



# The Planning Inspectorate

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Your Ref: 08/02000/OUT  
Our Ref: APP/A0665/A/09/2114646/NWF  
Date: 30 June 2010

Dear Ms Howard

**Town and Country Planning Act 1990**  
**Appeal by GMV Eight Limited c/o Commercial Estates Group**  
**Site at Land At Saighton Camp, Sandy Lane, Chester, CH3 5UE**

## CORRECTION NOTICE

It has been brought to our attention that there are typographic errors in the decision and I am enclosing a copy of the corrected appeal decision, in pursuance of Section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended. This decision corrects that issued on 15 April 2010 by amending the drawing referred to in the third bullet point of Condition 15. Please accept my apologies for this error and for any confusion it may have caused.

Information about the Inspectorate's complaints procedures can be obtained via our website:

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If you do not have internet access, or would prefer hard copies of our information on the right to challenge and our complaints procedure, please contact our Quality Assurance Unit on 0117 372 8252 or in writing to the address above.

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Yours sincerely

Tony Bishop Quality Assurance Unit.  
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# Appeal Decision

Inquiry opened on 23 March 2010

Site visit made on 31 March 2010

by **Andrew Pykett BSc(Hons) PhD MRTPI**

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

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**Decision date:**  
**30 June 2010**

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**Appeal Ref: APP/A0665/A/09/2114646**

**Land at Saighton Camp, Sandy Lane, Chester CH3 5UE**

- 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 GMV Eight Ltd c/o Commercial Estate Group against the decision of Cheshire West & Chester Council.
  - The application Ref: 08/02000/OUT, dated 5 December 2008, was refused by notice dated 29 September 2009.
  - The development proposed is residential led mixed use development comprising 375 dwellings; 5000m<sup>2</sup> of employment development (B1); 500m<sup>2</sup> of ancillary uses (A1, A2, A3, A4, A5, D1); a new primary school (D1); open space; parking and ancillary landscaping.
  - The inquiry sat for 6 days on 23-26 and 30-31 March 2010.
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This decision is issued in accordance with Section 56(2) of the Planning and Compulsory Purchase Act 2004 as amended and supersedes that issued on 15 April 2010.

## Preliminaries

1. Although the application was made as recorded above, it included details of the proposed access arrangements. All other matters – layout, scale, appearance and landscaping – were reserved for subsequent approval. However, the application was accompanied by both a Design and Access Statement (DAS) and an Environmental Statement (ES). In accordance with the contents of paragraphs 52 and 53 of DCLG Circular 01/2006: *Guidance on Changes to the Development Control System*, the DAS included, amongst other matters, a Parameters Plan. This shows the intended distribution of the proposed uses, and it is also included in the ES. The parties are in agreement that, although the layout of the site remains for subsequent approval, the distribution of the proposed uses should be regarded as shown on the Parameters Plan. I have considered the appeal on this basis.
  2. The description of the proposal refers to employment development (B1). Class B1 of the Use Classes Order includes 3 sub-types. These are: use as (a) for offices, other than those falling within Class A2 (financial and professional services); (b) for research and development of products or processes; and (c) for any industrial process being a use which can be carried out in a residential area without detriment to amenity. During the inquiry the appellants indicated that it was intended the proposed employment buildings would be confined to Classes B1(a) and (b). It was not intended there would be any Class B1(c) uses on the land. I have considered the case on this basis also.
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3. The Council's second refusal reason refers, amongst other matters, to conflict with policy in respect of the location of retail outlets. During subsequent discussions however agreement has been reached that, subject to a condition restricting the number and size of convenience goods retail space, there was no reason to object to the scheme. The agreement is included in the Statement of Common Ground and I have considered the case on this basis.
4. There was much discussion during the inquiry concerning the submission of an obligation made under section 106 of the above Act. However, it was not possible to achieve an Agreement and a Unilateral Undertaking was submitted soon after the closure of the inquiry<sup>1</sup>. The obligation covers a substantial range of matters. Some of its content was the subject of detailed consideration at the inquiry on the basis of drafts<sup>2</sup>. In the light of the matters to which I make later reference in this decision, and the remaining component parts of the obligation, I consider it complies with the tests included in Regulation 122 of the Community Infrastructure Levy Regulations 2010.
5. Much of the evidence submitted before and during the inquiry referred to the impact of the proposed development on the surrounding highway network. A Sainsbury's supermarket is located about 1km north of the appeal site on Caldley Valley Road, and it was agreed that the agent acting for the company should be granted Rule 6(6) status. The agent participated both in the inquiry and in the discussions held before and during the proceedings.

### **Decision**

6. I allow the appeal, and grant planning permission for residential led mixed use development comprising 375 dwellings; 5000m<sup>2</sup> of employment development (B1); 500m<sup>2</sup> of ancillary uses (A1, A2, A3, A4, A5, D1); a new primary school (D1); open space; parking and ancillary landscaping on land at Saughton Camp, Sandy Lane, Chester CH3 5UE in accordance with the terms of the application, Ref: 08/02000/OUT, dated 5 December 2008, and the plans submitted with it, subject to the conditions included in the attached Annex.

### **Planning History**

7. The appeal site forms part of a former army camp. I understand Saughton Camp was originally developed in the 1930s, but it is now largely unused. There is a driving test centre on one part of the site which is the subject of a temporary planning permission, and the land is also used by the police for the training of dogs. The camp originally extended to some 39.6ha<sup>3</sup>, but it became surplus to requirements and closed in 1999. The camp is located on the south-eastern edge of Chester, and it abuts (on its north-east, south-east and south-west sides) the Greater Manchester, Merseyside, Cheshire and Lancashire Green Belt.
8. During the 1970s the Eastern By-Pass for Chester was constructed to dual carriageway standards – a route which now comprises part of the A41, with a link to the M53 (to Liverpool) and the M56 (to Manchester). However, this route was subsequently effectively replaced by the eastern end of the A55 – a

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<sup>1</sup> Document 31

<sup>2</sup> Documents 26 and 27

<sup>3</sup> The appeal site (Area A) is 16.25ha. Area B is 17.75ha. Crown Fields is 5.6ha.

higher standard dual carriageway with limited access. It extends from the southern end of the M53 around the eastern and southern sides of Chester, and hence to the North Wales coast. This road also provides a link to the A483 to Wrexham and east Wales at the southern entrance to Chester.

