

**APPEAL PURSUANT TO SECTION 78 OF THE TOWN AND COUNTRY
PLANNING ACT 1990 IN RELATION TO**

LAND EAST OF FROGHALL ROAD, CHEADLE, STAFFORDSHIRE

APPEAL REF: APP/B3438/W/24/3351035

LPA REF: SMD/2021/0610

COUNCIL'S OPENING SUBMISSIONS

COUNCIL'S DECISION NOT TO OFFER EVIDENCE

1. By a decision letter dated 17 January 2025, an inspector allowed an appeal concerning land at Oakamoor Road, Cheadle, dated 17 January 2025 (APP/B3438/W/24/3340461) (“the Oakamoor Road Appeal Decision”).
2. Unusually, there were very clear parallels between the issues in that appeal decision and the issues in the present appeal.
3. The PPG on costs at appeal, makes clear that a local planning authority can be at risk of costs for “not reviewing their case promptly following the lodging of an appeal against refusal of planning...as part of sensible on-going case management.”¹
4. The appeal was referred to the Council’s Planning Committee on Thursday 23 January. In light of the very particular facts of this appeal and in consideration of the very particular facts of the Oakamoor Road Appeal decision it was resolved

¹ PPG §049, Ref ID: 16-049-20140306.

that the Council would not defend the reasons for refusal and not offer any evidence, except in relation to five years' housing land supply.

5. A further Statement of Common Ground was then agreed between the parties.² This records the following matters as being agreed with the Appellant:

- “i. In light of the Oakamoor Road appeal decision, which is a new material consideration for the decision maker, the LPA has reconsidered its position and has concluded that it will not contest the appeal.
- ii. The Council's decision not to contest the appeal is based on the Council's own assessment of its housing land supply (3.51 years), which has not changed.
- iii. Given that it no longer contests the appeal, the LPA formally withdraws its landscape, heritage and planning evidence, and will not present any evidence in defence of the reasons for refusal.”

6. The Council therefore not only reviewed its case, it did so with considerable speed. For those members of the public here today to make their comments it should be noted that in no way does this prevent them from making their views known to the inspector who will still have to make his decision in this appeal based on all the information presented to him at this inquiry.
7. As a consequence of the above, it is therefore anticipated that the Council will play little role during the inquiry, except in relation to 5YHLS.

5YHLS

8. There is a relatively modest difference between the parties on 5YHLS. The areas of difference between the parties are set out in the Housing SOCG.³ As shown at §2.3, the Council argues that it is able to demonstrate a 5YHLS of 3.51 years and the Appellant argues that it is only able to show a 5YHLS of 2.70 years.

² CD 13.8.

³ CD 13.6.

9. In the particular circumstances of this appeal, this difference is unlikely to affect the outcome of the appeal. The inspector is therefore recommended to note this in his decision letter and to record a range of 2.70 to 3.51 years.
10. If, however, the inspector decides that he would like to hear evidence on the matter, a roundtable session can be held as originally envisaged. The difference between the parties can be explained by disagreements on two issues.
11. The first issue is as to whether seven sites should have been included in the Council's 5YHLS calculation. These are the sites included in Table 1 of the Housing SOCG, with the exception of Big Mill, Leek, which is no longer disputed.
12. The second issue is as to whether a small-sites windfall allowance should be included in years four and five of the supply. The Council's position reflects that of the Inspector's Report on the Examination of the Staffordshire Local Plan. At §§171-173 the Inspector said:

“171. In terms of windfall allowances, a large site windfall allowance is shown for Leek and Biddulph and small site allowances for all of the sub-areas. The allowances are based on past trends, together with, in the case of Leek and Biddulph, evidence from the SHLAA about potential opportunities for development on larger windfall sites within the settlement boundaries (EL7.002). The figures also reflect less restrictive policies now being proposed compared to those contained in the SMCS which applied indicative maximum sizes to windfall sites. No such cap exists in this LP. Indeed, Policy H1 allows windfalls outside development boundaries in some settlements. Although some of the sites now allocated may have historically come forward as windfalls, for the above reasons compelling evidence supports the windfall allowances.

172. The windfall allowances within Policy SS4 need to be amended to reflect the position at 31 March 2019, the remaining years of the Plan up to 2033 but also to prevent double counting of commitments and

windfalls. The contribution of windfalls will also need to be closely monitored to ensure that provision is meeting expected levels. These elements would be achieved by MM9, MM55 and MM56 so that the Plan is effective.

173. Between 31 March 2017 and 31 March 2019, a few of the sites subject to housing allocations have obtained planning permission. Therefore, to ensure consistency between the various tables and Policies SS4 and H2, those units with permission should be moved from allocations to commitments. MM9 amends Policy SS4 and MM22 amends H2 and adds commentary to explain the changes to the figures so that the policies are effective.”

13. The Council has monitored the approach, including the average recorded completions in each sub-area, reporting results annually in the 5YHLS Position Statement. This supports the current windfall allowance levels.
14. Furthermore, the supply of small sites (net of completions) has been increasing year on year, up 14% between the 2021 and 2023 5YHLS statements, again supporting the ongoing contribution from windfall sites.
15. The Appellant relies on an appeal decision concerning a site in Alton, Hampshire dated 10 April 2024 (APP/M1710/W/23/3329928) to support its argument that the windfall allowance should be excluded entirely. The Council is concerned that in doing so, the inspector is being asked to exclude small-sites windfall in principle, a consequential position for future monitoring.
16. On the basis of this, the Council argues that the retention of the windfall allowance of 120 small sites is both warranted and supported by evidence.

CONCLUSION

17. Other than participating in a possible roundtable session in relation to 5YHLS, the Council does not anticipate participating in the evidence sessions of the inquiry.

18. Officers will further participate in the conditions and s.106 sessions and will be available at all times to assist the inspector in any way that they are able to do so, including at the site visit.

Howard Leithead

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