

LAND EAST OF FROGHALL ROAD, CHEADLE
CLOSING SUBMISSIONS ON BEHALF OF THE APPELLANT

1. This is an appeal against the refusal of permission in respect of an application for residential development on land East of Froghall Road, Cheadle (“the site”). All matters are reserved save for the proposed access to the site. The application material is based on a scheme for up to 215 dwellings¹. The scheme will deliver a mix of market housing and up to 71 much needed affordable homes to the benefit of the district.
2. The application for planning permission was refused on 15th April 2024, contrary to the recommendation of the Council’s own professional Officer.
3. The Council’s professional Officer was plainly right to conclude that planning permission should be granted. Indeed, on the 23rd of January, this matter was taken back to Members, and the Council determined that defence of this appeal is “*untenable*”². The Council has therefore formally confirmed that it does not contest the appeal and has withdrawn its substantive evidence in defence of the same³.
4. The position of the LPA is highly material, given that the LPA is the body with the statutory function of determining applications in the first instance.
5. Further, the LPA was plainly right to so concede. This is, very clearly, a scheme for sustainable development within the meaning of the NPPF. It will deliver much needed market and affordable housing in a district where there is an acute and critical need to do so.
6. As confirmed in the recently published NPPF⁴ and numerous announcements from the incoming government, the delivery of a sufficient and rolling supply of housing is a

¹ The application was proposed and consulted upon on this basis. However, prior to determination, the Case Officer requested that the description of development be amended to remove the upper limit to the quantum of development. This precise quantum of development will, in the normal way, be determined at the reserved matters stage. However, the Appellant’s position remains that the scheme could deliver up to 215 dwellings.

² Email to Inspectorate from Council’s Solicitor of 24th January 2025, at 11.12am – confirmed by post on Council’s website.

³ Save for that it maintains that it can demonstrate a 3.51 year housing land supply – see further below.

⁴ E.G. paragraph 61 and paragraph 78 NPPF

national priority. The WMS “Building the Homes We Need”⁵ recognises that the country faces,

“...the most acute housing crisis in living memory. Home ownership is out of reach for too many; the shortage of houses drive high rents; and too many are left without access to a safe and secure home” (emphasis added).

7. The provision an adequate supply of good quality housing to meet the needs of residents of the district is also a priority of the Council’s development plan (e.g. Strategic Objective 4). However, notwithstanding the stated priorities of the development plan, the “acute” housing crisis at the national level is mirrored in this district, where, as recognised by an Inspector earlier this month, the Council’s housing needs are also “acute”⁶. It has never been more important that sustainable sites such as the appeal sites are permitted to come forward to meet those critical needs.

8. First, the Council cannot demonstrate a five – year land supply, contrary to the minimum requirements of national policy. At the beginning of the inquiry, the Council claimed that it could only demonstrate a 3.51-year supply of housing, with a shortfall of some 686 homes. However, the Council does not have the necessary evidence as to deliverability (required by Annex 2 NPPF) in relation to 7 of the sites relied upon. This was ultimately accepted by the Council during the inquiry, who agreed that all the disputed sites should be removed from the supply (289 dwellings)⁷. Thus, on the Council’s case, it now accepts that it can only demonstrate a supply of 2.95 years, which equates with a substantial shortfall of some 943 dwellings. The residual issue between the Appellant and Council relates to a dispute as to whether a small site windfall allowance should be included in the supply calculation, with the Appellant’s evidence demonstrating that it should not and that the Council can only, therefore, demonstrate a 2.7 year supply. This amounts to a shortfall of some 1,063 homes⁸. To be clear, and in answer to a point raised by residents, both assessments of supply account for windfalls as well as delivery and supply on allocated sites. Whether assessed on the basis of a 2.7-year supply (1063 home shortfall) (Appellant) or a 2.95 – year supply (943 home shortfall) (LPA), the shortfall is below

⁵ CD6.4

⁶ Oakamoor Road, Appeal Ref: APP/B3438/W/24/3340461

⁷ See SCG dated 29th January 2025 ID8

⁸ Updated SCG page 8 ID8

three years, is around 1000 homes, is clearly very substantial, and on either basis, the Council's supply falls woefully short of the minimum requirements of national policy.

9. The failures in respect of supply and delivery are persistent in this Authority. The Local Plan Inspector recognised that, at the time of examination of the Plan, there had been persistent under delivery in the district⁹. Following adoption, the Plan has not addressed that persistent under delivery, as the Council has been unable, on its own analysis, to demonstrate a five – year land supply in each of the three monitoring periods since Plan adoption¹⁰.
10. In addition, as the Inspector recognised in the Oakamoor appeal, there is “*no realistic prospect of a plan – led solution to the housing supply problem*”¹¹.
11. The housing supply problem arises in the district as a result of the failure of the district's planned allocations to come forward as anticipated (including in Cheadle)¹². Indeed, although the Plan's annual housing requirement is 320 homes per annum, delivery over the plan period has only equated to 182 homes per annum, and in the last decade, delivery has never surpassed 242 homes in any year¹³. The position is now such that, even assuming all the sites in the Council's claimed deliverable supply came forward within the next five years, some 2,738 dwellings would need to be delivered in the last five years of the plan period to meet the minimum adopted plan requirement. This is equivalent of an average of some 548 homes pa¹⁴. When compared against historic delivery (averaging 182 homes pa, and never surpassing 242 homes pa), it is clear that the Council is on track to fail to deliver its minimum Plan requirement at the end of the Plan period.
12. The Local Plan expressly requires the Council to monitor annual development rates and manage supply to ensure that future provision will continue to adequately meet identified needs, and to review its plan to assess whether it needs updating to bring forward additional sites for development “*no later than 5 years from its adoption*” (that is, no later than September 2025) (Policies SS3 and SS4). Indeed, Main Modifications to the Plan requiring the Council to ensure that housing land supply was closely monitored and

⁹ See e.g. paragraph 180, page 33, Local Plan Report CD5.2

¹⁰ See Ben Pycroft paragraph 1.8

¹¹ See paragraph 95.