9. As is evident from the above paragraph, the camp is sited in an area of major roads, but it is now severed from the built-up area of Chester by the A55. I understand that in the 1990s the Council promoted the whole site through the draft Cheshire Structure Plan as a potential Principal Employment Site. However, it was deleted after the Examination in Public in 1997 for fear that it would cause an imbalance of employment supply against the restricted housing supply in Chester.
10. The future of the land was also much discussed in the context of the Chester Local Plan Inquiry held between October 1999 and December 2001. The possibility of the camp's redevelopment was considered, but my colleague concluded there was no over-riding need for either additional housing or employment land during the relevant plan period<sup>4</sup>. Significant concern was also expressed that, without the construction of a new link to the A55 slip roads leading to the Boughton Heath roundabout, redevelopment would have an adverse effect on traffic congestion in the surrounding highway network<sup>5</sup>.
11. It was suggested that a mixed-use development could eventually offer an opportunity to create a more sustainable scheme than a housing development, but at the time, more centrally located alternative sites were available. The Inspector recognised however that, notwithstanding its detachment by the A55, the camp had consistently been regarded as being part of the urban area of Chester. In all the circumstances he recommended that the camp should be identified as part of the urban area, but that it should be left unallocated as 'white land'.
12. The Inspector's Report was submitted in May 2002, and the Council followed the recommendations made. Before the adoption of the plan however (in May 2006), outline planning permission had been granted in August 2005 for the redevelopment of the north-west part of the former camp for residential use (Crown Fields). The camp is therefore included within the urban area, but, except for the Crown Fields development, it is unallocated. The Crown Fields scheme is for a total of 103 dwellings, and I saw on my visit that the development is well underway with many new houses occupied.
13. There has therefore been a history of debate about the future of the camp over two decades, and it is agreed between the principal parties (including Sainsbury's) and the interested persons who made statements to the inquiry that much or all of the camp is appropriate for redevelopment. The difference between the parties is in the form and extent of the development – especially in relation to its means of vehicular access, and the danger that partial redevelopment might prejudice the redevelopment of the site as a whole.
14. It is recognised that although the site is detached from the built-up area of Chester by the A55, it nevertheless represents a major resource. In order to gain the maximum advantage from the land, it is further agreed that it should

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<sup>4</sup> CD 76, paragraph 5.85

<sup>5</sup> CD 76, paragraph 5.83

be comprehensively planned in a manner which avoids compromising or overwhelming the capacities of the local infrastructure. Within the context of the debate, there is a general recognition that the former camp constitutes previously-developed land within the meaning of the definition included in Annex B of Planning Policy Statement (PPS) 3: *Housing*.

15. Nevertheless, it was suggested at the inquiry on behalf of the Council that parts of the former camp – exclusively in Area B where many former buildings have been demolished – were reaching the stage where, with the passage of time, the remains of the former structures might be considered to have blended into the landscape. I saw on my site visit however that substantial evidence of the former use remains, including a large parade ground and a network of service roads and tracks. In my view these parts of the site constitute components of the fixed surface infrastructure, and I conclude the identification of this area as brownfield land remains accurate and justified.

### **Main issues**

16. On the basis of the evidence I received both before and during the inquiry I consider there are two main issues in this case. These are:
- (i) the impact of the proposed development on the local highway network, and whether its implementation would prejudice the further development of adjacent land; and
  - (ii) whether the site is an appropriate location for office development.

### **Reasons**

#### ***Highways and Prejudice***

17. As is recorded above, the appeal scheme comprises a residential-led mixed use development with 375 houses, employment buildings (Classes B1(a) and (b)), ancillary uses (Classes A1, A2, A3, A4, A5 and D1), and a new primary school. The buildings would occupy the south-western part (Area A) of the remaining area of the former camp, with vehicular access off Sandy Lane on the south-west frontage of the land. It is claimed on behalf of the appellant that the scheme therefore complies with the general approach promoted in PPS1: *Delivering Sustainable Development*. Paragraph 27(ii) records that policies should promote mixed use developments at locations which allow the creation of linkages between different uses, while sub-paragraph (viii) encourages the more efficient use of land through higher density, mixed use development and the use of suitably located previously-developed land.
18. In contrast, the Council argues the scheme would conflict with Policy ENV 1 of the *Chester City Council Local Plan*. It is permissive in relation to proposals which accord with the principles of sustainable development, but the Council holds that in this case the effect of the scheme would be such that the development would result in an inefficient use of land. This would result from traffic generated by the development using the already busy roads and junctions within the south-eastern quadrant of Chester – principally at the Boughton Heath roundabout, at the A41/A51 junction at Vicarscross, and at the Sandy Lane gyratory closer towards the centre of Chester. Notwithstanding

the off-site improvements proposed – especially at the Boughton Heath roundabout – the capacity of the network would be exhausted and there would be no spare capacity to accommodate any further development. In the circumstances it would be more advantageous to take advantage of the proximity of the former camp to the A55 slip roads, and construct a direct link. This would serve the whole site as well as providing a through route for north-bound traffic from the B5130 and Sandy Lane. The cost of such a link however would need to be carried by the redevelopment of the whole site – Areas A and B. The scheme as constituted would be prejudicial to this objective.

19. Although the mixed uses which constitute the proposed development offer the prospect of linked or pedestrian trips, there is no dispute that the project would generate additional traffic on the local network. On the basis of travel to work data it is estimated that the substantial majority of the traffic would be making to or from the A55 via: Sandy Lane, the B5130 bridge over the dual carriageway, and thence on Gorse Way and Caldly Valley Road to the Boughton Heath roundabout. Drivers wishing to go south or west would thereafter use the slip road onto the A55, while those wishing to go north would use the A41 Chester By-Pass before turning onto the A51 and the A55 at Vicarscross.
20. During the peak hours the Boughton Heath roundabout is very busy, and at the application stage Sainsbury's expressed concern that the additional traffic on the northern part of Caldly Valley Road would aggravate the existing situation. However, just before the inquiry opened, agreement was reached that a redesigned signalised 'hamburger' gyratory system would provide sufficient capacity to accommodate the additional flows from the new development<sup>6</sup>.
21. The Council's fifth refusal reason refers to adverse effects which would result from alterations to the Boughton Heath roundabout. I agree with the appellant however that, although the proposed works would be the cause of some disruption, such temporary impacts are the inevitable consequence of new development. The safe operation of the roundabout during the works would be a matter for the contractor and the local highway authority. As far as the possibility of a second set of alterations is concerned in the event of the construction of an A55 link road, much would depend on how the altered junction performed in practice. I do not consider either the works proposed or the possibility of further alterations would be a sufficient reason to dismiss the appeal.
22. The A41/A51 junction at Vicarscross is a major signalised intersection in relatively close proximity to the A55/A51 junction. The A51 links Chester with Nantwich, Crewe, Winsford and Northwich to the east. Although the Council's highways witness initially considered the additional traffic generated by the appeal scheme would have a significant detrimental impact on the junction, it was subsequently agreed that, with the introduction of MOVA signal control the capacity of the junction would be improved. The Council's highway witness is satisfied that in these circumstances the junction would adequately mitigate the impact of development-related traffic associated with Area A and against the nil detriment test<sup>7</sup>.

