



Department for  
Communities and  
Local Government

Matthew Symons  
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Our Ref: APP/R0660/W/15/3138078

3 April 2017

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPLICATION MADE BY HOLLINS STRATEGIC LAND LLP  
LAND OFF SCHOOL LANE, MARTON  
APPLICATION REF: 15/2274M**

1. I am directed by the Secretary of State to say that consideration has been given to the report of Karen L Baker DipTP MA DipMP MRTPI, who held a hearing on 25 February 2016, and made site visits on 24 and 25 February 2016, into your appeal against the decision of Cheshire East Council to refuse your application for planning permission for up to 27 dwellings and car park, in accordance with application ref: 15/2274M, dated 15 May 2015.
2. On 31 March 2016, this appeal was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country Planning Act 1990, because the appeal involves a proposal for residential development of over 10 units in an area where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority: or where a neighbourhood plan has been made.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal should be allowed. For the reasons given below, the Secretary of State disagrees with the Inspector's recommendation. He has decided to dismiss the appeal and refuse planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

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

4. A number of representations were received following the close of the hearing, and several of these were circulated to main parties for comment. In some cases the Secretary of State was satisfied that the issues raised did not affect his decision and did not necessitate referrals back to parties, and those representations were not circulated. A full list of representations is provided at Annex A of this letter, and copies of these letters may be obtained on written request to the address at the foot of the first page of this letter.

## **Policy and statutory considerations**

### The development plan

5. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
6. In this case the development plan consists of the saved policies of the Macclesfield Borough Local Plan 2004 and the Marton Village Neighbourhood Plan which was made on 29 November 2016, after the inquiry. The Secretary of State considers that relevant Local Plan policies include those set out at IR13-14, and that relevant NP policies include Policies RCD0, RCD2, PE3 and PE7.
7. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework ('the Framework') and associated planning guidance ('the Guidance').

### Emerging plans

8. The emerging plan comprises the Cheshire East Local Plan (the CELP): Local Plan Strategy Submission Version which was published in March 2014 and was the subject of statutory consultation between 4 March and 19 April 2016. Examination hearings concluded in October 2016, and the document 'Inspector's views on further modifications needed to the Local Plan Strategy (Proposed Changes)' was published on 13 December 2016. Consultation on the further Proposed Main Modifications to the Local Plan Strategy – Proposed Changes (March 2016 version) began on 6 February 2017. The Secretary of State considers that the emerging policies of most relevance to this case are set out at IR16-20.

## **Main issues**

### Weight to be attached to the policies in the Local Plan, the Neighbourhood Plan, and the emerging Local Plan Strategy

#### *5-year housing land supply*

9. The Inspector notes at IR231 that at the time of the hearing, the Council could not demonstrate a 5-year supply of deliverable housing land. The Council subsequently confirmed in its representation of 7 February 2017 that it cannot demonstrate a 5-year supply of housing land for the purposes of this appeal. The Council has not quantified the shortfall, but the Committee Report of 17 August 2015 (Inquiry Document INSP2) indicates that the need for housing stands at 36,000 homes over the period 2010-2030. The appellant's Statement of Case of October 2015 (Inquiry Document INSP9) applies this figure to Table 8 in the Council's 'Five year Housing Land Supply Position Statement' (September 2014), which gives 4.2 years supply. Evidence from Marton Parish Council (the Council's 'Homework Item 43' and the Inspector's views on further modifications needed to the Local Plan Strategy, as put forward by Marton Parish Council on 3 January 2017) indicates that the Council is developing an approach which is intended to deliver a 5-year housing land supply in the future. However, for the purpose of this appeal, the Secretary of State accepts the appellant's evidence that the Council can only demonstrate 4.2 years supply of housing.
10. As a consequence, by operation of paragraph 49 of the Framework, relevant policies for the supply of housing are out of date and, in accordance with paragraph 14 of the Framework, permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole (IR292).

#### *The Local Plan*

11. For the reasons given in IR231, the Secretary of State agrees with the Inspector that the restriction imposed upon development within the open countryside, outside the settlement boundaries, within Policy GC5 of the Local Plan, is a policy for the supply of housing and should be considered out of date.
12. The Secretary of State agrees with the Inspector that Policy GC5 has a dual purpose (IR232) as it also seeks to protect open countryside from development in order to preserve its landscape, ecological and recreational value and to protect the best and most versatile ('BMV') agricultural land, and that weight should be afforded to it. The Secretary of State also agrees with the Inspector that this purpose is in accordance with paragraph 17 of the Framework which recognises the intrinsic character and beauty of the countryside. He therefore considers that Policy GC5 carries moderate weight.
13. The Secretary of State agrees with the Inspector that Policy DC16 is generally consistent with the policies in the Framework which seek to ensure that development is undertaken in sustainable locations and that therefore significant weight should be afforded to this policy (IR234).

#### *The Neighbourhood Plan*

14. The Neighbourhood Plan was made on 29 November 2016, and therefore forms part of the development plan. Marton Parish Council in their representation of 3 January 2017 state that the Written Ministerial Statement (WMS) of 12 December 2016 applies because although the NP does not allocate sites for housing, the Examiner's report

stated that it was not required to do so. The appellant states in their representation of 20 January 2017 that there is no proviso in the WMS which would allow policies otherwise deemed out of date in an NP to be considered up to date depending on the reasons for the non-allocation of sites for housing. The Secretary of State considers that the second bullet point in the WMS does not apply in this case as the NP does not allocate sites for housing, and concludes that the WMS overall does not apply.

15. Given the lack of a 5-year housing land supply in Cheshire East, policies for the supply of housing in the Neighbourhood Plan are, like the policies for the supply of housing in the Local Plan, out of date. The Secretary of State considers that this includes Policy PE3, which indicates that the site should be retained as open green space, as this means the land would not be available for housing provision. He considers that the purpose of Policy PE3 is in accordance with paragraph 17 of the Framework which recognises the intrinsic character and beauty of the countryside, and that it therefore carries moderate weight. The Secretary of State does not agree with Marton Parish Council's statement in their representation of 24 October 2016 that the NP designates the appeal site as Local Green Space.

#### *The emerging Plan – CELP*

16. Paragraph 216 of the Framework states that decision makers may give weight to relevant policies in emerging plans according to: (1) the stage of preparation of the emerging plan; (2) the extent to which there are unresolved objections to relevant policies in the emerging plan; and (3) the degree of consistency of relevant policies to the policies in the Framework.
17. The Secretary of State notes the Inspector's view that only limited weight should be afforded to the emerging CELP (IR238). He has reconsidered the weight that should attach to the CELP in the light of developments since the hearing. He considers that the CELP is at a moderately advanced stage, given that it has now gone through some elements of the independent examination, albeit that the Local Plan Inspector's Final Report has not yet been issued. He has taken into account the further work that is required to resolve remaining issues and ensure that the Local Plan Strategy is sound (as set out in the 'Inspector's views on further modifications needed to the Local Plan Strategy (Proposed Changes)', which was published on 13 December 2016). The Secretary of State considers that the relevant policies in the emerging CELP (as set out in paragraph 8 above), are broadly in accordance with the Framework. Overall he considers that the relevant emerging policies carry moderate weight.

#### Impacts of the appeal proposal

##### *Housing provision*

18. The Secretary of State agrees with the Inspector, for the reasons given in IR250, that the construction of up to 27 houses, including 9 affordable dwellings, would be a substantial benefit of the proposal (IR250), and should be afforded substantial weight.

### *Economic benefits*

19. The Secretary of State agrees with the Inspector that the provision and sustainable maintenance of employment within the construction industry through the construction of the proposed dwellings along with the additional spending from future occupiers would help support the local economy and maintain facilities and services in the local area (IR248). The Secretary of State considers that this matter should be afforded moderate weight in favour of the proposal.

### *Loss of Best and Most Versatile Land*

20. The Secretary of State agrees with the Inspector that the appeal site would not offer significant opportunities for agricultural production given the relatively small size of the appeal site, its location within the village, its shape and enclosed nature together with its former use as predominantly grazing land. He further agrees that, as much of Cheshire East comprises BMV agricultural land, the use of such areas would be necessary to provide an adequate supply of housing land, and that the loss of agricultural land at the appeal site should be afforded little weight (IR249).

### *Access to services and facilities*

21. For the reasons given at IR251-256, the Secretary of State agrees with the Inspector that Marton is relatively well served in comparison to other rural settlements, and that the number of trips which would need to be made by private car from the proposed development could be reduced (IR256). Overall he considers that the proposal would be in accordance with Policy DC16. He considers that there would be some conflict with the emerging Local Plan Strategy Policy SD2, which requires the provision of access to a range of forms of public transport, open space and key services and amenities, as the appeal site is not located within the desired proximity to a bus stop, multi-functional open space or convenience store (IR252). As set out in paragraph 17 above, he considers that the relevant policies in the emerging CELP carry moderate weight. Taking this into account, and for the reasons given in IR252, he considers that overall the conflict with SD2 carries limited weight against the proposal.

### *Countryside, landscape and open space*

22. The proposed development would result in the loss of some open countryside, and the Secretary of State considers that it would be in conflict with Policy GC5, which imposes restrictions upon development in the open countryside. The Secretary of State considers that the proposal would also be in conflict with NP Policy PE3, which indicates that the site should be retained as open green space.

23. For the reasons given at IR257-259, he agrees with the Inspector that the proposed development would not appear visually obtrusive or out of keeping with the settlement of Marton (IR258), and would not introduce features that would be completely uncharacteristic of the immediate area or which would represent a substantial intrusion into the landscape of the wider area (IR259). For the reasons given at IR260, he agrees with the Inspector that the proposal would not harm the living conditions of neighbouring residents. However, he notes from the NP that the central

recommendation of the Landscape and Settlement Character Assessment was that the paddock at the heart of the village should be retained as a green space (Marton Neighbourhood Plan, page 35).

24. Given the importance of this open space to the character of Marton, he considers that the harm caused by the loss of open countryside in this location and the conflict with Policy GC5 carries moderate weight against the proposal.
25. He considers that the seriousness of the conflict with NP Policy PE3 is increased in the light of paragraph 198 of the Framework which states that, where there is conflict with a neighbourhood plan that has been brought into force, planning permission should not normally be granted. He therefore gives this conflict significant weight.

#### *Jodrell Bank Observatory*

26. The Secretary of State has taken into account that the Council and appellant concur that the proposed development would have a minor impact on the level of interference for Jodrell Bank Observatory (JBO) (IR272). He has also taken into account the fact that JBO opposes development across a significant part of its consultation zone as a matter of principle and that JBO stresses that such additional development should be viewed as cumulative. Further representations were made on this matter, but they do not change the Secretary of State's view that, given the importance of the work which is carried out at the Jodrell Bank Observatory, and for the reasons given at IR272, this matter carries moderate weight against the proposal.

#### *Traffic impact*

27. The Secretary of State has carefully considered the traffic and parking implications of the proposal. For the reasons given at IR261-270, he agrees with the Inspector that the proposed development would not lead to a significant increase in vehicular movements along School Lane or the A34 at peak times, given that it would generate relatively low levels of traffic (IR268). He further agrees that sufficient space would remain along School Lane for vehicles to park (IR268), and that vehicles entering and leaving the proposed development would be able to do so safely (IR269). Overall he agrees with the Inspector that it has not been demonstrated that the residual cumulative impacts of the proposed development would be severe (IR270).
28. For the reasons given at IR266, the Secretary of State agrees with the Inspector that some benefits would flow from the proposed development through the provision of a footway along the School Lane frontage of the appeal site, along with a pedestrian link onto Oak Lane and he gives this benefit limited weight.

#### *Other matters*

29. For the reasons given at IR271, the Secretary of State agrees with the Inspector that the appeal site contributes little, if anything, to the significance of Grade II listed Greenacre or its setting. He further agrees that the setting of Greenacre would be preserved if the proposed development goes ahead.

30. For the reasons given at IR273-274, the Secretary of State agrees with the Inspector that the proposal would not unduly harm the trees and hedgerows in and around the appeal site, or the ecology of the local area.

### **Planning conditions**

31. The Secretary of State has given consideration to the Inspector's analysis at IR279-283, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 206 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 206 of the Framework. However, he does not consider that the imposition of these conditions would overcome his reasons for dismissing the appeal and refusing planning permission.

### **Planning obligations**

32. Having had regard to the Inspector's analysis at IR284-290, the Section 106 Agreement, paragraphs 203-205 of the Framework, the Guidance and the Community Infrastructure Levy Regulations 2010, as amended, the Secretary of State agrees with the Inspector at IR290 that the obligations in the Section 106 Agreement pass the statutory tests and would be necessary to mitigate the impacts of the proposed development on infrastructure and the environment. However, he does not consider that the obligations overcome his reasons for dismissing this appeal and refusing planning permission.

### **Planning balance and overall conclusion**

33. The Secretary of State considers that the proposal conflicts with Local Plan Policy GC5 and Neighbourhood Plan Policy PE3, and is in conflict with the development plan as a whole. He has gone on to consider whether there are material considerations which indicate that the appeal should be determined other than in accordance with the development plan.