¹² Evidence Ben Pycroft pages 25 - 27

¹³ See table 4.1 BP, page 24, and paragraph 4.4 (completions for 2023/24)

¹⁴ See Ben Pycroft paragraph 4.9

action taken where necessary were expressly required by the Local Plan Inspector for effectiveness and soundness, in view of his concerns as to challenges in respect of supply and delivery¹⁵. Nevertheless, it is patently clear that, notwithstanding the requirements of its own adopted plan, and notwithstanding the acute issues demonstrated by the Council's own monitoring, a new Plan is not coming to the rescue any time soon. To date, the Council has failed to commence a Plan review, and even on the Council's ambitious LDS, a new plan would not be adopted until at least summer 2028¹⁶.

13. Further, it is of note that one of the reasons why the Council's adopted housing figure was selected was to address the "*significant worsening of affordability*" in the years leading up to adoption, arising, in part, from under-delivery of new homes in the district¹⁷. However, notwithstanding the priority the Council's Plan places on the delivery of affordable homes, the failure of the Council's Plan to deliver has continued to have the most significant consequences for those residents in the district that are in need of an affordable home.

14. The affordable housing need figures set out in the affordable housing SCG are stark, and the position is sobering. The agreed position demonstrates that there has been a need to deliver 224 – 432 affordable homes per annum since the start of the Plan period in 2014. However, there has been a year-on-year failure to deliver the homes required, and over the entire decade there have been only 327 net affordable home additions. As at March 2024, there were some 813 households on the Housing Register, and an average waiting time to be housed of between 444¹⁸ - 707 days. Affordable housing need is continuing to grow, and there is an acute and critical need for schemes such as the appeal scheme to come forward – otherwise the position will indeed remain bleak for the very many residents of the district that cannot afford to access a home. To put the scale of the benefit of affordable housing delivery in context here, the delivery of 71 homes on the appeal site would be equivalent to 22% of the total net figure that has been delivered in an entire decade in the district.

¹⁵ See LP Inspector Report CD5.2 page 43, paragraph 180

¹⁶ See John Coxon paragraph 4.16

¹⁷ See paragraph 35 Inspector's Report, page 9, CD5.2

¹⁸ For a 1 bed home

15. For all those reasons, the Oakamoor Road Inspector was right to conclude that,

“98 ...In the context of the shortfall in housing delivery, it is apparent that the numbers of completed and open market and affordable housing units have fallen **significantly below** the annual requirement year on year. The position is **now acute**, with local people unable to access the homes they need...” (emphasis added).

For the same reasons, the Council’s own professional Officer, in recommending that permission should be granted for the appeal scheme, was plainly right to conclude that, even on the Council’s assessment of housing land supply, “*substantial weight*” should be attributed to the provision of market and affordable housing¹⁹. Further, it is of note that the conclusions of both the Oakamoor Inspector and the Council’s professional Officer were reached on the basis of a claimed supply in excess of 3.5 years, whereas the Council now accepts that it cannot even demonstrate a 3 year supply of housing land.

16. Up to 10 of the dwellings will come forward as self-build and custom homes. Here too, there is an identified need for additional provision, with the evidence demonstrating that the Council has failed in its statutory duty to grant sufficient permissions to meet the demand for self-build and custom housebuilding in its area²⁰ in every base period since 2016, with other market signals demonstrating that this is likely to be a conservative position²¹. By 30th October 2025, the Council needs to grant sufficient permissions for 75 plots, or it will fail in its statutory duty for the seventh consecutive year. The appeal proposals would address up to 91% of the need that arose in the last base period²², as well as 91% of local need arising in Cheadle specifically²³. The library of appeal decisions referred to in the Appellant’s evidence demonstrates that this is a further benefit of the scheme to which substantial weight should be attributed.

17. Further, the proposed development will exceed policy requirements, with up to 50% of the proposed dwellings meeting Part M4 (2) standards for accessible and adaptable homes. Six 2 and 3 – bed bungalows will be provided as M4 (3) wheelchair adaptable homes. All homes will meet Nationally Described Space Standards. The proposed

¹⁹ See OR paragraph 8.4 at CD4.2

²⁰ In accordance with s2A (2) Self – Build and Custom Build Housing Act (as amended)

²¹ See statement of Mr. Moger, adopted and presented by Mr. Jones, at appendix 1 of John Coxon

²² Evidenced against the number of entries to the Self – Build Register, in accordance with the scheme of legislation (s.2A (6) (a)).

²³ The Officer’s Report to Committee identified a need in Cheadle for 11 plots.

development will make a valuable contribution to meeting the needs of an ageing population and households in need of an accessible and adaptable home. This is a further significant benefit of the scheme²⁴.