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<sup>6</sup> See Drawing No: 04/487/100/014 Rev H

<sup>7</sup> See Document 11, paragraph 2.1.13

23. The direct route for traffic from the appeal site to the city centre is along the B5130 (Chester Road, Dee Banks and Sandy Lane) – where it joins the A51 (Tarvin Road to the east, and Boughton to the west) and the A5115 (Christleton Road) at the Sandy Lane Gyratory. The gyratory is some distance removed from the appeal site with queues forming regularly at the morning and evening peaks. I agree with the appellant however that the observed queues and delays are not out of the ordinary at a location close to a city centre, and any significant improvement would necessitate substantial highway works including demolition.
24. In relation therefore to the first part of the first main issue, I conclude the development of the land as proposed would not result in unacceptable consequences on the local highway network. The Council's essential concern however is to avoid wasting or prejudicing the opportunity presented by the potential for the redevelopment of a larger area of brownfield land. Over a number of years its concern has been closely associated with an aspiration to link the former camp to the A55 as directly as possible.
25. As I have recorded above, this possibility was considered at the Local Plan Inquiry, and it also forms part of the *West Cheshire Growth Point: Programme of Development*<sup>8</sup>, published in October 2008. Although the Growth Point proposals do not form part of the statutory planning procedure, they do express how sustainable housing growth may be delivered whilst enabling the full economic potential of the region to be realised. The site is also included in the Topic Papers for the draft Core Strategy in the LDF process<sup>9</sup>, though without the reference to the A55 link. My attention has also been drawn in this context to the references to Chester in Policy LCR 5 of the *North West of England Plan (RSS)*<sup>10</sup>. Amongst other matters, it seeks to harness the potential of the city for sustainable growth to the benefit of the West Cheshire – North East Wales sub-region. The policy also provides for joint working between authorities and agencies across the sub-region to secure the strategic planning and management of the economy, the housing market, and the transport network.
26. Saighton Camp is recorded in the Growth Point programme as one of the key housing sites in West Cheshire. The land is considered suitable for approximately 1000 dwellings, with its main access being obtained off a new junction linked directly to the A55. The programme records that the site is being promoted by the appellant, but the proposed new junction is not currently being supported by the Highways Agency. My attention was drawn at the inquiry to a number of meetings held at the instigation of the appellant with the Highways Agency, and others, in an effort to reach an agreement<sup>11</sup>. Although the Agency was not represented at the inquiry I did receive a statement on its behalf which sets out its current position<sup>12</sup>.
27. The statement records that the A55 forms part of the Strategic Trunk Road Network, but that it is not identified as being of national strategic importance. Reference is also made to the consideration of the case on the basis of DfT

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<sup>8</sup> CD 42

<sup>9</sup> CD 31

<sup>10</sup> CD 19

<sup>11</sup> Document 22

<sup>12</sup> Document 7

Circular 02/2007: *Planning and the Strategic Road Network*. Paragraphs 40-45 record the Agency's approach to capacity enhancements and access to the network. It is generally restrictive. On roads which are not considered to constitute routes of strategic national importance however, a graduated and less restrictive approach is followed. Nevertheless, the formation of new accesses will depend on the standard and status of the road, and safety and the free flow of traffic will remain the primary concern.

28. During discussions with the Agency different forms of access to the A55 have been considered. Although considerable time and effort has been expended on the possibility, there is in my judgement reluctance on behalf of the Agency to support the formation of a link. There is a clear concern on principle or policy grounds to the formation of a link to either the road or its slip roads. Even if such a link was supported by the Agency it appears it would be contingent, to a greater or lesser extent, on the widening of the carriageways to 3 lanes. It is recorded on behalf of the Agency that the possibility could be debated within the context of the LDF process, but I remain doubtful whether this more formal route would result in the achievement of the Council's objective.
29. In addition to the policy question which is raised by the prospect of an A55 link, I heard evidence at the inquiry about its possible cost. To put it in context; the estimate for the installation of the signalised 'hamburger' roundabout at Boughton Heath is approximately £3.5m. Construction cost estimates have been prepared for 3 possible means of accessing the A55 slip roads<sup>13</sup>. Option 51 is for a west facing grade separated junction using the existing underbridge - £6.1m. Option 48 is for a similar arrangement but involving the construction of an overbridge - £15.8m. Option 50 is for an all moves grade separated junction with a new overbridge - £19.1m. The appellant estimates that, for Option 51, the overall cost of linking the redesigned junction to Area B would be just over £10.5m. By way of contrast, the Highways Agency has estimated that the cost of a junction to the standards included in the Design Manual for Roads and Bridges would be £50-60m. The likely need to widen the existing dual carriageway to 3 lanes in each direction between Vicarscross and the A55/A483 junction, would result in the potential costs of the proposal increasing to perhaps beyond £100m<sup>14</sup>.
30. The difference between the cost of the Boughton Heath roundabout improvements and the appellant's estimate of linking Area B with the Option 51 scheme is some £7m. I acknowledge this could be accommodated within the appellant's development appraisal submitted during the inquiry<sup>15</sup>. In any event, and on the assumption that Option 51 might be found by the Agency to be satisfactory, it would still not obviate the need for improvements to the roundabout. I therefore disagree with the Council's fear that the expenditure would have been wasted. If, in the alternative, only an all movements junction is acceptable and necessary, it is likely the additional costs involved would undermine the viability of the scheme. In my judgement, the cost of the proposed Boughton Heath roundabout improvement should not be regarded as a threat to the longer term redevelopment of Area B.

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<sup>13</sup> Taken from the Owen Williams Report, page 9.

<sup>14</sup> Document 6

<sup>15</sup> Document 25

31. To my mind there is another valid justification for avoiding an excessive reliance on the need for a link to the A55 – either directly or via its slip roads. There is no dispute that the former camp is in a peripheral location and that it is detached from the city by the A55. I can understand that when the site was being promoted as an employment destination generating a significant volume of heavy goods vehicles, the need for a quick and easy means of access to the strategic network would have been apparent. In my view this does not apply to the current proposal. RSS Policy DP 2 seeks to promote the building of sustainable communities, by, amongst others, fostering sustainable relationships between homes, workplaces and other concentrations of regularly used services and facilities. The economic, environmental, social and cultural implications of development and spatial investment decisions on communities should be taken into account. Similarly, RSS Policy DP 7 requires an understanding of and respect for the character and distinctiveness of places. I am fearful that the provision of a link road to the A55 serving a largely residential area could further emphasise the sense of separation from the city which I believe may be inevitable at such a location. One of the effects of such a link would be to facilitate ease of access to Liverpool and Manchester at the very time when policy is to reduce car dependency. In my view it is arguable that the level of integration with the existing urban form sought in paragraph 35 of PPS1 would actually be better served without a direct link to the A55.
32. I acknowledge that the Council's aspiration for a link road raises the issue of its design and management through a development site. The formation of an all movements junction would inevitably result in greater volumes of traffic passing through the site to or from the B5130 than would result from the more limited means of access proposed in option 51. Nevertheless, I would expect in both cases that the majority of vehicles using the route would be through traffic. The Council has referred to the possible effect of safety and noise in an area proposed for family housing<sup>16</sup>, but, rather than planning to seek to accommodate this consequence of the aspiration, it may be preferable to simply avoid the creation of the link.
33. The Council also expresses concern<sup>17</sup> that the failure to pursue a comprehensive approach to the redevelopment of the whole former camp (Areas A and B) would leave an 18ha site vacant and derelict. However, most of the former camp buildings on this land have been demolished and what remains is generally only surface level areas of tarmac. Although I would agree these are unattractive, I am not convinced they can be accurately described as derelict. In any event, I believe this part of the Council's case is inconsistent with its contention that the area may have blended into the landscape through the passage of time.
34. My attention was also drawn at the inquiry to the central role now played by infrastructure planning and the introduction of the Community Infrastructure Levy<sup>18</sup>. I recognise that the inconclusive nature of the discussions with the Highways Agency about the link road have rendered successful infrastructure planning difficult in this case. Paragraph 4.10 of PPS12 acknowledges that such circumstances may occur. Planning should be based on the reasonable

