, management and maintenance of open space within the development.

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<sup>2</sup> Two versions were before the Inquiry – the April 2015 version is at CD16 and the May 2015 version is at Appendix S3 to Mr Friston's supplementary proof of evidence (LPA4).

<sup>3</sup> The Council and the appellant later agreed that the time period should be two years.

<sup>4</sup> The Agreement is dated 11 June 2015 (LPA/GDL7).

- 1.10 The Council confirmed that the Agreement resolves the matters set out in the second reason for refusal. However, the need for items (2) to (5) was not accepted by the appellant. The terms of the Agreement are such that the obligations will only come into effect insofar as the Secretary of State finds them to be necessary and compliant with the Community Infrastructure Levy Regulations 2010 ('the CIL Regulations'). I shall comment further on these matters in the relevant sections of my report.
- 1.11 The Council has issued a screening opinion confirming that Environmental Impact Assessment would not be required for the proposed development<sup>5</sup>.
- 1.12 At the close of the Inquiry the Council's position was that planning permission ought to be granted, subject to the suggested conditions relating to the development brief and other suggested conditions. The Council also maintained that all of the obligations within the Agreement are necessary and compliant with the CIL Regulations.

## **THE SITE AND SURROUNDINGS**

- 2.1 The site is described in the first Statement of Common Ground (SoCG)<sup>6</sup> and in the evidence<sup>7</sup>. It is located adjacent to the urban area of Winsford, the fourth largest centre in Cheshire West and Chester. Winsford has a range of services and amenities including a shopping centre, several primary schools, a secondary school and medical and dental practices. Winsford has regular bus services to Crewe and Nantwich and good access to the strategic highways network. Winsford Station, which is on the Liverpool to Birmingham main line, is located around 500m to the east of the appeal site.
- 2.2 The site lies to the south of Wharton, on the eastern side of Winsford. It extends to around 9.5ha and comprises an irregular shaped parcel of agricultural land bounded by the A54 to the north and Rilshaw Lane to the south and west. The A54 currently defines the southern edge of the built-up area. To the south of the A54 agricultural uses predominate. There is also a group of houses along a section of Rilshaw Lane next to the eastern end of the site and Winsford Grange nursing home is located to the east of the site, separated by further agricultural land. To the west of the site there is an area of public open space which slopes down to the River Weaver and Bottom Flash. Rilshaw Lane is a rural lane which is part of the National Cycle Network. Footpath FP47 crosses the site, running from Rilshaw Lane to Wharton via an underpass beneath the A54.
- 2.3 The site contains a strong framework of hedgerows, both along the external boundaries and along internal field boundaries. There are some good tree specimens, generally located within hedgerows. There is a cluster of ponds, surrounded by trees and vegetation, in the central part of the site. The eastern part of the site is relatively level and open to views from the A54. To the west of FP47 the levels fall generally from east to west. The site can be seen in some views from the opposite side of the river valley.

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<sup>5</sup> Screening opinion dated 17 April 2014

<sup>6</sup> LPA/GDL1

<sup>7</sup> There are descriptions at section 3 of GDL2/PS and in the Design and Access Statement (CD1.4). Site photographs are included in the Landscape and Visual Impact Assessment (CD1.5).

## PLANNING POLICY

2.4 The statutory Development Plan comprises: -

- saved policies of the Vale Royal Borough Local Plan First Alteration (VRBLP);
- the Cheshire West and Chester Local Plan (Part One): Strategic Policies (LP) adopted on 29 January 2015; and
- the Winsford Neighbourhood Plan (WNP) made on 19 November 2014.

2.5 The appeal site was previously subject to VRBLP Policy GS5 which seeks to protect the character and appearance of the open countryside. This policy is effectively superseded by the LP and WNP and was not relied on by the Council. Policy BE4 states that developers will be required to provide new or enhanced infrastructure and/or community facilities where the need for such provision arises directly from a development.

2.6 Policy STRAT 6 of the LP states that Winsford will provide a key focus for development in the east of the borough and that development proposals will help to support the continued regeneration of the town. Provision is to be made for at least 3,500 new dwellings. The appeal site forms part of a larger area allocated as the Station Quarter Urban Extension (SQUE), one of the key proposals set out in the Policy. The key proposals set out in Policy STRAT 6 include:

- *The Station Quarter Urban Extension as identified on the Policies Map to include mixed-use development of in the region of 1000 new dwellings (775 in the plan period), new open space linked to the Flashes, a local neighbourhood centre, primary school, leisure, social and community facilities. This should be achieved through a comprehensively planned approach in line with an agreed development brief.*
- *Significant improvements to playing pitches, green space and leisure facilities with enhanced access to the Flashes and River Weaver.*

2.7 LP Policy STRAT 11 seeks to ensure the delivery of infrastructure improvements to secure the future of sustainable communities. This is to be done, inter alia, by requiring developer contributions in accordance with the CIL Regulations.

2.8 The WNP sets out a vision for the future of Winsford and identifies the key themes and policies intended to deliver the vision. It was developed in parallel with the LP and includes policies designed to guide the development of the SQUE. The various components of the SQUE are described as sites S1 – S5<sup>8</sup>. The appeal site comprises the whole of WNP site S2 and part of site S3. The balance of S3 lies between the eastern edge of the appeal site and Winsford Grange. Site S1 is a larger area to the south of Rilshaw Lane. Sites S4 and S5 are located further to the east, close to the station.

2.9 The Area Objectives for the Station Quarter state that:

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<sup>8</sup> These are shown on a plan at page 65 of the WNP (CD8)

*This area will be a new urban extension to Winsford and create a new residential quarter reaching from the station down to the Flashes. Prior to development a comprehensive masterplan covering the Station Quarter must be agreed with the Council to avoid piecemeal consideration of schemes and to ensure sites are able to provide maximum community benefit.*

- 2.10 Various key opportunities are then set out, including public access to the Flashes, a new local centre, a new primary school and protection of the historic character of Rilshaw Lane. Policy S 1 – S 3 states that sites S1, S2 and S3 must be

*masterplanned together to deliver a comprehensive development, including one local neighbourhood centre, open spaces, a primary school and social and community uses.*

- 2.11 WNP Policy S 1A allocates site S1 (to the south of the appeal site) for around 665 residential units, a local neighbourhood centre, primary school, leisure, social and community uses and 21.8ha of new public open space adjacent to the Flashes. Policy S 2A allocates site S2 for around 224 residential units with an element of mixed use, including a local neighbourhood centre, social and community uses and open spaces. Policy S 3A allocates site S3 for around 101 residential units with an element of mixed use, including a local neighbourhood centre, social and community uses and open spaces.
- 2.12 Policies S 1B, S 2B and S 3B set out design principles for each site including, in each case, a Design and Access Statement (DAS) which demonstrates how the principles set out in the WNP and the masterplan have been incorporated.

## **THE PROPOSALS**

- 3.1 The application was in outline for up to 215 dwellings and associated open space. It is intended that 30% of the dwellings would be for affordable housing. All matters other than access would be reserved for subsequent approval. There would be a single point of vehicular access from Rilshaw Lane towards the west of the site. Illustrative material submitted with the application included a Framework Plan and an Illustrative Masterplan. These documents were revised whilst the application was before the Council<sup>9</sup>. The revised plans show a developable area of 6.26ha and 2.39ha of public open space plus 0.85ha of retained structural landscape. The illustrative plans show a spine road running from west to east with potential future access points to the east (linking to the balance of S3) and to the south (linking to S1 in two places).
- 3.2 A substantial area of open space is shown at the western end of the site, adjacent to the existing open space. Further open space is shown around the ponds in the centre of the site. Rilshaw Lane would not be used for access, other than at its western end. Landscape buffers are proposed in order to retain the rural character of the lane. In general, the illustrative masterplan shows how the development could be planned to respond to the existing site features.

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<sup>9</sup> The amended plans are drawing 5349-L02 rev N at CD2.2 and drawing 5349-L-03 rev G at CD2.5

- 3.3 The application was supported by a range of reports and studies including the DAS, a Landscape and Visual Assessment, a Transport Assessment, a draft Travel Plan, an Ecological Appraisal and a Noise Assessment<sup>10</sup>.
- 3.4 The appellant proposes measures to improve pedestrian and cycle access to and from the site. These would include improvements to FP47 from Rilshaw Lane to Station Road, Wharton and works on the south side of the A54 to create a shared footway/cycleway to Winsford Rail Station.

### **AGREED MATTERS**

- 4.1 By the time of the Inquiry there was extensive common ground between the Council and the appellant, recorded in 4 Statements of Common Ground<sup>11</sup>. In respect of the various planning issues raised it was agreed that:
- the location of the development is in conformity with the development plan
  - there is no evidence that facilities and services in the locality could not cope with further housing provided that contributions compliant with the CIL Regulations are secured
  - the site does not constitute best and most versatile agricultural land, having been surveyed as Grade 4
  - there are no outstanding concerns in relation to archaeology
  - 30% affordable housing would accord with policy requirements
  - the scheme responds positively to design and amenity requirements
  - there would be no significant impacts in respect of air quality or noise
  - the amount of open space proposed on site would be appropriate
  - there are no flood risk issues
  - subject to appropriate precautions, there would be no concerns in relation to land stability
  - whilst there would be some landscape impact, there would not be a significant adverse impact and development would be acceptable in landscape terms
  - there are no concerns in relation to trees and hedgerows
  - there would be no significant impacts in respect of highways and transportation
  - there would be no significant impact on ecology
  - the scheme would result in socio-economic benefits which add support to the proposals

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<sup>10</sup> The supporting documents are at CD1 and CD2 – there is a full list at Annex D

<sup>11</sup> LPA/GDL1-4

- 4.2 Agreement on the above points was on the basis that various potential impacts could be adequately mitigated by the imposition of appropriate conditions.
- 4.3 In addition, the parties provided a SoCG on transport<sup>12</sup> which records that the following matters were agreed:
- that the appeal site is accessible to facilities including retail, health, education, leisure and employment by means other than the private car
  - the assessments of existing highway conditions and public transport provision
  - traffic surveys and accident records
  - the inputs to and results of the traffic modelling in the Transport Assessment
  - the proposed means of access to the site
  - the draft travel plan
  - the proposed enhancements to FP47 and provision for pedestrians and cyclists along the A54
  - the proposal to introduce a bus shelter at the existing eastbound stop on Station Road<sup>13</sup>
- 4.4 The Council and the appellant agreed that the financial contribution to off-site playing pitches is necessary and that the amount of the contribution is appropriate. The amounts of the contributions (if found to be necessary) in relation to the primary school, the Flashes Country Park, the village hall and health facilities were agreed<sup>14</sup>.
- 4.5 The Council's position on housing land supply is set out in the recently released Housing Land Monitor 1 April 2014 – 31 March 2015<sup>15</sup>. The Council considers that it is able to demonstrate a 6.83 year supply. The appellant has not undertaken any analysis of this recent evidence and did not seek to challenge it at the Inquiry. The parties agreed that the exact housing land position is not a determinative issue for the purposes of this appeal<sup>16</sup>.

#### **THE CASE FOR THE APPELLANT – GLADMAN DEVELOPMENTS LTD**

- 5.1 The circumstances of this appeal are somewhat unusual given the level of agreement between the appellant and the Council. The primary position of the two main parties is that the appeal should be allowed and planning permission granted subject to appropriate conditions and section 106 obligations. Instead, the real dispute between them relates to the nature of the conditions that should be imposed, and particularly whether the two sought by the Council are necessary, and whether the obligations sought all meet the requirements of

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<sup>12</sup> LPA/GDL4

<sup>13</sup> The bus shelter would be close to the northern end of the improved FP47

<sup>14</sup> The methodologies for calculating the amounts are described in LPA2 (appendix 2), LPA3, LPA8, GDL4, LPA/GDL2 and LPA/GDL3

<sup>15</sup> Appendix S1 to LPA4

<sup>16</sup> LPA/GDL3

the CIL Regulations. Subject to the Secretary of State being satisfied that such obligations do each comply with the CIL Regulations, the appellant has executed a section 106 Agreement containing all those sought by the Council. Hence, the outstanding matters of dispute are very limited.

- 5.2 The appellant agrees with the Inspector's identification of the main issue for this appeal, namely whether the proposals would prejudice the achievement of a coordinated and sustainable form of development within the Winsford SQUE. The appellant's stance is that they would not do so. The Council's stance is that, given the execution of the section 106 Agreement, they would not do so provided that the two additional conditions it is seeking are imposed.
- 5.3 In relation to the development plan, there are no saved policies of VRBLP of relevance to the appeal. The site was previously subject to the open countryside Policy GS5 but that has been superseded by the allocation in the LP for mixed use development under policy STRAT 6. The main relevant development plan policies for the purposes of the appeal are LP Policy STRAT 6 and WNP Policies S 1 to S 3.