18. The appeal site is located on the edge of Cheadle, adjacent to one of the strategic allocations in the Plan. Cheadle is a market town, one of the largest settlements in the district, a service centre for the local population, and is a focus for growth within the Council's spatial strategy²⁵. It has a wide range of services and facilities, which are agreed to be within walking distance of the appeal site²⁶. There are good public transport connections to the site²⁷, with Services 30 and 32 providing a service Monday – Friday. The number 32, in particular, provides a frequent (around every 40 minutes during peak times) service to Hanley, Uttoxeter and Cheadle, which are likely to represent the main areas of employment, and the opportunity for commuter journeys to be undertaken by bus, and ties in with the start and end of the working day. It also operates an hourly service on Saturday and Sunday. The S106 obligation will contribute towards a beneficial package of sustainable transport enhancements, including a contribution towards enhancing the bus service and pedestrian infrastructure improvements on the route into Cheadle town centre (see further below), to the benefit of existing and proposed residents alike. Whilst the appeal site is located outside the settlement boundary, once delivered, the scheme will clearly function as part of Cheadle in the same way as the strategic allocation next door, with services and facilities being located at a similar distance from the site²⁸.
19. Directing growth to Cheadle is consistent with the Council's strategy for growth, its aspirations to boost housing land supply and affordable housing, and the settlement hierarchy. Cheadle is identified as a service centre and a key focus for growth in the development plan, both in respect of the contribution it should make to the district's housing requirement, but also because as a town it has suffered from underinvestment and

²⁴ John Coxon paras 10.3 6 – 10.41: Note Policy H1 (3) (d) does not set any specific % requirements for accessible and adaptable homes, and the Council's viability evidence at the LP stage was based on 20% provision M 4 (2) homes. No provision was made for M4 (3) homes.

²⁵ See 6.12, 6.51 – 5 and Policy SS7 LP

²⁶ SCG13.1 Planning SCG paragraph 6.6

²⁷ See PW pages 20 – 22 Proof, and evidence to the inquiry.

²⁸ Evidence Mr. Wooliscroft

a lack of housing opportunity. The Local Plan therefore identifies it “*as an area for significant growth in order to expand its role as a service centre and market town*”²⁹.

20. However, as against allocations for some 1,026 homes in Cheadle, only 94 homes have been delivered on allocated sites in Cheadle, and the Council’s own housing monitor demonstrates that 4 of the 7 allocated sites will not begin to deliver at all in the next five-year period. It is therefore clear that the quantum of development required to be delivered in Cheadle will not now be achieved in the Plan period through the Council’s Plan³⁰.

20.1 As Mr. Pycroft indicated in evidence, this is a situation that is repeated across **the entire district**³¹: In Leek, there have been 19 completions on allocated sites as against a requirement for 614, with no sites deliverable within the next five years; In Biddulph, there have been 0 completions on allocated sites as against a requirement for 604, with no sites deliverable in the next five years: In the Rural Areas, there have been 141 completions on allocated sites as against a requirement of 330, with 3 out of 5 sites being undeliverable in the next five years.

20.2 Residents note that there has been further windfall development that has come forward that is not reflected in these figures, but that, with respect, misses the point. First, the Council cannot demonstrate a five – year land supply (and, as confirmed by Mr. Pycroft, the HLS calculations account for windfall development at the appropriate base date), the shortfall is substantial, and there is a critical need for sites to come forward to meet the district’s housing needs. Second, the point being made by the Appellant in relation to the failure of the planned allocations to come forward is that the Council’s **plan** is failing to deliver. Therefore, there is no plan – led solution to address the chronic land supply issues in this Authority. Indeed, Mr. Cross (for the LPA) noted in the RT session that, in light of the lack of progress on the planned allocations, that the situation would need to be addressed through adoption of a new Plan, but that the Council had not yet commenced this process. Windfall development of the type proposed here is, therefore, **necessary** if the Council is to address its acute housing needs going forward.

²⁹ See Policy SS7 and paragraph 6.51 – 55 reasoned explanation

³⁰ JC table at page 42

³¹ See table 4.2 and 4.3 at page 25 - 26 Proof of BP

21. In these circumstances, directing necessary growth to a sustainable site on the edge of Cheadle, a top tier settlement, is exactly the type of scheme the Council needs. Other opportunities to deliver growth at Cheadle are likely to be limited. As already noted, the settlement boundaries are tightly drawn. Further, as we will return to below, land to the west, north and south of Cheadle is significantly constrained by green belt, and land to the south and southwest is identified by the relevant character area assessment as being important to the landscape setting of the settlement³². The appeal site offers a comparatively rare opportunity to deliver housing to Cheadle, and to assist in the delivery of the objectives of the spatial strategy.
22. As well as making a vital contribution to the meeting the Council's district wide housing needs by directing growth to a sustainable location and a settlement that sits right at the top of the settlement hierarchy, the development will also assist in delivering much needed economic growth to Cheadle, including additional local spend, in accordance with the objectives of the Plan. During occupation of the dwellings, there will be an increase in resident expenditure of approximately £6.1m pa, a significant proportion of which will be spent in local shops, services and amenities, along with significant additional job opportunities³³. These are economic benefits to which significant weight should be attached³⁴.
23. In assessing this scheme, the Council's professional Officer recognised that the locational credentials of the site were benefits of the scheme³⁵. The Oakamoor Road Inspector came to similar conclusions in that that scheme too directed growth to Cheadle³⁶.
24. In short, and understood in its proper context, the appeal scheme is exactly the type of scheme that the district needs, and that the Council should always have welcomed with open arms. It is a high quality, beneficial development that will deliver a package of benefits in accordance with the priorities of the development plan, not least much needed market and affordable housing, where there is an acute and critical need to deliver the same, and all of this adjacent to and with walking distance of a market town that sits at the top of the Council's settlement hierarchy, and which is expressly noted to be not only