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<sup>16</sup> Document 16, paragraph 47

<sup>17</sup> Document 16, paragraph 46

<sup>18</sup> See PPS12: *Local Spatial Planning*, paragraphs 4.8-12

prospects of provision, but where outcomes are uncertain, contingency planning may be necessary showing how objectives can be achieved under different scenarios. In my view this is just such a case. Although the construction of the link road would increase the capacity of the local network, it may be that this cannot be achieved for fear of compromising the strategic purpose of the A55. In the circumstances I do not consider this is a sufficient or compelling reason to resist the quantum of redevelopment which can be achieved.

35. I therefore conclude in relation to the first main issue that, subject to the alterations to which I have referred, the proposed development would not have an unacceptable impact on the local highway network. I further conclude the effect of the proposal on the potential redevelopment of the adjacent land is an insufficient reason to dismiss the appeal.

### **Offices**

36. The proposed development includes a total of 5000m<sup>2</sup> of Class B1(a) and/or (b) employment space. The DAS indicates that the space would take the form of small scale office buildings of 500 to 1000m<sup>2</sup> to be constructed in the initial phases of the development. Offices are a main town centre use as defined in paragraph 7 of PPS4, and they are therefore subject to Policy EC17. The same does not apply to floorspace used for research and development. Amongst other matters the policy requires compliance with Policy EC15 – the need for a sequential assessment where planning applications are made for main town centre uses which are neither in a centre nor in accordance with an up to date development plan. In addition, if there is clear evidence that the proposal is likely to lead to significant adverse impacts under Policies EC10.2 and 16.1, this too would weigh against the scheme. RSS Policy W2 includes a similar provision. Local plan Policy EC 9 on the other hand is essentially permissive, subject to a number of criteria.
37. In recognition of the purposes of the sequential approach, the appellant has suggested draft conditions<sup>19</sup> limiting the total proportion of Class B1(a) use to 50% of the area sought, and the size of the units to no more than 500m<sup>2</sup>. In my view this would render the office component of the scheme insufficient to fall within the terms of the regionally significant developments referred to in Policy W2.
38. The appellant does not argue that there are no alternative sites within or on the edge of Chester which could not accommodate the scale of development proposed, and to this extent it recognises that the scheme may be considered to be in conflict with the sequential approach. The development has been devised however as a mixed use scheme where there would be at least a degree of interdependence between homes, jobs and services which would reduce car dependency. In this respect I consider the scheme complies with the thrust of local plan Policy EC 9, for it too seeks the integration of employment, homes and services.
39. I have no reason to doubt the appellant's contention that part of the rationale for the proposed development is to reduce the quantity of commuting into

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<sup>19</sup> Document 28

Chester by contributing to a better city-wide balance between employment and houses. In my view the proposed mixture of uses on the appeal site would have a similar effect on a more limited scale, and, taking account of the detached location of the site, I consider the non-residential components of the scheme make their own contribution to its benefits. Indeed, the delivery of mixed development is an important part of the appellant's case, and I believe the construction of the buildings could be secured by the agreement of a phasing programme. Such a programme is included in the draft conditions submitted by both parties. Taking account of the scale of the development and the location of the site, I consider the benefit of the development outweighs the conflict with Policy EC17.1(a) of PPS4. I have received no evidence of any potential conflict on impact grounds with Policies EC10.2 or 16.1.

40. I conclude in relation to the second main issue that, subject to the limitations of the application and the conditions to which I have referred, the appeal site is an appropriate location for office development.

### **Other matters**

#### **Housing**

41. There is no dispute between the parties that a five year supply of deliverable housing sites is currently unavailable. The Council estimates that 3.75 years is available; the appellant estimates 3.4 years. I understand the difference is derived from the 367 houses built between April and December 2009, and the removal of the allowances for small sites and windfalls. In my view however the difference is immaterial. In either circumstance I consider the under-supply of housing land adds to the weight of the appeal as indicated in paragraph 71 of PPS3. The guidance is qualified by the contents of paragraph 69 – including the need to use land effectively and efficiently, but in the particular circumstances of this case I have considered this requirement under the heading of the first main issue.
42. Paragraph 69 also refers however to the need to ensure developments achieve a good mix of housing reflecting the accommodation requirements of specific groups. In this context the Council draws attention to the requirement of local plan Policy HO 3 for the provision of affordable housing. Amongst many other matters concerned with the delivery of affordable housing, the policy is further explained by the *Supplementary Planning Document: Affordable Housing* (SDP), adopted in 2007<sup>20</sup>. Based on a survey dated 2004, Appendix B of the SDP requires a proportion of 40% affordable units on sites within the urban areas. I note in passing that this is a significantly higher proportion than the 25% required under Policy HO 3 for the allocated housing land at Saughton Camp.
43. I recognise that the current housing market does not necessarily correspond with that of 2004 or 2007, and I also note that paragraph 29 of PPS3 refers to the practice of setting different proportions of affordable housing provision and site-size thresholds over plan areas. There is therefore an inevitable requirement that informed assessments of the economic viability of schemes are made. Taking account of current market conditions in this case the

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<sup>20</sup> Document 15

appellant has included a 20% affordable housing proportion. In the circumstances the Council has raised no objection to this proportion, but it is concerned about the mechanism included in the section 106 obligation to claw back additional developer contributions.

