



Appeal Decisions

Inquiry held on 26 March and 9–11 April 2013

Site visit made on 11 April 2013

by Stephen Roscoe BEng MSc CEng MICE

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

Decision date: 30 May 2013

Appeal A

Ref: APP/R0660/A/12/2188195

Land at Coppice Way, Handforth, Cheshire

- 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 Mr Pasquale Nicosia, Greystone (UK) Limited against the decision of Cheshire East Council.
 - The application Ref 12/1578M, dated 4 May 2012, was refused by notice dated 16 November 2012.
 - The development proposed is a continuing care retirement community (care village) comprising a 58 bedroomed care home, 47 close care cottages and 15 shared ownership affordable dwellings, together with associated access roads, public open space, landscaping, car parking and ancillary development.
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Appeal B

Ref: APP/R0660/A/12/2188198

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 - The appeal is made by Mr Pasquale Nicosia, Greystone (UK) Limited against the decision of Cheshire East Council.
 - The application Ref 12/1627M, dated 4 May 2012, was refused by notice dated 16 November 2012.
 - The development proposed is a new vehicular access with means of access, layout and associated engineering works for consideration, with landscaping reserved for subsequent approval.
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Decisions

Appeal A

1. The appeal is allowed and outline planning permission granted for a continuing care retirement community (care village) comprising a 58 bedroomed care home, 47 close care cottages and 15 shared ownership affordable dwellings, together with associated access roads, public open space, landscaping, car parking and ancillary development on Land at Coppice Way, Handforth, Cheshire in accordance with the terms of the application, Ref 12/1578M, and subject to the conditions listed in Annex A at the end of this decision.

Appeal B

2. The appeal is allowed and outline planning permission granted for a new vehicular access with means of access, layout and associated engineering

works for consideration, with landscaping reserved for subsequent approval on Land at Coppice Way, Handforth, Cheshire in accordance with the terms of the application, Ref 12/1627M, and subject to the conditions listed in Annex B at the end of this decision.

Procedural Matters

3. The above applications were submitted in outline with landscaping reserved for future consideration, and the appeals have been considered on this basis.
4. During the Inquiry, the appellant submitted a draft Section 106 Unilateral Undertaking (UU) to the Council. Following negotiations with the Council during the Inquiry, and the subsequent submission of a draft Section 106 Agreement between the main parties and the owner of the appeal site, the appellant withdrew the UU from his case. It is however recorded as an Inquiry document in the interests of completeness.
5. The parties were given the opportunity, until the end of Thursday 18 April 2013, to submit a signed Section 106 Planning Obligation by Deed of Agreement in the form of the unsigned agreement submitted during the course of the Inquiry. This was submitted before the deadline and has been taken into account in these decisions.
6. The North West of England Plan Regional Spatial Strategy to 2021 has been revoked on 20 May 2013 following the closure of the Inquiry. The main parties however confirmed, in the Inquiry, that any such revocation would have no bearing on their cases, and the appeals have been considered on this basis.
7. A proof of evidence and summary was submitted by Mr M Bullock relating to demographics. The appellant subsequently saw no need to call Mr Bullock, the Council had no objection to this course of action and Mr Bullock's evidence can be satisfactorily considered as written representations. These documents have been included as Inquiry proof of evidence documents, but the appeals have been considered on the above basis.
8. An agreed statement was submitted to the Inquiry between the Council, the appellant and Gladman Developments Limited. The statement identifies the different positions of these parties on housing land supply in Cheshire East. It also records that the land use proposed under Appeal A would be sui generis and therefore would not contribute to the supply of housing land. Furthermore, it is recorded that, whilst the proposal would free up a number of general market homes and this would attract some weight as a benefit of the scheme, the matter of housing land supply is not an issue for the parties at this Inquiry. There is no reason to disagree with the position of the parties that housing land supply is not an issue for this Inquiry, and the appeals have been considered on this basis.
9. Previous appeal decisions, Refs APP/R0660/A/10/2123053 and APP/R0660/A/10/2123055, into similar schemes at the site for Appeal A found that, at that time, the cases in favour of the schemes were not proven. This was because the assessment of need was not sufficiently robust to justify a departure from Local Plan¹ (LP) Saved Policy GC7. The decisions however did not find that there was any bar against land release for development on the

¹ Macclesfield Borough Local Plan: 8 January 2004

site if a sufficiently robust need existed. These appeals have been taken into account in this decision on Appeal A.

Main Issues

10. The main issue in each of these cases is whether the proposals would result in any benefits that would represent material considerations sufficient to justify a departure from the development plan, with reference to Local Plan Saved Policies GC7 and RT6.

Reasons

Appeal A

Policy Background

11. The majority of the site for Appeal A is designated as safeguarded land under LP Saved Policy GC7, which designates safeguarded land between the urban limit and the inner boundary of the Green Belt. The purpose of designated safeguarded land is to prevent its development, over a period of time stretching to well beyond the plan period. This is to allow the land to be subsequently released for development following a review of the development plan, but prior to the release of Green Belt land for development.
12. The intention is that the introduction of such a buffer would reduce development pressure on the Green Belt and its boundaries by decreasing the frequency of reviews of Green Belt boundaries during the preparation of new local plans. This is to ensure that Green Belt boundaries are capable of enduring beyond the particular plan period under review. This in turn helps to maintain and reinforce strict development control in the Green Belt. Safeguarded land is therefore to be used to meet longer term development needs, in other words over a longer term than the period of the plan.
13. In the case of the safeguarded land at the appeal site, this process has not been followed. The most recently adopted LP period ran between January 2004 and 2011. The Council has not reviewed the status of the safeguarded land in the LP either before the end of this plan period, which would be expected in order that a replacement plan could be in place following the end of the plan period, or indeed at any time since. In fact, in comparison with the most recent adopted LP period of some 7 years, between January 2004 and 2011, over 2 years has now expired since the end of this period, and the time therefore is now well beyond the plan period.
14. Furthermore, there now appears to be development pressure on nearby Green Belt land to the east of the A34. This is from its identification in a 2012 emerging local plan (eLP) consultation document² as a potential mixed use development site with new safeguarded land beyond. This document also advises that, as safeguarded land in the LP, the site may be required to serve development needs after 2011. This is a clear indication that the status of the safeguarded land should have been reviewed well before now, and indeed this opportunity has been available for some time.
15. It therefore now appears that planning to protect the integrity of the boundary of the Green Belt in this area is not working. The safeguarded land, rather than providing sequential land release for future development needs,