³² Appendix B Tim Jackson

³³ Some 242 direct jobs, 129 indirect jobs, and 172 induced jobs – see HBF calculator at JC appendix 2 and paragraph 10.50 Proof

³⁴ J. Coxon Proof paragraph 10.54

³⁵ 8.8 OR, CD4.2

³⁶ See paragraph 97 Oakamoor appeal

a sustainable location for growth in principle, but a location that requires significant growth to sustain it.

25. The appeal site is located outside the settlement boundaries, and it is accepted that there is a conflict with policies SS2, SS10 and H1, and the development plan as a whole, on this basis. However, the settlement boundaries were drawn tightly on the basis that there was sufficient land identified in the urban areas and allocations to meet the housing needs identified in the Plan and to maintain a five – year land supply. It is abundantly clear on any basis, for the reasons set out above, that additional land is required to meet the Council’s housing needs going forward. The policies are out of date, as the Council cannot demonstrate a five – year housing land supply. Restricting development to land within the settlement boundaries and allocated sites constrains, and will continue to constrain, the Council’s ability to make sufficient provision for housing, contrary to the requirements of the NPPF³⁷.

26. In these circumstances, the Oakamoor Inspector was right to conclude that,

*“95 The evidence before me indicates that the Council’s housing supply situation is worsening, with no realistic prospect of a plan – led solution to the housing supply problem. In these circumstances policies relating to the spatial strategy and the delivery of housing cannot carry full weight. Sites such as the appeal site, whilst falling outside the plan – making process, **are required to support the delivery of housing in the district.** Whilst the proposed development is in conflict with Policies H1, SS2 and SS10, in these circumstances **this conflict is afforded only limited weight**” (emphasis added).*

27. The same conclusions self – evidently apply in the present appeal, for the reasons set out above.

28. There are no other matters that justify a refusal of planning permission in this case, as the Council’s own professional Officer recognised, and Members now accept.

29. First, notwithstanding the Council’s Reason for Refusal, the LPA conceded at the earliest stage that there will be no harm to the Grade I listed Church of St Giles. There never was any evidence to suggest otherwise, the LPA’s advisor at the application stage being

³⁷ EG paragraphs 61 and 78 NPPF

satisfied at the point of determination as to the Appellant's assessment in respect of this asset.

30. It is accepted that there will be some harm to the Grade II listed Broad Hayes Farm. However, the proposal will be significantly set back from the asset, and appropriately softened by a substantial landscape buffer; the bulk of the historical landholding, which lies to the south of the asset will remain; the primary outlook of the asset will be unaffected; views of the farmhouse will not be interrupted or obstructed; and a legible separation between the farmhouse and settlement will be retained. Therefore, whilst there will be some harm caused, arising in consequence through changes to its setting, this harm will be very minor and right at the lowermost end of the less than substantial spectrum³⁸.
31. Notwithstanding the considerable importance and weight that should be attributed to any harm to a heritage asset in the balance³⁹, the Council has always accepted that the public benefits of the provision of housing alone are sufficient to outweigh the less than substantial harm caused, and that the proposal complies with NPPF212 and 215 on this basis. It also follows that the proposal would be in accordance with Policy DC2 of the Local Plan, read as a whole. This is because paragraphs 1 and 2 of that policy reiterate the tests in the NPPF, with paragraph 2 expressly deferring to the tests set out in the NPPF to determine whether a proposal is acceptable. It is of note that both the Case Officer and the Planning SCG accept that the proposal accords with Policy DC2 as a whole⁴⁰.
32. Further, the Oakamoor Inspector took the same approach to policy DC2 and reached similar conclusions, concluding that minor less than substantial harm to a listed building in that case was outweighed by the benefits of the provision of additional housing, and therefore that the proposal was in accordance with policy DC2 as a whole (see paragraph 101). It is of note that, in that case: (a) the harm was minor within the less than substantial bracket (that is, a higher level of harm than assessed by Ms. Stoten here); (b) to a Grade II* listed asset – and the NPPF recognises that the more important the asset, the greater the weight attributed to its conservation should be; and (c) the number of houses to be delivered was far less than is the case in this proposal (up to 48 dwellings were proposed, compare to up to 215 here), and the decision was based on the Council's (then) claimed

³⁸ Evidence Gail Stoten

³⁹ Reflecting the statutory presumption in S66 LBCAA

⁴⁰ See FN2 Planning SCG.

supply of 3.58⁴¹ years whereas the Council now accepts that it can only demonstrate a 2.95 year supply. Yet the Oakamoor Inspector found that the benefits of the provision of housing alone were sufficient to outweigh the harm caused.