44. This is set out in Schedule 5 of the Undertaking, and it provides for a revised viability appraisal for each phase of the residential component of the development. In the event of changes to the housing market sufficient to generate a surplus, the Undertaking makes provision for the making of a payment to the Council for the purpose of providing affordable houses in other parts of Chester. The payment would be subject to two limits – it would amount to no more than 75% of the surplus identified, and it would be capped at a total of just over £5.7m. Although the rationale for these limitations is unclear, I do not consider this to be of sufficient significance to justify the dismissal of the appeal.
45. My attention was drawn at the inquiry to recent cases<sup>21</sup> where the need for such a catch up mechanism had been debated at length. As with those cases however, the timing and extent of a recovery in the housing market remains uncertain and the under-supply of housing land in the area suggests the existence of pent up demand. In the circumstances I have been unable to allocate too much weight to the Council's concerns. Nor, in view of the content of draft condition 5 (phasing programme), have I attributed weight to the combined effect in this regard of the density and phasing plans included in the DAS<sup>22</sup>. I recognise that the housing market is subject to continual change, and in my view the accuracy of such longer-term plans must be questionable. Nevertheless, I note the overall density of the proposed development surpasses the minimum of 30 dwellings per hectare included in paragraph 47 of PPS3.
46. I conclude that although the under-supply of housing land cannot be regarded as determinative, it adds weight to the appellant's case. The obligation presented by the appellant makes adequate provision for the provision of affordable housing in accordance with the purpose of local plan Policy HO 3.

### **Open space**

47. Paragraphs 16 and 17 of PPS3 record the importance to be attached to the planning of amenity and recreational space in the layout of residential development. Local plan Policy SR 5 sets out the requirements for the provision of play areas in new housing developments, but there are ambiguities within the text of the policy. The appellant has agreed to the provision of one Local Area of Play (LAP), one Local Equipped Area of Play (LEAP), and one Neighbourhood Equipped Area of Play (NEAP); together with informal areas of open space and over 9000m<sup>2</sup> of amenity space. However, in response to the Council's concern, the appellant has also agreed to the provision of 4 additional LAPs and one additional LEAP, if these are considered necessary.
48. Assessment of the number and distribution of play areas and open space would normally be a matter which I would expect to be considered at the detailed stage, and I believe much would ultimately depend on the layout of the residential areas of the site. As is recorded in the reasoned justification of the

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<sup>21</sup> Documents 3 and 4

<sup>22</sup> On pages 42 and 58 respectively.

local plan, road safety is clearly a matter of paramount importance, and on the basis of the Framework Plan included in the DAS<sup>23</sup>, I agree with the council that 2 LEAPs would be necessary. As far as LAPs are concerned, these would evidently need to be distributed across the residential areas whilst simultaneously avoiding the larger play areas. A minimum total of 500m<sup>2</sup> in an overall area of 12.1ha of housing is not unreasonable, but I consider it would be neither possible nor reasonable to specify the number of LAPs.

### **Primary School**

49. The parameters plan included in the DAS<sup>24</sup> includes a 2.2ha site for the construction of a new two form entry primary school should this be required at a future date – for example, in the event of Area B being developed for further housing. It is envisaged that in the intervening period the area would be landscaped and available for additional temporary recreation use. The development of the land for this purpose would be in addition to the education contribution of just over £791,000 provided for in the section 106 obligation. It would be a matter for the Council to determine how and where the education contribution would be spent, but the closest existing school to the appeal site is Huntington Primary School off Butterbache Road. I understand however that the school has a limited area into which it might expand, and the possibility arises that a move to the opposite side of the A55 may be appropriate. In my view such a relocation would self-evidently be regarded as an important component of the mixed use character of the scheme.
50. However, the Health and Safety Executive (HSE) has raised an objection to this aspect of the proposal on the grounds of its proximity to the Huntington Water Treatment Works – which abuts the north-west side of the A55 to the west of the appeal site. I gather the works has consent for the storage in tanks of 42 tonnes of chlorine and 16 tonnes of sulphur dioxide. Failure of either could lead to the formation of a cloud of toxic gas which would drift in the prevailing wind to affect people in the vicinity. The water works are surrounded by risk contours which refer to the chances of receiving a dangerous toxic load. In the inner zone (which covers just the water works itself) the risk is assessed at 10 chances per million per year; in the middle zone the risk is 1 chance per million per year; and in the outer zone the risk is 0.3 chances per million per year. The school site falls within the outer zone, and, on the basis of its size (2.2ha) the HSE advises against the development. Had the proposed site been under 1.4ha however, I understand the HSE would have offered no such advice against the proposal.
51. As the appellant observes, the existing school also falls within the outer zone – though closer to its boundary with the middle zone, and provided the proposal is confined to a one form entry school an objection would not be triggered. The appellant invites a condition to this effect. I note in addition that the existing school is actually rather closer to the water works than the site shown on the Parameters Plan and directly to its north-east. Subject to the condition as recommended, I agree with the appellant that the HSE objection would be overcome.

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<sup>23</sup> Page 38

<sup>24</sup> Page 36

### **Drainage**

52. During the consultations at the application stage the local water utility (Dwr Cymru Welsh Water) advised that, in the event of planning permission being granted, a condition should be imposed requiring, amongst other matters, that the surface water from the highway drainage in the existing Sandy Lane catchment area should be prevented from entering the public sewerage system. I gather this would be in furtherance of the company's policy of surface water reduction from the public sewerage network wherever possible.
53. However, I agree with the appellant that the Sandy Lane highway drains are not its responsibility, and it is reasonable to expect that any additional capacity created by the removal of surface water should be reserved for the possible future development of Area B. In the circumstances, I have amended the suggested condition accordingly.

### **Conditions**

54. In addition to the matters to which I have already referred, I have considered the conditions suggested by the parties in the light of their observations and the contents of DoE Circular 11/95: *The Use of Conditions in Planning Permissions*. Draft conditions were suggested by both principal parties<sup>25</sup>.
55. In relation to the construction and phasing of the scheme (draft condition 5) I have altered the wording of both suggested conditions in the interests of clarity and in order to conform to the test of precision included in the Circular. I have also included reference to the employment and ancillary uses.
56. Draft condition 6 proposed by the Council includes an upper limit of 375 on the total number of dwellings. In view of the significance to the inquiry of the capacity of the local highway network, I consider this is both reasonable and necessary. I am doubtful that the Council's draft condition 7 would be compatible with its draft condition 6, but in view of the contents of PPS3 I accept that the appellant's draft condition 6 is necessary.
57. In relation to the possible contamination of the land I have used the draft conditions suggested by the Council and in accordance with the latest CLG advice.
58. Draft conditions 13, 14 and 15 proposed by the Council are reasonable and necessary in the interests of public health and environmental amenity. I have incorporated the Council's draft condition 16 and 17, concerned with waste management, into draft condition 15.
59. I noted on my site visit that the appeal site is subject to some noise interference from the A55. The scheme includes the development of noise-sensitive properties and noise conditions are therefore reasonable and necessary. I have incorporated the Council's draft condition 21, concerned with noise management, into draft condition 15.
60. The purpose of the Council's draft condition 22 is to secure the proposed off-site highway improvements before the occupation of any part of the development. In order to generate the necessary funds, the appellant

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<sup>25</sup> Documents 13 and 14 are those suggested by the Council. Document 28 are those suggested by the appellant.

considers completion of the works should be secured before the occupation of the 60<sup>th</sup> dwelling. The works will begin to generate additional traffic before the occupation of any of the buildings, and in my view the Council's suggested condition is not therefore unreasonable.