² Cheshire East Local Plan: Consultation Document: Draft Handforth Town Strategy

- is throttling development. This is leading to the consideration of options where Green Belt land would be removed from the designation and immediately allocated for early development. Whilst this effect has been accentuated by the limited extent of safeguarded land in the most recent LP, the principle remains that the intended system is not working.
16. The safeguarding of the appeal site, under LP Saved Policy GC7 and between the settlement and the Green Belt, has therefore already fulfilled its purpose since its first designation in 1988 and has been overtaken by events. This is comparable to a situation in appeal Ref APP/D2320/A/12/2172036, which found a similar policy to be out of date. It also appears that, in conflict with the National Planning Policy Framework, the Green Belt boundaries will need to be altered at the end of the LP period. LP Saved Policy GC7, as it relates to the appeal site, therefore shows little consistency with the Framework and is thus out of date.
 17. Because the areas of safeguarded land in the LP are small, the proposal would utilise much of it. The extent of safeguarded land designated in the LP was however set during the preparation of the LP. With hindsight, it could be said that the extent should have been greater. The fact is that, whatever the extent, it has now served its purpose, and the proportion of the safeguarded land that the proposal would utilise is therefore not a material consideration of any significant weight in this appeal.
 18. The Framework emphasises that planning should be genuinely plan-led and empower local people to shape their surroundings. This however carries a responsibility for timely plan production, which has not happened here. The Framework is clear in terms of the golden thread of the principles of sustainable development that, where policies are out of date, any adverse impact would need to significantly and demonstrably outweigh the benefits of a development for the proposed development to be refused.
 19. Notwithstanding the above points, the fact that parts of the LP have become out of date does not however mean that the whole plan can be set aside. The Green Belt still needs protection but, at this late stage, it may have to be by development on safeguarded land. This mechanism however still follows the aim of the LP for development on safeguarded land after the plan period. The mechanism is therefore still genuinely plan led, and the LP was the subject of public consultation prior to its adoption in 2004.
 20. The Framework is also clear that the absence of a plan, in this case an adopted replacement plan, is not a reason in itself to withhold planning permission. There is evidence of objections to development on either side of the A34, but no evidence of firm proposals to accommodate future needs in this area. The eLP process, and the variety of proposals within it, can therefore only be given limited weight in this case. Moreover, the opportunity for local people to shape their surroundings has to be, and is available, through the plan process in terms of development to the east of the A34. Such an opportunity in relation to the appeal site has however passed.
 21. Handforth Parish Council has recently requested that the appeal site is designated as Local Green Space. Some representations also indicate that there is local support for the suggested future development, with further safeguarded land, on Green Belt land to the east of the A34, with the appeal site then being designated as Local Green Space.

22. These suggestions are effectively a reversal of the future development strategy in the existing LP, which seeks the development of the appeal site before any other land to the east. Such a reversal, at this stage in the adoption process, can only be given very limited weight. The identification of the pressure and need for development in this area within the eLP process is however a different matter and can be given a greater degree of weight.
23. Reference has also been made to the Council's December 2012 eLP document entitled "Shaping Our Future", which suggests the allocation of part of the site for commercial purposes. This suggested allocation has been said to be in error, and it was said that the document should not show any new development to the west of the A34. There is however no evidence in support of these statements, and the Council's evidence includes an eLP document that shows this commercial allocation. Whilst the document and the statements carry limited weight in this decision, the variety of land uses in the evidence reinforces the view that the eLP is still at an early stage in its progress towards adoption.
24. I therefore conclude that Local Plan Saved Policy GC7 shows little consistency with the National Planning Policy Framework and is out of date in relation to the appeal site. The proposal should therefore be granted planning permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole and the remainder of the development plan.

Need

25. The Council does not object to the provision of the 47 close care cottages and 15 affordable dwellings, and indeed the witness from its Directorate of Children, Families and Adult Services welcomed them on the basis of need. This is the case notwithstanding evidence from Hartford Parish Council which suggests that there is little current demand for retirement dwellings in the village. Whilst local input can reveal matters of significance, in this instance the Council's position is clear and there is no reason to disagree.
26. The appellant's assessment of need for the care home is based on a catchment area with a radius of 10km. There is no evidence to suggest that any other catchment area would be more appropriate. Moreover, this area includes parts of adjoining planning authorities, including central Manchester. There is therefore no reason to doubt the appropriateness of the catchment area.
27. The occupancy rate, from the Council's evidence, for the 1,962 care home beds within the catchment area is some 95%. This is higher than a recently published national average of 90%, and it effectively renders the care homes in the area, on average, operationally full.
28. The ratio of care beds to the population of the catchment area is 1:240. This is a much lower level of provision than the English national average of approximately 1:112. This national average ratio uses the Care Quality Commission registered bed figures at July 2011 and a population of some 52.5m, as agreed in the Inquiry. There is therefore evidence of a current need for the care home proposal.
29. The number of nursing care beds in the catchment area is likely to be a maximum of 1,233. Using the Office of National Statistics 2009 population estimates to derive the catchment population over the age of 75 and using the