#### *LP Policy STRAT 6*

- 5.4 Policy STRAT 6 of the LP states that Winsford will provide a key focus for development. The LP identifies the SQUE as a key proposal which offers the opportunity to deliver 1000 high quality new homes in a sustainable location within walking distance of the town centre. It is thus a very significant allocation. The proposals are wholly in conformity with that allocation and the principle of residential development is thereby well established. The only alleged conflict with Policy STRAT 6, according to the Council, relates to the reference that the development of the allocated *site 'should be achieved through a comprehensively planned approach in line with an agreed development brief'*. As a result of that alleged conflict, the Council has proposed its two additional conditions in order to acceptably resolve the conflict.
- 5.5 Neither the policy nor the explanatory text provide any indication as to the process by which this matter is to be addressed in practice, such as who is to prepare the development brief or the process of its agreement. Nonetheless, it is apparent that the fundamental planning objective of the policy is to ensure that the SQUE mixed use development is ultimately delivered. In order to achieve that, no individual proposals should prejudice the achievement of a coordinated and sustainable form of development on the wider allocated site.
- 5.6 It is not necessary for proposals for part of the SQUE to wait for the Council to prepare a draft development brief, consult upon it and ultimately approve it. To do so would result in an unjustified delay to proposals for the sustainable development of a key site. This would be contrary to the fundamental objective of the National Planning Policy Framework (the Framework) to create a presumption in favour of sustainable development and, in particular, to paragraph 14 of the Framework which states that proposals in accordance with the development plan should be approved without delay.
- 5.7 The application was submitted in March 2014. Fifteen months later, the draft development brief has not even been subject to consultation. It would amount to an inordinate delay if the policy required the appellant to wait nearly two

years before submitting the application in order for the Council to prepare and finalise a development brief. That is clearly not a reasonable interpretation of STRAT 6. The correct approach to achieving the objective of the policy is for the appellant to demonstrate that its individual proposals will not prejudice the wider development coming forward as envisaged in the LP.

- 5.8 This interpretation is consistent with the one given by the Council at the time of the LP examination. The Council informed the Inspector that site specific issues would be addressed either through the production of a detailed development brief for the site and preparation of development policies in the LP, or, in the event of more immediate development proposals, in the context of the policies of the LP and the retained policies of the VRBLP<sup>17</sup>. It was thus envisaged by the Council that proposals would come forward in advance of the preparation of a development brief. There was no suggestion that such '*immediate development proposals*', namely in advance of the production of a development brief, would have to be refused planning permission to await the preparation of a development brief.
- 5.9 Moreover, the appellant's interpretation of Policy STRAT 6 is also consistent with the view of the Council's spatial planning team. The appellant engaged in detailed pre-application discussions with the Council having produced its SQUE Vision Document which included a strategic masterplan<sup>18</sup>. During those discussions, the Council's Spatial Planning Team provided detailed written comments on the proposed application<sup>19</sup>. Having referred to STRAT 6, the response stated that:

*it will be important to ensure the area is comprehensively planned and that individual planning applications coming forward within the Station Quarter area do not jeopardise the overall vision for the area as set out in STRAT 6 of the emerging Local Plan. It would therefore be extremely beneficial if the applicant were to submit information showing how the proposed development will be integrated into the wider plan for the area to avoid piecemeal development which may undermine a comprehensively planned approach for the area. This could be done through a masterplan for the wider Station Quarter urban extension.*

- 5.10 At no time during those pre-application discussions was it suggested that any application should await the production by the Council of a development brief. This point was acknowledged by the Council's witness in cross examination<sup>20</sup>. Instead, the appellant was requested to provide further detailed information, to develop its masterplan and to revise its Design and Access Statement which it duly did. The approach taken by the appellant was entirely in accord with the advice provided by the Council at that time.
- 5.11 The Council's witness accepted in cross-examination that there were means of complying with that part of Policy STRAT 6 other than awaiting the production

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<sup>17</sup> CD12 page 5 at paragraph 6.3

<sup>18</sup> CD7

<sup>19</sup> CD3 at page 288 onwards

<sup>20</sup> Inspector's note – In response to questions from Miss Stockley, Mr Friston accepted that the Council had not stated, at pre-application stage, that a development brief would be required.

of a development brief. He also stated, in response to questions from the Inspector, that he regarded Policy STRAT 6 and the relevant WNP policies as consistent in that they both require a comprehensive approach to be taken, despite the latter making no reference to a development brief. That again suggests that the fundamental matter is to ensure the comprehensive delivery of the wider site. This does not necessarily require a development brief to have been prepared by the Council. Instead, in order to comply with that part of Policy STRAT 6, the crucial question is whether the proposals would prejudice the achievement of a coordinated and sustainable form of development within the SQUE. That is capable of being adequately demonstrated by the appellant, through the submission of sufficient information detailing how the proposals sit with the development of the wider allocated site.

### *The Winsford Neighbourhood Plan*

- 5.12 The WNP allocates the SQUE as a new urban extension to Winsford which will 'create a new residential quarter reaching from the station down to the Flashes'<sup>21</sup>. The WNP was subject to extensive consultation and it represents the views of the local community. The proposals are wholly in conformity with that allocation which further establishes the principle of residential development at the appeal site. Notably, no reference whatsoever is made in the WNP to a need for a development brief to be agreed with the Council, despite that Plan being prepared in the context of the LP. Instead, those policies require sites S1, S2 and S3 to be masterplanned together to deliver a comprehensive development. This overall masterplan is to be used to inform and coordinate proposals for each phase of development.
- 5.13 The WNP goes on to require developers to submit a Design and Access Statement that demonstrates how the principles set out in the policies are incorporated within the development proposals. That is precisely the approach adopted by the appellant. It has submitted its masterplan for the wider area, in accordance with the WNP, together with a detailed Design and Access Statement which establishes how the proposals do not in any way prejudice the comprehensive development of the wider allocation. In relation to the SQUE, the WNP was prepared in more detail than the strategic LP. It includes a plan showing the different parts of the wider allocation referred to in the policies and their requisite key elements. The Council's witness accepted in cross examination that the appeal proposals are in accordance with the WNP<sup>22</sup>.
- 5.14 Applying the correct interpretation to the relevant parts of the development plan, the fundamental question for determination is whether the proposals would prejudice the coming forward of the wider development in accordance with the principles and policies set out in the development plan allocations. If not, they are entirely in accord with all relevant development plan policies.

### *Whether comprehensive development would be prejudiced*

- 5.15 There are no technical objections to the proposals from any statutory consultees. Aside from the issue over the comprehensive development of the wider SQUE, no other harm has been alleged by the Council. There is no

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<sup>21</sup> Area Objectives at page 66 of CD8

<sup>22</sup> Inspector's note – accepted by Mr Friston in answer to questions from Miss Stockley

suggestion that there is any conflict with any other parts of Policy STRAT 6, with other parts of the WNP or with any other development plan policy. In relation to the issue of comprehensive development, the Council has not identified specific harm. It merely contends that the position remains uncertain until such time as the development brief has been finalised. That approach does not engage with the relevant issue. The important question is whether the proposals are likely to prejudice the wider development.

- 5.16 In response to questions from the Inspector, the Council's witness acknowledged that there were three potential areas where planning harm could flow if planning permission were to be granted in the absence of a development brief. These were in relation to land uses, access and infrastructure contributions.
- 5.17 As to land uses, the residential element of the scheme is clearly in accordance with the LP and WNP allocations. There is no suggestion that the primary school should be anywhere other than in area S1. That leaves the local neighbourhood centre as the only potential issue arising in land use terms. The WNP states in Policy S 1 – S 3 that one local neighbourhood centre should be developed as part of the allocation. Such a centre is not part of the current proposals. Both the appellant's masterplan<sup>23</sup> and the draft development brief<sup>24</sup> show the neighbourhood centre in site S1, south of Rilshaw Lane, albeit in different locations.
- 5.18 The only concern expressed by the Council's witness was that the development brief could ultimately show the local centre on the appeal site if it transpired that the proposed access off the A54 could not be delivered. However, the highways evidence, which was unchallenged, demonstrates that there is no reason to think that the A54 access would not be achievable.
- 5.19 Although the WNP states in Policy S 1 – S 3 that one local neighbourhood centre should be developed, the policies go on to refer to a local neighbourhood centre in the context of each of the sites S1, S2 and S3. The Council's witness confirmed his interpretation of this policy which was to the effect that Policy S 1 – S 3 sets the general policy and that the site-specific policies allow for the neighbourhood centre to be in any one of the three sites<sup>25</sup>. The appellant's planning witness agreed with this interpretation<sup>26</sup>. It follows that, if it transpires that the development brief places the local neighbourhood centre on the appeal site post the grant of planning permission, there would be no prejudice to the comprehensive development of the wider area in that there would be no in principle harm to the centre having to be located instead in areas S1 or the eastern part of S3.
- 5.20 In relation to access, the appellant's highway evidence had considered both the appeal site and the wider SQUE. This evidence was not challenged by the Council. The WNP indicates that there should be two points of road access to the SQUE from the highway network, one to the west from Rilshaw Lane and

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<sup>23</sup> Figure 3 in GDL2/A

<sup>24</sup> Figure 5.4 at appendix S3 of LPA4

<sup>25</sup> Inspector's note – Mr Friston, in answer to my questions

<sup>26</sup> Inspector's note – Mr Waters, evidence in chief

one from the A54 to the north<sup>27</sup>. The A54 access is shown passing through that part of site S3 which lies to the east of the appeal site. The draft development brief also shows these access points. The appellant's highways evidence is that the most appropriate way of forming a primary access to the SQUE from the A54 would be via a roundabout junction. Consideration has been given to the highway geometry needed to deliver a roundabout with the required operational capacity, having regard to future traffic growth, in accordance with relevant technical standards<sup>28</sup>. A drawing<sup>29</sup> has been prepared showing the design of such a roundabout and this has been subjected to a Stage 1 Road Safety Audit.

- 5.21 The appellant's view is that the roundabout would not be needed for the appeal scheme but would be needed for the wider SQUE. The site boundaries of the appeal site have been drawn to ensure that the construction of such a roundabout would not be prejudiced. On the basis of the technical work done, the appellant is confident that the roundabout scheme could be achieved<sup>30</sup>. The appellant's design for the roundabout junction shows the southern arm curving to the west to enter the appeal site. In answer to questions from the Inspector, the appellant's highways witness confirmed his opinion that it would be equally feasible for the southern arm to continue directly southwards, as shown in the WNP and the draft development brief, with a junction being formed to give access into the appeal scheme<sup>31</sup>.
- 5.22 Turning to the internal layout of the site, the highway evidence described a hierarchy of roads including an east/west spine of sufficient width to act as a bus route. Two internal roundabouts should be of sufficient size to accommodate traffic from the wider SQUE in the event that all or part of the traffic generated were to pass through the appeal site. In this way the layout would be 'future proofed'. If ultimately required, the entire allocation could be accessed via the appeal site. In addition, proposed condition 7 requires the road network implemented for the appeal scheme to integrate with the wider scheme by ensuring that the roads are constructed to each of the relevant boundaries of the site. It follows that, in terms of access, there is no resulting prejudice to the wider scheme being delivered<sup>32</sup>.
- 5.23 The appellant's masterplan for the SQUE differs from the WNP and the draft development brief in that it does not show a direct north/south route from the roundabout into site S1. Instead, access would be via the appeal site. The appellant's masterplan envisages that the internal road layout would cross Rilshaw Lane at two points to give access to site S1. The fact that the appeal scheme could be designed in accordance with this layout does not amount to

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<sup>27</sup> See plan at page 65 of CD8

<sup>28</sup> See sections 3 and 4 of GDL3/PS

<sup>29</sup> Ashley Helme drawing 1343/07C appended to GDL3/PS

<sup>30</sup> Inspector's note – in answer to a question from Miss Stockley, Mr Helme said that he was entirely satisfied that the roundabout is capable of being formed as shown.

<sup>31</sup> Inspector's note – in answer to my questions, Mr Helme said that the land area available allowed for some flexibility in detailed design, without affecting the geometry of the roundabout. He envisaged access to the appeal site being achieved by a simple T junction with ghost island markings on the north/south route to protect right-turning traffic.

<sup>32</sup> Inspector's note – the comments in this paragraph were made by Mr Helme in answer to questions from Miss Stockley

prejudice to the wider development. On the contrary, it could facilitate that development. There is at present a potential ownership constraint to the route shown in the WNP and the draft development brief<sup>33</sup>. The appellant's masterplan shows a technically feasible alternative route avoiding that potential constraint, thereby enhancing the prospects for the delivery of site S1 in accordance with the WNP<sup>34</sup>.

- 5.24 In relation to financial contributions, the Council had accepted that the execution of the section 106 Agreement is sufficient to avoid any prejudice to the delivery of the wider allocation.
- 5.25 Consequently, there is simply no evidence of any prejudice to the comprehensive development of the wider allocation arising from the appeal proposals. Moreover, there has been no suggestion of any other potential harm. The appellant's landscape evidence showed that the proposals have been part of a holistic and comprehensive approach for the wider SQUE. The appellant's Vision Document played an integral role in the development of both the LP and the WNP allocations. That has been further developed for the purpose of the application and the illustrative masterplan provides an appropriate comprehensive approach for the future development of the wider site. The proposals are based on a comprehensive masterplanning approach that demonstrates the lack of any prejudice to the development of the wider area.
- 5.26 In relation to the main issue, the evidence demonstrates that the proposals would not prejudice the achievement of a coordinated and sustainable form of development within the SQUE. When the relevant development plan policies are correctly interpreted, there is no conflict arising. Instead, the proposals are entirely in accordance with all relevant development plan policies and the appeal should be allowed accordingly.

#### *The benefits of the scheme*

- 5.27 The proposals would bring numerous planning benefits which must be taken into account in the overall planning balance. Although the appellant has not sought to challenge the Council's stated 5 year housing land supply for the purposes of this appeal, the crucial point is that the appeal site and the wider allocation form a vital element of that supply. The appeal scheme would bring forward significant market and affordable housing which would materially boost the supply in both instances. Those benefits should be attributed very significant weight. Other material benefits would flow, including the development of a sustainable site, the provision of additional public open space and green infrastructure, improved pedestrian links and economic benefits.