61. The purpose of the Council's draft condition 23 is to secure the construction of a satisfactory means of access to the site, and that of the appellant's draft condition 21 is to secure the pedestrian access across Aldford Road and Sandy Lane. Both are necessary and reasonable in the interests of highway and pedestrian safety.
62. I have incorporated the Council's draft condition 24 into condition 11.
63. The Council's draft condition 25 is necessary to secure the contents of the Travel Plan and the appointment of a Travel Plan Co-ordinator.
64. The Council's draft conditions 26, 27 and 28 are necessary to secure a safe and efficient means of access.
65. I have sought to rationalise the Council's draft conditions 29 to 35 concerned with drainage.
66. The Council's draft conditions 36 to 38 are designed to secure the landscaping of the appeal site and Area B. They are necessary in the interests of local amenity.
67. The purpose of the Council's draft condition 43 is to safeguard nature conservation interests.
68. The purpose of the Council's draft conditions 44 and 45 is to ensure the development is compatible with its surroundings. Consideration of the latter would be appropriate at the detailed stage.
69. The timing of the construction of the ancillary units included within the Council's draft condition 47 is covered by Schedule 2 of the section 106 obligation. In view of their size I see no need for a restriction on the times of deliveries.
70. The purpose of the Council's draft condition 51 is recorded as being to ensure compliance with the guidance included in PPS4 and local plan Policy EC 9. However, the essential objective of the former is to concentrate Class B1(a) uses in existing or planned town centres, and the latter is essentially permissive. I understand the appellant would prefer that the matter is left to the market to resolve, but the DAS records that the employment buildings would be constructed early in the development. The employment component of the scheme makes an important contribution to the principle of mixed development, but in my view the Council's objective can be achieved by the appropriate application of condition 5 – the Phasing Programme.
71. The need for extraction or ventilation equipment, as cited in the Council's draft condition 53, is a matter which can be left until the detailed stage.
72. Draft condition 54 is necessary in order to encourage the use of renewable energy.

73. Draft conditions 55 and 56 are necessary in the interests of archaeology.
74. Although not included in the list of draft conditions, the Council has also referred me to a number of conditions which, had the appeals been successful, would have been imposed in relation to a mixed use scheme near Cambridge<sup>26</sup>. I have considered these in the light of the appellant's observations. Some of the issues dealt with by the conditions are covered in the section 106 obligation. In my view the relevant BREEAM and disabled parking space requirements are matters which can be considered at the detailed stage.

**Conclusion**

75. I have concluded in relation to the first main issue that, subject to the improvements proposed, the development is acceptable in highway capacity terms. Furthermore, I am doubtful whether the A55 link should be considered a realistic prospect. I am certainly of the opinion that it is inappropriate to prevent the existing scheme on the grounds that the chances of achieving the link might thereby be enhanced. In relation to the second main issue, I consider the benefit of the proposed mixed uses would outweigh any conflict with policy in respect of the office component. I consider none of the other matters raised are sufficient to justify the dismissal of the appeal.
76. It is for the reasons given above that I have concluded the appeal should be allowed.

*Andrew Pykett*

**INSPECTOR**

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<sup>26</sup> See Document 3, pages 68-73

## **APPEARANCES**

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Christopher Young	of Counsel, instructed by Mr Simon Goacher, Head of Legal and Democratic Services, Cheshire West and Chester Council
He called:	
Mr Richard Woodford MRICS MRTPI	HOW Planning LLP
Mr Gary Rowland BEng CILT	Atkins Transport Planning
Mr Christopher Marsh FRICS MRTPI Dip TP DipCP	Christopher Marsh & Co Ltd, Sustainable Property Consultants

### **FOR THE APPELLANT:**

Mr Stephen Sauvain QC	Instructed by Mr David Walton of Walton & Co, 2 Queen Square, Leeds L51 2TW
He called:	
Mr David Pearson BEng CEng MICE	Bryan G Hall, Consulting Civil & Transportation Planning Engineers
Mr Andrew Grime BEng MBA CEng CWEM MICE FCIWEM	Weetwood Environmental Engineering
Mr Jim Rush BSc(Hons) NEBOSH DipHS NCIEH CMIOSH	White Young Green Management Services
Mr Doug Hann BA(Hons) MTPL MSC MRTPI	Indigo Planning Ltd
Mr Stephen Fawcett BSc(Est Man) MRICS	Hawksmoor Property Services
Mr Brian Egerton BSc(Hons) ICIOB	Hawksmoor Property Services

### **FOR SAINSBURY'S SUPERMARKETS LIMITED:**

Mr Christopher Hargreaves BEng MScEng	Director, Savell Bird & Axon, Consulting Engineers and Transportation Planners, Croxley House, 14 Lloyd Street, Manchester M2 5ND
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### **INTERESTED PERSONS:**

Cllr Mark Williams	Member, Cheshire West & Chester Council
Mrs Sue Proctor	Chair, Great Boughton Parish Council
Cllr Martin Kemp	Member, Huntington Parish Council

## **DOCUMENTS SUBMITTED DURING THE INQUIRY**

### **Submitted by the Council**

- 1 Opening submissions on behalf of the local planning authority
- 2 Appeal decision, Lydney APP/P1615/A/08/2082407
- 3 Appeal decisions, Cambridge APP/Q0505/A/09/2103599 & 2103592
- 4 Call-in decision, Beverley APP/E2001/V/08/1203215
- 5 Extract (pages 40 and 41) from the Report to Committee
- 6 Email dated 28 July 2009 from the Highways Agency
- 7 Statement dated February 2010 and Annexes (Parts 1 & 2), by Mr David Clark, on behalf of the Highways Agency
- 8 Draft conditions 1
- 9 Five-year housing land supply coverage in England (CLG)
- 10 Community Infrastructure Levy (CLG)
- 11 Supplementary Proof of Evidence, by Mr Rowland
- 12 Appeal decision, Bristol APP/P0119/A/06/2019118
- 13 Draft conditions 2
- 14 Draft contamination conditions
- 15 SPD: Affordable Housing, dated 18 July 2007
- 16 Closing submissions on behalf of the local planning authority