- likely number of care beds that such a population would require, from the Department of Health and DCLG documentation³, the number of nursing care beds should be 1,614. On this basis therefore, there is also a shortfall in the number of nursing care beds available. This figure takes into account changes to the population over the age of 75 from 2009, which is said to be increasing.
30. Although the appellant's evidence suggests otherwise, there is nothing in the proposal to prevent the home from providing general care instead of nursing care. Indeed, the application description and the Design and Access Statement propose a care home and not specifically a nursing care home. Notwithstanding this flexibility however, the shortfall in nursing care beds adds weight to the current need for the care home proposal.
31. The population aged over 75 years is likely to increase in the future. Indeed, a recent House of Lords Select Committee report⁴ suggested that the population in England over the age of 85 is likely to increase by 101% between 2010 and 2030. Moreover, the Council's draft Supported Housing Strategy also suggests that this population in Cheshire East is likely to increase by 70% between 2012 and 2030.
32. The Council's draft strategy also suggests that the demand for care home places in Cheshire East could almost double by 2030. The figures in this projection are based on the Projecting Older People Population (POPPI) website which suggests a theoretical requirement in Cheshire East of 3,126 beds in 2012 compared with 4,043 actual beds. Homes within the 10km catchment are however operationally full, and the theoretical shortage, if indeed it exists, must therefore be in the southern part of Cheshire East, outside the 10km catchment.
33. The POPPI output thus provides little support to the Council's position that there is a current oversupply of care home places in relation to the proposal. The degree of the future trend in the Council's draft strategy is however sufficient to outweigh any concerns over the trend not being markedly upwards within the 10km catchment. The strategy therefore generally suggests that the need for the care home will increase in the future.
34. In future years, there is likely to be an increase in the level and types of care provided in the own homes of the older population. This however is not likely to be a panacea in terms of future care, and it would be unlikely to offset the significant shortfall of care home places created by the predicted increase in the need for care. The impact of future changes in methods for the provision of care would therefore be no reason to wait until a redesigned system is in operation before assessing the ongoing need for care home places. Indeed, to wait in this manner would significantly and unacceptably increase the risk that insufficient care home places would be available in the future.
35. The site search undertaken by the appellant, which included previously developed land, has not identified any other sites that would be more suitable to accommodate the proposal. There are no cogent reasons to reject this finding. The search has included parts of the adjoining authorities of Manchester, Stockport and Trafford. The result of the search adds weight to the need for the appeal proposals on this particular site.

³ More Choice, Greater Voice – A Toolkit for Producing a Strategy for Accommodation with Care for Older People: Department of Health and the Department for Communities and Local Government: February 2008

⁴ Ready for Ageing?: House of Lords Select Committee on Public Service and Demographic Change: 14 March 2013

36. The accessibility of a site at Tytherington, considered in the site search, is similar to that of the appeal site. The appeal site is however more accessible than the site at Tytherington due to the presence of a nearby retail park, which offers a variety of goods and lies within walking distance of the appeal site. The absence of any other identified sites adds weight in favour of the appeal proposal and satisfactorily addresses the related concerns raised in appeal Refs APP/R0660/A/10/2123053 and APP/R0660/A/10/2123055.
37. To provide the close care units and the care home on separate sites would be likely to materially change the results of the site search. This would be as a consequence of the inclusion of various other smaller sites, including some on previously developed land. The inclusion of smaller sites from the separation of these two elements of the proposal however would not outweigh the benefits from the combined proposal on the safeguarded land.
38. I therefore conclude that there is a current and future need for the proposal under Appeal A and that this is a material consideration of significant weight in support of the proposal.

Other Benefits

39. The level of care that would be offered by the appeal proposal would be, to some extent, dependent on the location of the close care units and the care home on the same site. There would be a direct benefit from the movement of occupiers from the units to the home, and the fact that they would not require to move to a different location. The numbers involved however would not be likely to be sufficient to fill the care home, and they would be minimal in the early years, due to the likely age and health of those occupying the units.
40. Indirect benefits would also be possible through the availability of: respite care; care for one partner in a couple being provided in close proximity to the home of the remaining independent partner; nearby appropriate facilities; services and expertise for ageing unit occupiers; and opportunities for self help within the integrated community of varied abilities.
41. Whilst these indirect benefits are difficult to quantify, there is evidence from both main parties on the advantages of continuing care retirement communities. Moreover, there is no evidence of any other such communities anywhere near the catchment area for the proposal. Throughout the UK, there is also evidence of care homes being retrospectively added to developments of close care units.
42. These indirect benefits would outweigh the limited numbers of unit occupiers that would be likely to make the direct transfer from their own homes into the care home. The combination of, and the flexibility in, the types of care that would be available as a result of the proposal would therefore represent a material consideration of significant weight in support of the proposal.
43. The proposal would include 15 shared ownership affordable dwellings, as described in the planning application. These would be in effect discounted sale leasehold dwellings. Whilst the arrangements between the leaseholder and freeholder would not be in conjunction with any Registered Social Landlord, the leasehold ownership of the units would be subject to entry requirements. This would make them more affordable than the remainder of the close care units, and this is a benefit in support of the proposal.

44. The proposal would be likely to facilitate the release of previously occupied housing onto the market. Notwithstanding any housing land supply situation, this release would be likely to make more efficient use of the existing housing stock, and this benefit would add some weight in favour of the proposal.
45. Part of the appeal site is allocated for recreational purposes in LP Saved Policy RT6 and shown as proposed open space on the LP Proposals Map. It is however private land with no public access. The LP clearly sees this area of land as being of benefit in terms of future public use and not for landscape reasons or to preserve the setting of the nearby Grade II* listed Handforth Hall.
46. The proposal would provide open amenity space to the west of the diverted footpath and would include a contribution to the Council towards open space purposes. Whilst the area of the proposed open space would be less than the area of the site allocated under LP Saved Policy RT6, it would be accessible to the public, which the current allocation is not. This, together with the contribution, is a material consideration of some weight in support of the appeal.