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<sup>33</sup> Land to the south of Rilshaw Lane, shown undeveloped on Figure 3 in GDL2/A, is in separate ownership

<sup>34</sup> Inspector's note – Mr Waters, in evidence in chief, said that in his view it was likely that ultimately the access to site S3 would run directly south from the A54 roundabout. However, it would be beneficial to overall delivery if there was a feasible alternative. If necessary, all 1000 dwellings could be accessed via the appeal site.

### *The Council's approach to conditions*

- 5.28 The Council does not oppose the appeal subject to the imposition of its two additional conditions. A condition can only be imposed if it satisfies the relevant tests contained in paragraph 206 of the Framework, including the test of necessity. A condition should only be imposed if planning permission would otherwise have to be refused. In this case the Council has failed to identify any harm that would flow should the conditions not be imposed. Indeed, the inherent flaw in the Council's contention is evidenced by its willingness to include a backstop date in the condition of 31 December 2015. It thereby accepts that if an application for reserved matters approval is made subsequently and the development brief has not then been finalised, the proposals should not be required to await the development brief. However, the position as of that date would be entirely the same as now. If the proposals would be acceptable then in the absence of a development brief, they must be similarly acceptable now.
- 5.29 The appellant considers that the two additional conditions are not necessary and should not be imposed. Moreover, the conditions would impose further delay to the scheme in order to await a high level document in circumstances where the more detailed WNP is in place and more detailed masterplanning work has been undertaken. The development brief would not be a development plan document in any event. In the absence of any identified harm, such an approach would make no reasonable sense.
- 5.30 However, if the Secretary of State concludes that the two additional conditions are necessary then the appellant invites the Secretary of State to grant planning permission subject to those conditions. The appellant considers that the conditions meet all other policy tests. In particular, they would be sufficiently precise at the point in time that they were engaged, which would be when the development brief had been finalised. The *Wheatcroft*<sup>35</sup> principle would not arise given that the development brief would have to conform to the development plan in any event and thus could not make any material changes to the LP and the WNP.

### *Contributions*

- 5.31 The execution of the section 106 Agreement removes all the Council's concerns arising from reason for refusal two. Ultimately, it is a matter for the Secretary of State whether he is satisfied that the obligations are compliant with the CIL Regulations. The appellant has questioned that matter in relation to the contributions towards education, the Flashes Country Park, the village hall and health<sup>36</sup>.
- 5.32 The appellant has submitted an Education Assessment<sup>37</sup> which identifies that there are two primary schools within walking distance of the appeal site. It is common ground that the site is within the catchment of Willow Wood Primary School which has more than sufficient capacity, current and forecast, to

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<sup>35</sup> Bernard Wheatcroft Ltd v Secretary of State for the Environment (1982) at LPA7

<sup>36</sup> The appellant's evidence is set out in the Appellant's Position Note for the s106 Planning Obligations Round Table session at GDL4.

<sup>37</sup> CD1.15

accommodate all 39 additional pupils generated by the appeal scheme<sup>38</sup>. Looking at Winsford as a whole, there is considerable additional capacity with some 473 school places currently available. Taking account of education contributions already secured, together with the anticipated delivery of the housing sites allocated in the WNP, a shortfall would not occur until 2027. The proposed one form entry school would provide 210 places. This is considerably more than the overall shortfall of 73 spaces that would occur at 2030.

- 5.33 The WNP identifies that the primary school would be in site S1, not in the appeal site. Given that the need for the school would not arise for several years, it is reasonable to assume that the Council will have in place a CIL charging scheme which could, if appropriate, provide funding for a new school. If the Council chose to bring forward the new school sooner it would be possible to free up an existing school site or sites, generating a capital receipt which could help fund new provision.
- 5.34 With regard to the Flashes Country Park, the WNP requires this to be delivered as part of site S1. Both the location of the park and the timing of its delivery are confirmed through the draft development brief<sup>39</sup>. Moreover, the Council has not been consistent in its approach to this matter. The WNP allocates land to the south of the town centre for housing and open space in similar terms to the SQUE allocations. However, permission has been granted on one of these sites with no contribution to the open space being sought. An officer's report relating to another of these sites recommended approval of housing although there was no provision of land or funding for the open space<sup>40</sup>. In addition, the appeal scheme would provide more informal open space than would be strictly necessary, such that the scheme would not be unacceptable in the absence of off-site informal open space.
- 5.35 Turning to the village hall contribution, this is a facility which the WNP proposes to be created within the SQUE. The appellant considers that the Secretary of State's conclusion on the CIL Regulations compliance of this contribution will follow his finding in relation to the country park contribution. Similar logic applies. The appellant considers that the village hall contribution is not necessary to make the appeal scheme acceptable.
- 5.36 In relation to the health contribution, the first point to make is that it is a statutory requirement that everyone should have access to free health care. In an appeal decision at *Moat House Farm*<sup>41</sup> the Inspector commented that, beyond facilitating the provision of a site, the planning system cannot be held responsible for the expansion of healthcare infrastructure as that is a matter for GPs and the health service. The requirement for a contribution is based on a Department of Health 'standard' of 1,800 patients per GP. However, this figure is not a maximum, rather an average which is aspired to. In fact existing GP practices have a higher level of patients per GP and yet they are still taking on new patients.

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<sup>38</sup> LPA/GDL2 section D

<sup>39</sup> LPA4 at appendix S3, page 33, lines 3 and 4

<sup>40</sup> This report was withdrawn before it was considered by Members.

<sup>41</sup> APP/Q4625/A/11/2157515 at CD3.38

- 5.37 In an appeal decision at *Audlem*<sup>42</sup> the Inspector noted that the development in question would generate a need for local health services. However, there was no identified project or area of service improvement and there was a lack of clarity about how the decision making process on identified schemes might be dealt with. The Inspector was unable to conclude that a health contribution would be spent in accordance with the terms of the Framework and the CIL Regulations. The justification for the health contribution was considered to be superficial. This decision is particularly pertinent because the data (regarding costs of provision) upon which the contribution was sought was the same as in the current appeal. A Secretary of State decision at *Rothley*<sup>43</sup> provides a further example where uncertainty in relation to the lack of a live scheme and the costs of healthcare infrastructure resulted in an obligation being found not to accord with the CIL Regulations.
- 5.38 In this appeal there is no certainty over where the contribution would be applied with three potential locations being identified. There is no live scheme and no proper information on costs. There is no allocation for a GP surgery in the WNP and this matter was raised for the first time when the evidence for this appeal was exchanged. The indication is that a facility for 3,000 to 4,000 patients is envisaged which is substantially in excess of the 2,480 patients estimated to be generated by the SQUE.

### *Conclusion*

- 5.39 In conclusion, the appellant contends that the proposals are entirely in accordance with all relevant development plan policies and accordingly should be granted planning permission pursuant to section 38(6) of the 2004 Act. This should be without the imposition of the additional two conditions and subject to such elements of the section 106 Agreement as comply with the CIL Regulations.

## **THE CASE FOR CHESHIRE WEST AND CHESTER COUNCIL**

- 6.1 The Secretary of State has three main choices:
- to grant planning permission subject to the conditions and planning obligations recommended by the Council
  - to grant planning permission without those conditions and with a finding that the obligations are not compliant with the CIL Regulations, or
  - to dismiss the appeal
- 6.2 The Council submits that the first option is the most appropriate because it would enable the appeal to be determined in accordance with the development plan, and in particular the WNP, which requires a development brief/masterplan to be agreed by the Council before development of the SQUE. It would also ensure that the appeal scheme can progress in a timely fashion and secure the comprehensive development of the SQUE.

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<sup>42</sup> APP/R0660/A/13/2204723 at appendix 7 to LPA2

<sup>43</sup> APP/X2410/A/13/2196928 at appendix 7 to GDL4

- 6.3 The pre- and post-application correspondence shows that the Council has been working proactively with the appellant to find a mutually acceptable means of bringing the site forward in accordance with policy. Far from being criticised, the Council should be applauded for following the guidance in paragraph 187 of the Framework to find solutions rather than problems. It must also be borne in mind that the WNP was made after the officer's report on the appeal application and the LP was not adopted until January 2015. Accordingly, there was no adopted policy basis on which the Council could insist on the production of a development brief until early this year. Since the crystallisation of the policy foundation the Council has been very clear that the SQUE could only proceed in accordance with an agreed development brief.
- 6.4 Rather than holding up delivery of the appeal site the Council has been doing everything it can to facilitate its delivery as a component of a comprehensive scheme for a new sustainable community. The Council's stance is not intended to frustrate the delivery of the appeal site, which it regards as an obvious first phase of the SQUE. The objective is to ensure that the SQUE is developed in a way that reflects the aspirations of the community of Winsford, as expressed through the WNP.

#### *Decision taking framework*

- 6.5 It is common ground that the starting point for this case is section 38(6) of the Planning and Compulsory Purchase Act 2004. The appeal should be determined in accordance with the development plan unless material considerations indicate otherwise. The 'enhanced presumption' in paragraph 14 of the Framework does not apply in the present case because the LP and WNP are consistent with the Framework, having been examined and tested against it, and the Council has a housing land supply substantially in excess of 5 years<sup>44</sup>.
- 6.6 None of the policies relating to the supply of housing can be said to be out of date. It follows that the 'classic' planning balance of benefits versus dis-benefits applies. The policy imperative of boosting the supply of housing is being met in Cheshire West and Chester so there is no pressing need to bring forward the appeal site to meet any shortfall.

#### *The development plan*

- 6.7 The parts of the development plan of particular relevance to this appeal are policy STRAT 6 of the LP and the SQUE policies of the WNP. The appellant submitted representations in relation to both plans but did not object to either the mix of uses or the requirement for a development brief. The appellant accepts that it must demonstrate that the appeal site can come forward without causing harm to the comprehensive delivery of the SQUE and recognises that the LP states that this is to be achieved through an approved development brief<sup>45</sup>. The issue is not whether the SQUE should be comprehensively planned but rather the mechanism by which this should be achieved.

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<sup>44</sup> LPA4 appendix S1, table 8.1

<sup>45</sup> LPA/GDL2 paragraphs 8-9

- 6.8 The population of Winsford took to their hearts the foreword to the Framework which emphasises the importance of neighbourhood planning to the objective of achieving sustainable development. The WNP was one of the forerunners of neighbourhood planning introduced by the Localism Act 2011. It responded positively to the Government's call for communities to become more involved in planning.
- 6.9 LP Policy STRAT 6 is a policy which is specific to Winsford, with the overarching objective of continuing the regeneration of the town. The SQUE is one of the key proposals listed in the policy. Read sensibly, Policy STRAT 6 does a number of things:
- it allocates land for a number of different uses, including residential development but also a local neighbourhood centre and a primary school - the overall allocation is greater than the sum of its parts
  - it requires the comprehensive planning of the allocation
  - the comprehensive approach is to be achieved through an agreed development brief
- 6.10 These propositions are not disputed by the appellant. However, the aims of Policy STRAT 6 will only be achieved if the various strands of the policy are delivered effectively. It is not a pick-and-mix policy which allows the residential elements of the SQUE to be brought forward without any guarantee that complementary components are also delivered.
- 6.11 The 'S' policies of the WNP also allocate land in the SQUE for a range of uses, consistent with the LP. The only sensible reading of the WNP is as follows:
- a comprehensive masterplan must be produced before any development proceeds in the SQUE
  - the masterplan must show how the SQUE can be delivered without resulting in piecemeal development
  - the masterplan must also show how the key opportunities of the SQUE can be delivered
- 6.12 The Council appreciates that the WNP uses different terminology from the LP. It refers to a 'masterplan' rather than a 'development brief'. However, the Council's evidence was that the intentions of the LP and the WNP are consistent and should be read as such<sup>46</sup>. Both seek to ensure comprehensive development through an overarching document that addresses the following key matters:
- the spatial arrangement of the SQUE
  - demonstration of how the different mixed use elements fit together
  - access
  - delivery mechanisms for the various elements, including infrastructure

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<sup>46</sup> Inspector's note – Mr Friston, in answer to my question, stated that the two plans are consistent in that both are seeking a comprehensive approach.

- in the absence of a CIL charging schedule, the cost of delivery and how it is to be apportioned

6.13 Without these key features it will not be possible to achieve the aims of the policy and the aspirations of the local community, as reflected in the WNP.

*Compliance with the development plan*

6.14 It is common ground that there is no agreed development brief for the purposes of Policy STRAT 6<sup>47</sup>. Reading the LP and the WNP consistently, as they should be, it follows that there is no overall masterplan as required by the WNP. On this basis the Secretary of State can conclude that there is a failure to comply with the most relevant policies in the development plan. These are policies which are critically important to achieving a sustainable community. In the absence of an agreed development brief one cannot be satisfied that this objective will be achieved.

6.15 The appellant adopts a different position. Whilst accepting that there is no overarching delivery document, it considers that it has done enough to comply with the spirit of the development plan. It relies upon the framework masterplan<sup>48</sup> and the Vision Document<sup>49</sup> prepared for the LP examination and the WNP. These documents are a good start, and are likely to inform the final development brief, but are not sufficient to ensure that the appeal scheme plays a full part in a sustainable urban extension for the following reasons:

- although the documents have been publicly available, in association with plan preparation or a planning application, they have not been the subject of proper public consultation
- the whole of the SQUE is not covered by the appellant's masterplan
- the appellant's work has focussed on spatial arrangement and has paid little attention to the delivery of the allocation as a whole or to the funding of the key opportunities it represents

6.16 This is a fundamental failing of the appellant's approach. Without some assurance that the building blocks of a sustainable community can be brought forward there is a real risk that the policy objectives of the LP and NDP will not be achieved. This point is illustrated by the appellant's stance on the executed s106 Agreement. It argues that the development of the appeal site should not contribute towards the Flashes Country Park, the new primary school, a community hall or health facilities. The appellant's case is that the appeal site should be treated as a stand-alone development rather than as part of a wider sustainable urban extension.