34. The Council cannot demonstrate a 5-year housing land supply and the tilted balance in paragraph 14 of the Framework applies. Planning permission should be granted unless any adverse impacts of doing so significantly and demonstrably outweigh the benefits.

35. The Secretary of State considers that the provision of housing carries substantial weight in favour of the proposal and that the economic benefits carry moderate weight. The provision of a footway and pedestrian link carry limited favourable weight.

36. The Secretary of State considers that moderate negative weight attaches to the loss of open countryside and landscape impacts, and that the loss of BMV land carries little weight. The potential impact on JBO carries moderate weight against the proposal.

37. In the light of paragraph 198 of the Framework, which states that where a planning application conflicts with a neighbourhood plan that has been brought into force, planning permission should not normally be granted, the Secretary of State considers that the conflict with NP Policy PE3 carries significant weight.
38. The Secretary of State notes that the appeal site is not within the desired proximity to some services and facilities as set out in emerging Local Plan Strategy Policy SD2. He considers that this carries limited weight against the proposal.
39. Overall the Secretary of State considers that the benefits of this scheme are significantly and demonstrably outweighed by the adverse impacts. There are no material considerations which indicate that the appeal should be determined other than in accordance with the development plan.

### **Formal decision**

40. Accordingly, for the reasons given above, the Secretary of State disagrees with the Inspector's recommendation. He hereby dismisses the appeal and refuses planning permission for up to 27 dwellings and car park in accordance with application ref: 15/2274M, dated 15 May 2015.

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

41. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
42. A copy of this letter has been sent to Cheshire East Council and the Marton Neighbourhood Plan Steering Group, and notification has been sent to others who asked to be informed of the decision.

Yours sincerely

*Maria Stasiak*

Authorised by Secretary of State to sign in that behalf



## ANNEX A – SCHEDULE OF REPRESENTATIONS

### Post hearing representations

Party	Date
Marton Neighbourhood Plan Steering Group	26/7/2016
Marton Neighbourhood Plan Steering Group	27/7/2016
Marton Neighbourhood Plan Steering Group	6/9/2016
David Rutley MP (enclosing Marton Parish Council representation of 6/10/2016, listed below)	18/10/2016
Marton Parish Council	20/11/2016
Marton Parish Council	30/11/2016
Marton Parish Council	3/1/2017

**Representations received in response to the Secretary of State's letters of 12 September, 29 September and 17 October, and email of 25 October, which circulated the representations from Marton Neighbourhood Plan Steering Group of 26 July, 27 July and 6 September and subsequent responses**

Party	Date
Marton Parish Council	19/9/2016
Hollins Strategic Land LLP	28/9/2016
Cheshire East Council	28/9/2016
Marton Parish Council	6/10/2016
Hollins Strategic Land LLP	7/10/2016
Marton Parish Council	24/10/2016
Hollins Strategic Land LLP	24/10/2016
Cheshire East Council	25/10/2016
Marton Parish Council	27/10/2016

**Representations received in response to the Secretary of State's email of 1 December, which circulated Marton Parish Council's representation of 30 November**

No representations received	
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**Representations received in response to the Secretary of State's e-mail of 12 January 2017, which circulated Marton Parish Council's representation of 3 January 2017**

Party	Date
Hollins Strategic Land LLP	20/1/2017
Marton Parish Council	6/2/2017
Cheshire East Council	7/2/2017

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

by **Karen L Baker DipTP MA DipMP MRTPI**

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

Date: 16 June 2016

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TOWN AND COUNTRY PLANNING ACT 1990

CESHIRE EAST COUNCIL

APPEAL MADE BY

HOLLINS STRATEGIC LAND LLP

Hearing held on 25 February 2016; Site visits made on 24 and 25 February 2016

Land off School Lane, Marton

File Ref: APP/R0660/W/15/3138078

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**Land off School Lane, Marton**

- 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 Hollins Strategic Land LLP against the decision of Cheshire East Council.
- The application Ref. 15/2274M, dated 15 May 2015, was refused by notice dated 14 October 2015.
- The development proposed is up to 27 No. dwellings and car park.

**Summary of Recommendation: The appeal be allowed, and planning permission granted subject to the conditions set out in Annex 1.**

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**Procedural Matters**

1. Determination of the appeal was recovered by the Secretary of State by way of a Direction<sup>1</sup> dated 31 March 2016. The reason given for the recovery is that *'the appeal involves a proposal for residential development of over 10 units in areas where a qualifying body has submitted a neighbourhood plan proposal to the local planning authority: or where a neighbourhood plan has been made'*.
2. The planning application was made in outline, with all matters reserved for subsequent approval, with the exception of access.
3. Although the application form describes the development as set out above, the car park was deleted from the proposal during the planning application process.
4. The application was refused for a single reason. In summary, the grounds for this were that the proposed residential development would be unsustainable because it would be located in the open countryside, contrary to local and national policies which seek to ensure that development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations' enjoyment and use, it would therefore create harm to interests of acknowledged importance; and, the development would be locationally unsustainable due to the lack of public transport links, facilities and infrastructure, contrary to local and national policies.
5. At the Hearing, the appellants submitted an Agreement<sup>2</sup> pursuant to Section 106 of the Town and Country Planning Act 1990 which includes a number of obligations that would come into effect if the appeal is allowed. These include the provision of 30% of the proposed dwellings constructed as affordable housing units; the provision of on-site open space, with a contribution of £75 per square metre (psqm) or part thereof that the open space falls short of the required 40sqm per family dwelling; the setting up of a management company to manage the open space; and a financial contribution of £27,000 or such other sum, equivalent to £1,000 per dwelling, towards the provision of recreation/outdoor sports facilities.
6. I carried out an unaccompanied site visit on 24 February 2016, with an accompanied site visit undertaken following the close of the Hearing on 25 February 2016.

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<sup>1</sup> Document 17

<sup>2</sup> Document 2

## **The Site and Surroundings**

7. The appeal site is around 1.3ha and is located on the south eastern side of School Lane and to the west of Oak Lane, within the settlement of Marton. It is currently used as an agricultural field, for the grazing of sheep, (Agricultural Land Classification Grade 2) and is bounded by a post and rail fence and/or hedgerow, with a gated access along School Lane. It was apparent from my site visit that 4 residential properties are sited to the north west of the appeal site, on the other side of School Lane. The Spinney, a further residential property, is located immediately to the north of the appeal site. A residential estate, along Oak View, which includes both single and 2 storey dwellings, is sited immediately to the south and south east of the appeal site, with Marton Church of England (CE) Primary School and other residential properties located to the north east and east respectively, on the other side of Oak Lane. A further 3 dwellings, which front onto Congleton Road, the A34, are sited adjacent to the south western part of the appeal site, with part of the appeal site abutting the A34 along its south western boundary.
8. There are 4 listed buildings in the vicinity of the appeal site, with the closest being Greenacre, a residential property which is sited on the north western side of School Lane, directly opposite the access to the proposed development. Greenacre is a Grade II listed building which is set back from, and sited perpendicular to, School Lane.
9. The Cheshire East Borough Council (Marton – School Lane, Marton) Tree Preservation Order (TPO) 2015 was placed on a number of trees within and around the appeal site, following the receipt of the planning application.

## **The Proposal**

10. The proposed development would include the construction of up to 27 dwellings. The appellants have submitted an Indicative Layout<sup>3</sup>, which illustrates how this quantum of development could be accommodated on the appeal site. It also shows the proposed vehicular access from School Lane, along with a footway along the School Lane frontage and pedestrian access points from the proposed development onto Oak Lane and Congleton Road, which would provide new footpath links to the neighbouring primary school and services and facilities in Marton respectively. A Village Green/Community Open Space is shown adjacent to the south eastern boundary of the appeal site, to the rear of residential properties along part of Oak View. The Indicative Layout also shows that existing trees would be retained and most of the existing boundary hedgerows would be retained and enhanced.

## **Planning History**

11. The appeal site has been the subject of 2 previous planning applications. An application for the residential development of 9 dwellings was refused on 5 August 1987 (Ref. 49464P) and an application for the use of land for residential purposes comprising 8 detached houses, 6 starter houses and 6 elderly persons units was refused on 17 May 1989 (Ref. 58234P).

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<sup>3</sup> Plan A1/2

## **Planning Policy**

### ***Macclesfield Borough Local Plan***

12. The development plan for the area is the Macclesfield Borough Local Plan<sup>4</sup>, which was adopted in January 2004. The relevant policies within the Local Plan are as follows.
13. Policy GC5 says that development in the open countryside beyond the Green Belt will not normally be permitted unless it is essential for agriculture, forestry, outdoor recreation or for other uses appropriate to a rural area.
14. Policy DC16 says that developments which are not capable of being serviced by existing infrastructure (for example highways, sewers etc) will not normally be permitted.

### ***Cheshire East Local Plan: Local Plan Strategy Submission Version***

15. The Cheshire East Local Plan: Local Plan Strategy Submission Version<sup>5</sup> was published in March 2014. The relevant draft policies in the emerging Local Plan Strategy are as follows.
16. Policy PG 2 sets out the settlement hierarchy for the District, which includes Principal Towns, Key Service Centres, Local Service Centres and Other Settlements and Rural Areas. For the latter, which would include Marton, it says that in the interests of sustainable development, growth and investment in the other settlements should be confined to small scale infill and the change of use or conversion of existing buildings in order to sustain local services. It goes on to say that affordable housing development of an appropriate scale on the edge of a rural settlement to meet a particular local need may be justified, although local needs can also be met within larger settlements, dependent on location.
17. Policy PG 5 defines the Open Countryside as the area outside of any settlement with a defined settlement boundary. It goes on to say that, within the Open Countryside, only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for any other uses appropriate to a rural area will be permitted, with some exceptions. Furthermore, it says that the acceptability of such development will be subject to compliance with all other relevant policies in the emerging Local Plan, with particular attention to be paid to design and landscape character so the appearance and distinctiveness of the Cheshire East countryside is preserved and enhanced.
18. Policy SD 1 sets out a number of considerations to apply to development, in order to achieve sustainable development in Cheshire East. These include that development should, wherever possible, prioritise investment and growth within the Principal Towns and Key Service Centres; contribute to the creation of sustainable communities; provide appropriate infrastructure to meet the needs of the local community; provide access to local jobs, services and facilities,

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<sup>4</sup> Document INSP5 (The Local Plan policies to which I refer in this Report have been saved by a Direction, under paragraph 1(3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004, of the Secretary of State for Communities and Local Government, dated 18 September 2007)

<sup>5</sup> Document INSP6



reflecting the community's needs; ensure that development is accessible by public transport, walking and cycling; provide safe access and sufficient car parking in accordance with adopted highway standards; provide a locally distinct, high quality, sustainable, well designed and durable development; contribute to protecting and enhancing the natural, built, historic and cultural environment; make efficient use of land, protect the best and most versatile agricultural land and make best use of previously developed land where possible; and, prioritise the most accessible and sustainable locations.

19. Policy SD 2 sets out the sustainable development principles for all development. It says that all development will be expected to provide or contribute towards identified infrastructure, services or facilities; contribute positively to an area's character and identity, creating or reinforcing local distinctiveness; respect and, where possible, enhance the landscape character of the area; respect and, where possible, enhance the significance of heritage assets, including their wider settings; and, avoid the permanent loss of areas of agricultural land quality of 1, 2 or 3a, unless the strategic need overrides these issues; amongst other things. Furthermore, residential development will be expected to provide open space, of an extent, quality, design and location appropriate to the development and the local community; provide access to a range of forms of public transport, open space and key services and amenities; and, incorporate measures to encourage travel by sustainable modes of transport, such as walking, cycling and public transport.
20. Table 9.1, in the reasoned justification to Policy SD 2, provides a guide to the appropriate distances for access to services and amenities.
21. The Examination in Public into the emerging Local Plan Strategy started on 16 September 2014. Hearing sessions were adjourned on 3 October 2014, with the Local Plan Strategy Inspector providing Interim Views on the legal compliance and soundness of the document on 6 November 2014. The Council requested that the Examination be suspended on 17 December 2014, following which it has undertaken extensive work in order to provide further evidence to the Examination, which was resumed on 21 October 2015. The Local Plan Strategy Inspector provided further Interim Views on 11 December 2015.
22. At the Hearing, the Council confirmed that its proposed changes to the emerging Local Plan Strategy had been reported to the Strategic Planning Board and were to be considered by Full Council on 26 February 2016. The Officer's Report had a recommendation to approve the proposed changes for public consultation which would take place between 4 March and 19 April 2016, with the resumed Hearings sessions planned for September/October 2016, and adoption of the Local Plan Strategy at the end of 2016/early 2017. Changes are proposed<sup>6</sup> to Policies PG 2, PG 5 and SD 1 and to the reasoned justifications to Policies PG 2, PG 5 and SD 2.