Adverse Impacts

47. The Council has suggested that the proposal, and in particular its tone, would prejudice the development of the remainder of the safeguarded land in this area, to the south of the appeal site, and also the nearby Green Belt land to the east of the A34 dual carriageway. The appeal site lies alongside a proposed link, which is identified in the eLP. This would connect the potential mixed use development on the Green Belt land to the east of the A34 with the centre of Handforth to the west of the A34. From the road network in the surrounding area and the significant barrier presented by the A34 dual carriageway, the movement corridor would however be unlikely to provide a vehicular connection between the Green Belt land and the settlement.
48. A pedestrian access is currently available on a public footpath, generally within a private vehicular access track to the west of the A34, along the route of this proposed movement corridor. The public footpath lies outside the site boundary. The proposal would change the use of the land to the north of this footpath from agricultural to residential and care home development with a secure boundary. There is however no reasoned evidence that this would prejudice: the use of this access; development to the south of the footpath, which would be accessed by a continuation of the access road proposed through the appeal site and is the subject of a planning application for residential development; or the satisfactory integration of development on the Green Belt land to the east of the A34.
49. Moreover, the Draft Handforth Town Strategy shows both sides of the route to be occupied by residential development and the Council has been clear that its case is not based on prematurity. There is also no cogent evidence that the appeal site would be able to provide any sort of hub for uses in the surrounding area due to the proximity of the dual carriageway. The proposal therefore would not prejudice the development of the remainder of the safeguarded land and some of the Green Belt land in this area.

Appeal B

Need

50. There is clear evidence of a current and even greater future need for the proposal under Appeal A, and this proposal would require vehicular access. The proposal under Appeal B would provide this access, and there is therefore also clear evidence of a need for the access.

Other Benefits

51. The proposal under Appeal B would provide a potential vehicular access to the safeguarded land to the south of the site. This would avoid future traffic from this site having to use the residential Hall Road, and this is a material benefit in favour of the scheme. The traffic impact of any development schemes on this land to the south and the Green Belt land to the east of the A34 dual carriageway should however be considered on their own merits when particular schemes are put forward. Any impacts therefore are not within the scope of this appeal.

Adverse Impacts

52. The proposal under Appeal B would result in development of the vehicular access over land allocated for recreational purposes in LP Saved Policy RT6. The likelihood of the use of this land for recreational purposes in its current situation is however limited due to it being a narrow bunded nib between the agricultural land of the site for Appeal A and busy road junctions.
53. If the agricultural land on the Appeal A site is developed, there would be a possibility that the recreational allocation may be able to be put to some use. The development of the agricultural land would however require the vehicular access, and so part of the allocation would have to be lost to realistically achieve any recreational benefit from the remainder of the allocation. The loss of the allocated recreational land under Appeal B therefore has a very limited impact in terms of the aims of LP Saved Policy RT6.
54. The traffic that would be likely to be generated by the proposed development and use the access under Appeal B would be limited in comparison to existing traffic levels in the surrounding area. It thus would not have any material impact on the existing traffic situation. Furthermore, the Highway Authority has not objected to the proposal.

Planning Balance

55. Dealing first with the proposal under Appeal A, this would result in the development of an area of safeguarded land, designated in the LP. The element of LP Saved Policy GC7 that designates this safeguarded land is however out of date. The proposal should therefore be considered in the context of whether any adverse impacts resulting from the proposal would significantly and demonstrably outweigh its benefits.
56. There is a clearly identified current and future need for the proposal under Appeal A, and this benefit is a material consideration of significant weight in this decision. Furthermore, the proposal would be likely to provide a functionally efficient and societally sympathetic means of delivering future care both in and outside the homes of the older population. These benefits,

as material considerations, also carry significant weight in support of the appeal. Moreover, a proportion of the close care units would be available to those having lesser means to support themselves, and this benefit adds weight in favour of the appeal.

57. There is no reasoned evidence that the proposals would prejudice the development of the surrounding area in terms of the safeguarded land or the Green Belt. As a consequence, this adverse impact would not significantly and demonstrably outweigh the benefits of the proposal.
58. The proposal would also include the provision of open amenity space and a contribution towards further open space purposes. These benefits would be material considerations of sufficient weight to justify a departure from LP Saved Policy RT6, which allocates a larger area of the appeal site for recreational purposes but which is not publicly accessible at present.
59. I therefore conclude that the proposal under Appeal A would result in benefits and these represent material considerations sufficient to justify a departure from the development plan. This conclusion has been reached with reference to Local Plan Saved Policies GC7, which has been found to be out of date, and RT6, where there are material considerations that justify a departure from some of its protective measures.
60. I now turn to the proposal under Appeal B. There is a clearly identified current and future need for the proposal, and this benefit is a material consideration of significant weight in this decision. Furthermore, the proposal would provide a potential vehicular access to the safeguarded land to the south of the site, and this is a material benefit of some weight in favour of the proposal. The proposal would require land allocated for recreational purposes in the LP. The resulting adverse impact would however be limited due to the improved accessibility of the remainder of the allocated land.
61. I therefore conclude that the proposal under Appeal B would result in benefits and that these represent material considerations sufficient to justify a departure from Local Plan Saved Policy RT6 in this case.

Other Matters

62. The Council has suggested that, due to a lack of need, new residents from outside Cheshire East could have to enter the home to ensure its viability. They would then represent a risk that the Council could be responsible for their future care. The financial concerns of the Council are however not material considerations in this case, as has been found on many other occasions including in the *Health and Safety Executive v Wolverhampton City Council & Victoria Hall Ltd* [2012] UKSC 34 case. This is the situation notwithstanding an annual increase in those needing Council support in care homes and the Council's 2011/12 expenditure of some £2.2m of support to those unable to afford fees previously met privately.
63. The presence of a small population of great crested newts in areas outside of the appeal site is a consideration in terms of the proposal under Appeal A. This is because the proposal could have a moderate impact from the loss and modification of intermediate and distant terrestrial habitat and a low impact from fragmentation and the isolation of populations. The implementation of a mitigation strategy would however enhance the favourable conservation status of the species and could be regulated by means of a condition.