33. A scheme that complies, in heritage terms, with both the development plan and national policy is plainly not a scheme that should be refused on heritage grounds.
34. As set out above, this is a district that is heavily constrained by greenbelt and environmental designations, including around Cheadle – see Appendix B Tim Jackson. It is therefore critical that appropriate sites that are unconstrained are permitted to come forward otherwise the Council’s development needs will not be met.
35. The scheme is proposed on a greenfield site. It is therefore inevitable that there will be some landscape and visual effects – the same would be true of any greenfield development, and the Council needs greenfield development to meet its housing needs going forward.
36. However, this is not a particularly sensitive landscape. There are no national or local designations that encompass the site, and it is a matter of agreement that the landscape is not a valued landscape within the meaning of the NPPF that should be protected for its own sake⁴². The site falls within a character area that has been identified by the relevant Character Area Assessment as one which “*is not identified as an area that is particularly sensitive to change*”⁴³. The Character Area Assessment also considered Cheadle and its surroundings specifically. The site was not identified as part of the area of important landscape setting for Cheadle; it was not identified to form part of the identified areas of important remnant historic landscapes identified around Cheadle; and the site is not visible from the “*significant view*” identified for Cheadle⁴⁴. The Appellant’s Mr. Jackson’s value assessment, undertaken in accordance with the Landscape Institute’s Technical Guidance Note⁴⁵ also demonstrates that the appeal site is located within a relatively common place landscape of no more than medium value. As set out above,

⁴¹ Paragraph 64 of appeal decision

⁴² 187 (a) NPPF

⁴³ See LSCASM (2008) CD9.4

⁴⁴ See Appendix B of Mr. Jackson, which shows the identified constraints

⁴⁵ See page 9 – 13 Proof Tim Jackson

given the large swathe of Green Belt that is located to the west of Cheadle, the site has the further unusual advantage of being particularly unconstrained⁴⁶.

37. The NPPF requires development proposals to “recognise” the character and beauty of the countryside⁴⁷. However, as confirmed in the *Telford* case⁴⁸, this is distinct from the requirement of now defunct national policy that required the protection of the countryside for its own sake. A finding of harm will not necessarily bring a proposal into conflict with the NPPF in this respect, and what is required is a substantive assessment as to the acceptability of the scheme. This is reflected in the Council’s policy DC3, which considers whether a scheme is acceptable by assessment against 5 criteria. In the present case:

- (1) The proposal would not affect any important view identified in the Landscape and Settlement Character evidence. Accordingly, there is no conflict with this part of DC3 (1).
- (2) There will not be a “*significant adverse impact on the character or setting of the settlement*”.

As the Inspector found in the Oakamoor decision, moderate adverse impacts on local landscape and visual character, within a visual envelope that is relatively localised, are not effects that can be described as “*significant*”, and therefore do not bring the proposal into conflict with policy DC3 of the Plan⁴⁹.

In the present case, the Appellant’s evidence demonstrates that even at the scale of the site and its immediate context, there will be no more than moderate/minor landscape effects at Year15. These localised and moderate landscape effects are not “*significant*” effects.

Visual effects on public receptors will also be localised, confined to the roads and PROWs in proximity to the site, and a short stretch of right of way (Cheadle 38/39 –

⁴⁶ Appendix B

⁴⁷ NPPF187 (b). As above, the site does not fall in a valued landscape warranting “protection” in accordance with NPPF187 (a).

⁴⁸ [2016] EWHC 3073 (admin), para. 47: CD12.43

⁴⁹ Paragraph 59 – 60 Oakamoor, noting that in that case some higher-level visual effects were also identified – see paragraph 54.

VP9/10). At the application stage, the Council’s advisor accepted the Appellant’s assessment that, upon the maturation of the landscaping scheme, there would be no more than moderate/minor effects for all public viewpoints, save for in respect of VP9 and 10, where his assessment was half a notch higher than the Appellant’s, and still (on the Council’s advisor’s assessment) did not exceed moderate⁵⁰. Again, these moderate visual effects are not “significant” effects, and so there is no conflict with this part of DC3 (1).

- (3) The proposal will not result in a “*prominent intrusion*” into the countryside and will not therefore conflict with this part of Policy DC3 (1).

As set out above, the visual envelope is relatively contained and further, the majority of effects on public viewpoints at Y15 were agreed with the Council’s landscape advisor at the application stage to be minor or below⁵¹. He also agreed that even immediately adjacent to the site, effects at Y15 would not exceed minor/moderate⁵². Whilst his judgment that there would be a slightly higher level of effect on Cheadle 38/39, even this would no higher than moderate at Y15 (and half a notch higher than the Appellant’s assessment of moderate/minor).

These are, in truth, on any analysis, remarkably limited visual effects – both in their extent and scale – for a scheme of this type. The level of assessed visual effects reflects the fact that the appeal scheme will sit alongside existing residential development on its southern and western edges, and where visible will be seen alongside and in the context of this and other existing residential development, including the Cheadle North Strategic Development site. Whilst the appeal scheme will extend the settlement edge slightly further to the north, it will remain closely associated with and well related to that existing adjoining development. An enhanced landscape structure, and a good proportion of open space and habitats will ensure that a sense of separation is maintained with Broad Hayes Farm, and that the development proposal will deliver an enhanced settlement edge to Cheadle in this location. The

⁵⁰ Moderate (Council landscape officer) vs Moderate/Minor (Appellant): Y15. Whilst some higher level effects were recorded for residential receptors, it is common ground with the Council that there would be no harm to residential amenity, and this has never been a reason for refusal for the scheme.