### **Submitted by the Appellant**

- 17 Opening statement on behalf of the Appellant
- 18 Rebuttal Proof by Mr Egerton
- 19 Rebuttal Proof by Mr Fawcett
- 20 Rebuttal Proof by Mr Pearson
- 21 Rebuttal Proof by Mr Grime
- 22 Notes of meetings between September 2005 and September 2008, and letter dated 2 October 2008 from the Highways Agency
- 23 Letter and enclosures dated 25 June 2009
- 24 Letter and enclosures dated 23 February 2007
- 25 Areas A and B: Summary Sheets
- 26 Letter and draft section 106 Agreement dated 26 March 2010
- 27 Draft section 106 unilateral undertaking
- 28 Draft conditions
- 29 Note by Mr Pearson concerning the Owen Williams report
- 30 Closing Statement on behalf of the Appellant
- 31 Unilateral Undertaking under section 106 of the 1990 Act

### **Submitted by Interested Persons**

- 32 Statement by Cllr Mark Williams
- 33 Statement by Mrs Sue Proctor
- 34 Statement by Cllr Martin Kemp
- 35 Letter dated 23 March 2010 by Cllr Pamela Hall

## **Annex**

### **Schedule of conditions**

- 1) Details of the appearance, landscaping, layout, and scale, (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development begins and the development shall be carried out as approved.
- 2) Application for approval of the reserved matters shall be made to the local planning authority not later than three years from the date of this permission.
- 3) The development hereby permitted shall begin not later than two years from the date of approval of the last of the reserved matters to be approved, or three years from the date of this permission, whichever is the later.
- 4) The development hereby permitted shall be carried out in accordance with the Parameters Plan submitted with the Design and Access Statement dated November 2008.
- 5) Before any of the development hereby approved commences a Phasing Programme identifying all the works to be carried out in that phase, including the employment and ancillary uses, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the programme, unless otherwise required by conditions of this permission.
- 6) No more than 375 dwellings are hereby permitted within the application site.
- 7) The residential development hereby permitted shall have a minimum average density of 30 dwellings per hectare.
- 8) Unless otherwise agreed by the Local Planning Authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until conditions (a) to (d) have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the Local Planning Authority in writing until condition (d) has been complied with in relation to that contamination.

#### **(a) Site Characterisation**

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report of the findings must include:

- (i) a survey of the extent, scale and nature of contamination;
- (ii) an assessment of the potential risks to:
  - human health,
  - property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes,
  - adjoining land,
  - groundwaters and surface waters,
  - ecological systems,
  - archaeological sites and ancient monuments;
- (iii) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

**(b) Submission of Remediation Scheme**

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

**(c) Implementation of Approved Remediation Scheme**

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.

**(d) Reporting of Unexpected Contamination**

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition (a), and where remediation is necessary a remediation scheme must be prepared in

accordance with the requirements of condition (b), which is subject to the approval in writing of the Local Planning Authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition (c).

(e) Long Term Monitoring and Maintenance

A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

- 9) Any imported materials, soil or soil forming materials brought into the site for use in soft landscaping areas, filling or construction shall be tested for contamination and suitability for use on site. Proposals for contamination testing shall be submitted to and approved in writing by the local planning authority in advance of any imported materials being brought onto the site. The development shall proceed in accordance with the approved details.
- 10) No fuels, oils, chemicals or effluents shall be stored, handled, loaded or unloaded on site unless and until a relevant scheme has been submitted to and approved in writing by the local planning authority. The scheme shall be implemented accordingly.
- 11) Before the commencement of each phase of the development, including site clearance and site remediation, a Construction Environmental Management Plan (CEMP) for that phase shall be submitted to and approved in writing by the local planning authority. The CEMP shall include all works of clearance, remediation and construction phases of the development, and include a site operating statement (hours of operation not being outside 0800-1800 Mondays to Fridays; 0800-1300 Saturdays), and shall specify permitted hours for construction works, delivery of materials and delivery and collection of equipment, provision and use of off-site parking for contractors and workpeoples' vehicles, dust suppression measures, waste management – including source separation and storage, wheel-washing facilities, street sweeping, temporary lighting, spill contingency plans, waste management, pollution prevention – including noise management, demolition and construction traffic movements, and management of fill and excavated material. No development or activities related or incidental thereto shall take place in contravention of the CEMP.
- 12) The following criteria shall apply to all residential properties within the development hereby approved:

- Maximum noise levels within habitable rooms during the day (0700-2300hrs) of 30dB(A)<sub>LAeq,16hrs</sub>
- Maximum noise levels within bedrooms during the night (2300-0700hrs) of 30dB(A)<sub>LAeq,8hrs</sub> and 45dB(A)<sub>LAmix</sub>
- Maximum noise levels within external areas such as balconies, terraces and gardens during the day (0700-2300hrs) of 50dB(A)<sub>LAeq,16hrs</sub>

Before each phase of the development a noise assessment to demonstrate that the criteria will be met shall be submitted to and approved in writing by the local planning authority. The internal noise levels shall be achieved with windows shut and other adequate means of ventilation provided, in accordance with current necessary requirements. Where the levels would be exceeded mitigation measures shall identify:

- Those properties which will require 6/12/6 double glazing (Rw 32) and trickle vents; and
- Any further necessary measures.

The mitigation measures shall be implemented for each property in accordance with the approved assessment before its occupation, and fully maintained thereafter.

- 13) The following criteria shall apply to all non-residential development hereby approved (including retail, school and office buildings):

The level of noise emitted from plant shall be lower than the existing background noise level by at least 10dB as measured at the nearest residential property. The plant noise level (or rating level) and the background noise level shall be measured or predicted by calculation over 1 hour periods between 2300-0700hrs.

Before the commencement of any non-residential development a noise assessment to demonstrate whether the criteria will be met, together with any necessary noise mitigation measures, shall be submitted to and approved in writing by the local planning authority. The measurements and assessments shall be made in accordance with BS 4142, and the rating level shall be taken to be the rating level as defined in BS 4142. Any noise mitigation measures required to meet the criteria shall be implemented in accordance with the approved details before the occupation of the relevant unit and fully maintained thereafter.

- 14) Before the commencement of any non-residential development hereby approved a noise assessment of the impact of deliveries on the residential amenity of neighbouring properties (existing and proposed) between 2300 and 0700hrs shall be submitted to and approved in writing by the local planning authority. Any noise mitigation measures necessary to meet the criteria shall be implemented in accordance with the approved details before the occupation of the relevant unit and fully maintained thereafter.
- 15) No development shall take place within the site until details of the off-site highway works within the highway boundary and a programme for their

implementation have been submitted to and approved in writing by the local planning authority. The works shall include:

- Junction alterations at the Boughton Heath roundabout as shown on Drawing No: 04/487/100/014 Rev H
- MOVA/CCTV measures at the A41/A51 junction
- A pedestrian crossing on Chester Road as shown on Drawing No: 04/487/100/100 Rev A
- Off road cycle lanes as shown on Drawing No: 04/487/100/100 Rev A

The works shall be implemented in accordance with the approved details before the occupation of any development hereby approved or in accordance with the Phasing Programme agreed in condition 5 above.