64. The site for Appeal A includes a variety of habitats (including woodland, scrub, hedgerows and grassland) which could provide nesting and foraging opportunities for a variety of resident and migratory bird species. Disturbance to local bird populations as a consequence of the proposal would however be negligible and temporary. This is because similar breeding and foraging habitats are present in the surrounding area, suitable habitat could be included in the landscaping proposals and habitat removal could be restricted to outside of the nesting bird season. The latter two points could be regulated by the imposition of appropriate conditions.
65. Whilst the site for Appeal A is unlikely to be used as a bat roosting area, it is used for bat foraging and commuting. Suitable mitigation and roosting features could be incorporated in the development and lighting levels could be restricted. These matters could be regulated by means of conditions.
66. General habitats on the site for Appeal A are of low to moderate value in a local context, and their loss would result in a minor adverse impact on biodiversity in the local area. Appropriate compensation to achieve a net gain for biodiversity could however be provided in landscaped areas and areas where vegetation is to be retained on the site. This could be regulated by means of a condition.
67. A footpath between Hall Road and the retail park crosses the site for Appeal A. It is subject to litter and abandoned trolley nuisance which appears to be related to the retail park. Whilst it is likely that the diverted footpath would be subject to similar pressures, the areas adjacent to it would be the subject of a landscape management plan which could be regulated by means of a condition. This could reduce the current problems.
68. The diverted footpath would also be partially overlooked by some of the close care units. This would introduce a degree of natural surveillance which could discourage such nuisance activities and improve personal safety. Furthermore, the landscaping in this area, which would be subject to a further Council approval, could be designed with personal safety in mind. These factors would offset the increased length of the footpath that would not be visible from Hall Road or Coppice Way. Moreover, the landscaping could be designed to maintain the current level of security to the garden boundary of Handforth Hall which is provided by the vegetated site to the west of the existing footpath.
69. The proposal under Appeal B would require the removal of part of the mounded barrier between housing and the retail park. The removed length would however not be significant. The proposed development under Appeal A, including landscaping which would reduce sound reflection and amplification, would therefore be likely to provide sufficient screening to compensate for the loss of part of this barrier and prevent any increase in noise and disturbance. In a similar manner, the development would enhance the level of screening between some of the existing housing and the A34, particularly in terms of noise and disturbance from the nearby roundabout junction. It would however be necessary to undertake a noise assessment to ensure that noise levels and any mitigation measures in relation to the care home were acceptable in planning terms. This could be regulated by means of a condition.
70. The Grade II* listed Handforth Hall lies adjacent to the appeal site. There are no significant views of the hall across the site, and the hall would be sufficiently separated from the nearest parts of the proposed development under Appeal A by existing and indicatively proposed vegetation. The proposal therefore would

not have any harmful effect on the setting of the hall. The hall has been the subject of surface water flooding in the past. A condition to regulate surface water drainage for the proposed development under Appeal A would assist in the prevention of such a situation in the future.

71. It has been suggested that the proposal under Appeal A would increase pressure on the Handforth medical practices. This may well be the case, but there has been no objection from the medical practices and there is no evidence of any request for a funding contribution from the proposed development towards healthcare services. Any increased pressure would therefore be no reason to dismiss the appeal.
72. The appeal site is within reasonable walking distance of Handforth railway station and local bus routes. Whilst this access may not be appropriate for some occupiers of the proposed development, it would give members of staff and visitors an opportunity to use public transport. There is no evidence to suggest that the level of parking proposed for the development under Appeal A would lead to a worsening of the somewhat intermittent parking problems on Hall Road.

Conditions

Appeal A

73. Conditions would be necessary in relation to external materials, boundary treatment, tree and hedge protection and a landscape and habitat management plan to protect the character and appearance of the surrounding area. A condition would be required in respect of foul and surface water drainage to minimise the risk of flooding on the site and in the surrounding area. Conditions in respect of external lighting, refuse storage, noise, a Construction Management Plan, contaminated land, the hours of construction and pile driving details would be necessary to protect the living conditions of nearby occupiers.
74. Conditions in relation to cycle parking, the public footpath and cycleway and decentralised energy would be required in the interests of sustainable development. Conditions would be necessary in relation to bird and bat features, great crested newt mitigation, badger protection and bird nest protection in the interests of biodiversity. A condition would be required in respect of the close care cottage and shared ownership affordable dwelling construction programming to assist in the operation of the development as a continuing care retirement community. It would however be necessary to amend the Council's suggested conditions in the interests of precision and enforceability.
75. Otherwise than as set out in this decision, it would also be necessary that the development should be undertaken in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition would therefore be required to define the approved plans. A number of the suggested conditions also include for the approval of details by the Council to an alternative timescale. Section 73 of the 1990 Act, as amended, provides the proper mechanism for the reconsideration of the conditions attached to any permission. Such elements of the suggested conditions would therefore be unnecessary and indeed would seek to circumvent the mechanism.

76. The maintenance and retention of landscaping on the appeal site would be satisfactorily regulated by the condition requiring the approval and implementation of a landscape and habitat management plan. Concerns have been expressed in relation to surface water flooding from the site, and therefore the Council's suggested condition to regulate foul and surface water from the site should include for drainage within the site. A Construction Method Statement would be necessary to reduce the impacts of construction to an acceptable level.
77. The bungalows would be developed at a high density. This would however not be at an unusually high density. The circumstances of the development would therefore not be sufficiently exceptional to warrant the removal of permitted development rights to protect the living conditions of adjoining occupiers as suggested by the Council.