⁵¹ VP3 (Cheadle 40) – minor: VP06 and 07 (Cheadle 31) – minor/negligible: VP08 (Cheadle 39) – minor: VP 05 (Froghall Rd) – minor: VP11 (Bank Top Rd) – negligible: Rd users on Leek Rd – minor/negligible.

⁵² VP2 (Cheadle 40) – moderate/ minor: Road users Froghall Rd (VP04 and 04A) – moderate/minor.

scheme will not lead to a “prominent intrusion” into the countryside, and there will be no conflict with this part of Policy DC3 (1).

(4) The scheme respects local landscape character and there will be no harm “*to the setting of the settlement as identified in the Landscape and Settlement Character evidence*” – as set out above, the appeal site is not identified as part of the important landscape setting to the settlement and there is therefore no conflict with DC3 (2).

(5) The scheme will preserve and enhance biodiversity. There was no objection from the Council’s officers in this respect, no reason for refusal on the basis of biodiversity matters, and the scheme can in fact deliver 10% BNG, in excess of the policy and legal requirements for the scheme⁵³. Not only is there no policy conflict, but this is a further significant positive benefit in favour of the scheme⁵⁴.

(6) The requirements of DC3 (4) can be secured at the reserved matters stage, and the proposal will not affect the setting of the national park so there is no conflict with policy DC 3 (5).

38. In short, this is a scheme that recognises the character and appearance of the countryside in accordance with the requirements of the NPPF, and which can be integrated into the local context without undue harm to the character of the local landscape or visual amenity of the surrounding PROW network, and is in accordance with Policy DC3 read as a whole. Any harm occasioned is towards the bottom of the scale and does not justify a reason for refusal applying local and national policy, as the LPA now itself accepts through its recognition that defence of the appeal would be “*untenable*”.

39. There are no other outstanding objections from the LPA. Dealing first with a query that was raised at the inquiry by the Inspector, it is a matter of agreement that (even excluding public access from an area of land proximate to Broad Hayes Farm), the proposal (as illustrated on the parameters plan) can deliver Public Open Space in excess of the policy requirement in Policy C2⁵⁵. The suite of documentation presented on behalf of the Appellant at the application stage demonstrates that all technical matters that are of concern to third parties have been carefully considered and resolved, including in relation

⁵³ See suggested condition

⁵⁴ 10.56 John Coxon

⁵⁵ See plan at ID7 and POS note ID20

to infrastructure capacity, air quality, contaminated land, flood risk and drainage, and residential amenity. These are dealt with in section 9 of Mr. Coxon’s proof of evidence. There are no objections from any other statutory consultee. This includes the Highway Authority. It is well established that the decision maker should give the views of statutory consultees “*great*” or “*considerable*” weight, and that a departure from those views requires “*cogent and compelling reasons*”⁵⁶. Here, there is none.

39.1 Further, Mr. Wooliscroft’s evidence demonstrates that there would be no unacceptable impact on highway safety, and that the residual cumulative impacts on the highway network would not be severe (in accordance with NPPF116).

39.2 First, whilst residents have raised issues relating to capacity and highway safety, there are no cogent and compelling reasons to depart from the view of the statutory consultee (the Highway Authority), who have worked closely with the Appellant, and who have no objection to the scheme (see para. 39 – above).

39.3 As explained by Mr. Wooliscroft, the capacity assessments referred to in the Appellant’s evidence were based on traffic count surveys, undertaken within school term time, and on dates agreed with the HA to be representative. They covered the busiest periods in a typical day, the AM and PM peak, which have subsequently used as the basis for the assessments and are robust. The 2033 base flows were assessed using that information, but also accounting for committed development and an assessment of traffic growth bespoke to the local area⁵⁷. Again, these parameters were all agreed by the HA. Further, whilst residents expressed concerns in relation turning HGV movements, Mr. Wooliscroft confirmed that the relevant junctions were considered and assessed on the basis of their existing geometries, which accounted for this, and that the appeal proposal would not be making any material addition to HGV traffic.

39.4 Mr. Wooliscroft’s technical evidence demonstrates that there are forecast to be minimal increases in RFC at **all** junctions, and that all junctions are forecast to

⁵⁶ See *Shadwell Estates v Breckland and Pigeon (Thetford) Ltd* [2013] EWHC 12 (Admin) para 72 (CD 12.39); *Visao Ltd v SSCHLG and Chiltern* [2019] EWHC 2276 (Admin) para 65 (CD 12.41); *R (on the application of Swainsthorpe PC) v Norfolk CC and S Norfolk DC* [2021] EWHC 1014 (Admin) para 70 (CD12.40).

⁵⁷ PW round table

operate within capacity in 2033 with the development flows⁵⁸. The one exception to this relates to one arm of a single junction (the A522 Leek Road/A521 High Street/A522 Tape Street Junction), where the A522 arm is forecast to operate in excess of capacity. As Mr. Wooliscroft notes, this is the case both with and without development, and the impact from the development is likely to be minimal, equating to around 1 additional vehicle around every 2 minutes in the peak periods, only a 3% increase in two way trips at the junction⁵⁹, and just 14 additional vehicles in the AM peak and 9 additional vehicles in the PM peak on this arm⁶⁰. His clear evidence is that this does not equate with a severe impact on the local highway network.