6.17 The harm arising from the appellant's approach is that one cannot be assured that the SQUE will be brought forward in the way intended in the recently adopted LP or in the manner set out by the people of Winsford. Local people took the time and trouble to prepare the WNP in line with the Government's call for them to take control of planning in their local community. There is a

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<sup>47</sup> Inspector's note – accepted by Mr Waters in answer to questions from Mr Easton

<sup>48</sup> GDL2/A figure 3

<sup>49</sup> CD7

clear breach of the most relevant policies of the LP and WNP which gives rise to a statutory presumption against the grant of planning permission. The grant of planning permission on the appellant's terms would result in a serious risk that the policy objectives of both plans would not be realised.

#### *The solution*

- 6.18 The pragmatic and fair solution to this problem is the two conditions suggested by the Council. These would require any reserved matters application to be informed by and consistent with an agreed development brief. The appellant does not raise any practical objection to the conditions, nor does it suggest that the anticipated delivery of housing at the appeal site in 2017/18 would be affected<sup>50</sup>. It was also confirmed that the appellant had no objection in principle to the future development of the appeal site being informed by an adopted development brief and that it would engage with the Council in working up the draft development brief that has now been approved for consultation.
- 6.19 The appellant's only point on the suggested conditions is the test of necessity. In all other respects it is common ground that the conditions would be policy compliant and lawful. In the Council's view the conditions are necessary, for the reasons given above.
- 6.20 The appellant also makes a point about the long-stop date of 31 December 2015. The Council is confident that the process of adopting the development brief will be completed before that date. The long-stop date is merely a sensible and practical response to a possible scenario in which a development brief is not adopted in the next 6 months. This strikes a fair balance between the need to ensure that the SQUE is delivered in a comprehensive fashion and the need to avoid undue delay to residential development on an allocated site. This sensible attitude has been informed by the decisions of two separate Inspectors in three appeals in Preston where similar issues arose<sup>51</sup>. The conditions were considered against the tests in Circular 11/95, which were in all material respects the same as the tests now in the Framework, and found to be compliant.
- 6.21 The imposition of the proposed conditions would not offend the *Wheatcroft*<sup>52</sup> principle because the development brief will need to be informed by the WNP which does not indicate that the development of the appeal site will be different (in land use planning terms) from the appeal scheme. In particular, there is no likelihood that the appeal site will be earmarked as including a local centre or a primary school.

#### *The s106 Agreement*

- 6.22 A s106 Agreement has been executed which contains all the contributions sought by the Council. However, the appellant asserts that most of the contributions are not necessary to make the development acceptable in

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<sup>50</sup> Inspector's note – confirmed by Mr Waters in answer to questions from Mr Easton

<sup>51</sup> APP/N2345/A/13/2193377 at Lightfoot Lane; APP/N2345/A/13/2192099 at Connemara and APP/N2345/A/13/2196641 at Hoyles Lane at appendices S7, S8 and S9 of LPA4

<sup>52</sup> LPA7

planning terms. The Council's position on the need for these contributions is as follows:

- the allocations for various uses in the LP and NDP form part of the adopted development plan
- these allocations were subject to consultation and examination in public
- the SQUE was allocated to create a sustainable residential quarter
- the policies require the various key opportunities to be delivered
- the key elements in the WNP include public access to the Flashes, a new primary school and community uses (such as a village hall and a GP surgery)
- together the delivery of these key elements should result in a sustainable residential quarter reflective of the WNP
- the appeal site would not have been allocated for development were it not for this overall package
- accordingly, where a contribution is necessary in order to deliver aspects of the SQUE, there is a clear policy justification for the appellant paying a reasonable share

6.23 These arguments apply to all of the contributions but with particular force to the specific allocations relating to the Flashes Country Park and the primary school. The consequence of the appellant's insular stance is that considerable doubt must attach to the delivery of key elements of the WNP and the achievement of the objectives of this frontrunner neighbourhood plan.

6.24 In addition to the above general points, the following comments are made in relation to individual contributions. In relation to the education contribution, it is likely that most of the pupils living at the appeal site would attend the proposed primary school so the contribution is directly related to the scheme. The appellant's focus on capacity in Winsford as a whole misses the point that there are only two primary schools east of the River Weaver. Other schools are further from the appeal site and of less relevance. Moreover, there is little value in projecting capacity figures a long way into the future because this takes no account of factors such as changing birth rates.

6.25 In any event, the Council's case does not depend on the current capacity of primary schools. The need for a new school arises from the number of dwellings proposed in the SQUE as a whole. The SQUE is separated from other parts of the urban area by a main road and the River Weaver. The provision of a new school will be an important part of creating a coherent community within the SQUE. In terms of delivery, it is anticipated that the school would be delivered about half way through the development of the SQUE<sup>53</sup>.

6.26 The Flashes Country Park is an essential element of the comprehensive delivery of the SQUE. The appellants make a point about consistency with the

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<sup>53</sup> Inspector's note – the comments in this paragraph, and in the preceding paragraph, were made by Mr Friston and Ms Davis during the round table session on planning obligations.

Council's decisions on sites south of the town centre. In response, the Council points out that the site where permission has been granted was subject to a resolution to grant planning permission before the local plan was made<sup>54</sup>. The other site referred to was the subject of a report which was withdrawn before it was considered by Members and in these circumstances no weight should be attached to it.

- 6.27 The WNP allocations for sites S2 and S3 include social and community uses. The contribution to a village hall is clearly consistent with the WNP. In relation to health, there is evidence that additional capacity will be needed to accommodate the scale of growth envisaged at the SQUE. WNP Policy CSL2 states that all residential development will be required to make appropriate contributions to off-site community and social facilities. The situation at the appeal site can be distinguished from the *Audlem* appeal decision because of the allocations within the WNP.
- 6.28 The Council has provided a CIL Compliance Note<sup>55</sup> which confirms that there are no concerns regarding the restriction on pooling set out in regulation 123 of the CIL Regulations.
- 6.29 Finally, whilst the key driver for contributions is that they be necessary to make the development acceptable, contributions can have wider collateral benefits to which weight can be attached. The consequence of the appellant's arguments being successful prevents the appellant relying on any such collateral benefits associated with the disputed contributions.

#### *The planning balance*

- 6.30 A range of benefits would flow from the grant of planning permission with or without the Council's suggested conditions. These should be considered in their proper context. Whilst the delivery of market housing is a benefit, on the appellant's case only 108 dwellings would be delivered during the 5 year period. This equates to 1.06% of the identified supply<sup>56</sup>. If the appellant's position on planning obligations is accepted then no benefits would flow from contributions to education, the Flashes Country Park, the village hall or health facilities.
- 6.31 Set against these benefits, the conflict with the development plan and the harm that would arise must hold sway. Unless the conditions and obligations suggested by the Council are required, the only sensible course of action would be to dismiss the appeal.

### **THE CASE FOR WINSFORD TOWN COUNCIL**

- 7.1 The Town Council supports the reasons for refusal and urges that the appeal be rejected. Whilst it previously raised no objection to the principle of the proposals, more detailed consideration highlighted the importance of a comprehensive approach to deliver the wider community benefits required as part of this development. The Station Quarter is a very important allocation

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<sup>54</sup> Inspector's note – the Council accepts that the permission was actually issued after the WNP was made.

<sup>55</sup> LPA8

<sup>56</sup> LPA4 appendix S1, table 8.1

within the WNP which requires comprehensive masterplanning in the interests of the long term prosperity of the town.

- 7.2 The Town Council carried out extensive consultations on the WNP using a wide range of venues and events. The locality of the appeal site is sensitive and there is a historic association with leisure uses and water related activities. The Town Council is working in partnership with other organisations to develop the opportunities for such activities and to open up the area around the Flashes. These plans include a project to link the River Weaver to the Shropshire Union Canal.
- 7.3 The role of the Town Council is both as a provider of local services and a conduit for information and local views. It has been successful in making improvements to the public realm, for example in relation to parking for the station and the provision of allotments. One of the objectives of the WNP is to improve the image of Winsford. The WNP calls for a masterplan for the SQUE and also for other areas where development is proposed. A masterplan should be both comprehensive and inclusive. The Town Council has no objection to housing at the appeal site but it does want to see a plan showing what will be located where. A comprehensive masterplan is needed.

## **WRITTEN REPRESENTATIONS**

- 8.1 Written representations were received from Winsford Town Council. These comments have been incorporated in the previous section. No other written representations were received in response to the appeal.
- 8.2 The Council received representations in response to consultation on the application. These are summarised in the officer's report<sup>57</sup>. They include concerns about excessive house building in Winsford, lack of need for further housing, loss of agricultural land and countryside, harm to the rural character of Rilshaw Lane, impacts on wildlife including protected species, loss of trees and hedgerows, increased traffic and safety issues, lack of community facilities to serve the development, lack of local jobs for new residents, flooding and drainage and land stability.

## **CONDITIONS**

- 9.1 The Council suggested two conditions which were intended to address the first reason for refusal. This was a controversial matter which I deal with in my conclusions. In addition the Council suggested conditions which were largely agreed with the appellant<sup>58</sup>. I have considered the conditions in the light of Planning Practice Guidance. In some cases I have combined suggested conditions or adjusted detailed wording to reflect that guidance.
- 9.2 Conditions 1-3 are standard conditions for outline planning permissions. At the Inquiry it was agreed that the reserved matters should be submitted within two years, consistent with the Council's delivery trajectory for this site. Condition 4 requires development to be in accordance with the approved plans, insofar as that applies at this outline stage, in accordance with Planning Practice Guidance. Condition 5 requires details of phasing to ensure that

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<sup>57</sup> CD5

<sup>58</sup> The differences between the parties are set out in GDL5

highways and public open spaces are provided in a coordinated way as the development proceeds. Condition 6 limits the total number of units and the overall height of development to ensure that the reserved matters are consistent with the application documents and the various technical reports submitted with the application. The Council also suggested that a minimum density should be stipulated in this condition. However, I consider that this is a matter which could be controlled at reserved matters stage. Condition 7 secures the provision of routes through the site to enable the comprehensive development of the SQUE.

- 9.3 Condition 8 requires details of off-site provision for pedestrians, cyclists and public transport to be approved and condition 10 requires submission of a travel plan in the interests of promoting sustainable transport choices. Condition 9 requires approval of details of roads, cycleways and footways within the site in the interests of highway safety. Condition 11 restricts access to Rilshaw Lane in the interests of highway safety and to protect the historic character of the lane.
- 9.4 Condition 12 would secure the delivery of an appropriate proportion of the units as affordable housing, consistent with LP policy. Conditions 13 and 14 deal with drainage, in the interests of managing risks of flooding. Condition 15 requires details of open spaces in order to ensure that there would be adequate provision of public open space and to protect the character and appearance of the area.
- 9.5 Conditions 16-22 are needed to protect and enhance the biodiversity of the site. They deal with submission of a habitat and landscape management plan, tree protection and mitigation measures relating to newts, badgers, reptiles, birds and bats. Condition 17 (tree protection) is also needed to protect the character and appearance of the area.
- 9.6 Condition 23 requires the submission of a construction management plan in the interests of highway safety and protecting the living conditions of nearby residents. Condition 24 requires the submission of a scheme of sound insulation to protect the living conditions of future occupiers. The Council and the appellant did not agree on all of the appropriate noise levels to be stipulated in such a condition<sup>59</sup>. I have therefore drafted the condition in a way which would allow this matter to be the subject of further discussion between the parties.
- 9.7 Conditions 25-29 are needed to ensure that there would be adequate investigation and management of risks associated with land stability and contamination. Condition 30 would remove permitted development rights for extensions to dwellings, which might otherwise compromise the effectiveness of measures designed to avoid or reduce risks associated with landfill gas. It includes provision for some of the dwellings to be exempt from this restriction in the event that the site investigations, which would be carried out pursuant to the preceding conditions, show that it would not be necessary for those dwellings.

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<sup>59</sup> The nature of the disagreement is set out in GDL8

- 9.8 Condition 31 is needed to ensure that a proportion of the energy requirements of the scheme would be met from renewable sources, in the interests of limiting carbon emissions and in accordance with the relevant policies of the development plan<sup>60</sup>.
- 9.9 Some of the above conditions require matters to be submitted for approval before the commencement of the development. This is necessary in the case of conditions 5 (phasing), 17 (tree protection), 19 (badger survey), 23 (construction method statement), 25 (land stability) and 27 (contamination) because these conditions relate to matters arising during the construction phase. It is necessary in the case of conditions 9 (highways and footways), 14 (surface water drainage), 24 (sound insulation) and 31 (renewable energy) because these conditions relate to matters which are likely to affect the detailed layout and/or design of the development.