Appeal B

78. Otherwise than as set out in this decision, it would be necessary that the development should be undertaken in accordance with the approved plans for the avoidance of doubt and in the interests of proper planning. A condition would therefore be required to define the approved plans.
79. In view of the likely cost of the new vehicular access to the site under Appeal B, construction would be unlikely to be commenced before sufficient security had been obtained that the continuing care retirement community under Appeal A would be likely to proceed. The Council's suggested condition requiring a contract to be "made" for the construction of the care community prior to the commencement of the construction of the access would therefore not be necessary.

Section 106 Agreement

80. The Section 106 Agreement between the main parties and the owner of the appeal site places various obligations on the appellant and the Council in relation to the occupation and management of the care community. These would be necessary to satisfy the identified need and would be directly, fairly and reasonably related to the development. The appellant's obligations include the payment of contributions towards the monitoring of a travel plan and open space purposes. The implementation of the travel plan would be necessary in the interests of sustainable development, and the plan would be directly related to the development under Appeal A. The contribution would also be fairly and reasonably related to the development in scale and kind.
81. The proposal under Appeal A would occupy some land allocated for recreational purposes. It would therefore be necessary to improve the provision of open space in the surrounding area to compensate for this loss, and the contribution would be fairly related to the development in scale and kind. The contributions in the agreement would therefore meet the statutory requirements of Regulation 122 of the Community Infrastructure Regulations 2010.
82. Whilst the discounted sale leasehold houses are identified as a benefit of the proposal under Appeal A in this decision, in the planning balance they would not be necessary to make the development acceptable in planning terms. Moreover, there is no evidence of policy support for their provision.

This element of the agreement has therefore not been taken into account in this decision.

Conclusions

83. Having taken into account all other matters raised, including an e-petition (details of which were submitted by Handforth Parish Council), none carry sufficient weight to alter the decisions. I therefore conclude that the appeals should be allowed.

Stephen Roscoe

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss B Forster, Of Counsel Instructed by the Head of Legal and
Administrative Services, Cheshire East Council

She called

Ms L Scally CCS MA PGC Strategic Commissioning Head of Service,
Directorate of Children, Families and Adult
Services, Cheshire East Council

Mr A Fisher BSc(Hons)
MTpl MRTPI Strategic Planning and Housing Manager,
Cheshire East Council

FOR THE APPELLANT:

Mr P Tucker QC Instructed by Mr G Stock, Partner, Deloitte LLP

He called

Mr J Sneddon BSc(Hons)
MRTPI Managing Director, Tetlow King Planning

Mr P Nicosia Greystone (UK) Limited

Mr G Stock BA(Hons)
AIEMA MRTPI Partner, Deloitte LLP

INTERESTED PERSONS:

Cllr R Small Handforth Parish Council

Cllr B Burkhill Handforth Ward Councillor, Cheshire East Council

Cllr D Mahon Handforth Ward Councillor, Cheshire East Council

Mr D Fehily Local Resident

Mrs S Lockwood Local Resident

Mr W Garvey Local Resident

DOCUMENTS

General

- G1 Letter of notification of the Inquiry
- G2 Letters from Interested Persons

Documents Submitted by the Council

- CEC/LS/1 Ms L Scally: Proof of Evidence
- CEC/LS/2 Ms L Scally: Appendices

- CEC/AF/1 Mr A Fisher: Proof of Evidence
- CEC/AF/2 Mr A Fisher: Appendices

Submitted During the Inquiry

- CEC1 Details of the 2007 and 2011 planning permissions for a continuing care retirement community at the former TA site, Chester Road, Macclesfield Refs 07/0430P and 11/3199M
- CEC2 Reading List in respect of Ms Scally's proof of evidence
- CEC3 Definitive Map Extract: Working Copy: FP's 91 and 127
- CEC4 Older People's Vision for Long Term Care: Joseph Rowntree Foundation
- CEC5 Appeal Notification Letters
- CEC6 Suggested Conditions
- CEC7 Closing Submissions
- CEC8 Planning Obligation by Deed of Agreement under Section 106 of the Town and Country Planning Act 1990 relating to Land to the South of Coppice Way, Handforth, Cheshire: Dated 18 April 2013: Between Cheshire East Borough Council, Robert Wadsworth Adcock, Geoffrey Arnold Shindler, Alasdair Kay Carmichael, the Trustees of the RK Wadsworth Will Trust and Greystone (UK) Limited

Documents Submitted by the Appellant

- PN/JS/1 Mr J Sneddon: Proof of Evidence
- PN/JS/2 Mr J Sneddon: Appendices
- PN/JS/3 Mr J Sneddon: Summary

- PN/PN/1 Mr P Nicosia: Proof of Evidence
- PN/PN/2 Mr P Nicosia: Summary

- PN/GS/1 Mr G Stock: Proof of Evidence
- PN/GS/2 Mr G Stock: Appendices

- PN/MB/1 Mr M Bullock: Proof of Evidence
- PN/MB/2 Mr M Bullock: Summary

Submitted During the Inquiry

PN1	Mr G Stock: Rebuttal Proof
PN2	Mr P Nicosia: Rebuttal Proof
PN3	Mr J Sneddon: Rebuttal Proof
PN4	Housing Supply Statement agreed between the Council, the Appellant and Gladman Developments Limited
PN5	Appellant's response, dated 3 April 2012, to the Council's submitted footpaths definitive map extract
PN6	Draft Unilateral Undertaking (Outline Planning Permission) from the Trustees of the RK Wadsworth Will Trust and Greystone (UK) Limited to Cheshire East Council
PN7	List of Appearances
PN8	Opening Submissions
PN9	Application Nos 12/1578M and 12/1627M: Strategic Planning Board Update: Cheshire East Council: 14 November 2012
PN10	More Choice, Greater Voice: Department for Communities and Local Government: February 2008
PN11	Application No 12/1578M: Strategic Planning Board Update: Cheshire East Council: 13 November 2012
PN12	Draft Section 106 Planning Obligation by Deed of Agreement between Cheshire East Borough Council, the Trustees of the RK Wadsworth Will Trust and Greystone (UK) Limited
PN13	Closing Submissions