39.5 Nevertheless, in discussion with the HA, the Appellant has agreed a mitigation scheme whereby a financial contribution (secured through the s106) will be provided to replace the existing zebra crossing to the north of the mini roundabout with a puffin crossing. A zebra crossing operates on the basis of vehicles giving way to pedestrians on an ad hoc basis, whereas the proposed puffin crossing will reduce the instances when vehicles are stopped for pedestrians and allow traffic to move in a more efficient way, as well as delivering pedestrian safety benefits.

39.6 Nor is there any objection from the HA in respect of highway safety. Local residents queried the safety of Froghall Road. However, the accident records have been considered for the most recent five – year period, and do not demonstrate a highway safety issue. Mr. Wooliscroft confirmed that there are no particular engineering issues or problem with the road network or junction layout that have been identified. In addition, the implementation of the proposed site access roundabout and improvements will act as a traffic calming measures to reduce speeds on this section of Froghall Road, will lead to further reductions to traffic speeds and will deliver highway safety benefits. Adequate visibility splays are secured by condition, as is the delivery of a new footway link⁶¹. This will ensure that there is a continuous footway link between the site and Cheadle town centre. Further pedestrian improvements, comprised of the provision of tactile paving with dropped

⁵⁸ See section 6 of his Proof, where he sets out the individual assessments for each junction – as explained in oral evidence.

⁵⁹ 6.4.12 – 13 evidence PW, and oral evidence to the inquiry

⁶⁰ 6.4.14 evidence PW, and table 6.6

⁶¹ Drwg 3277 – F06 Rev G, CD2.17

kerbs at crossing facilities along the pedestrian route, will provide safety improvements for all pedestrians.

39.7 It is therefore clear, as Mr. Wooliscroft confirmed in evidence, that the proposal will not cause an unacceptable impact on highway safety, and the residual cumulative impacts on the road network, following mitigation, would not be severe, taking into account all reasonable future scenarios. This is not, therefore, a proposal that should be refused, applying NPPF116 and neither the HA nor the LPA have alleged any conflict with either the NPPF or the development plan policies in so far as they relate to highway matters.

39.8 There are no other infrastructure or capacity issues that weigh against the scheme.

39.9 As to education, a proportionate contribution has been agreed with the education authority and the LPA to ensure that adequate school places can be provided. The education authority has confirmed that it is working with the LPA to plan strategically for the education infrastructure required to accommodate the children generated by the level of housing growth across the district, and that the County Council has a statutory duty to secure sufficient school places. On this basis,

“It has been identified that the level of housing growth proposed for Cheadle in SMDS’s Local Plan will necessitate a new primary school to be delivered in one of the new development sites”.

39.10 In short, the relevant authority has confirmed that a new school will be delivered. Further, the site has now been secured as part of the Cheadle North Strategic Site scheme which is coming forward adjacent to the appeal site. The evidence therefore demonstrates that a new school will be provided, and the Appellant has been requested to provide a proportionate contribution towards its delivery, which it has done through the s106 obligation. In any event, the s106 obligation contains a “fall back” provision whereby the contributions made can be used towards the providing additional capacity at an existing primary school in Cheadle as an alternative. The s106 obligation therefore ensures that adequate primary school capacity will be secured at the relevant point. The Appellant has agreed to provide the contribution sought by those with the statutory function relating to school place planning, and

there is no objection from the statutory consultee (the education authority) or the LPA.

39.11 As to flood risk, during the course of the inquiry⁶², the EA published new Risk of Flooding from Surface Water (RoFSW) mapping. This has been assessed in the Appellant’s most recent technical note. The new RoFSW mapping is based on better data and improved modelling, and it includes information about flooding extents and depths to show the overall risk, and provides a scenario for future climate change.

39.12 NPPF175 was introduced by changes to the NPPF made in December 2024, and post – dates the guidance in the PPG. It provides an exception to the sequential test in situations where a site specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising, or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now or in the future (having regard to potential changes in flood risk). There are some medium and higher risk areas to the eastern edge of the site. However, this is an outline scheme, with all matters save for means of access reserved. A proposed condition ensures that no relevant development within the site boundary (in the terms of the NPPF175) will be located on these areas, and this can be achieved consistent with the parameters plan.

39.13 Parts of the remainder of the site are noted to be areas of “low risk” – which is the lowest risk category for surface water risk noted on the mapping. Paragraph 2.11 of the Surface Water TN confirms that the categorisation of the developable part of the site within the “lowest risk category” is appropriate, based on the most up to date information available, including the new RoFSW mapping⁶³. There is no evidence to the contrary.

39.14 It is therefore clear that a sequential test is not required on this basis:

- (a) NPPF170 sets out the objective of the NPPF in respect of flood risk. It states that *“inappropriate development in areas at risk of flooding should be avoided by directing development away from areas of highest risk (whether existing or future)”* (emphasis added).