### ***Marton Village Neighbourhood Plan***

23. At the time of the Hearing, Marton Parish Council confirmed that the Marton Village Neighbourhood Plan<sup>7</sup> 2015-2030 was at Regulation 15 stage. However, following the close of the Hearing the Parish Council confirmed<sup>8</sup> that the

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<sup>6</sup> Document 13

<sup>7</sup> Document INSP7

<sup>8</sup> Document 16

Neighbourhood Plan had now reached Regulation 16 stage and has been submitted to the Council in order that a public consultation exercise can be undertaken, prior to the holding of an Independent Examination. The emerging Neighbourhood Plan includes objectives and policies in respect of residential and commercial development; transport, school and parking; protecting the environment; traffic and safety; and, protecting community assets; amongst other things. The relevant draft objectives and policies in the emerging Neighbourhood Plan are as follows.

24. The objective for residential and commercial development is that Marton will have a slightly larger population due to carefully planned and proportionate increases in housing, preferably created through brownfield development, conversions of existing buildings or through infill development of an appropriate density, scale and size.
25. The draft policies designed to meet this objective include: brownfield development is always to be preferred over greenfield development, but all applications will be considered on their individual merit (a); development on any given plot should be of a scale appropriate to the location, of appropriate density, and fit in with the existing rural character and surroundings of the village as detailed in the Landscape and Settlement Character Assessment (LSCA) and Neighbourhood Plan Design Guidance (b); residential development will be acceptable where it meets an identified local need, in line with the historic development of the village on a piecemeal basis (c); development should be in keeping with the existing buildings in the village as detailed in the LSCA and reflect the traditional vernacular of the village in terms of layout, density and appearance (d); development should meet the needs of the village in terms of tenure, type and size of dwellings, to suit the needs of different groups of the population as detailed in the Housing Needs Assessment (e); development must not have a negative impact on the natural and historic environment of Marton and to this end should conform with the spatial policy maps of the Neighbourhood Plan (f); to further ensure development of new homes, extensions and other buildings generally are of a quality and form appropriate to their context, a Neighbourhood Plan Design Guidance has been developed to provide guidance to developers, land owners and home owners (g); future development should reflect the traditional density of the village (5-15 dwellings per hectare (dph) and set in well wooded grounds (i); the height and mass of new or altered buildings should not dominate their surroundings (j); building materials and architectural detailing should be compatible with other buildings in the vicinity (k); and, any need for additional housing would best be met by small scale development with individual character; large uniform estates could severely damage the character of the village (m).
26. The objective for transport, school and parking is to reduce the problems of congestion outside school and improve safety. The draft policy designed to meet this objective says that proposals to improve the parking provision within the curtilage of the school will be supported as this would improve the safety of the children and of parents bringing their children to school.
27. With regards to protecting the environment: landscape character, green spaces and local wildlife, the objective of the emerging Neighbourhood Plan is to maintain and enhance the rural environment of Marton and to protect it from

inappropriate development encroaching on the village from the north of Congleton and the south of Macclesfield.

28. The draft policies designed to meet this objective include that: the landscape surrounding the settlement of Marton is of high value and any development proposals should mitigate the impact on its surroundings (a); any appropriate proposals to maintain and enhance the network of public footpaths, bridleways and cycleways will be supported; additionally, links and improvements to the existing network of public footpaths, bridleways and cycleways will be sought in connection with new developments to improve access to the countryside (b); new housing development should install bird and bat boxes wherever possible (c); proposals which enhance the green space at the centre of the village and at The Spinney will be supported; it is essential that views to the mature Sycamore within the paddock off School Lane are retained and respected as part of any potential development; the paddock and The Spinney in the heart of the village should be retained as open green space (d); hedgerows and valued trees must be preserved, and development which would adversely impact upon them will not normally be supported; in exceptional circumstances, where the benefits of development are considered to outweigh the benefit of preserving trees and hedgerows, development will be permitted subject to adequate compensatory provision being made; the retention of trees and hedgerows in situ will always be preferable (g); the LSCA and the Village Spatial Policies Map have identified key views within the village as well as views out to the surrounding countryside; potential development must demonstrate that the views are retained and respected as part of their proposals (h); opportunities to incorporate features into new build or extensions which are beneficial to wildlife should be undertaken wherever possible, such as the installation of bird and bat boxes (j); vehicular access arrangements must not be detrimental to the character of village lanes (k); verges, trees and hedgerows along country lanes should be maintained wherever possible to preserve nature and for conservation purposes (l) ; and, the key views into and from the village, as detailed in the Neighbourhood Plan and LSCA must be respected.
29. The objective for traffic and safety says that Marton will have calmer, slower traffic through the village on the A34. The draft policies designed to meet this objective include that: new development should provide safe access to the carriageway (a); the impact of the private car on the streetscene should be minimised wherever possible; appropriate new development will be supported where proposals provide off street parking, do not clutter the public realm, and do not reduce safety for pedestrians and cyclists (b); and new development should not exacerbate the existing traffic problems and if possible should contribute towards improvement (d).
30. Finally, in respect of protecting community assets the objective of the emerging Neighbourhood Plan is to retain and enhance those components of the village that residents value and which contribute to village life. Draft policies designed to meet this objective include that Marton's historical assets, including the ancient Oak tree and the listed buildings which are so integral to the character of Marton, should be preserved and enhanced (a).
31. Appendices 1 and 3 of the emerging Neighbourhood Plan include the Neighbourhood Plan Design Guidance and the Marton Parish LSCA 2015 respectively.

## **Agreed Matters**

32. The Council and the appellants prepared a Statement of Common Ground<sup>9</sup> which sets out the areas of agreement between the main parties, namely:

- The Marton Neighbourhood Local Plan has just reached the end of Regulation 14 and, although it is a material planning consideration, due to its stage within the plan making process, it should be afforded limited weight<sup>10</sup>.
- The Council cannot currently demonstrate a 5 year supply of deliverable housing land.
- The contribution of affordable housing put forward within the proposed development is considered to be acceptable.
- The appeal site (in its outline stage) could accommodate an appropriate level of public open space and therefore meets the requirement of Policies DC40 and RT5 of the Local Plan.
- The appeal site has no formal landscape designation or protection and the proposed development would not have any significant landscape or visual impacts.
- The impact of the proposed development upon existing trees and hedgerows is (subject to conditions for landscaping and mitigation) considered to be acceptable.
- Due to the scale of the site, the loss of the existing Grade 2 agricultural land would not be significant.
- There are no highway safety concerns raised.
- There are no concerns raised with regards to the impact upon the character and appearance of the surrounding area and upon existing Grade II listed buildings.
- There are no issues of residential amenity raised.
- The proposal would have a minor impact upon the level of interference for the Jodrell Bank Observatory (JBO).
- There are no environmental health concerns raised.

33. In an email to the Council dated 17 December 2015<sup>11</sup>, Marton Parish Council expressed concerns about the content of the Statement of Common Ground.

## **The Case for Cheshire East Council**

34. The Council's case is set out in its Statement of Case<sup>12</sup> and detailed below.

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<sup>9</sup> Document INSP 3

<sup>10</sup> Following the close of the Hearing, the Marton Neighbourhood Plan reached Regulation 16 stage. The views of the Council and the appellants were therefore sought as to the weight to now be attached to this document.

<sup>11</sup> Document INSP 4 Section 9

<sup>12</sup> Document INSP8

### ***National and Local Policy and Guidance and Other Material Considerations***

35. By virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the appeal should be determined in accordance with the development plan, unless material considerations indicate otherwise. This tenet is repeated in The Framework in paragraphs 2, 196 and 210.

#### *Development Plan*

36. The development plan for Cheshire East currently comprises the saved policies from the Local Plans of the Boroughs of Macclesfield (January 2004), Congleton (January 2005) and Crewe and Nantwich (February 2005). Since the publication of, and in accordance with, The Framework, the saved policies within the Macclesfield Borough Local Plan are still applicable, but should be weighted according to their degree of consistency with The Framework. The saved policies in the Local Plan considered to be of most relevance are Policies NE11, NE18, BE1, BE2, BE16, GC5, GC14, RT5, H1, H2, H5, H8, H9, H13, T2, T3, T4, T5, T6, IMP1, IMP2, DC1, DC3, DC5, DC6, DC8, DC9, DC15, DC16, DC17, DC18, DC36, DC37, DC38, DC40 and DC63.

#### *Other Material Considerations*

37. The National Planning Policy Framework (The Framework) and the National Planning Practice Guidance (The Practice Guidance) are other material considerations which are of relevance to the determination of the appeal. Furthermore, draft Policies PG 2, PG 5, PG 6, SC 4, SC 5, SD 1, SD 2, SE 1, SE 2, SE 3, SE 4, SE 5, SE 6, SE 13, IN 1 and IN 2 of the emerging Local Plan Strategy are considered to be material considerations. With particular reference to draft Policies PG 2, PG 5, SD 1 and SD 2, referred to in the Council's reason for refusal, and the 3 tests outlined in paragraph 216 of The Framework, it is considered that the policies are well advanced in respect of their preparation; there are no significant unresolved objections to the policies; and, the policies are in line with policies in The Framework. Consequently it is considered that these draft policies attract significant weight.
38. It is noted that the Marton Neighbourhood Plan is being prepared. However, it is considered that this has not reached a stage at which weight should be attributed to it. Following the close of the Hearing and the subsequent notification by the Parish Council that the emerging Neighbourhood Plan has been submitted to the Council in order that a public consultation exercise could be undertaken, prior to the holding of an Independent Examination, the appellants submitted further comments<sup>13</sup> on the emerging Neighbourhood Plan and the stage that it had reached. The Council was asked if it wished to comment on the matters raised by the appellants, but nothing was submitted in response<sup>14</sup>.

### ***Principle of Development***

39. Policy GC5 of the Local Plan states that development in the open countryside will not normally be permitted unless it is for one of a number of exceptions, namely

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<sup>13</sup> Document 18

<sup>14</sup> Document 19

agriculture, forestry, outdoor recreation or other uses appropriate to a rural area. The proposed residential development is not one of the exceptions listed.

### ***Housing Land Supply***

40. Paragraph 47 of The Framework requires that Councils identify and update annually a supply of specific deliverable sites sufficient to provide five years' worth of housing against their housing requirements. The Council cannot currently demonstrate a 5 year supply of housing land. Hence, the provision of housing is a benefit of the proposal.
41. It is acknowledged that, within the Council's Spatial Distribution Update Report, which was prepared as part of the emerging Local Plan Strategy process, the number of dwellings that will be required in Other Settlements and Rural Areas has increased by approximately one third, from 2,000 to nearly 3,000.

### ***Affordable Housing***

42. The proposal would provide 9 affordable dwellings, which would make a contribution to the affordable housing needs of the Borough.

### ***Public Open Space***

43. Local Plan Policies DC40 and RT5 require developments to include, or make provision for, outdoor amenity and play space. The commuted sums required for provision off-site are outlined in the Supplementary Planning Guidance (SPG) on S106 (Planning) Agreements. Although the submitted Indicative Layout is only illustrative, it does show that it would be possible to provide an appropriate level of public open space within the site. Contributions towards improving recreation/outdoor sports facilities for use by potential future residents could be secured via a Section 106 Agreement, should the appeal be allowed.

### ***Impact Upon the Landscape (Countryside Beyond the Green Belt), Trees, Hedgerows and Agricultural Land***

#### *Countryside Beyond the Green Belt*

44. The contribution the appeal site makes to the countryside landscape and the impact the proposed development would have on the countryside landscape is to be considered as part of the appraisal of whether or not the proposed development would be a sustainable form of development.
45. It is noted that the site has no formal landscape designation or protection. Bearing this in mind and noting the development surrounding the site, it is considered that the proposal would not have any significant landscape or visual impacts.

#### *Impact on Trees and Hedges*

46. Following receipt of the planning application, a TPO was placed on a number of trees within and around the site. Amended plans were submitted to overcome the impact on the protected trees. There may still be some areas of conflict between the proposed development and trees/hedges within the revised Indicative Layout. However, such matters could be addressed at the reserved matters stage via the submission of an Arboricultural Impact Assessment.

47. Some existing hedges are to be removed to accommodate the proposed development. However, additional hedging could be provided to partially mitigate the loss.

#### *Loss of Agricultural Land*

48. The proposal would result in the loss of an area of Grade 2 agricultural land. However, due to its relatively small area, shape and enclosed nature it is considered that the site does not offer significant opportunities for agricultural production.

### **Ecological Impact**

#### *Hedgerows*

49. There are a number of hedgerows on the appeal site which are a priority habitat. Three of these hedgerows (hedgerows 1, 2 and 3 referred to in the submitted documentation) have been identified as being Important under the Hedgerow Regulations due to the presence of native bluebells. The revised Indicative Layout shows that there would be a loss of a section of hedgerow 3. It would be possible to partially mitigate against the loss of the existing hedgerows with additional hedge planting as part of the reserved matters landscaping detail.

#### *Bats*

50. No evidence of roosting bats was recorded on site. The trees present on site have the potential to support roosting bats. However, as most of the trees within and around the site can be retained, it is considered that roosting bats would be unlikely to be affected by the proposed development.

#### *Breeding Birds*

51. Removal of hedgerows and trees could impact upon breeding birds. However, should the appeal be allowed it is possible that breeding birds could be protected via a condition.

#### *Hedgehogs*

52. Hedgehogs are a biodiversity action plan priority species and therefore a material consideration. There are records of hedgehogs in the broad locality of the proposed development; consequently the species may occur on the site of the proposed development, at least on a transitory basis. However, should the appeal be allowed protection of hedgehogs could be secured via a condition.