Documents Submitted at the Inquiry by Interested Persons

IP1	Cheshire East Local Plan: Draft Handforth Town Strategy Consultation
IP2	Handforth Parish Council: Documentary Evidence
IP3	Emery Planning Partnership: Letter to Cheshire East Council: 6 February 2013
IP4	Emery Planning Partnership: Letter to The Planning Inspectorate: 22 March 2013
IP5	Statement from Cllr H Burkhill
IP6	Statement from Cllr D Mahon
IP7	Handforth Parish Council's Submission to the Greystone Inquiry

ANNEX A

Conditions In Respect Of Appeal A

- 1) Details of the landscaping (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.
- 4) The development hereby permitted shall be carried out in accordance with the approved plans listed in Annex C.
- 5) Notwithstanding Condition 4, no development involving the use of any facing or roofing materials shall take place until samples of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details.
- 6) Notwithstanding Condition 4, no development shall take place until details of foul and surface water drainage have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details. The approved foul and surface water drainage relating to any part of the development shall be completed before that part of the development is occupied.
- 7) Notwithstanding Condition 4, no development shall take place until details of the design and materials and a programme for the installation of boundary treatment shown on drawing no. 400/009 rs C have been submitted to, and approved in writing by, the local planning authority. The boundary treatment shall be completed in accordance with the approved details and programme and shall thereafter be retained.
- 8) Notwithstanding Condition 4, no development shall take place (including any tree felling or pruning, demolition works, soil moving, temporary access construction or widening, or any operations involving the use of motorised vehicles or construction machinery) until an Arboricultural Method Statement has been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved Statement. The Statement shall include:
 - i) the implementation, supervision and monitoring of the approved Tree Protection Scheme;
 - ii) the implementation, supervision and monitoring of the approved Tree Work Specification;
 - iii) the implementation, supervision and monitoring of all approved construction works within any area designated as being fenced off or otherwise protected in the approved Tree Protection Scheme; and

- iv) the timing and phasing of arboricultural works in relation to the approved development.
- 9) Notwithstanding Condition 4, hedges shall not be cut down, grubbed out, otherwise removed, topped or lopped (so that the height of the hedge falls below 1.5m at any point) without the approval in writing of the local planning authority. Any hedges which (within a period of 5 years from the completion of the development) die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the local planning authority gives written approval to any variation.
- 10) Notwithstanding Condition 4, details of any external lighting shall be submitted to, and approved in writing by, the local planning authority before it is installed. Development shall be carried out in accordance with the approved details.
- 11) Notwithstanding Condition 4, no development shall take place until details (showing the location, design and materials of proposed facilities for the disposal and storage of any refuse or recyclable materials and details of any bin stores) have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details and thereafter retained. No part of the development hereby permitted shall be occupied until the approved facilities which serve that part of the development have been completed and made available for use.
- 12) Notwithstanding Condition 4, no development shall take place until an assessment report of traffic noise from the A34 Handforth by-pass road has been carried out in accordance with a methodology which has previously been submitted to, and approved in writing by, the local planning authority. The report shall include a scheme of sound insulation for the care home with details of the building including windows, openings and ventilation. The report shall be submitted to, and approved in writing by, the local planning authority before any development begins. The approved details shall be implemented and completed before the care home is occupied, and they shall thereafter be retained.
- 13) Notwithstanding Condition 4, the care home shall not be occupied until parking and storage facilities for cycles of staff and visitors to the care home have been provided in accordance with details submitted to, and approved in writing by, the local planning authority. The facilities shall thereafter be retained.
- 14) Notwithstanding Condition 4, no development shall take place until a scheme (including the design, materials and route) for the proposed public footpath and cycleway has been submitted to, and approved in writing by, the local planning authority. The public footpath and cycleway shall be implemented in accordance with the approved scheme and shall thereafter be retained. The public footpath and cycleway shall be completed prior to any works in respect of dwellings to the west of plot No. 36 as indicated on drawing no. 400/009 rs C.
- 15) Notwithstanding Condition 4, before the development begins, a scheme (including details of physical works on site and a timetable for implementation) to secure at least 10% of the energy supply for the development from decentralised and renewable or low carbon energy

sources shall be submitted to, and approved in writing by, the local planning authority. The approved scheme shall be implemented and retained as operational thereafter, unless otherwise agreed in writing by the local planning authority.

- 16) Notwithstanding Condition 4, no development shall take place until details, including an installation programme, of features to be incorporated into the development hereby permitted for use by breeding birds, including swifts and house sparrows, and roosting bats have been submitted to, and approved in writing by, the local planning authority. Development shall be carried out in accordance with the approved details, and the approved features shall thereafter be retained.
- 17) Notwithstanding Condition 4, the development shall not be occupied until the mitigation works, identified in the submitted Great Crested Newt (*Triturus cristatus*) Mitigation Strategy dated January 2012, have been carried out. The mitigation works shall thereafter be retained. Development shall be carried out in accordance with the recommendations made within the strategy.
- 18) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:
 - i) the parking of vehicles for site operatives and visitors;
 - ii) the loading and unloading of plant and materials;
 - iii) the storage of plant and materials used in the construction of the development; and
 - iv) the erection and maintenance of security hoarding including any decorative displays.
- 19) No development shall take place until an additional site investigation of the nature and extent of contamination has been carried out in accordance with a methodology which has previously been submitted to, and approved in writing by, the local planning authority. The results of the additional site investigation shall be submitted to, and approved in writing by, the local planning authority before any development begins. If the additional site investigation indicates that remediation is necessary, then a Remediation Statement, specifying the measures to be taken to remediate the site to render it suitable for the development hereby permitted and a programme for their implementation, shall be submitted to, and approved in writing by, the local planning authority. The site shall be remediated in accordance with the approved Remediation Statement. If remediation has been necessary, no part of the development hereby permitted shall be occupied or brought into use until a Site Completion Report, relating to that part of the development and detailing the conclusions and actions taken at each stage of the works (including validation works), has been submitted to, and approved in writing by, the local planning authority.
- 20) No development shall take place until an updated badger survey has been carried out and the results submitted to, and approved in writing by, the local planning authority. If any evidence of badgers or badger setts is found, the report shall include measures for their protection during development and for the retention of existing or provision of alternative