⁶² 28th January 2025

⁶³ Paragraph 2.11

- (b) 173NPPF was introduced in changes made to the NPPF in December 2024. It states that *“a sequential risk – based approach should also be taken to individual applications in areas known to be at risk now or in the future from any form of flooding by following the steps below”*.
- (c) 174NPPF states *“within this context the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source”*. It goes on to confirm that development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development with a lower risk of flooding.
- (d) NPPF175 sets out that the sequential test should be used in areas *“known to be at risk now or in the future from any form of flooding”* (subject to the exception referred to above).
- (e) The NPPF is an open textured policy. It does not give detailed guidance as to how the sequential test is to be applied.
- (f) Nevertheless, the RoFSW mapping and the Surface Water TN confirm that the developed area is located in an area at “low risk” from surface water flooding, which is confirmed by the TN to be within the “lowest” category of risk;
- (g) As set out in oral submissions to the inquiry, where a policy is expressed in broad or open terms, more detailed guidance in the PPG can perform a legitimate role in clarifying and understanding the meaning of the NPPF⁶⁴.
- (h) In respect of the sequential test, Paragraph 023 of the PPG, consistent with the NPPF, sets out that the approach is designed to ensure that areas *“at little or no risk”* of flooding from any source are developed in preference to areas at *“higher risk”* – and that this means, so far as is possible, avoiding *“development in current and future medium and high risk flood areas”* (including in relation to surface water flooding), and that

⁶⁴ *Mead Realisations Ltd v Secretary of State and North Somerset Council and others* [2024] EWHC 279 (Admin) (ID4): E.G: Paragraphs 70, 71, 97, 108, 112, 113. See also *R (on the application of Substation Action Save East Suffolk Ltd) v Secretary of State for Energy Security and Net Zero and others* [2022] EWHC 3177 (Admin). In this case the CA confirmed that the NPPF and PPG did not require that wherever there is a risk of flooding from surface water, it must be demonstrated that there is no other reasonably available site with a lower risk of flooding. In doing so, the Court of Appeal considered the wording of the NPPF in the context of the guidance in the PPG, which then only envisaged that a sequential test would be necessary for fluvial flooding. That is, the Court turned to the guidance to clarify and understand the provisions of the NPPF. The PPG was subsequently amended, and now expressly refers to surface water flooding in the context of the sequential test. The NPPF was reissued in December 2024, although the wording largely remained the same (save for NPPF173 and NPPF175, above). However, the above case is further confirmation that the NPPF and PPG should be assumed, ordinarily, to operate together harmoniously and as a whole, and that the PPG performs a legitimate role of elucidating the open texture policy of the NPPF in respect of the sequential test, and provides guidance that assists in clarifying and understanding the meaning of the NPPF in this respect (see also *Mead*, above, e.g. paragraph 70, 112, 113).

“application of the sequential approach will help ensure development is steered to the lowest risk areas” . Here, development will not occur in areas of medium or high risk, and is therefore directed to the lowest risk areas within the meaning of the guidance.

- (i) PPG24 sets out that a sequential, risk based approach is followed to steer new development to areas with the *“lowest risk of flooding”*. It expressly confirms that this is to be achieved **by** looking to areas of *“low – risk”* first (before going on to consider areas of medium, and then higher, risk). Again, this makes it clear that areas of *“low – risk”* are considered to fall within the *“lowest – risk”* category
- (j) PPG26 expressly confirms that the sequential test is not required in areas of *“low risk”*. Again, as PPG023 sets out that the sequential approach helps ensure that development is steered to the lowest risk areas, this confirms that areas of *“low risk”* are considered to be fall within the category of *“lowest risk”*, reading the policy and guidance as a whole.
- (k) This is consistent with PPG25, which relates to Plan making, which also sets out that sites within areas of *“low risk”* will pass the sequential test.
- (l) In any event, as set out in the TN, the revised RoFSW data set demonstrates that the part of the site that will be developed is *“low risk”*, which is within the *“lowest risk”* category for surface water flooding.

39.15 It is therefore clear, on any basis, that no sequential test is required, applying the national policy in the NPPF and guidance in the PPG.

39.16 There are no other reasons for refusing permission on the basis of flood risk or drainage, and no objection from the EA or LLFA, for the reasons set out in Mr. Coxon’s evidence.

40. Drawing all this together, it is clear that permission should be granted in this case. The scheme will deliver up to 215 homes, including up to 71 affordable homes, in circumstances where there is an acute, critical and urgent need to deliver the same. The site is in a sustainable location, adjacent to a market town and strategic allocation that sits at the top of the settlement hierarchy, that is expressly earmarked as suitable for growth, and indeed requiring of growth, in the Council’s development Plan, but which has failed to deliver the homes required. The site is outside the settlement boundaries, but, in the words of the Oakamoor Inspector, such sites are now *“required”* to meet the *“acute”* housing needs of the Authority. As in the Oakamoor appeal, the heritage impacts also fall towards the bottom of the scale, are outweighed by the public benefits, and accord with the NPPF and policy DC2 of the Plan. As in the Oakamoor appeal the landscape and visual effects of the scheme will be highly localised and will be no more than moderate

and not significant. The proposed development will be successfully integrated into its receiving environment by a high-quality landscape led scheme, and will be in accordance with the NPPF and Policy DC3 of the Local Plan.

41. The professional Officer was right to recommend approval, and Members were right to conclude, albeit belatedly, that it would be “*untenable*” to contest the appeal. The tilted balance applies in this case and it is clear that the adverse impacts of the scheme do not come close to significantly and demonstrably outweighing the benefits of the scheme, when assessed against the policies of the NPPF as a whole. This is a sustainable scheme within the terms of the NPPF, and it will be respectfully requested that permission is granted accordingly.

30th January 2024

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