### **Highway Safety**

#### *Site Access Junction Visibility*

53. The site access and the proposed visibility splays are deemed to be acceptable in respect of highway safety.

#### *Trip Rates*

54. It is considered that the application of higher trip rates would not result in a significant increase in the level of traffic expected to be generated by the development proposals and would not result in a material impact on the adjacent or wider highway network.

### *Provision of New Footways*

55. The proposal would include the provision of a footpath along the site frontage adjacent to School Lane; there is no provision for the footpath to continue from the south-west corner of the appeal site along School Lane to the junction with the A34.
56. It is considered that a pedestrian link to, and crossing over, the A34 from the south-west corner of the appeal site would be technically feasible and could be included as part of a reserved matters application.

### ***Design/Impact on the Character of the Area, Relationship with the Streetscene and Impact on Listed Buildings***

#### *Design/Impact on the Character of the Area*

57. Although details of the design are reserved for subsequent approval, the potential impact of the proposed development on the character and appearance of the area, streetscene and listed buildings within the vicinity of the site has been considered (as far as is practicable), based on the Indicative Layout and other documents submitted with the application.
58. It is considered that dwellings up to 2 storeys high would be of an appropriate scale for the area.
59. It is considered that the density of the proposed development, around 21 dwellings per hectare (dph), is consistent with, and appropriately fits in with, the residential development that surrounds the site.

#### *Impact on Listed Buildings*

60. Of the 4 listed buildings within the vicinity of the appeal site it is considered that the one that the proposed development would potentially impact most upon is Greenacre, a residential property which is situated directly opposite the proposed main access into the site. The other 3 listed buildings are of a sufficient distance from the site for them not to be affected. As regards Greenacre, the Indicative Layout is considered to demonstrate that the proposed development could proceed without having a detrimental impact on this listed building or its setting.
61. Hence, overall, it is considered that the proposed development would have an acceptable degree of impact on the character and appearance of the area, streetscene and neighbouring listed buildings.

#### ***Impact on Residential Amenity***

62. It is acknowledged that there would be changes to the outlook of some residents, the site would have buildings on it instead of it being an empty field, and there would be noise generated from vehicles and people within and around the site and the eventual users of the proposed public open space. However, it is considered that the Indicative Layout shows that 27 dwellings could be accommodated within the site whilst meeting the recommended distance standards outlined in Policy DC38 of the Local Plan.



### ***Flood Risk and Drainage***

63. The appeal site is located within an area designated as Flood Risk Zone 1 by the Environment Agency. As such, the site is low risk in terms of surface water flooding. It is considered that the proposed development does not raise any significant issues as regards flooding and drainage.

### ***Education Provision***

64. The proposed 27 dwellings are expected to generate 5 primary and 4 secondary school children. Calculations/forecasts for both primary and secondary places at schools within the vicinity of the appeal site indicate that a surplus remains. Hence, there would be no impact from the proposed development on local education provision.

### ***Impact on Operations of the Jodrell Bank Observatory (JBO)***

65. Radio telescopes at the JBO carry out a wide range of astronomical observations as part of national and international research programmes around the world. The telescopes are equipped with state-of-the-art cryogenic low-noise receivers, designed to pick up extremely weak signals from space. The location of the JBO was chosen as a radio-quiet rural area.
66. Evaluation undertaken at the JBO of the potential radio frequency interference from the type of equipment commonly used at residential dwellings within the consultation zone is that it can impair the efficient operation of the radio telescopes at the JBO. For this reason the JBO now opposes development across a significant part of the consultation zone as a matter of principle and advises the local planning authority on its view of the degree of impact on a case-by-case basis, so that this can be taken into account as part of the planning decision.
67. The JBO recognises that there is significant development across the region surrounding the telescope and has carried out an analysis which takes into account the distribution of development and the effect of the intervening terrain between any location and the telescope itself.
68. In the case of the proposed development it is concluded that the additional potential contribution to the existing level of interference would be relatively minor.

### ***Environmental Health Issues***

69. It is considered that there are no significant environmental health issues arising from the proposed development.

### ***Reason for Refusal***

70. With regards to the reason for refusal, the appeal site is located within the open countryside and the proposed development does not constitute one of the permitted forms of development listed in Local Plan Policy GC5 and, as such, it would not comply with the policy. Furthermore, it is noted that there is no public transport available within a recommended distance from the appeal site. As such, the proposal would not be capable of being serviced by existing public transport infrastructure and, therefore, would not accord with Local Plan Policy DC16. The proposed development is not confined to small scale infill or change

of use or conversion of existing buildings and therefore would not comply with Policy PG 2 of the emerging Local Plan Strategy. Policy PG 5 of the emerging Local Plan Strategy relates to Open Countryside. The policy relates to the area outside any settlement with a defined settlement boundary. The type of development that the policy allows is similar to that outlined in Local Plan Policy GC5.

71. The proposed development would not accord with Policy SD 1 of the emerging Local Plan Strategy as it is not directed towards a Principal Town or Key Service Centre; would not contribute towards the creation of sustainable communities; would not provide appropriate infrastructure, given the lack of public transport and community facilities; would not provide access to local jobs, services and facilities, as there are very few local employment opportunities or services and facilities; would not provide access to public transport; and, the site would not be one of the most accessible or sustainable locations.
72. The proposed development would not accord with Policy SD 2 of the emerging Local Plan Strategy as the proposed development would not provide a range of forms of public transport and residents would be dependent on travel by motor vehicle; and, the proposal would not provide access to a range of key services and amenities, as it would not be within the recommended minimum distance of the 3 main services/amenities referred to in Policy SD 2, which are a bus stop, multi-functional open space and convenience store.
73. It is acknowledged that the updated proposed housing figure for Other Settlements and Rural Areas in the emerging Local Plan Strategy is close to 3000 (2950), which is an increase on the previous figure of 2000.
74. It is noted that the completions figure of housing in Other Settlements and Rural Areas (1 April 2010 until 30 September 2015) (net) is 643 and that the commitments figure for the same period is 1,051. Hence, this provides a total figure of 1,696 (nearly 1,700) towards the 2,950 (nearly 3,000). Consequently, there is potential for only 1,254 houses to be built in Other Settlements and Rural Areas over the remaining period of the emerging Local Plan Strategy (around 15 years, up to 2030).

### ***Sustainability and the Planning Balance***

75. Sustainable development includes economic, social and environmental roles.
76. With regards to the social role, it is acknowledged that the proposed development would provide 18 market houses and 9 affordable houses and has the potential to provide a public open space that would be accessible to residents of the proposed development and members of the wider community.
77. In terms of the economic role, it is acknowledged that the proposed development would provide some economic benefits, such as the usual employment opportunities during the construction phase and the wider economic benefits to the construction industry supply chain, and future residents could contribute to the local economy.
78. With regards to the environmental role, the impact on the landscape (including the loss of agricultural land), trees and hedges, ecology, the surrounding highway network, the character and appearance of the area, heritage assets, the

JBO and neighbouring residential amenity is considered to be of a limited and acceptable degree and there would be no significant environmental health concerns arising from the proposal.

79. However, it is considered that the proposed development would not be serviced by existing infrastructure and would not provide access to a range of key services and facilities. There would be no public transport, multi-functional open space or convenience store within the recommended distance of the proposed development. Future residents of the development would be dependent on the motor vehicle as the dominant mode of transport. There are very few local employment opportunities. As such, the proposal, on balance, would not be a sustainable form of development.

### **Conclusion**

80. The proposed development would be unsustainable as it is located within the open countryside and is sited in an unsustainable location due to a lack of infrastructure, services and facilities. Consequently the proposed development would be contrary to Local Plan Policies GC5 and DC16 and emerging Local Plan Strategy Policies PG 2, PG 5, SD 1 and SD 2, which are policies that attract significant weight, in accordance with paragraph 216 of The Framework. As the proposed development would not be a sustainable form of development, it would not accord with the central tenet of The Framework, which is a significant material consideration in the determination of the appeal.
81. Given this, the Council's decision to refuse outline planning permission was fully justified having regard to Section 38(6) of the Planning and Compulsory Purchase Act and Section 54A of the Town and Country Planning Act 1990 and to the policies contained within the Local Plan, emerging Local Plan Strategy and The Framework, along with the particular circumstances relating to the appeal site. It is therefore respectfully requested that the appeal be dismissed.

### **The Case for Hollins Strategic Land LLP**

82. The appellants' case is set out in their Statement of Case<sup>15</sup> and detailed below.

### **Policy Context**

83. The development plan for the purposes of this appeal comprises the saved policies of the Macclesfield Borough Local Plan.
84. The application was recommended for approval by Officers on the basis of it being compliant with the development plan. However, the Council considers that the proposal is compliant with all relevant Local Plan policies other than Policy GC5 (Countryside beyond the Green Belt) and Policy DC16 (Provision of Facilities).
85. The statutory duty requires applications to be determined in accordance with the development plan unless material considerations indicate otherwise. Should the proposed development for housing be contrary to the Local Plan it should be refused unless material considerations are found to outweigh the conflict with the adopted plan.

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<sup>15</sup> Document INSP9

86. Among the material considerations are the draft policies of the emerging Local Plan Strategy. In addition to Local Plan Policies GC5 and DC16, the reason for refusal also referred to Policies SD 1 (Sustainable Development in Cheshire East), SD 2 (Sustainable Development Principles), PG 2 (Settlement Hierarchy) and PG 5 (Open Countryside). The policies in the emerging Local Plan Strategy are subject to considerable uncertainty and only limited weight can be attached to them. Much greater weight must be given to national policy as set out in The Framework, which is centred on the achievement of sustainable development.
87. Paragraph 14 of The Framework states a presumption in favour of sustainable development, which means approving development proposals that comply with the development plan, or, where the plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of The Framework taken as a whole.
88. The Local Plan was drawn up to cover the period to 2011, and the settlement boundaries it defined will have reflected the need for, and supply of, land for new development, particularly housing, at the time the plan was drafted. The Local Plan proposed only 4,500 dwellings over a 15-year period, the Crewe and Nantwich Local Plan proposed 7,100 dwellings and the Congleton Local Plan proposed 3,800 dwellings; these gave a total of 15,900 dwellings, or 1,000 dwellings per annum (dpa). This is significantly less than the 1,800dpa currently proposed in the emerging Local Plan Strategy. The Local Plan is now time-expired and its definition of settlement boundaries can thus be seen as out-of-date.
89. The restriction on the location of development imposed by Local Plan Policy GC5 is relevant to the supply of housing, and is therefore out-of-date in this respect. The policy's countryside protection objective remains relevant to the decision, and is a matter to be taken into account in the assessment of the appeal proposal's sustainability. The sustainability of the proposed development is to be judged in a positively weighted balancing of the benefits and adverse impacts against the policies of The Framework as a whole.
90. In respect of the emerging Marton Neighbourhood Plan, at the Hearing the appellants confirmed that they consider that, due to the early stage in the preparation of this document, it should be afforded very little, if any, weight in the decision making process. At the Hearing, the appellants submitted a copy of their Consultation Response<sup>16</sup>, dated February 2016, made at the Regulation 14 pre-submission consultation stage, which sets out their views in respect of the emerging Neighbourhood Plan. These were primarily that it does not meet all of the required basic conditions; certain draft policies should be amended; and the land off School Lane should be allocated for residential development.
91. Following the close of the Hearing, and the subsequent notification by the Parish Council that the emerging Neighbourhood Plan has been submitted to the Council in order that a public consultation exercise could be undertaken, prior to the holding of an Independent Examination, the appellants confirmed<sup>17</sup> that the 6 week public consultation period ended on 11 April 2016. Furthermore, they

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<sup>16</sup> Document 8

<sup>17</sup> Document 18, Letter from Hollins Strategic Land, dated 12 April 2016

stated that they had submitted further substantive objections<sup>18</sup> to the emerging Neighbourhood Plan during the consultation period, including the contention that the basic conditions have not been met and specific concerns relating to a swathe of individual policies, many of which they consider seek to restrict the delivery of sustainable residential development. The appellants consider that their consultation response, along with another by Fisher German<sup>19</sup>, on behalf of The Capesthorpe Estate, represent significant unresolved objections, which limit the weight that can be afforded to the emerging Neighbourhood Plan. Furthermore, given that the emerging Neighbourhood Plan must now go through an Independent Examination and Referendum before it can be made, the weight to be afforded to it is further limited.

### ***Sustainability of the Proposed Development***

92. This planning balance exercise is carried out by assessing the appeal proposals against The Framework as a whole and the 3 dimensions of sustainable development set out in paragraph 7: economic role, social role and environmental role.