## **PLANNING OBLIGATIONS**

- 10.1 The Agreement under s106 of the Town and Country Planning Act 1990, which was completed during the course of the Inquiry<sup>61</sup>, would provide for financial contributions relating to off-site playing pitches, a primary school, the Flashes Country Park, a village hall and health facilities. The Agreement also covers the provision, management and maintenance of open space within the development.
- 10.2 The need for various financial contributions (other than for off-site playing pitches) was a controversial matter which I deal with in my conclusions. The Council and the appellant agreed that the contribution for off-site playing pitches would be necessary to mitigate the impact of the development on existing facilities and I share that view.
- 10.3 The methodologies for calculating the amounts of the contributions were agreed between the Council and the appellant. The off-site playing pitch and education contributions were calculated by reference to standard formulae published by the Council. The contributions to the Flashes Country Park and village hall were calculated by reference to cost estimates agreed between the Council and the appellant. The health facilities contribution was calculated by reference to average costs provided by the National Health Service. The proportion of these costs to be attributed to the appeal scheme, as part of the wider SQUE, was also agreed. On this basis I consider that it has been shown that the scale of the contributions is reasonably related to the proposed development and in this respect the obligations are compliant with the Framework and the CIL Regulations<sup>62</sup>.
- 10.4 The obligations relating to the provision, management and maintenance of open space were also agreed. In my view these obligations would be necessary to ensure adequate provision of open space, to protect the character and appearance of the area and in the interests of biodiversity.

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<sup>60</sup> LP Policy ENV6 and Policy BE21 of the Vale Royal Borough Local Plan

<sup>61</sup> The Agreement is dated 11 June 2015 (LPA/GDL7).

<sup>62</sup> I comment further on the costs for health facilities in my conclusions

## INSPECTOR'S CONCLUSIONS

*The numbers in square brackets refer back to earlier paragraph references of relevance to my conclusions.*

11.1 Taking account of the oral and written evidence, my observations on site and the Secretary of State's reasons for recovering the determination of the appeal, the main consideration is:

*whether the proposal would prejudice the achievement of a coordinated and sustainable form of development within the Winsford Station Quarter Urban Extension.*

*The development plan*

11.2 The development plan includes:

- saved policies of the Vale Royal Borough Local Plan First Alteration (VRBLP);
- the Cheshire West and Chester Local Plan (Part One): Strategic Policies (LP) adopted on 29 January 2015; and
- the Winsford Neighbourhood Plan (WNP) made on 19 November 2014.

11.3 The appeal site was previously subject to VRBLP Policy GS5 which sought to protect the character and appearance of the open countryside. This policy has been superseded by the LP and WNP. Policy BE4 states that developers will be required to provide new or enhanced infrastructure and/or community facilities where the need for such provision arises directly from a development. [2.5]

11.4 Policy STRAT 6 of the LP states that Winsford will provide a key focus for development in the east of the borough. The appeal site forms part of a larger area allocated as the Station Quarter Urban Extension (SQUE), one of the key proposals set out in the policy. The policy states that the SQUE will include mixed-use development of in the region of 1000 new dwellings (775 in the plan period), new open space linked to the Flashes, a local neighbourhood centre, primary school, leisure, social and community facilities. This should be achieved through a comprehensively planned approach in line with an agreed development brief. Policy STRAT 11 seeks to ensure the delivery of infrastructure improvements to secure the future of sustainable communities. [2.6]

11.5 The WNP was developed in parallel with the LP and includes policies designed to guide the development of the SQUE. The various components of the SQUE are described as sites S1 – S5. The appeal site comprises the whole of WNP site S2 and part of site S3. Site S1 is a larger area to the south of Rilshaw Lane and sites S4 and S5 are located further to the east, close to the station. WNP Policy S 1A allocates site S1 for around 665 residential units, a local neighbourhood centre, primary school, leisure, social and community uses and 21.8ha of new public open space adjacent to the Flashes. Policy S 2A allocates site S2 for around 224 residential units with an element of mixed use, including a local neighbourhood centre, social and community uses and open spaces. Policy S 3A allocates site S3 for around 101 residential units with an

element of mixed use, including a local neighbourhood centre, social and community uses and open spaces. [2.8 – 2.11]

## **Main consideration - whether the proposal would prejudice the achievement of coordinated and sustainable form of development**

### *Introduction*

- 11.6 This is an appeal where there are extensive areas of common ground between the Council and the appellant. The appeal site is allocated for development in the recently adopted LP and the recently made WNP. There is no suggestion that the development of 215 dwellings at the appeal site would, in principle, conflict with these development plan allocations. A wide range of planning considerations has been addressed in the various reports submitted with the application and assessed by the Council in the officer's report. These included landscape and visual amenity, design, highways and transport and ecology. The Council and the appellant agree that any impacts arising in relation to these matters could be adequately mitigated by conditions such that no significant adverse impacts would occur. [4.1 – 4.3]
- 11.7 The nub of the dispute between the Council and the appellant is whether allowing the appeal in the absence of an agreed development brief (or masterplan) for the SQUE would conflict with the LP/WNP, whether any harm would arise from such a conflict and whether such harm could be resolved by the two conditions suggested by the Council. A further area of dispute is whether four of the contributions provided for by the s106 Agreement would meet the tests in the Community Infrastructure Levy Regulations 2010 (the CIL Regulations). The Agreement contains a 'blue pencil' clause<sup>63</sup> such that, if the Secretary of State finds that any of the contributions do not meet those tests, then those obligations would not come into effect.

### *Compliance with the development plan*

- 11.8 The LP contains a range of policies dealing with matters such as landscape, green infrastructure, design, biodiversity and transport. As noted above, the Council and the appellant are in agreement that there would be no conflict with these policies and I see no reason to take a different view. The disagreement between the parties is limited to the application of LP Policy STRAT 6 and the 'S' policies of the WNP.
- 11.9 Before considering the application of those policies, I comment on two preliminary points. First, there is a difference of language between the LP and the WNP. The LP calls for '*an agreed development brief*' whereas WNP Policy S 1 – S 3 states that sites S1, S2 and S3 '*must be masterplanned together*'. The WNP sets out Area Objectives for the Station Quarter which include the following:

*Prior to development a comprehensive masterplan covering the Station Quarter must be agreed with the Council to avoid piecemeal consideration of schemes and to ensure sites are able to provide maximum community benefit.*

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<sup>63</sup> Clause 3.4 of the Agreement at LPA/GDL7

- 11.10 In my view the difference in language between the LP and the WNP does not amount to a conflict between the two documents. I agree with the Council's approach which is that, whilst there may be a difference of terminology, the underlying planning purpose is the same. Both plans seek to ensure that there is a properly planned comprehensive approach to the development of the SQUE. Both plans form part of the development plan and they should be read together. [6.12]
- 11.11 The second point relates to the proposed neighbourhood centre. WNP Policy S 1 – S 3 states that there is to be one neighbourhood centre whereas the individual site allocations for the sites S1, S2 and S3 each include provision for a neighbourhood centre. At the Inquiry the Council and the appellant agreed that the 'S' policies should be read as providing for one neighbourhood centre which could be provided on any one of the three sites. I agree with that interpretation.
- 11.12 The Council has prepared a draft development brief which has been approved for the purposes of public consultation. As yet that consultation has still to take place and the brief can be expected to be worked up further in response to that process. At this stage only limited weight can be attached to it. For the purposes of LP Policy STRAT 6 there is currently no agreed development brief in existence. The Council submits that on this basis there is a clear conflict with Policy STRAT 6. [6.14]
- 11.13 The appellant's position is that it is not necessary to await approval by the Council of a development brief in order to achieve compliance with Policy STRAT 6. The appellant's technical studies have not been confined to the appeal site but have covered most of the SQUE allocation. A Vision Document was produced in February 2013. In November 2013 the appellant engaged in pre-application discussions with the Council. The advice received at that time referred to the emerging Policy STRAT 6 (as it then was) and stressed the importance of avoiding a piecemeal approach. It was suggested by Council officers that this could be done by the submission of a masterplan for the wider area. This is what the appellant went on to do and the masterplan it prepared was before the Inquiry. [5.6 - 5.11]
- 11.14 It is also argued that, when the LP and WNP are read together, it is clear that the underlying planning purpose is to avoid prejudice to a comprehensive approach. Further points made by the appellant are that neither the LP nor the WNP specifies any process by which a development brief and/or masterplan would be agreed and that the Council's approach would cause unacceptable delay.
- 11.15 I note that the stance taken by the Council now is different to the pre-application advice it gave in 2013. It also differs from a response given to the Inspector who carried out the examination of the LP. Nevertheless, the policy must be read and applied now in the light of current circumstances. Whether one looks at the LP or the WNP, the policy requirement is for there to be in place an overarching document which has been agreed by the Council. Plainly that has not happened so the policy is not complied with. This conclusion is unaffected by the lack of reference to any specific mechanism for approval in the LP/WNP. [5.8, 5.9]

11.16 The absence of an agreed development brief and/or masterplan is not in my view a minor or technical conflict with the LP/WNP. Whatever the process for approving such a document, it is reasonable to assume that the Council would involve other interested parties and take account of comments received. That process cannot be replicated by the promoter of an individual site, whatever the quality of the technical work it carries out. It may be that requiring the approval of a development brief or masterplan would increase the time taken before an application could be approved in accordance with the policy. It seems to me that this is a matter to be taken into account in the overall planning balance rather than a factor which indicates whether or not the policy is complied with.

11.17 I conclude that the appeal scheme would not accord with LP Policy STRAT 6 or with WNP Policy S 1 – S 3 because there is, as yet, no agreed development brief or masterplan for the SQUE. In all other respects the scheme is compliant with the development plan.

*The consequences of development in advance of an agreed development brief*

11.18 As noted above, the proposals for the appeal site have not been developed without consideration as to how they would integrate with the wider SQUE. At the Inquiry the Council accepted that, in the circumstances of this appeal, there are three areas where the potential for prejudice to a comprehensive approach potentially arises - land use, access and infrastructure contributions. [5.16]

11.19 With regard to land use, the appeal scheme is for housing which is in accordance with the LP/WNP. The WNP states the new primary school is to be in site S1, not in the appeal site. No doubt the development brief, when completed, will reflect that allocation because it will have to be consistent with the WNP. One important matter which the development brief may resolve is the location of the neighbourhood centre. The WNP allows for this to be on the appeal site but does not require it to be there, provided that it can be located elsewhere within site S1 and/or the balance of site S3. The question arises as to how likely it is that the development brief will ultimately show the neighbourhood centre within the appeal site. The following matters appear to me to be relevant:

- both the draft development brief<sup>64</sup> and the appellant's masterplan show the neighbourhood centre in site S1, albeit in different locations
- this is logical because the neighbourhood centre is intended to be the focal point of a new residential quarter – a location in site S1 would be more central to the SQUE as a whole than a location in the appeal site
- it is also logical because both the development brief and the appellant's masterplan show the neighbourhood centre next to the primary school which the WNP makes clear will be in site S1
- site S1 is larger than the appeal site

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<sup>64</sup> Only limited weight attaches to the draft development brief at this stage but, taken together with other evidence, it is still a material consideration.

- the Council's closing submissions state that there is no likelihood that the appeal site will be earmarked for the local centre

- 11.20 Bearing in mind the above factors it seems unlikely that the development brief, when completed, will suggest that the neighbourhood centre should be located in the appeal site. It follows that there is no evidence that allowing the appeal scheme in advance of the approval of the development brief would prejudice the distribution of land uses within the SQUE as envisaged in the WNP.
- 11.21 Turning to access, the position of the proposed primary access from the A54 into the SQUE, shown diagrammatically in the WNP and the draft development brief, is consistent with the more detailed highway design work carried out on behalf of the appellant. There is no evidence that there is any better access point. The appellant has examined the highway requirements for this junction. A roundabout has been designed in sufficient detail to give confidence that the development proposed on the appeal site would leave sufficient land for the necessary highway geometry to be achieved. The appellant's technical work in this regard is not disputed. [5.20, 5.21]
- 11.22 One important matter which is yet to be resolved is the layout of the primary distributor route or routes linking site S1 to the roundabout junction. The WNP shows a direct route south from the roundabout whereas the appellant's masterplan shows a route passing through the appeal site. Part of the rationale for the appellant's route is that there may be land ownership constraints affecting the delivery of the route shown in the WNP. The likelihood of any such constraints being resolved is not known. However, for present purposes the important point is that the indicative layout for the appeal site would not prejudice either approach. Indeed, if there proved to be difficulties with the direct route the appeal site would offer an alternative access into site S1. [5.23]
- 11.23 The appellant's highways evidence describes how a hierarchy of routes could be created within the appeal site, including an east/west spine road which would be suitable for use as a bus route. The internal roundabouts could be 'future proofed' by constructing them to a standard that could accommodate traffic flows from the balance of the SQUE should that become necessary. All of these matters would be subject to approval at reserved matters stage. Appropriate connectivity with adjoining land in the SQUE could be secured by a suggested planning condition. Again, the appellant's technical evidence on these matters was not disputed. [5.22]
- 11.24 In conclusion, there is no reason to think that the comprehensive development of the SQUE would be prejudiced by access difficulties if the appeal were allowed in advance of the approval of a development brief.
- 11.25 The draft development brief includes a table of infrastructure delivery which includes estimated construction costs and comments on how these might be apportioned and/or phased in relation to the phases of the development. However, in this case a s106 Agreement has been completed which provides for the appeal scheme to make proportionate contributions to various items of infrastructure. The Council and the appellant have agreed that the amounts of these contributions are appropriate and fairly related to the scale of the proposed development. There is no evidence that it would be appropriate for

the appeal scheme to make contributions to items of infrastructure other than those covered by the Agreement.

11.26 The Council points out that the masterplan prepared by the appellant does not cover all of the land within the SQUE extension. The main areas excluded are a strip of land to the south of Rilshaw Lane, which has been referred to above in the context of access, and an area of land in the eastern part of site S1<sup>65</sup>. However, the Council did not identify any potential planning consequences resulting from the appellant's approach other than the matters already discussed above. [6.15]

11.27 My overall assessment is that the appellant has carefully considered the way the appeal scheme would integrate with the wider SQUE. This work has included a number of technical studies, the conclusions of which are not in dispute. Notwithstanding the absence of an agreed development brief, the evidence before the inquiry indicates that the risk of prejudice to the comprehensive development of the wider SQUE is slight.