- 16) No development shall commence until details of the junction between the proposed service road(s) and the highway (Sandy Lane) as shown on Drawing No: 04/487/100/086 have been submitted to and approved in writing by the local planning authority, and no buildings shall be occupied until the respective junctions and the relevant parts of the service road by which it gains access have been constructed in accordance with the approved details.
- 17) No more than 200 dwellings of the development hereby approved shall be occupied unless and until a pedestrian access across Aldford Road and Sandy Lane is implemented in accordance with Drawing No: 04/487/100/105.
- 18) Any revisions to the approved Framework Travel Plan (dated 20 April 2009) shall be submitted to and approved in writing by the local planning authority. The Plan shall be implemented and monitored in accordance with the details set out and the results of the monitoring shall be submitted to the local planning authority within one month of the end of each monitoring period. The Travel Plan Co-ordinator shall be appointed before the commencement of development. Where targets are not achieved the Travel Plan Co-ordinator shall be notified by the local planning authority and the Plan shall be reviewed, updated and submitted to the local planning authority within one month of the notification. The updated Framework Travel Plan shall be implemented within one month thereafter.
- 19) Road construction within the development site shall be implemented in accordance with the current Cheshire Design Aid: Housing: Roads and Construction Specification.
- 20) Before any part of the development hereby permitted is first occupied visibility splays shall be provided in accordance with details to be submitted to and approved in writing by the local planning authority. Nothing shall be planted, erected or allowed to remain in the visibility splays in excess of 1m in height above the level of the adjacent carriageway.
- 21) Before the development hereby permitted is first occupied, or in accordance with a phasing scheme submitted to and agreed in writing by

the local planning authority, vehicle parking and turning spaces and cycle parking shall be provided within the site in accordance with the Council's SPG: Parking Provision within Developments in Chester. A scheme shall be submitted to and approved in writing by the local planning authority, and the scheme shall be implemented accordingly.

- 22) The development hereby permitted shall not commence unless and until a scheme for the disposal of foul and surface water has been submitted to and approved in writing by the local planning authority. Foul and surface water must be drained separately from the site, and the former shall be discharged into the public sewerage system at a rate not in excess of 14 litres/second. The development shall be implemented in accordance with the scheme.
- 23) The development hereby permitted shall not commence unless and until a scheme for the provision of a surface water regulation system has been submitted to and approved in writing by the local planning authority. Prior to the discharge into any watercourse, surface water sewer or soakaway, all surface water from large parking areas and hardstandings shall be passed through an oil interceptor designed and constructed to have a capacity and detail compatible with the area being drained. Roof water shall not pass through any interceptor. The development shall be implemented in accordance with the scheme.
- 24) No development shall take place until a scheme for the removal of all surface water flows from the site that currently enter the public sewerage system, identified in the Invek Survey's 'Impermeable Area Survey Layout' dated 4 November 2008, has been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
- 25) No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the local planning authority and these works shall be carried out as approved. These details shall include: existing trees to be retained, hard surfacing areas and materials, planting plans and specifications, and an implementation and maintenance programme.
- 26) If within a period of 5 years from the date of the planting of any tree that tree, or any tree planted in replacement for it, is removed, uprooted or destroyed or dies, or becomes, in the opinion of the local planning authority, seriously damaged or defective, another tree of the same species and size as that originally planted shall be planted at the same place, unless the local planning authority gives its written approval to any variation.
- 27) In this condition 'retained tree' means an existing tree which is to be retained in accordance with the approved plans and particulars; and paragraphs (i) and (ii) below shall have effect until the expiration of one year from the date of the occupation of the relevant building for its permitted use.
  - i) No retained tree shall be cut down, uprooted or destroyed, nor shall any retained tree be topped or lopped other than in accordance with the approved plans and particulars, without the written approval of

- the local planning authority. Any topping or lopping approved shall be carried out in accordance with BS 3998 (Tree Work).
- ii) If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.
  - iii) The erection of fencing for the protection of any retained tree shall be undertaken in accordance with BS 5837 (A Guide to Trees in Relation to Construction) the approved plans and particulars before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written approval of the local planning authority.
- 28) Before the commencement of the development hereby permitted, details of a management scheme and programme for the area referred to as Area B and the area reserved for the primary school shall be submitted to and approved in writing by the local planning authority. The management scheme shall be implemented as approved.
- 29) Before the commencement of the development hereby permitted an Open Space Strategy for the site shall detail the provision of a minimum of 500m<sup>2</sup> of Local Areas of Play (LAPs), 2 Locally Equipped Play Areas (LEAPs) and 1 Neighbourhood Equipped Play Area (NEAP) with respect to their location, specification and phasing, shall be submitted to and approved in writing by the local planning authority. The Strategy shall also detail the provision of any remaining areas of open space and the provision of 9,375m<sup>2</sup> of amenity space. The Strategy shall be implemented as approved, and the areas shall not thereafter be used for any other purpose.
- 30) Before the commencement of the development hereby permitted a nature conservation mitigation scheme and working method statement shall be submitted to and approved in writing by the local planning authority. The scheme and statement shall be implemented accordingly.
- 31) No development shall take place within the site until details of the existing and proposed ground levels of the development have been submitted to and approved in writing by the local planning authority. The development shall be implemented accordingly.
- 32) Within the development hereby permitted there shall be no more than one convenience goods retail shop unit (Class A1), and this shall have a gross floor area not exceeding 232m<sup>2</sup> (162m<sup>2</sup> net).
- 33) No more than 50% (2,500m<sup>2</sup>) of the total Class B1 employment floorspace hereby permitted shall be used for Class B1(a) of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that Class in any Statutory Instrument revoking or re-enacting that Order with or without modification.

- 34) No single Class B1 employment unit hereby permitted shall exceed an area of 500m<sup>2</sup>.
- 35) No development hereby permitted shall commence unless and until details of a scheme to demonstrate that not less than 10% of the total energy consumption of the development will be provided by means of decentralised and renewable or low-carbon sources. The development shall be implemented accordingly.
- 36) No development shall take place unless and until a detailed method statement for all new groundworks has been submitted to and approved in writing by the local planning authority. The works shall be undertaken accordingly.
- 37) No development shall take place within the application site until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority.
- 38) The proposed school shall not exceed the requirements of a one form entry primary school.
- 39) A minimum of 15% of all market dwellings and all affordable housing units shall meet the life-time homes standards, and a plan shall be submitted to and approved by the local planning authority showing their distribution. The development shall be implemented accordingly.
- 40) No development shall take place unless and until an interim certificate following a design stage review has been issued by a Code for Sustainable Homes Licensed Assessor to the local planning authority. The certificate shall indicate that all proposed market dwellings are capable of achieving a minimum of level 3 of the Code. All dwellings shall be constructed to meet the applicable code, with appropriate mitigation as necessary. Before the occupation of the dwelling the developer shall submit a certificate from the Building Research Establishment or another certified third party to the local planning authority indicating that the relevant code has been met.