#### *Economic Role*

93. The appellants and the Council agree that the development would provide employment opportunities for the construction industry and benefit the wider construction industry supply chain; and result in spending in local shops and businesses by future occupiers.
94. The Council does not have the required supply of deliverable housing land and so the availability of the site to contribute to house building and economic development attracts significant weight. The site is deliverable, the appellants intend to either build the development themselves (through Hollins Homes), or partner with a housebuilder. It is anticipated the development could be built out in a year, and so the proposals would provide 1 year of economic benefits for the construction industry.
95. The permanent benefits would be to the local shops and businesses: Chapeau café and farm shop; Davenport Arms public house; Le Popote restaurant; Marton Meadows Golf Course; Marton Heath Trout Pools; Escape Beauty and Holistic Treatments; and, Bela Casa gifts and homeware shop. All of these shops and businesses are within easy walking distance of the appeal site, which would help to encourage future occupiers of the proposed development to spend a certain proportion of their money in Marton. As stated in the Officer's Report to the Planning Committee, the proposed development would assist in sustaining and potentially, increasing these amenities. It is of note that Marton did have a Post Office, but it closed. It is widely accepted that critical mass in rural villages is important to underpin viability of local services.
96. In addition to the aforementioned economic benefits, the New Homes Bonus would be beneficial.

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<sup>18</sup> Document 18, Marton Village Neighbourhood Plan 2015-2030 Submission Version, Consultation Response by Hollins Strategic Land, April 2016

<sup>19</sup> Document 18, Marton Village Neighbourhood Plan 2015-2030 Submission Version, Consultation Response on behalf of the Capesthorpe Estate by Fisher German, April 2016

97. The Framework states that local planning authorities should take into account the economic benefits of the best and most versatile (BMV) agricultural land. The proposal would result in the loss of 1.28ha of Grade 2 BMV land. However, as stated in the Committee Report, much of Cheshire East comprises BMV land and use of such areas will be necessary if an adequate supply of housing land is to be provided. Furthermore, within the context of recent appeals for residential development, Inspectors have attached very limited weight to this issue in the overall planning balance. Due to its relatively small area, shape and enclosed nature the appeal site does not offer significant opportunities for agricultural production.
98. It can therefore be concluded that, whilst the loss of some BMV land is a disbenefit, in the context of this proposal, the loss is of minor weight.
99. Given the benefits to the construction industry and to local shops and businesses, the proposal would contribute positively to the economic dimension of sustainability.

#### *Social Role*

100. The appellants and the Council agree that the development would contribute to market housing to meet an acknowledged shortfall; contribute to affordable housing to meet an acknowledged significant shortfall; and, have the potential to provide a high quality public open space accessible to existing residents. The proposed development would also contribute to providing housing in the rural area to meet market and affordable need; result in an increase in local residents adding to the community, utilising and enhancing local services; and, provide housing within the rural area in very close proximity to an existing school which has confirmed capacity.
101. The emerging Local Plan Strategy is in the process of being amended significantly as a result of the Council's draft report on a revised Objectively Assessed Housing Need recommending a figure of 36,000 dwellings (2010-2030), which is significantly higher than that proposed in the submitted plan (27,000 dwellings). This has resulted in the Council acknowledging that the contribution of market housing is an important benefit because it does not have a 5-year deliverable housing land supply.
102. The Committee Report does not confirm what the current supply is; it only confirms that the requirement exceeds the supply that the Council is currently able to identify. The appellants consider that the total supply is currently 4.2 years.
103. Even if all of the deliverable housing land supply identified by the Council in its latest housing land supply position statement (2014) were to come forward, there remains a significant shortfall of housing land. Consequently, the contribution towards the provision of a 5 year supply carries significant weight in support of the appeal proposal.
104. The original emerging Local Plan Strategy proposed to deliver in the order of 2,000 dwellings in the rural areas, but the revised emerging Local Plan Strategy proposes to deliver in the order of 2,950 dwellings. The Committee Report

afforded this weight. It should also be noted that a recent appeal decision (Ref. APP/R0660/A/14/2225591)<sup>20</sup> confirmed that '*Figures produced at the Inquiry suggest that a substantial proportion of the currently projected requirement of 2000 dwellings in the rural areas remains to be found.*'

105. Furthermore, the JBO consultation response is of relevance to the delivery of housing in the rural area. It states that the JBO has carried out an analysis which takes into account the distribution of development and the effect of the intervening terrain between any location and the telescope itself. The appellants have requested a copy of this analysis, but this has not been provided. The analysis is likely to result in swathes of the rural area being undevelopable due to the impact on the JBO. The JBO has objected to development in other rural settlements. The provision of housing at the appeal site would therefore gain added weight as the locations to deliver the (increased) rural housing requirement sustainably may become limited.
106. The Council also acknowledges that the affordable housing contribution is a substantial benefit. There is an identified annual need for 335 units of affordable housing. The Council acknowledges that there is a clearly identified need for more affordable housing. Furthermore, the social landlord, Peaks and Plains, has provided a Statement<sup>21</sup> to support the appeal proposal. The key points of this Statement include that Peaks and Plains is a prominent social landlord that owns and manages approximately 5,000 properties across Cheshire East and High Peak. It has been providing much needed affordable homes since 2006 and in Marton it owns and manages 7 properties and experiences a very low rental turnover. There is a very high demand for a mixture of accommodation and, within that, a specific demand for affordable housing. Peaks and Plains has had a limited number of properties become available since the launch of Choice Based Lettings in 2010. The majority have been for over 55s accommodation with only 10 being available for general needs. The bid average on these properties was 48.5 bids per property, demonstrating high levels of demand for the area. The proposed development is for a mixture of family homes and these are favourable sizes for Peaks and Plains to let, and it is of the opinion that the proposed unit types will help meet the housing needs of the area as identified by the Strategic Housing Market Assessment (SHMA).
107. Reviewing the current housing market within Marton, the Statement says that there are currently no 2 and 3 bedroom properties for sale or to rent. Previous sale properties have high sale prices and first time renters/buyers may find it hard to stay in the local area. The proposed affordable housing units could allow people to stay in the local area rather than having no choice but to move to a more affordable location. Based on the information provided, and its years of experience in letting rural properties, Peaks and Plains would like to take the affordable element of this proposed build.
108. The affordable housing provision included in the appeal proposal would be a significant benefit, meeting an identified need.
109. The Indicative Layout demonstrates that significant, attractive on-site public open space could be provided around an existing mature tree, and that it could

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<sup>20</sup> Document INSP9, Appendix 11

<sup>21</sup> Document INSP9, Appendix 12

be made accessible to existing residents as well as future occupiers of the proposed development. The Indicative Layout shows an area of public open space of around 1,440sqm, with the policy requirement being around 1,080sqm. The Indicative Layout also shows that residents from School Lane and Oak Lane would be able to access the public open space via the proposed pedestrian links. Public open space is limited in Marton and paragraph 73 of The Framework confirms that access to high quality open spaces can make an important contribution to the health and well-being of communities. The on-site provision would therefore be of significant benefit.

110. In addition to the social benefits listed in the Committee Report, the appellants also consider that the proposal would be of social benefit to the community by, potentially resulting in primary school aged children moving into the village and attending Marton and District CE Aided Primary School and, providing a footway along School Lane and a pedestrian link onto Oak Lane.
111. Prior to the submission of the planning application, a community consultation exercise was undertaken and the Head Teacher provided a response, stating that the Governing Body *'would welcome the proposal to build extra houses at Marton as we look forward to welcoming more children to school'*. It also stated that *'as a school we seek ways to maintain and further increase our pupil numbers and therefore see this proposal as a positive one'*.
112. The Indicative Layout shows that a footway could be provided within the site, along the School Lane frontage. There is no footway along this section of School Lane at present. The Indicative Layout also shows that a pedestrian link can be provided onto Oak Lane. This would provide residents of School Lane with an alternative route to the school, and would also shorten their route to local services and facilities via Oak Lane.
113. It can therefore be concluded that the proposal would contribute positively to the social dimension of sustainability.

#### *Environmental Role*

114. The appellants and the Council agree that the proposal would enhance biodiversity at the site. The Ecological Survey and Assessment provides measures to achieve a net gain for biodiversity and these can be secured by condition.
115. The Council and the appellants also agree that the proposed development would be acceptable in heritage terms; the proposed removal of trees/hedgerows would be acceptable; and the impact on the character of Marton would be acceptable.
116. There are 4 listed buildings within the vicinity of the site, with the closest being Greenacre off School Lane. The Committee Report confirms that the Council's Design/Conservation Officer did not object to the proposal. The submitted Heritage Statement concludes that *'The proposed new development will have an overall neutral impact on the significance of the listed structures and the non-designated heritage assets, with some important positive impacts. The significance of the designated heritage assets, Greenacre and Pump Cottage, as well as the non-designated heritage assets, is based upon evidential, historical, aesthetic and associative values which will remain*



*unaffected by the permanent residential development on the proposal site. There are important positive impacts of the proposed development. Firstly, the boundary hedgerow will be replanted in areas of current loss and the derelict brick structure will be demolished. Although four trees will be lost, sixteen mature trees of good quality will be retained, with significant additional planting of trees.'*

117. The Indicative Layout demonstrates that the trees protected by a TPO can be retained within the proposed development, as could the large Sycamore centrally located within the appeal site which would not be protected by a TPO. A small number of trees would be removed, along with a section of hedgerow. However, hedgerow and trees can be planted as part of the development and this can be secured at reserved matters stage. The Council's Arboricultural Officer did not object.
118. The Committee Report states that the proposed development would change the village in respect of increasing the number of existing dwellings and residents relatively significantly and that this is to be balanced against the benefits of the proposal. Marton comprises 54 dwellings and 250 residents. The proposal would result in up to 27 additional dwellings and 65 residents (on the basis of 2.4 per dwelling). However, the proposal would respect the character of the area, as confirmed in the Committee Report and by the Council's Landscape Officer and Design Officer. The Committee Report stated that the proposed density of 21dph would be consistent with, and would appropriately fit in with, the residential development that surrounds the site. This is further justified in the Design and Access Statement, which says that it would ensure an effective transition between the low density development along School Lane and the higher density development to the south.
119. However, the Council and the appellants disagree on the reason for refusal, both parts of which relate to the environmental role of sustainable development. The first part of the reason for refusal states that the proposal would be unsustainable and would create harm to interests of acknowledged importance, because the site is within the open countryside. The weight to be afforded to the loss of land allocated as open countryside must therefore be assessed.
120. The Committee Report confirms that the appeal site is surrounded by residential development and that its development would not significantly harm the wider landscape/countryside in this location. The Council's Landscape Architect did not object to the proposal and stated that the proposed development would not have any significant landscape or visual impacts.
121. In a recent appeal decision<sup>22</sup> (Ref. APP/R0660/A/14/2228115) the Inspector stated that *The Framework 'does not seek to protect all countryside from development it concentrates on the protection of "valued" and distinctive" landscapes, for example, those subject to specific designations; and seeks to encourage development on previously developed land. This site is not subject to any specific landscape designations; and although it is obviously valued by local residents, I do not consider that it falls within the category of a "valued landscape" as I understand The Framework to use the phrase.'*

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<sup>22</sup> Document INSP9, Appendix 7

122. The appeal site is not subject to a specific landscape designation, nor is it a valued landscape, as confirmed by the Committee Report and the Council's Landscape Architect. The appellants also consider that the site is not classic open countryside. It is very well contained by existing development, again as confirmed by the Committee Report and the Council's Landscape Architect, and views of classic open countryside to and from the appeal site are limited.
123. It can be concluded that little weight should be attributed solely to the appeal site being located in the countryside and thus, in this respect, the development being contrary to Local Plan Policy GC5 (or emerging Local Plan Strategy Policy PG 5).
124. The second part of the reason for refusal states that the development is locationally unsustainable due to the lack of public transport links, facilities and infrastructure, contrary to Local Plan Policy DC16 (and emerging Local Plan Strategy Policies SD 1, SD 2 and PG 2). It is not confirmed which aspects of infrastructure the Council considers are lacking, but Members at the Committee Meeting suggested that drainage is an issue and cited the absence of mains gas. On the matter of infrastructure, it should firstly be noted that United Utilities did not object to the application; nor did the Council's Flood Risk Officer. The submitted Flood Risk Assessment and Drainage Strategy Management confirms that the proposed development can be appropriately drained. For a site in the rural area, it is particularly well served in terms of drainage with existing sewers surrounding the site. Furthermore, Peaks and Plains has confirmed<sup>23</sup> that the absence of mains gas does not dissuade it from managing the affordable housing units. It is quite normal for rural area housing to be serviced by other means of heating.
125. On the matter of locational sustainability, it should firstly be noted that the Council's Highways Department confirmed that it would have difficulty resisting the application on the grounds of sustainability. Additionally, the Committee Report states that although the appeal site would not be located within the desired proximity to a bus stop, a multi functional open space and a convenience store, as desired in Policy SD 2, it would provide access to other services/facilities/amenities desired within Policy SD 2, namely public rights of way, a primary school, outdoor sports facilities and a public house. In addition there is a place of worship, local shop, restaurant, some limited employment opportunities and access to the National Cycle Network (via Route 55). The Report also acknowledges that use of the car is likely to be the most dominant mode of transport for future residents. However, it notes that a Travel Plan which includes steps to reduce the use of the car can be submitted as part of a reserved matters application. Overall, the location, existing infrastructure, services, facilities and amenities are aspects that form only part of the overall assessment of whether or not the proposed development would be a sustainable form of development.
126. Marton does not currently have a bus stop or railway station and it is acknowledged that use of the car is likely to be a dominant mode of transport for future residents. However, Marton does have a good range of existing services, all of which can be easily accessed on foot from the appeal site. The existence of