*The Council's suggested conditions*

11.28 The Council's position at the Inquiry was that the first reason for refusal could be resolved by the imposition of planning conditions intended to tie the submission of reserved matters to the emerging development brief. The intention was that the reserved matters application should await the adoption of the development brief, with a 'long stop' date included to provide certainty and prevent unnecessary delay. The wording suggested was as follows:

- (1) Applications for approval of the reserved matters shall be made to the local planning authority within three years<sup>66</sup> from the date of this permission, save that no reserved matters application shall be submitted before the earlier of the two following dates: (i) notification of the approval by the local planning authority of the Winsford Station Quarter Development Brief; or (ii) 31 December 2015. The Reserved Matters submission shall be in substantial accordance with the adopted Winsford Station Quarter Development Brief (subject to its approval at the time of Reserved Matters submission).
- (2) Any Reserved Matters application shall include an addendum to the Design and Access Statement Rev F (5349 Land off Rilshaw Lane, Winsford July 2014) (fpcr), which (if applicable) shall demonstrate how the development accords substantially with the adopted Winsford Station Quarter Development Brief. [1.7]

11.29 The National Planning Policy Framework (the Framework) states that planning conditions should only be imposed where they are necessary, relevant to planning and to the development permitted, enforceable, precise and reasonable in all other respects<sup>67</sup>. The Council and the appellant did not agree in relation to the test of necessity but agreed that the other tests would be

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<sup>65</sup> The appellant's work focussed on the main land ownership parcels which comprise the greater part of the SQUE. The land ownerships are shown in figure 2.4 within appendix S3 to LPA4.

<sup>66</sup> The Council and the appellant later agreed that the time period should be two years.

<sup>67</sup> Paragraph 206

met. The Council argued that the suggested conditions are needed because development in advance of the development brief being agreed would prejudice the comprehensive development of the SQUE. For the reasons given above, I do not agree that would be the case. As I have not identified any such harm it follows that the conditions are not necessary. Mindful of the Framework tests, I consider that they should not be imposed.

- 11.30 The form and drafting of the suggested conditions reflects conditions imposed by Inspectors in three appeal decisions relating to sites within a strategic development area at Preston<sup>68</sup>. In those cases the Council was in the process of finalising the route of a spine road which could have affected the layout of the sites in question. In my view these decisions are helpful insofar as they provide examples of where such conditions have been used and they provide precedents in terms of drafting. However, they are not relevant to the test of necessity because that is a matter which depends on the particular circumstances of the case in hand.
- 11.31 A further point arises in respect of the effectiveness of the suggested conditions. I have referred above to the possibility that the development brief, when finalised, might indicate that the neighbourhood centre should be located within the appeal site. I concluded that this is an unlikely outcome. However, even if that were to happen, I do not think that the suggested condition would be effective in securing the implementation of the development brief.
- 11.32 At the Inquiry the Council and the appellant agreed that, in circumstances where planning permission had been given for housing, it would not be possible for a planning condition to require the permitted scheme to comprise housing plus a neighbourhood centre. Bearing in mind the principles in *Wheatcroft*<sup>69</sup>, I share that view. If, contrary to my findings, the Secretary of State concludes that development should not proceed until the location of the neighbourhood centre has been resolved then my recommendation would be to dismiss the appeal.

#### *Conclusion on the main issue*

- 11.33 I conclude that the appeal scheme would not accord with LP Policy STRAT 6 or with WNP Policy S 1 – S 3 because there is, as yet, no agreed development brief or masterplan for the SQUE. However, having regard to the evidence before the Inquiry, and subject to the s106 Agreement and appropriate planning conditions, I do not think that the appeal scheme would prejudice the achievement of a coordinated and sustainable form of development within the Winsford Station Quarter Urban Extension.

#### **The disputed planning obligations**

- 11.34 As noted above, there was no dispute regarding the amount of any of the contributions. The appellant did not accept that the contributions relating to education, the Flashes Country Park, the community/village hall and health facilities are necessary to make the development acceptable in planning terms.

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<sup>68</sup> The references are given at footnote 51

<sup>69</sup> *Bernard Wheatcroft Ltd v Secretary of State for the Environment* (1982) 43 P & CR 233 at LPA7

If that were right they would not accord with the Framework, would not be compliant with the CIL Regulations and should not constitute a reason for granting planning permission<sup>70</sup>.

### *Education*

- 11.35 It is common ground that, if the appeal scheme were viewed in isolation, there would be sufficient capacity at Willow Wood Primary School to accommodate the pupils generated by the appeal scheme. It is also agreed that the LP/WNP do not say that the new primary school should be located within the appeal site. [5.32, 5.33]
- 11.36 That said, the Council and the local community have determined, through the process of the LP and WNP, that a new primary school should be an integral part of the proposed sustainable residential quarter at the SQUE. That appears to me to be an eminently reasonable approach, given the scale of the urban extension and the fact that the SQUE will be a distinct neighbourhood with its own identity. I note that this is a long term project and that the school is not expected to be delivered for a number of years<sup>71</sup>. However, I accept the Council's argument that, because of the long term nature of the project, the availability of school capacity now is of less importance than the broader planning objective of securing a sustainable urban extension. [6.24, 6.25]
- 11.37 The appeal site has not been allocated in isolation. Rather, it has been allocated as part of the SQUE. It seems to me reasonable that it should therefore make a proportionate contribution to those items of infrastructure that have been identified, through the planning process, as necessary for the delivery of the SQUE as a whole. If individual phases of the development do not make such contributions I consider that there would be an unacceptable risk that LP/WNP objectives for the SQUE would not be fully realised.
- 11.38 The appellant pointed out that the Council may adopt a CIL charging scheme before the time when the primary school is required. There was little information on this point at the inquiry. However, in my view the possibility that the approach to development contributions may change in the future has no bearing on the principle of whether phases of the SQUE coming forward now should contribute to the infrastructure required in a proportionate manner.
- 11.39 Therefore, I conclude that the education contribution is necessary to make the development acceptable in planning terms.

### *The Flashes Country Park*

- 11.40 The specific land use allocation for the park is found in WNP Policy S 1A, which does not cover the appeal site. Nevertheless, it is clear from the LP and the WNP the Flashes Country Park is also an essential element of the SQUE. The comments made above in relation to education apply similarly to this contribution. The appellant argues that the Council has not been consistent in relation to similar cases in Winsford. However, even if there has been a degree

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<sup>70</sup> Regulation 122 of the CIL Regulations

<sup>71</sup> The expectation is that it would be provided about half way through the development of the SQUE.

of inconsistency here, I attach greater weight to the need to apply the LP and WNP properly in the current case. I consider that the contribution is necessary. [5.34, 6.26]

#### *The community/village hall*

11.41 The position in relation to the community/village hall contribution is not quite the same as for education and the park because there is no specific allocation for a community/village hall. On the other hand, there is an allocation for 'leisure, social and community uses'. In the context of a neighbourhood centre within a new residential quarter it seems to me that a community/village hall falls squarely within this allocation. Read in context, it is obvious that this is just the sort of facility that was intended. In any event, at the Inquiry the appellant accepted that the finding on the need for this item would logically follow the finding in relation to the park. I agree and I consider that the contribution is necessary. [5.35]

#### *Health facilities*

11.42 The situation in relation to health facilities is different from the above items in that there is no specific allocation for health facilities in the LP/WNP. The Council suggested that health facilities could be regarded as being within the ambit of leisure, social and community facilities. I agree that a GP surgery could be regarded as a community facility. However, to my mind a new GP surgery is a significant item of community infrastructure. If the LP/WNP had identified a need for a new GP surgery at the SQE I think it would have made specific provision.

11.43 The appellant drew attention to appeal decisions at *Audlem* and *Rothley*<sup>72</sup>. The *Audlem* decision involved a case where the Inspector identified that the appeal scheme would generate a need for health facilities but where no specific project had been identified. In *Rothley*, a contribution was aimed at extending a specific surgery but this proposal was not in the agreed GP premises improvement plan and there was no 'live' scheme. Moreover, there were no precise costs available and it was not known whether any claim for funding would be approved by the NHS.

11.44 Whilst no two cases are identical, there are clear parallels between these cases and the current appeal and I take them into account accordingly. In this case there is no 'live' scheme, either in terms of a specific proposal in the SQE or in relation to the potential expansion of an existing surgery, and only high-level cost averages have been provided. It has not been shown that the contribution would be used in a way which was directly related to the development or that it is necessary to make the development acceptable in planning terms. I therefore give it no weight in my recommendation.

#### **Other matters**

11.45 The issues raised by Winsford Town Council have been covered above. Other matters were raised by third parties in response to consultations on the

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<sup>72</sup> APP/R0660/A/13/2204723 at appendix 7 to LPA2 and APP/X2410/A/13/2196928 at appendix 7 to GDL4

planning application. These included concerns about excessive house building in Winsford, lack of need for further housing, loss of agricultural land and countryside, harm to the rural character of Rilshaw Lane, loss of trees and hedgerows, increased traffic and safety issues, lack of community facilities to serve the development, lack of local jobs for new residents, flooding and drainage and land stability. [8.1, 8.2]

- 11.46 The site has been allocated for development through the LP and WNP. That planning process will have considered the appropriate balance between the provision of homes and jobs and the protection of agricultural land and the countryside. The other matters raised have been assessed by the appellant, through the various technical reports submitted with the application, and by the Council in its officer's report. The Council and the appellant agree that, subject to appropriate mitigation secured through conditions and the s106 Agreement, there would be no unacceptable impacts in relation to any of these matters. I see no reason to take a different view. [4.1]
- 11.47 The Council and the appellant agree that the appeal scheme would not result in any significant impacts on ecology. There are no statutory nature conservation sites in the immediate vicinity of the site<sup>73</sup>. An ecological appraisal and surveys for protected species were submitted with the application. No material impacts on any designated sites were identified. In relation to protected species, no great crested newts were identified on the appeal site although they have been reported nearby. Small numbers of bats were identified commuting and foraging within the site. No badger setts were found but there was evidence of badgers foraging. Mitigation embedded in the scheme would include the retention of most of the existing hedgerows and the provision of new planting. Further mitigation in relation to specific species is identified in the ecological appraisal and related documents. These matters could be secured by conditions. Subject to such conditions, there would not be material harm in relation to protected species or to ecology in general. [4.1]

## Conclusions

- 11.48 The appeal relates to land which has been allocated for development in the LP and the WNP. In general terms the appeal scheme is consistent with those allocations. Moreover, there is agreement between the Council and the appellant on a broad range of planning issues including landscape and visual impacts, traffic and transport, impacts on community facilities, biodiversity, flood risk and land stability. Even so, I have concluded that the appeal scheme would not accord with LP Policy STRAT 6 or with WNP Policy S 1 – S 3 because there is, as yet, no agreed development brief or masterplan for the SQUE. Moreover, the absence of an agreed development brief and/or masterplan is not in my view a minor or technical conflict with the LP/WNP.
- 11.49 It is therefore necessary to consider whether there are material considerations which indicate that permission ought to be granted, notwithstanding the conflict with the development plan. In so doing, it is necessary to consider both the harm resulting from the conflict and the broader planning benefits of the scheme. It is also necessary to have regard to the need for, and

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<sup>73</sup> Wimboldsley Wood Site of Special Scientific Interest is about 1.1 to 1.8km to the south and there are 6 Local Wildlife Sites within 1km

effectiveness of, the conditions which the Council argues are needed to resolve the conflict.

- 11.50 Dealing first with the harm, it is important to note that this is not a proposal which has been brought forward without regard to the delivery of the rest of the SQUE. On the contrary, I consider that the appellant has carefully considered the way the appeal scheme would integrate with the wider SQUE. A number of technical studies have been produced, the conclusions of which are not in dispute. Notwithstanding the absence of an agreed development brief, the evidence indicates that the risk of prejudice to the comprehensive development of the wider SQUE is slight. In the particular circumstances of this appeal I consider that very little, if any, harm would flow from allowing the appeal in advance of the development brief.
- 11.51 On the other hand, the appeal scheme would bring forward significant market and affordable housing which would materially boost supply. At the Inquiry there was no challenge to the Council's evidence that it has a 5 year supply of housing land. Nevertheless, bearing in mind the objectives of the LP, the WNP and the Framework, this is a benefit which should be attributed significant weight. Other material benefits would flow, including the provision of additional public open space and green infrastructure, improved pedestrian links and economic benefits.
- 11.52 My overall assessment is that the harm arising from the conflict with the LP/WNP would be very limited and would be outweighed by the benefits of the scheme. Planning permission ought therefore to be granted.
- 11.53 For the reasons given above, I do not consider that the conditions suggested by the Council would be necessary. They would result in delay to an otherwise acceptable scheme. I acknowledge that the effect of the suggested 'long stop' date is that any delay would be relatively short. Nevertheless, to my mind that does not bear on the test of necessity. Furthermore, I do not consider that the condition would be effective. I have referred above to the possibility (albeit unlikely) that the development brief might indicate that the neighbourhood centre should be located within the appeal site. Even if that were to happen, I do not think that it would be possible for a planning condition to require the permitted housing scheme to comprise housing plus a neighbourhood centre. If, contrary to my findings, the Secretary of State concludes that development should not proceed until the location of the neighbourhood centre has been resolved then my recommendation would be to dismiss the appeal.
- 11.54 Turning to the S106 Agreement, I conclude that it has not been shown that the contribution to health facilities would be used in a way which was directly related to the development or that it is necessary to make the development acceptable in planning terms. I therefore give it no weight in my recommendation. In all other respects I consider that the obligations are consistent with the Framework and the relevant statutory tests and I have taken them into account accordingly.
- 11.55 In conclusion, I recommend that the appeal be allowed.