habitats. The measures shall be implemented in accordance with the approved details.

- 21) No development shall take place between 1 March and 31 August in any calendar year until the results of a survey to check for nesting birds has been submitted to, and approved in writing by, the local planning authority. Where nests are to be removed from hedgerows, trees or scrub land, a 4m exclusion zone shall be left undisturbed around the nest until a report, confirming that breeding is complete, has been submitted to, and approved in writing by, the local planning authority.
- 22) Construction works, including associated deliveries to the site, shall not take place outside 08.00 to 18.00 hours Mondays to Fridays and 08.00 to 14.00 hours on Saturdays nor at any time on Sundays or Public Holidays.
- 23) Details of the method, times and calendar duration of any pile driving operations connected with the construction of the development hereby permitted shall be submitted to, and approved in writing by, the local planning authority prior to such works taking place. Development shall be carried out in accordance with the approved details.
- 24) The development shall not be occupied until a landscape and habitat management plan (including long term design objectives, management responsibilities and maintenance schedules) for all open areas, other than domestic gardens, has been submitted to, and approved in writing by, the local planning authority. The management plan shall be implemented as approved.
- 25) 50% of the total number of close care cottages and shared ownership affordable dwellings shall be substantially complete prior to 50% of the bedrooms of the care home being occupied.

ANNEX B

Conditions In Respect Of Appeal B

- 1) Details of the landscaping (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.
- 4) The development hereby permitted shall be carried out in accordance with the approved plans listed in Annex D.

ANNEX C
Plans In Respect Of Appeal A

400[BD]001 rs D	Site Location Plan Care Village Coloured Site Layout Showing Schedule of Accommodation and Parking
400/003 rs G	Proposed Site Plan
400/004 rs J	Proposed Site Plan Roof Plans
400/005 rs F	Proposed Site Plan (Nos 1-47 inclusive) Close Care Housing Dwelling Types
400/006 rs D	Proposed Site Plan (Nos 48-62 inclusive) Shared Ownership Affordable Housing Dwelling Types
400/008 rs C	Proposed Cross Sections
400/009 rs C	Proposed Boundary Treatments
400/101 rs A	Care Home: Ground Floor Plans
400/102 rs A	Care Home: First Floor Plans
400/103 rs	Care Home: Second Floor Plans
400/104 rs	Care Home: Roof Plan
400/105 rs	Care Home: Elevations (1 of 2)
400/106 rs	Care Home: Elevations (2 of 2)
400/201 rs B	Proposed Elevations Close Care Housing Dwelling Nos 1-4
400/202 rs A	Proposed Elevations Close Care Housing Dwelling Nos 5-10
400/203 rs A	Proposed Elevations Close Care Housing Dwelling Nos 11-15
400/204 rs A	Proposed Elevations Close Care Housing Dwelling Nos 16-19
400/205 rs A	Proposed Elevations Close Care Housing Dwelling Nos 20-22
400/206 rs A	Proposed Elevations Close Care Housing Dwelling Nos 29-33
400/207 rs A	Proposed Elevations Close Care Housing Dwelling Nos 34-41
400/208 rs A	Proposed Elevations Close Care Housing Dwelling Nos 42 & 43
400/209 rs A	Proposed Elevations Close Care Housing Dwelling Nos 44-47
400/210 rs	Proposed Elevations Close Care Housing Dwelling Nos 23-28
400/211 rs A	Proposed Plans 2 Bedroom Cottage Type A Close Care
400/212 rs A	Proposed Plans Type "B" 2 Bedroom Cottage – Plot 1
400/213 rs A	Proposed Plans Type "C" 2 Bedroom Bungalow – Plot 4
400/214 rs A	Proposed Plans 2 Bedroom Bungalow
400/215 rs A	Proposed Plans: Type "F" 2 Bedroom Apartments
400/301 rs A	Proposed Elevations: Shared Ownership/Affordable Housing Dwelling Nos 48-53 incl.
400/302 rs A	Proposed Elevations: Shared Ownership/Affordable Housing Dwelling Nos 54-58 incl.
400/303 rs A	Proposed Elevations: Shared Ownership/Affordable Housing Dwelling Nos 59-62 incl.
400/304 rs B	Proposed Plans 2 Bedroom Cottage – Type "A2" Affordable Shared Ownership
400/305 rs B	Proposed Plans 2 Bedroom Apartment – Type "E" Affordable Shared Ownership
400/401 rs B	Community Centre Floor Plans
400/402 rs A	Community Centre Elevations
3433cv-01 Rev A	Topographical Survey
1852_01	Arboricultural Constraints Plan

ANNEX D

Plans In Respect Of Appeal B

400[BD] 002 rs C Site Location Plan: Access Road
3433cv-01 Rev A Topographical Survey
43351/01A Proposed Adoptable Site Access Road and Junction
400/004 rs J Proposed Site Plan Roof Plans
400/010 rs A. Site Block Plan: New Access Road from Coppice Way