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<sup>23</sup> Document INSP9, Appendix 12

- these services and facilities, and in particular the school, would reduce the number of trips that need to be made by private motor vehicle. The Travel Plan would also include steps to reduce the use of the private motor vehicle, as would the site's proximity to the National Cycle Network (Route 55).
127. The appellants submitted a Highways Statement in Response to Third Party Representations<sup>24</sup>, dated February 2016, at the Hearing. In terms of locational sustainability it concludes that the level of facilities locally available is good, relative to the location and scale of the proposed development. Furthermore, it says that the presence of a primary school, adjacent to the appeal site, is of particular benefit, this being the centralised facility for the rural area and villages north of Congleton, and a number of other local facilities are available.
128. The Committee Report refers to emerging Local Plan Strategy Policy SD 2, which states that residential development would be expected to provide access to a range of forms of public transport, open space and key services and amenities. Footnote 45 of the emerging Local Plan Strategy confirms that a range is considered to be within the maximum recommended distance of a bus stop; a multi-functional open space; and a convenience store, in addition to 4 or more other services or amenities, dependent on location. The Committee Report rightly highlights 'dependent on location'.
129. Paragraph 29 of The Framework confirms that the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Paragraph 34 is also relevant and says that plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. However, it goes on to say that this needs to take account of policies set out elsewhere in The Framework, particularly in rural areas.
130. The appeal site has good access to services and facilities, particularly as it is within the rural area. It must be reiterated that the emerging Local Plan Strategy proposes 2,950 houses in the rural area. Furthermore, it is demonstrable that Marton is one of the best served settlements in the rural area. The Council's document entitled Determining the Settlement Hierarchy<sup>25</sup> lists the settlements in the rural area and sets out the facilities in them. Of the 103 settlements in the rural area, only 7 have more services and facilities than Marton.
131. It can therefore be concluded that the appeal site, as a site within the rural area (where a significant amount of housing is proposed in the emerging Local Plan Strategy), is locationally sustainable. In this regard, the proposal would be compliant with Local Plan Policy DC16 as well as emerging Local Plan Strategy Policies SD 1 and SD 2.
132. It can therefore be concluded that the proposal would contribute positively to the environmental dimension of sustainability.

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<sup>24</sup> Document 5

<sup>25</sup> Document INSP9, Appendix 16

### **Other Matters**

133. At the Hearing, the appellants submitted a Technical Note: School Parking Surveys<sup>26</sup>. This concludes that the maximum number of cars parked on School Lane was 43 and, at this time, only 3 cars were parked within the survey zone in which the proposed development access would be located. It goes on to say that this number of cars could continue to park within this zone without having a significant effect on highway safety with the proposed development access in place. Furthermore, it says that parking on School Lane was not observed to extend onto the appeal site frontage at any times other than for a brief period around school start and end time. As such, the proposed site access is not expected to have a significant impact on school drop off and collection activity, as space would be available within existing areas of School Lane to accommodate this activity without requiring parking in the location of the proposed access. However, in the event that parking is not available on School Lane, then sufficient space would be available within the proposed development to accommodate any parking displaced as a result of the access provision.
134. In an email<sup>27</sup> dated 24 February 2016 (1230hrs) the Highway Authority confirmed that it agrees with the conclusions set out in the Technical Note.
135. The appellants' Highways Statement<sup>28</sup> confirms that the Highway Authority offered no objection to the proposed development. It states that the development is expected to generate low levels of traffic, with the Transport Statement predicting that the proposal would generate 15 vehicle movements in the morning peak hour and 16 vehicle movements in the evening peak hour. It is not expected that the additional movements generated would have a significant effect on local highway conditions. Furthermore the Highways Statement concludes that the proposed access junction would be suitable for the proposed development. However, it is acknowledged that, although there may be a degree of school activity in the vicinity of the proposed access junction, this is limited both in extent and duration, and in any event, parking within junction visibility splays is a regular occurrence and is not typically expected to result in significantly adverse operational issues.
136. With regards to the proposed footpath provision along the frontage of the appeal site, the Highways Statement says that there is currently no footway provision on School Lane and the sections either side of the appeal site would remain as such. Nevertheless, School Lane is a lightly trafficked route, with low vehicle speeds, as has been established from the traffic surveys reported in the Transport Statement, and the lane is rural in character. As such, the traffic conditions and nature of School Lane would provide an acceptable environment for use by pedestrians and cyclists. Indeed, the designation of School Lane as part of the National Cycle Network (Route 55), supports this view.
137. The Highways Statement also refers to the proposed pedestrian connections to Oak Lane and the A34 shown on the Indicative Layout. With regards to the former, Oak Lane would offer an alternative route to the A34 and village amenities from the proposed development, there being a footway on both sides

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<sup>26</sup> Document 3

<sup>27</sup> Document 4

<sup>28</sup> Document 5

of the A34 to the south of Oak Lane. The pedestrian connection to the A34 is considered to be technically feasible by the Highway Authority, despite the concerns raised by Progress10 on behalf of the Parish Council. Although this proposed connection to the A34 would be of additional benefit to the proposed development, it is not considered essential for pedestrian movement.

138. School Lane forms part of the National Cycle Network (Route 55) and the route between the appeal site and Congleton is considered to offer a good standard environment for cyclists. Although the distance on Route 55 to key destinations such as Congleton and Macclesfield may be a deterrent to some users, the ready access to it is considered a benefit of the location of the appeal site by the Highways Statement and offers a good basis on which to encourage cycle use.

### ***Planning Balance***

139. It is evident from the assessment of the economic, social and environmental roles, that on balance, the proposal would be sustainable development within the overall meaning of paragraphs 18 to 219 of The Framework. It is acknowledged that the proposal would have the following adverse impacts: loss of land allocated as open countryside; and, loss of 1.3ha of BMV agricultural land.
140. However, for the reasons set out above, these should be given minor weight and are to be weighed against the following benefits: provision of employment opportunities for the construction industry and benefits to the wider construction industry supply chain; resultant spending in local shops and businesses; resultant New Homes Bonus payment; contribution to market housing to meet an acknowledged shortfall; contribution to affordable housing to meet an acknowledged significant shortfall; contribution to providing housing in the rural area; resultant increase in local residents adding to the community and assisting local services; the potential provision of a high quality public open space accessible to existing residents; potentially resulting in primary school aged children moving into the village and attending Marton and District CE Aided Primary School; provision of a footway along School Lane and a pedestrian link onto Oak Lane; enhancement of biodiversity; enhancement of the significance of the Heritage Assets; and, the provision of locationally sustainable housing.

### ***Conclusions***

141. The application was recommended for approval by Officers on the basis of it not offending the development plan policies and delivering a number of planning benefits, including the delivery of market and affordable housing in circumstances where there is a shortfall in housing land supply. However, it was refused by the Planning Committee as being contrary to Local Plan Policies GC5 and DC15. The appeal should be determined in accordance with the development plan unless material considerations indicate otherwise.
142. The policies of the development plan have to be seen in the context of the shortfall in housing delivery and the presumption in favour of sustainable development given by paragraph 14 of The Framework. The emerging Local Plan Strategy policies are material considerations, but only limited weight can be afforded to them. Much greater weight must be given to The Framework which requires permission to be granted unless any adverse impacts of doing so would

significantly and demonstrably outweigh the benefits, when assessed against the policies in The Framework as a whole.

143. The sustainability of the proposed development against The Framework as a whole has been assessed and it has been demonstrated that the proposal would contribute positively to the economic, social and environmental dimensions.
144. It is acknowledged that the proposals would result in the loss of land allocated as open countryside and the loss of BMV agricultural land. However, it has been demonstrated that these should be given minor weight and must be weighed against a significant number of benefits.
145. The adverse impacts would not significantly and demonstrably outweigh the benefits and it is therefore requested that the appeal be allowed.

### **The Cases for Other Parties who gave Evidence at the Hearing**

#### **The Case for Marton Parish Council**

146. Marton Parish Council was represented by a planning consultant at the Hearing, but the Chair and 3 other Members of the Parish Council also gave evidence during the proceedings. The Parish Council submitted a written representation<sup>29</sup> to the appeal, which is detailed below.
147. The Parish Council supports the reason for the refusal of outline planning permission made by Cheshire East Council on the planning application.

#### ***Background and Summary of Representations made Prior to the Council's Decision***

148. The Parish Council submitted 4 different responses to the planning application as follows.

##### *Letter and Supporting Documentation, dated 23 June 2015*

149. The Parish Council sets out its strong objection to this proposed development, which it felt would be totally inappropriate in scale and sustainability. Residents feared that such a development would have a serious impact on the quality of life and enjoyment of the local environment. Specific objections were made, including that the development would not be sustainable; concerns about highway safety, inadequate parking and access; loss of a greenfield site and the Parish Council's preference for brownfield development; overlooking and loss of privacy to surrounding properties; loss of trees and hedgerows; the proposed development would be inappropriate for the area; previous decisions have refused planning permission for residential development on this site; the views of Marton residents; and, errors in the planning application. A list of supporting documents also accompanied the letter of objection.

##### *Letter, dated 6 August 2015, in Response to Amendments made to the Application*

150. The Parish Council concluded that the applicant had failed to identify a safe and viable access route to the proposed development site. The Parish Council's view had not changed inasmuch as the proposal would be inappropriate in scale

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<sup>29</sup> Document INSP4

and would not be sustainable. Also the risk associated with the school traffic and parking had not been addressed. The type of development proposed is against the views and wishes of Marton residents, as expressed in the Village Plan, the emerging Neighbourhood Plan and the letters of opposition.

*Letter, dated 15 September 2015*

151. The Parish Council expresses its further views in respect of the application including that it should not be granted planning permission as there is sufficient doubt in the ability of the submitted details to provide a safe and viable access strategy to this site, both in the interest of the highway user.
152. Concern was also expressed that there would still be a severe adverse impact on a listed building and existing trees and hedges, which would permanently damage and promote the loss of these local green landscape features.

*Letter, dated 22 September 2015*

153. The Parish Council expresses surprise to find at this late stage that the applicant has submitted a further revised Indicative Layout for the proposed development on School Lane. Changing the layout and an access point at this juncture suggests a lack of due diligence and clear planning objectives on the part of the developer.
154. The views of the Parish Council were summarised in the Planning Officer's report to the Council's Northern Planning Committee when it met to consider the application on 7 October 2015. The Committee resolved to refuse the application for the reasons set out in the notice of refusal, dated 14 October 2015.

### ***Development Plan***

155. The development plan for the Parish of Marton within Cheshire East currently comprises the saved policies from the Macclesfield Borough Local Plan (January 2004). The legislation provides that any planning application shall be determined in accordance with the development plan, unless material considerations indicate otherwise. This status has been reaffirmed in paragraph 2 of The Framework.
156. There are two policies in the Local Plan which the Council refers to in its decision notice. One policy concerns the inclusion of the appeal site and Marton as a whole within the area designated as Open Countryside (Policy GC5). The other policy concerns development control matters (Policy DC16). Marton Parish Council agrees that these are the most important policies concerning the principle as to whether planning permission for residential development should be granted on the appeal site.
157. The overall strategy of the Local Plan sets out the main aims of each group of policies within it (section 2). Of the 6 aims listed, 4 are directly relevant to this appeal (the other 2 are concerned with land within the Green Belt and conversions of existing buildings). These aims are to protect unallocated land from development in the Green Belt and countryside; to limit development to that which is broadly specified in national planning policy; to meet the needs of rural communities; and, to provide for the needs of agriculture and other activities appropriate to a rural area.

158. The background explanation to policies for the countryside, set out in paragraph 4.2 of the Local Plan, makes clear that the presumption is against new building, subject to certain limited exceptions or as may be specially approved.
159. Attention is also drawn, in paragraph 4.5, to the importance of agricultural land within the Local Plan area which deserves to be protected for the longer term and some of which is of high quality. Map 6 of the Local Plan confirms that the Marton area lies within the countryside area beyond the Green Belt for the purposes of development planning and management. It is also important to note that the village of Marton is not identified separately from the Parish and there are no policies in the Local Plan which treat the village differently than the rural areas which lie within and around it. Indeed, the close integration between the village and the rural area in which it lies is one of the principal characteristics of Marton. So planning policy for the countryside set out in the Local Plan applies to the whole parish including the appeal site.
160. Policy GC5 of the Local Plan says that development in the open countryside beyond the Green Belt will not normally be permitted unless it is essential for agriculture, forestry, outdoor recreation or for other uses appropriate to a rural area.
161. The supporting reason for the policy makes it clear that it is in the interests of preserving the countryside for its landscape, ecological and recreational value as well as for agricultural reasons. It is to be noted that residential development, particularly of the size and scale proposed, is not one of the exceptions which may be considered acceptable. The policy also states that development (other than the exceptions listed) would not normally be permitted. To comply with this requirement, it is suggested that for a proposed development to be acceptable there should be some special circumstances justifying the development on this site. In this case, no such circumstances exist in respect of a large intrusive residential development on the appeal site. The site has an existing use both in land use, as agricultural land, and in visual amenity terms, as reflecting the character of the open countryside in which the site lies. In conclusion, the development would not satisfy Local Plan Policy GC5 and therefore the appeal should be determined having strong regard to this policy.
162. Policy DC16 of the Local Plan says that developments which are not capable of being serviced by existing infrastructure (such as highways, sewers etc) will not normally be permitted. The reason for this policy explains that this is to avoid excessive demand on existing infrastructure. The background to the development control policies, within which Policy DC16 is located, refers on a number of occasions to the principles of sustainability. The Framework emphasises the need for all development to be sustainable and it is therefore appropriate to give full and detailed consideration to this matter. Policy DC16 provides existing development plan support for the principles of sustainability.
163. The Council's refusal of planning permission refers in particular to the lack of public transport links, facilities and infrastructure to serve the proposed development. The Parish Council supports all these concerns.
164. The overall strategy of the Local Plan is to concentrate development in urban areas and to that extent the Local Plan predated national policy. In parallel with that, it also sought to protect the countryside from development and therefore Policy DC16 as applied to the appeal site complements and supports the



countryside policies as set out in Policy GC5 and other policies not relevant to this appeal.