## **RECOMMENDATION**

12.1 I recommend that the appeal be allowed and planning permission granted subject to the conditions set out in Annex B.

*David Prentis*

Inspector

## **ANNEX A**

### **APPEARANCES**

#### FOR THE LOCAL PLANNING AUTHORITY:

Jonathan Easton	of Counsel, instructed by Legal Services, Cheshire West and Chester Borough Council
He called Paul Friston BA(Hons) BPI MRTPI Carolyn Davis <sup>74</sup>	Principal Planning Officer, Cheshire West and Chester Borough Council Children and Young People's Services, Cheshire West and Chester Borough Council

#### FOR THE APPELLANT:

Ruth Stockley	of Counsel, instructed by Gladman Developments Limited
She called Philip Rech BA BPhil LD CMLI Simon Helme BEng (Hons) MSc MCIHT Kevin Waters BSc(Hons) MSc MRICS MRTPI	Director, FPCR Director, Ashley Helme Associates Planning and Development Manager, Gladman Developments Limited

#### INTERESTED PERSONS:

Cllr Georgina Lewis	Member of Winsford Town Council
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<sup>74</sup> Carolyn Davis contributed to the round table session on planning obligations. She did not produce a proof of evidence.

## ANNEX B

### CONDITIONS

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") for each phase of the development shall be submitted to and approved in writing by the local planning authority before any development of that phase begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than two years from the date of this permission.
- 3) The development hereby permitted shall be begun either before the expiration of three years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans, but only in respect of those matters not reserved for later approval:

Drawing 5349-L-01 C Location Plan

Drawing 1343/01 Proposed Site Access Arrangements (Ashley Helme)

- 5) No development shall take place until a detailed scheme of phasing for the construction of the dwellings and associated highways and public areas has been submitted to and approved in writing by the local planning authority. The details of the phasing shall include a site layout plan identifying the proposed number of dwellings in each phase, the provision of internal roads, footpaths, cycleways and public open space for each phase, and temporary highway and pedestrian routes. The scheme shall include a schedule identifying the order of commencement and completion of these key elements within each phase of construction. In relation to roads, footpaths and cycleways the scheme shall specify when the binder course and the final surface course will be completed. Development shall only be carried out in accordance with the approved phasing details.
- 6) The residential development hereby permitted shall not exceed 215 dwelling units and shall not exceed a maximum height of 10.5m.
- 7) The layout submitted as part of any reserved matters application shall include details of a scheme for vehicular and pedestrian access routes to be provided through the site from the approved site access (shown on drawing 1343/01 Proposed Site Access Arrangements (Ashley Helme)) to:
  - (a) Rilshaw Lane (at a point east of the access road to Clive Farm and west of the existing dwelling named 'Barnford');
  - (b) Rilshaw Lane (at a point to the west of Rilshaw Farm); and
  - (c) the eastern boundary of the site

as shown for illustrative purposes on drawing 5349-L-02-N Framework Plan as 'Potential future vehicular access point'.

The scheme shall be implemented in accordance with the approved details and shall be constructed in accordance with the phasing details agreed pursuant to condition No 5.

No vehicular access shall be permitted to/from Rilshaw Lane using the accesses at (a), (b) and (c) above until notice has been served by the local planning authority to permit and/or require the opening of the accesses; and each access shall be opened/provided within three months of the service of such notice. The scheme shall include temporary measures to control/restrict use of the accesses until use of the access(es) is/are permitted and/or required.

- 8) Prior to the occupation of any dwelling hereby permitted the developer must submit to and have approved in writing by the local planning authority detailed plans in respect of the works required within the highway. The details shall include works proposed on (i) Drawing 1343/01 Proposed Site Access Arrangements (Ashley Helme), (ii) Drawing 1343/17 Rev E Proposed Pedestrian/Cycle Improvements A54 Rail Station Access to Site (Ashley Helme), (iii) Drawing 1343/16 Rev D Proposed Pedestrian Improvements Scheme Footpath FP47 (Ashley Helme) including provision of a new bus shelter and associated works at the existing eastbound stop on Station Road in the vicinity of footpath FP47.

No dwelling hereby permitted shall be occupied until the works under (i) have been completed in accordance with the approved plans.

No more than 100 dwellings hereby permitted shall be occupied until the works shown on the approved drawings under (ii) and (iii) have been completed in accordance with the approved plans.

- 9) No development shall take place until details of the design and construction of all highways, footways and cycleways within the development hereby approved have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 10) No phase of the development hereby permitted shall be occupied until a Travel Plan for that phase has been submitted to and approved in writing by the local planning authority. The Travel Plan shall be developed in accordance with the Framework Travel Plan (Land off Rilshaw Lane Winsford (Ashley Helme) 1343/4/C dated March 2014) and shall include provision for the appointment of a Travel Plan Coordinator, an implementation timetable, an enforcement mechanism and arrangements for monitoring of the proposals and review thereof. The Travel Plan shall be implemented and maintained in accordance with the approved timetable and scheme of monitoring and review as long as any part of the relevant phase of development is occupied.
- 11) Notwithstanding the provisions of Schedule 2 Part 2, Class B of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, and with the exception of the accesses specifically permitted under this permission, there shall be no vehicular access from any part of the application site onto Rilshaw Lane.

- 12) No dwelling hereby permitted shall be occupied 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 in Annex 2 of the National Planning Policy Framework or any future guidance that replaces it. The scheme shall include:
  - (a) the numbers, type, tenure and location on the site of the affordable housing provision to be made which shall consist of not less than 30% of the housing units, with a split of 70:30 affordable rent/intermediate or such other mix as may be approved;
  - (b) the timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing;
  - (c) the arrangements for the transfer of the affordable housing to an affordable housing provider or for the management of the affordable housing (if no registered provider is involved);
  - (d) the arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - (e) 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.
- 13) No surface water shall be allowed to connect, either directly or indirectly, to the public sewerage system. Foul drainage shall be kept separate from clean surface and roof water and only foul drainage shall communicate with the public sewerage system.
- 14) No development shall take place until a surface water regulation scheme, based on sustainable drainage principles, and a scheme to manage the risk of flooding from overland flow of surface water have been submitted to and approved in writing by the local planning authority. The schemes shall include timetables for implementation and management and maintenance plans for the lifetime of the development, which shall include the arrangements for adoption by any public body, or statutory undertaker, or any other arrangements to secure the operation of the schemes throughout the lifetime of the development. The schemes shall be implemented and thereafter managed and maintained in accordance with the approved details.
- 15) The layout submitted as part of any reserved matters application shall include details of the proposed public open space (formal and informal open space) and details of the retained existing structural landscape (including existing ponds), such details to include details of play equipment within a Local Area of Play together with a timetable for implementation. The scheme shall be implemented in accordance with the approved details.
- 16) A Habitat and Landscape Management Plan (HLMP) shall be submitted to and approved in writing by the local planning authority prior to the occupation of any dwelling hereby permitted. The plan shall include:
  - (a) description and evaluation of the features to be managed

- (b) ecological trends and constraints on site that may influence management
- (c) aims and objectives of habitat management and enhancement, including the recreational open space
- (d) appropriate management responsibilities for achieving aims and objectives
- (e) prescriptions for management actions
- (f) preparation of a work/maintenance schedule (including a project register, an annual work plan and the means by which the plan will be rolled forward annually)
- (g) body/organisation responsible for implementation of the plan
- (h) monitoring and remedial/contingency measures triggered by monitoring
- (i) funding resources and mechanisms to ensure sustainable long-term delivery of the proposed management, including maintenance schedules for not less than 15 years for the habitat and landscape areas
- (k) a community use policy for access to the open space and recreational areas

The HLMP shall be implemented as approved and thereafter managed and maintained in accordance with the approved details

- 17) No ground clearance, demolition, or construction work shall commence until an Arboricultural Method Statement (AMS) and Tree Protection Plan in accordance with BS: 5837: 2012 has been submitted to and approved in writing by the local planning authority to avoid damage to any trees or hedgerows to be retained within or adjoining the site. The AMS shall include details of:

- (a) trees proposed for retention
- (b) trees proposed to be removed
- (c) trees to be pruned
- (d) evaluation of the impact of any proposed tree losses
- (e) evaluation of tree constraints

The AMS shall be carried out as approved and tree protection measures shall be retained on site for the duration of the construction works. No development shall take place except in accordance with the approved AMS.

- 18) The development hereby permitted shall be implemented in accordance with the mitigation measures contained in the Newt Mitigation Strategy - Rilshaw Lane, Winsford (FPCR 2014).
- 19) Prior to the commencement of development an up to date badger survey shall be undertaken and a method statement detailing any mitigation to avoid harmful impacts to badgers shall be submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved method statement.
- 20) Development shall be implemented in accordance with the reptile mitigation measures contained within the Ecological Appraisal (FPCR January 2014).

- 21) No dwelling hereby permitted shall be occupied until a scheme for the provision of bird and bat boxes within the site has been submitted to and approved in writing by the local planning authority. The scheme shall include the proposed phasing of the provision and the bird and bat boxes shall be installed in accordance with the approved scheme. Thereafter, these boxes shall be permanently retained.
- 22) No vegetation removal shall be carried out on the site between the 1st March and 31st August inclusive, unless the site has first been surveyed for breeding birds and a scheme to protect breeding birds has been submitted to and approved in writing by the local planning authority. The development shall thereafter only be carried out in accordance with the approved scheme.
- 23) No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
  - (a) temporary highway vehicle and pedestrian routings
  - (b) times and days of large vehicle movements to/from the site
  - (c) the parking of construction related vehicles and vehicles of site operatives and visitors
  - (d) loading and unloading of plant and materials
  - (e) storage of plant, materials and temporary structures used in constructing the development
  - (f) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate
  - (g) vehicle cleaning facilities
  - (h) measures to control the emission of dust and dirt during construction
  - (i) a scheme for recycling/disposing of waste resulting from demolition and construction works
  - (j) hours of demolition/construction operations and deliveries to/from the site
  - (k) method statement including monitoring measures and environmental controls for any piling operations and/or subsurface vibration ground improvement techniques
- 24) No development shall take place until a scheme of sound insulation has been submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until any measures in the approved scheme which are relevant to it have been carried out in accordance with the approved details. The approved measures shall be permanently retained thereafter.
- 25) No development shall take place until the following components of a structured scheme to deal with the risks associated with actual or potential land instability have each been submitted to and approved in writing by the local planning authority:

- (a) a preliminary land stability risk assessment which reviews existing geological and salt extraction sources to identify land stability risks including from natural and extracted salt subsidence on or within influencing distance of the site, identifies actual or potentially unacceptable risks and identifies initial remediation options
- (b) a detailed scheme of site investigation based on component (a) from which a detailed assessment of risk to all current and future receptors that may be affected will be derived
- (c) a remediation options appraisal and implementation strategy, based on the detailed results of (b), giving full details of the remediation measures required and how they are to be undertaken
- (d) a verification plan providing details of the data that will be collected in order to demonstrate that the remediation works set out in (c) are complete and effective and identifying any requirements for longer-term monitoring, maintenance, contingency actions and reporting

The pre development structured scheme shall be implemented as approved.

- 26) The development hereby approved shall not be occupied until:
- (a) all remediation measures approved pursuant to condition 25 have been completed, and
  - (b) written evidence of satisfactory remediation and of the suitability of the site for occupation have been submitted to and approved in writing by the local planning authority.
- 27) No development shall take place until the following components of a structured scheme to deal with the risks associated with actual or potential contamination of the site have each been submitted to and approved in writing by the local planning authority:
- (a) a preliminary risk assessment which identifies all previous uses on or within influencing distance of the site, potential contaminants associated with those uses, a conceptual model indicating the sources, pathways and receptors of contamination, actual or potentially unacceptable risks arising from contamination and initial remediation options
  - (b) a detailed scheme of site investigation based on component (a) from which a detailed assessment of risk to all current and future receptors that may be affected, including those off site, will be derived
  - (c) a remediation options appraisal and implementation strategy, based on the detailed results of (b), giving full details of the remediation measures required and how they are to be undertaken
  - (d) a verification plan providing details of the data that will be collected in order to demonstrate that the remediation works set out in (c) are complete and effective and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance, contingency actions and reporting

The pre development scheme shall be implemented as approved.

- 28) If during site preparation, demolition or development works contamination is encountered or is suspected in areas where it had not been anticipated

- being from an existing risk assessed source, and
- containing comparable risk assessed substances, and
- affecting an already risk assessed pathway or receptor

that could be addressed by simple extension of the approved measures to a larger area, then the local planning authority shall be notified promptly in writing confirming the areas affected, the approved investigation, remediation and validation measures to be applied and the anticipated completion timescale.

If the contamination is

- from a different source, or
- contains a new contaminative substance, or
- affects a new pathway or receptor

then revised proposals for detailed investigation, risk assessment, remediation and verification shall be submitted for the written approval of the local planning authority prior to all but any urgent remediation works necessary to secure the area and control pollution risks.

The remediation of the site shall incorporate the approved additional measures.