***Cheshire East Local Plan: Local Plan Strategy Submission Version***

165. The emerging Local Plan Strategy has been in its examination stage since September 2014. Since that time, the Council has proposed some changes to the submitted version. The Local Plan Inspector has also now given 2 sets of interim views on key policy aspects of the emerging Local Plan Strategy, in November 2014 and December 2015, the latter being received after the decision was made to refuse this planning application. The Council's decision notice refers to 4 policies in the emerging Local Plan Strategy, Policies PG 2, PG 5, SD 1 and SD 2.
166. Policy PG 2 sets out the proposed settlement hierarchy for Cheshire East. This policy seeks to focus the supply of new housing to higher tier settlements where a greater degree of services and facilities is available. Policy PG 2 includes the Marton area in the lowest tier where the intention is to confine development to small scale development, infill, conversion and affordable housing to meet a particular local need. The policy makes it clear that this is in support of sustainable development, and that any growth and investment in these types of lowest order settlements should be confined to small scale.
167. The decision maker should have regard to Policy PG 2, particularly given the support for the hierarchy of 4 tiers of development (Principal Towns, Key Service Centres, Local Service Centres and Other Settlements and Rural Areas) given by the Local Plan Inspector in his further interim views of 11 December 2015, which had been set out in his first set of interim views. The Local Plan Inspector reached an initial conclusion that the proposed settlement hierarchy was justified, effective and soundly based. He has also now endorsed the principle that the majority of new development should be located in the 24 largest towns and settlements (which comprise the towns and centres). Marton is not one of the settlements identified. It is concluded that the proposed development cannot comply with Policy PG 2 of the emerging Local Plan Strategy.
168. Policy PG 5 defines the open countryside as the area outside of any settlement with a defined settlement boundary. This includes the whole of Marton village as there is no defined settlement boundary. The policy provides that within the open countryside only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. A large housing estate of over 20 houses is clearly not one of the developments likely to be acceptable in principle. The policy also provides for a number of exceptions to be made to the policy. However, none of these exceptions is applicable to the development proposed.
169. The policy also refers to the retention of gaps between settlements being important, in order to maintain the definition and separation of existing communities and the individual characters of such settlements. Such areas would be protected from inappropriate development. In the case of Marton, the gap in the middle of the village is part of the character of the settlement and the Parish as it gives the area a distinctive rural feel, although there are some local facilities normally found at the heart of a Cheshire village. The policy also

provides that the acceptability of such development will be subject to compliance with all other relevant policies in the Local Plan. In this regard, particular attention should be paid to design and landscape character so the appearance and distinctiveness of the Cheshire East countryside is preserved and enhanced. In the case of the appeal site, it is the openness, appearance and distinctiveness of the agricultural area at the heart of the village which is a strong matter of concern.

170. It is concluded that the proposed development fails to comply with all the criteria of Policy PG 5 and satisfies none of the proposed exceptions to the policy.

171. Policy SD 1 of the emerging Local Plan Strategy sets out a series of planning considerations which development should, wherever possible, comply with. A total of 16 considerations are listed which are based on the Council's interpretation of the principles of sustainable development as applied to the mixed urban and rural area which is Cheshire East. It is the Council's case at this appeal, supported and fully endorsed by the Parish Council, that this proposed development does not meet the majority of these considerations due to the site's location within a rural area and the very limited range of local services and facilities. It is concluded, therefore, that the development cannot comply with the majority of planning considerations set out in Policy SD 1.

172. Policy SD 2 sets out 4 criteria which developments are required to comply with in respect of sustainable development principles. In respect of residential development, sites will be expected to provide open space, of an extent, quality, design and location appropriate to the development and the local community; provide access to a range of forms of public transport, open space and key services and amenities; and, incorporate measures to encourage travel by sustainable modes of transport such as walking, cycling and public transport. Allied to Policy SD 2, Table 9.1 sets out a proposed guide to the appropriate distances for access to services and amenities. The methodology for the assessment of walking distances was informed by that of the North West Sustainability Checklist which has been supported by the Department for Communities and Local Government and World Wide Fund for Nature. These distances are actual distances using public highways and footpaths. The distances are considered appropriate for the North West region and have been used for the purposes of informing the Sustainability Appraisal and the accessibility of proposed developments.

### ***National Planning Policy Framework and National Planning Practice Guidance***

173. Both The Framework and the The Practice Guidance are applicable to this appeal.

174. Paragraph 6 of The Framework states that the purpose of the planning system is to contribute to the achievement of sustainable development. Marton Parish Council supports and fully endorses this principle. Furthermore, the Council has sought to fully integrate this principle in its emerging Local Plan Strategy as is evidenced by Policies SD 1 and SD 2 which lie within the section entitled Planning for Sustainable Development. The proposed development significantly fails to satisfy any reasonable test of sustainable development.

175. Paragraph 14 states that at the heart of The Framework is a presumption in favour of sustainable development, which should be seen as a golden thread

running through both plan-making and decision-taking. For decision-taking this means approving development proposals that accord with the development plan without delay and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in The Framework taken as a whole; or specific policies in The Framework indicate development should be restricted.

176. The development plan (in the case of the particular Countryside and Development Control policies of the Local Plan) is aligned with the emerging Local Plan Strategy on many matters. These would include the preferred location for new development being within towns and large villages in Cheshire East, the protection of the countryside for its own sake and the need for sites to be in sustainable locations.
177. The adverse impacts of this scheme are firstly, the unsustainable location in a rural and countryside area with a limited range of services and facilities. Secondly, there is the adverse visual harm to the open landscape character of the site. The longstanding and positive use of the site for agricultural purposes must also be considered as an adverse impact, particularly given the site's location within the heart of Cheshire as a major contributor to UK food production. The vast majority of land in Marton is farmed, and Marton has a far higher proportion of agricultural workers (20%) than the national rural average (3%) as revealed by the census information<sup>30</sup>. Finally, there are adverse impacts on local residents arising from the additional traffic, intensification of residential activities in a rural area and loss of visual amenities.
178. The Framework also sets out some core planning principles in paragraph 17. One of these requires that planning should take account of the different roles of different areas including a recognition of the intrinsic character and beauty of the countryside and the need to support thriving rural communities. The characteristics of local landscapes are recognised as important features and the Cheshire Plain is a distinctive character area in its own right, being an area of low level gently rolling countryside. The unique character of Marton Parish is described in detail in the report of the Landscape and Settlement Character Assessment 2015<sup>31</sup> conducted on behalf of the Parish Council.
179. Paragraph 47 of The Framework states that local planning authorities should boost significantly the supply of housing. Furthermore, paragraph 49 states that housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.
180. The appeal site does not lie within a sustainable location as evidenced by the priority being given to locations within 24 other more sustainable settlements in Cheshire East than Marton and by the failure of the site to meet basic sustainability criteria in terms of services and facilities.

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<sup>30</sup> Document INSP7, Page 16 of Appendix 6

<sup>31</sup> Document INSP 7, Appendix 3

### ***Best and Most Versatile Agricultural Land***

181. The Parish Council is concerned about the lack of consideration given in this planning application and appeal by both the appellants and the Council to the existing use and benefits of the appeal site in agricultural terms. The proposal would result in the loss of an area of Grade 2 agricultural land. The Parish Council has submitted photographic and written evidence<sup>32</sup> to support its concerns relating to the agricultural use of the appeal site and its siting in the open countryside.
182. Paragraph 112 of The Framework requires local planning authorities to take into account the economic and other benefits of the BMV agricultural land (which includes Grade 2). The Planning Officer's Report to the Northern Planning Committee in October 2015 sets out some relevant paragraphs of The Framework pertinent to this application. However, there is no reference to paragraph 112 in the list of relevant paragraphs. Neither does the Officer's Report undertake the assessment required on the economic and other benefits of the land in agricultural use. Rather the Report makes the general point that Planning Inspectors have attached very limited weight to this issue in the overall planning balance in their Decisions. The Report goes on to say that due to its relatively small area, shape and enclosed nature the site does not offer significant opportunities for agricultural production. This site is part of a large rural estate which is managed locally. The Parish Council confirmed at the Hearing that it has been in continued agricultural use for many decades, predominantly for the grazing of livestock. If the land is no longer required for agricultural use by the estate, it is the Parish Council's view that there are other agricultural uses which could be accommodated and viable (perhaps in association with other holdings) and still retain the character of the village.

### ***Marton Neighbourhood Plan***

183. At the time of the consideration and determination of this planning application, Marton Parish Council was continuing to prepare a Neighbourhood Plan started over recent years. The Parish Council has now published a draft Plan<sup>33</sup> for the Parish of Marton. A consultation period for this Plan under Regulation 14 ran until 1 February 2016. The purpose of this consultation was to seek representations from statutory consultees and other parties whose interests may be affected by the draft proposals made.
184. A Consultation Statement<sup>34</sup> was submitted by the Parish Council at the accompanied site visit. This document sets out the responses received by the Parish Council, along with any associated recommended amendments to the emerging Neighbourhood Plan, in Appendix 2. These responses include those made by the appellants and Fisher German on behalf of The Capesthorpe Estate. Paragraph 10.4 of the Consultation Statement states that the issues and concerns raised have been given full consideration and a number of changes have been made to the emerging Neighbourhood Plan accordingly, in preparation for formal submission. It further says that, while the representations from the

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<sup>32</sup> Document INSP4

<sup>33</sup> Document INSP7

<sup>34</sup> Document 15

appellants and Fisher German were considered, they were not supported and, as such, changes were not thought necessary to be made.

185. At the time of the Hearing, the Parish Council stated that the emerging Neighbourhood Plan was at Regulation 15 stage. However, following the close of the Hearing the Parish Council confirmed<sup>35</sup> that the Neighbourhood Plan had now reached Regulation 16 stage and has been submitted to the Council in order that a public consultation exercise can be undertaken, prior to the holding of an Independent Examination. Accordingly, the emerging Neighbourhood Plan must be considered as part of the decision-making process and it should be afforded significant weight, in accordance with paragraph 216 of The Framework.
186. In respect of policies in the emerging Neighbourhood Plan, the proposed development would be contrary to most policies of the plan. In particular, given the potential impact of this scale of development on a small rural village community, it is likely that all the policies in one form or another should be considered before any decision is made on this appeal.
187. It is important to note that the emerging Neighbourhood Plan has been prepared with full consultation with Officers of Cheshire East Council and of Cheshire Community Action who have both actively supported the Parish Council in its plan preparation, including policy development. Set out below is a detailed assessment as to how the proposal would comply with the relevant policies of the emerging Neighbourhood Plan.

#### *Residential and Commercial Development*

188. The objective for this part of the emerging Neighbourhood Plan is for Marton to have a slightly larger population due to carefully planned and proportionate increases in housing, preferably created through brownfield development, conversions of existing buildings or through infill development of an appropriate density, scale and size.
189. Supporting this objective, the emerging Neighbourhood Plan sets out a series of proposed policies aimed at meeting this overarching objective. One policy confirms Marton as a rural settlement and that no strategic need has been identified to deliver housing beyond local needs in either the existing Local Plan or the emerging Local Plan Strategy. The emerging Neighbourhood Plan proposes to meet local needs arising from the existing population.
190. It is clear that the appeal proposal is designed to meet some wider strategic housing need identified at a Borough wide level. In particular, an estate type development in the manner likely to be proposed (at the reserved matters stage) would be contrary to many of the provisions within this part of the emerging Neighbourhood Plan.

#### *Transport, School and Parking*

191. The objective for this section of the emerging Neighbourhood Plan is to reduce the problems of congestion outside school and improve safety. The accompanying policy states that proposals to improve the parking provision

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<sup>35</sup> Document 16

within the curtilage of the school will be supported as this would improve the safety of the children and of parents bringing their children to school.