- 29) The development hereby approved shall not be occupied until:
- a) all components of the remediation measures approved pursuant to conditions 27 and/or 28 have been completed
  - b) written evidence of satisfactory remediation and of the suitability of the site for occupation has been submitted to and approved in writing by the local planning authority, and
  - c) written evidence of arrangements for the implementation of any long-term monitoring of pollutant linkages, including any maintenance and arrangements for contingency action included in the verification plan, have been submitted to and approved in writing by the local planning authority.
- 30) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extensions shall be made to any dwelling hereby permitted. In the event that the verification report submitted pursuant to conditions 27, 28 and 29 shows that it is not necessary to control permitted development rights for extensions on certain dwellings then a site layout plan may be submitted for the written approval of the local planning authority to show those parts of the application site and those dwellings where the restriction of extensions is considered to be unnecessary. If such a plan is approved by the local

planning authority any dwellings so identified will be exempt from this condition.

- 31) No development shall take place until a scheme to demonstrate that not less than 10% of the total energy consumption of the development will be provided by means of renewable energy or that alternative measures will achieve at least 10% less energy consumption than similar development constructed in accordance with the current Building Regulations has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

## **ANNEX C**

### **PROOFS OF EVIDENCE AND DOCUMENTS SUBMITTED AT THE INQUIRY**

#### *Appellant's Documents*

GDL1/PS	Proof of evidence – Kevin Waters
GDL1/Supp	Supplementary proof of evidence – Kevin Waters
GDL2/PS	Proof of evidence – Philip Rech
GDL2/A	Appendices to proof of evidence – Philip Rech
GDL3/PS	Proof of evidence – Simon Helme
GDL3/A	Appendices to proof of evidence – Simon Helme
GDL4	Position note for the planning obligations round table session
GDL5	Conditions schedule – with appellant's notes
GDL6	Bundle of documents relating to Preston
GDL7	Opening submissions
GDL8	Note on noise condition
GDL9	Closing submissions
GDL10	Costs application

#### *Council's documents*

LPA1	Proof of evidence – Paul Friston
LPA2	Appendices to proof of evidence – Paul Friston
LPA3	Supplementary proof of evidence – Paul Friston
LPA4	Appendices to supplementary proof of evidence – Paul Friston
LPA5	Appeal decision – Fairclough Farm – APP/R0335/A/13/2207932
LPA6	Secretary of State's letter recovering the appeal for his determination
LPA7	Bernard Wheatcroft Ltd v Secretary of State (1982) 43 P&CR 233
LPA8	Statement of compliance with CIL
LPA9	Closing submissions
LPA10	Response to costs application

*Documents agreed between the Council and the appellant*

LPA/GDL1	1 <sup>st</sup> Statement of common ground
LPA/GDL2	2 <sup>nd</sup> Statement of common ground
LPA/GDL3	3 <sup>rd</sup> Statement of common ground
LPA/GDL4	4 <sup>th</sup> Statement of common ground – highways and transport
LPA/GDL5	Draft s106 Agreement
LPA/GDL6	Suggested wording for Travel Plan condition
LPA/GDL7	Agreement dated 11 June 2015

*Winsford Town Council*

WTC1	Summary of proposals for River Weaver
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## **ANNEX D**

### **LIST OF CORE DOCUMENTS**

*Planning application documents*

- 1.1 Application Covering Letter, Application Form and Certificates
- 1.2 Location Plan (including Application Red Line)
- 1.3 Development Framework Plan - REV G
- 1.4 Design & Access Statement
- 1.5 Landscape & Visual Assessment
- 1.6 Transport Assessment
- 1.7 Travel Plan
- 1.8 Ecological Appraisal
- 1.9 Arboricultural Assessment
- 1.10 Phase 1 Site Investigation
- 1.11 Flood Risk Assessment
- 1.12 Air Quality Assessment
- 1.13 Noise Assessment
- 1.14 Archaeological Assessment
- 1.15 Education Assessment
- 1.16 Planning Statement
- 1.17 Statement of Community Involvement
- 1.18 Agricultural Land and Quality
- 1.19 Socio Economic Report

*Additional documents submitted after validation*

- 2.1 Location Plan Rev B
- 2.2 Framework Plan Rev N
- 2.3 Supplementary information - Great Crested Newts Rev A
- 2.4 Design and Access Statement Rev F
- 2.5 Illustrative Masterplan Rev G
- 2.6 Pedestrian - Cycle Improvements Rev E

## 2.7 Pedestrian Improvements Rev D

### *Correspondence*

- 3.1 10 April 2014 email chain from GDL to CWaC regarding application validation and red-line plan
- 3.2 14/04/2014 email from GDL to CWaC regarding adopted highway status
- 3.3 15 April 2014 email from GDL to CWaC regarding revised location plan, reregistering application
- 3.4 30 April 2014 email chain from GDL to CWaC regarding post-application meeting
- 3.5 9 May 2014 email FPCR to CWaC regarding Design Criteria
- 3.6 12 May 2014 email from CWaC to GDL regarding Great Crested Newts
- 3.7 12 May 2014 email from Ashley Helme Associates to CWaC regarding highways
- 3.8 21 May 2014 email from CWaC to GDL regarding affordable housing
- 3.9 22 May 2014 email from CWaC to FPCR regarding ecology
- 3.10 27 May 2014 email from Ashley Helme Associates to CWaC regarding highways and amended drawings
- 3.11 27 May 2014 email from Ashley Helme Associates to CWaC regarding highways amendment to the red line
- 3.12 28 May 2014 email from CWaC to GDL regarding NHS Health Impacts
- 3.13 30 May 2014 email from CWaC to FPCR regarding comments from Greenspace team and Conservation and Design team
- 3.14 2 June 2014 email from FPCR to CWaC regarding contacting Helen Shepherd
- 3.15 2 June 2014 email from GDL to CWaC regarding the meeting on 21st May
- 3.16 18 June 2014 email from CWaC to GDL regarding United Utilities comments
- 3.17 18 June 2014 email chain GDL to CWaC regarding phone call between parties
- 3.18 9 July 2014 email chain from GDL to CWaC regarding S106 contributions
- 3.19 18 July 2014 email from GDL to CWaC regarding the submission of further information
- 3.20 22 July 2014 email from Ashley Helme Associates to CWaC regarding Highways
- 3.21 28 July 2014 email from CWaC to Ashley Helme Associates regarding previous email and highways changes
- 3.22 29 July 2014 email chain from GDL and CWaC regarding committee dates and acceptance of submitted plans including Rilshaw Lane Action Group Objection
- 3.23 29 July 2014 email from Ashley Helme Associates to CWaC regarding additional traffic modelling
- 3.24 4 August 2014 email chain CWaC to GDL regarding ecology, pond and terrestrial surveys
- 3.25 21 August 2014 email from GDL to CWaC regarding an additional meeting to discuss additional information
- 3.26 27 August 2014 email from Ashley Helme Associates to CWaC chasing a response to email dated 29 July 2014
- 3.27 3 September 2014 email from CWaC to Ashley Helme Associates regarding previous email
- 3.28 5 September 2014 email from FPCR to CWaC regarding supplementary GCN information
- 3.29 11 September 2014 email from GDL to CWaC regarding letter from GDL for contributions
- 3.30 12 September 2014 email from CWaC to GDL requesting an extension of time
- 3.31 12 September 2014 email from CWaC to GDL regarding highways plans
- 3.32 12 September 2014 email from Ashley Helme Associates to CWaC regarding latest highways drawings
- 3.33 15 September 2014 email from FPCR to CWaC chasing response on GCN information
- 3.34 15 September 2014 email chain GDL to CWaC regarding agreeing committee dates
- 3.35 20 September 2014 email from CWaC to GDL regarding S106 contributions
- 3.36 1 October 2014 email chain CWaC to GDL regards potential meeting to discuss planning obligations
- 3.37 2 October 2014 email from GDL to CWaC confirming extension of time
- 3.38 9 October 2014 email from GDL to CWaC regarding a letter detailing

- contributions
- 3.39 10 October 2014 email from CWaC to GDL regarding not reporting to SPC
  - 3.40 10 October 2014 email from CWaC to GDL regarding further extension of time
  - 3.41 24 October 2014 email from GDL to CWaC regarding Neighbourhood Plan
  - 3.42 27 October 2014 email from GDL to CWaC agreeing to the Healthcare contribution and extension of time
  - 3.43 27 October 2014 email from GDL to CWaC chasing November committee date
  - 3.44 27 October 2014 email from CWaC to GDL confirming progress of the application
  - 3.45 28 October 2014 email from GDL to CWaC chasing confirmation of contributions
  - 3.46 28 October 2014 email from GDL to CWaC further chasing on contributions and a bilateral agreement
  - 3.47 29 October 2014 email from CWaC to GDL regarding Council's costs
  - 3.48 3 November 2014 email from GDL to CWaC regarding the preparation of the committee report
  - 3.49 12 November 2014 email from GDL to CWaC following up telephone conversation regarding committee report
  - 3.50 12 November 2014 email from CWaC to GDL regarding committee date and recommendation by the Council
  - 3.51 14 November 2014 email from CWaC to GDL regarding new instructions for S106
  - 3.52 14 November 2014 email chain GDL to CWaC responding to previous email, in regards to legal instruction
  - 3.53 20 November 2014 email from CWaC to GDL providing decision notice
  - 3.54 20 November 2014 email from GDL to CWaC confirming receipt of decision Notice
  - 3.55 26 November 2013 email chain CWaC to GDL regarding initial highway comments
  - 3.56 9 December 2013 email chain from Ashley Helme Associates to CWaC regarding draft Transport Assessment
  - 3.57 10 December 2013 email from Ashley Helme Associates to CWaC in response to previous email
  - 3.58 20 December 2013 email from CWaC to Ashley Helme Associates response to the draft TA
  - 3.59 23 April 2014 email from CWaC to Ashley Helme Associates to confirm arranged meeting
  - 3.60 23 April 2014 email from Ashley Helme Associates to CWaC in response to the previous email
  - 3.61 10 May 2014 email from Ashley Helme Associates to CWaC regarding TA
  - 3.62 12 May 2014 email from Ashley Helme Associates to CWaC regarding changes following meeting
  - 3.63 13 May 2014 email from CWaC to Ashley Helme Associates regarding clarity on pre-app charging
  - 3.64 13 May 2014 email from CWaC to Ashley Helme Associates stating requirement for client to pay appropriate sum
  - 3.65 20 May 2014 email from CWaC to Ashley Helme with comments on drawings 1343-16-B and 1343-17-C

#### *Pre-application correspondence*

- 3.66 26 November 2013 email chain CWaC to GDL attaching Spatial Planning comments
- 3.67 Memo containing Highway comments
- 3.68 12 November 2013 Memo from CW&C containing Environmental Protection, Children and Young Person's Services & Landscape comments
- 3.69 26 November 2013 Email from CWaC to GDL containing Biodiversity comments
- 3.70 26 November 2013 Letter from the Environment Agency

#### *Consultee responses*

- 4.1 8 April 2014 - Flooding Team
- 4.2 13 May 2014 - Tree Team

- 4.3 16 May 2014 - Biodiversity Officer
- 4.4 21 May 2014 - NHS England
- 4.5 16 June 2014 - United Utilities
- 4.6 24 April 2014 - Cheshire Brine Compensation Board
- 4.7 Consultation responses from website
- 4.8 19 November - Natural England
- 4.9 Email from Alun Evans in respect of ecological matters

*Other documents*

- 5 Committee report
- 6 Decision notice
- 7 Vision document
- 8 Winsford Neighbourhood Plan

*Planning policies*

- 9 Vale Royal Local Plan (remaining saved Policies) (extracts only)
- 10 CWaC Letter to PINS in respect of Relevant Policies 17 February 2015
- 11 Local Plan Part One: Strategic Policies (Adopted 29 January 2015) (extracts only)
- 12 Council's response to matters and issues raised by the Inspector Matter 6 (9 May 2014)
- 13 Gladman Examination Hearing Statement 0464 Matter 6 - Winsford (9 May 2014)
- 14 Matter 8 Statement
- 15 Inspector's Report on Cheshire West and Chester Local Plan (Part One) Strategic Policies (December 2014)
- 16 Station Quarter Urban Extension, Draft Development Brief (April 2015) Tibbalds
- 17 PPG Extract, Design Section, Paragraph: 032 Reference ID: 26-032-20140306
- 18 Delivery Strategy Neighbourhood Plan April 2013
- 19 Gladman Representation on Winsford Neighbourhood Plan 2013
- 20 Winsford Neighbourhood Plan Independent Examination 30 July 2014

*Appeal decisions*

- 21 Land East of Wigan Rd, Clayton-le-Wood Appeal Decision 21 July 2011
- 22 Land off Hopcott Rd, Minehead Decision Letter 8 October 2014
- 23 Decision Letter and Inspector's Report - Well Meadow, Malpas 7 January 2015
- 24 Land adj to and to rear of 13 Holly Tree Drive, Nether Peover Appeal Decision 25 March 2015

*Evidence base documents*

- 25 Natural England National Character Area Profile: 61: Shropshire, Cheshire and Staffordshire Plain
- 26 SPD 3 Developer Contributions
- 27 Winsford Formal Sport Study - February 2014 (1)

*Additional documents*

- 28 Location plan 5349 01 Rev C - amendment to blue line (Revised Location Plan submitted during Determination)
- 29 Additional Correspondence
- 30 Screening Opinion
- 31 Wimboldsley Wood SSSI Form and Map
- 32 SHLAA 2013 - Extract showing proforma for Appeal site and wider SQUE
- 33 v1 of Draft Development Brief prepared by Gladman (March 2015)
- 34 Appeal Decision - Land off Dunton Road, Broughton Astley, 20 March 2013



## 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.

***<https://www.gov.uk/government/organisations/department-for-communities-and-local-government>***