192. Photographs<sup>36</sup> showing the extent of on street parking in the village at school drop off and collection times were submitted at the Hearing by the Parish Council. The housing development proposed can only make the current parking situation around the village at school times less safe for children and parents. More traffic would be generated from the new houses including at school times. Furthermore, the significant increase in new houses proposed on the north side of Congleton (many already with the benefit of planning permission) would create further risks to highway and personal safety.

193. It can be concluded that in terms of this objective and policy, the appeal proposal cannot comply with, and runs completely counter to, the provisions of the emerging Neighbourhood Plan.

*Protecting our Environment: Landscape Character, Green Spaces and Local Wildlife*

194. This section of the emerging Neighbourhood Plan seeks to maintain and enhance the rural environment of Marton and to protect it from inappropriate development encroaching on the village from the north of Congleton and the south of Macclesfield. There are more than 10 accompanying policies designed to provide policy guidance to achieve this objective. The policy provisions are derived in part from the LSCA undertaken for the Neighbourhood Plan as supporting evidence.

195. The proposed development would be contrary to many of the provisions of these policies due to the loss of the open landscape to enable houses to be built, the loss of the amenity afforded by the green spaces used for agricultural use and the loss of local wildlife which would follow from the change of use of the land to built development.

*Traffic and Safety*

196. The objective for this section of the emerging Neighbourhood Plan is that Marton would have calmer, slower traffic through the village on the A34. This recognises the existing issues in the village arising from the presence in the heart of the village of this major arterial road running north-south through the heart of England from Manchester to Hampshire. In particular, the road serves as a north-south alternative to the M6 motorway so is used when the motorway is closed or congested or by those driving long distances who do not wish to drive on the motorway. The addition of this housing development in the position proposed can only exacerbate existing traffic conditions. In respect of draft policies, it is the Parish Council's view that the development cannot, as submitted, comply with the 4 policies proposed in the emerging Neighbourhood Plan.

197. It can be concluded that this appeal proposal runs counter to the main objectives of the emerging Neighbourhood Plan. More than this, given its size, scale and impact on the village, the development of the appeal site in the manner proposed would be contrary to the plan-led provisions of spatial planning set out in The Framework. A decision to allow this development at this stage of the plan

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<sup>36</sup> Document 12

making process would also prejudice the community's ability to support locally generated needs in the manner envisaged by the strategic policies of both the existing development plan and the emerging Local Plan Strategy.

### ***Sustainability***

198. The Framework sets out at paragraph 7 the 3 dimensions to sustainable development, each of which gives rise to the need for the planning system to perform a number of roles. These are the economic, social and environmental roles. In making its decision to refuse this planning application, the Council has balanced these different roles and concluded that the determination should be in accordance with the development plan for the area.
199. Marton is a small rural village with very limited infrastructure or facilities. A development of this size would more than double the number of residents within the core of the village.
200. Marton lacks some basic facilities such as mains gas, any public transport services including no bus stop, post office or petrol station. The village shops do not serve many everyday needs. There are two shops, a gift shop and a farm shop which only have a very limited range of products and serve passing traffic on the main A34 road which passes through the middle of the village. Being located within a rural countryside area, there are few opportunities for full time employment. The nearest supermarket is 3.6 miles away in Congleton town to the south requiring private travel by taxi or car for everyday needs. Congleton station is sited to the south of the town and therefore on the opposite side to Marton village. When residents require essential medical treatment (such as doctor, dentist, chemist or hospital treatment) they must travel to either Macclesfield or Congleton, again primarily by private car. The existing broadband service for the local area is extremely slow with no programmed date for any upgrade.
201. To secure employment, residents of the new homes would probably have to commute by car to the towns to the north (such as Macclesfield, Wilmslow and Knutsford) or south (such as Congleton, Sandbach, Middlewich or Crewe) or the larger conurbations such as Greater Manchester, Warrington, Merseyside or the Potteries, all of which are accessible via the A34 either north or south onto the regional motorway network. Each of these locations could be reached within an hour's commuting time from Marton. It is estimated that such a development could add 30 to 40 car journeys twice daily.
202. An assessment has been carried out by the Parish Council of the sustainability criteria set out in Policies SD 1 and SD 2 of the emerging Local Plan Strategy. The criteria are set out in Section 9: Planning for Sustainable Development.
203. The proposed development would fail to achieve the objectives set out in Policy SD 1, specifically criteria 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15 and 16. It would also not comply with many of the Sustainable Development Principles set out in Policy SD 2, specifically criteria 1i, 1ii, 1iii, 1iv, 1v, 1vi, 2i, 2ii and 2iii. Table 9.1 of the emerging Local Plan Strategy sets out guideline distances for access to local services and amenities. The appeal site complies with one of the 3 public transport distances (public right of way within 500m); one of the 4 open space distances (outdoor sports within 1km); and 4 of the 13

services and amenities distances (post box within 500m; primary school within 1km; public house within 1km; and child care (nursery or crèche) within 1km).

204. It is concluded, therefore, that the appeal site fails to meet the criteria set out in the emerging Local Plan Strategy to a significant degree. The appeal site is in an unsustainable location based on the criteria set by the Council.

### ***Traffic and Highways Matters***

205. The traffic and highways impact of the proposed development has been a major concern for the Parish Council and continues to be so. The Parish Council has therefore commissioned its own independent reports on transport and highways matters from Progress10 Design. A Technical Note, dated June 2015, was appended to the Parish Council's response to the planning application, dated 20 June 2015, with a further report, Technical Note Addendum<sup>37</sup>, dated October 2015, prepared following the refusal of planning permission appended to the Parish Council's representation to this appeal.

206. The Technical Note identifies a number of concerns regarding the site access junction, sustainability from a highway and transport perspective, inaccuracies in the supporting transport material accompanying the planning application and a lack of information regarding the potential highway impacts and proposed solutions, particularly given the appeal site's proximity to the A34 principal road to the west and the primary school to the east. Local residents experience the traffic situation on a continuous basis and have expressed their concerns about the road and highway safety issues, particularly for children and parents attending the school, arising from this proposed development.

207. The Parish Council has also expressed concerns about the increased traffic flow on the A34 resulting from the number of additional houses for which planning permission has been granted in the Congleton area. Many future residents of those homes will travel through Marton along the A34 as the most direct and convenient means of access to the wider conurbations. Currently, during the morning rush hour, it can be difficult to get out of School Lane on to the A34, particularly if there are congestion problems along the M6 motorway between Stoke-on-Trent and Knutsford, which commonly occurs. The additional traffic from the proposed development would only compound these problems particularly at the peak hours.

208. The Parish Council has submitted a Risk Assessment and photographic evidence<sup>38</sup> relating to school parking in Marton. This was carried out by 2 members of the Parish Council to establish the risk to parents and children attending the school and to residents of Marton. It concludes that the proposed access road would not be sustainable and would result in making an already serious highway safety issue considerably worse.

209. In addition, the Parish Council is concerned about the difficulties associated with the provision of the proposed pedestrian connection to the A34, due to the gradients involved, along with its use and subsequent impact on pedestrian safety. Furthermore, concerns have been raised about the likely use of the

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<sup>37</sup> Document INSP4

<sup>38</sup> Document INSP4



National Cycle Network (Route 55) as between the appeal site and Congleton it is both tortuous and narrow, which would be challenging for all but regular cyclists.

### ***Other Matters of Concern***

210. The Parish Council highlighted a number of other areas of concern, both in its written representations to the planning application and orally at the Hearing. These included the impact of the proposed development on the character and appearance of the area and the living conditions of neighbouring residents, with particular reference to privacy, outlook, noise and disturbance, light, dirt and dust. In addition, the loss of trees and hedgerows is a concern to the Parish Council as well as the impact of the proposed development on the listed building Greenacre, the JBO and wildlife and the environment.

### ***Post Planning Decision Changes to Policy***

211. There have been some developments in the planning policy context for the appeal, given the passage of time since the decision to refuse outline planning permission was made in early October 2015. Each of these is a material planning consideration and should be considered as part of the decision-making process.

#### *Emerging Neighbourhood Plan*

212. The Parish Council would refer to the most recent guidance in respect of the weight to be given to the emerging Neighbourhood Plan published on 10 December 2015.

#### *Emerging Local Plan Strategy: Planning Inspector's Further Interim Views*

213. The Local Plan Inspector published his further (second) interim views on 11 December 2015 following the holding of a further set of Examination Hearings in Macclesfield during October 2015. Insofar as this appeal is concerned, the Local Plan Inspector is supportive in principle of the increase in the dwelling requirement to 36,000 units across the whole of Cheshire East in the period 2010 to 2030. The accompanying report to the Council's Cabinet, recommending the dwelling increase, set out the potential impact on the spatial distribution of this development. The report also took into account the number of dwellings completed in the period 1 April 2010 to 31 March 2015. This was subsequently presented to the Examination. The total requirement for the lowest tier, within which Marton village sits (the rural areas), is estimated at a total of 570 dwellings. As there are more than 50 villages and small settlements within the defined rural areas, this would give a notional average requirement of around 10 dwellings per village over the 15 years of the plan period remaining.

214. Development in accordance with existing development plan and emerging Local Plan Strategy and emerging Neighbourhood Plan policies would achieve that figure for Marton through small scale organic growth by way of a plan-led approach (Borough and Neighbourhood scale) to the development needs of the Borough's rural areas, rather than an appeal-led approach.

#### *Examiner's Report into Brereton Neighbourhood Plan*

215. The first Neighbourhood Plan within Cheshire East to be subject to an Examination and a subsequent Report has occurred since the planning application decision for this appeal was made. The Report was published on 1 December

2015. The Parish of Brereton lies to the south west of Marton at a distance of less than 10 miles. Although its existing development plan is the Congleton Borough Local Plan, the policies for its rural areas are very similar to those for the rural area in the Macclesfield Borough Local Plan as both plans were originally prepared under the strategic policies as set out in the Cheshire County Structure Plan. The Examiner found the Brereton Neighbourhood Plan met the basic conditions for a neighbourhood plan including that of general conformity with the strategic policies of the development plan for the area. Furthermore, the Cheshire East Council Officers and those of Cheshire Community Action have supported both Brereton and Marton, and indeed many other parish and town councils within Cheshire East. Whilst it is accepted that every neighbourhood plan will have different issues, compliance with the strategic component of the development plan in the absence of an up to date Local Plan has been a challenge for all neighbourhood plans in Cheshire (of which there are more than 30 in preparation). A second Neighbourhood Plan in Cheshire East, for Bunbury Parish, lying within the former Crewe and Nantwich Borough, has more recently been successful through Examination.

216. From these reports, it is evident that neighbourhood plans are being prepared, challenged at Examination and supported by Examiners as reflecting not only current national guidance as set out in The Framework, but also aligning with both existing development plan policy and emerging Cheshire East policy guidance.

### **Conclusion**

217. The Parish Council objects strongly to the proposed development, which is considered to be totally inappropriate in scale and sustainability and which would have a serious impact on the quality of life and enjoyment of the environment by local residents. As such, it would be contrary to local and national planning policies and should be dismissed.

### **The Case for Mr J Bowden**

218. Mr Bowden is a local resident. The Council is under pressure to provide further housing, but Marton does not appear in the emerging Local Plan Strategy as a settlement where the provision of this additional housing would be acceptable.

### **Written Representations**

#### ***Representations Made at Appeal Stage***

219. There is a written representation from Marton Parish Council, which includes representations from Mr PG and Mrs MM Percival, Mr and Mrs Schwendener and David Rutley MP. This sets out in more detail the points raised at the Hearing by the Parish Council and is summarised in paragraphs 146 – 217 above.

220. There are some 29 individual written representations<sup>39</sup> on the appeal. These raise objections to the proposal on grounds similar to those made at the Hearing by the Parish Council, including its impact on highway and pedestrian safety (including car parking and access); the character and appearance of the area; the living conditions of neighbouring residents, with particular reference to

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<sup>39</sup> Document INSP 1

outlook, privacy, noise and disturbance, light, dirt and dust; the neighbouring listed building; the JBO; wildlife and the environment; and local infrastructure; along with the conflict with the emerging Neighbourhood Plan and the views of local residents; and the loss of Grade 2 agricultural land.

### **Representations Made at Application Stage**

221. The representations received by the Council as a result of its consultation on the planning application were attached to its appeal questionnaire and summarised in its Committee Report<sup>40</sup>. The Report records that 47 third party objections were received. It provides an analysis of the matters raised in the objections, which are generally on the grounds repeated by the Parish Council and third parties at appeal stage.
222. The report also sets out the responses from consultative bodies to the planning application and includes an update report addendum, which sets out the consultation responses from the JBO, the Council's Arboricultural Officer, the Education Authority and the Council's Open Space Officer.

### **Conditions**

223. A list of suggested conditions<sup>41</sup>, including the standard time limit and reserved matters conditions, was submitted at the Hearing and includes both agreed conditions and those in dispute between the appellants and the Council. Nevertheless, following discussions at the Hearing, the main parties came to an agreement in respect of all suggested conditions as follows. Conditions 1, 3, 4, 5, 9, 10, 11, 12, 13, 14, 24 and 25 were considered acceptable in their submitted form. It was proposed that Conditions 18, 19, 20 and 23 could be amalgamated into a single condition. Conditions 16, 28, 29 and 30 should be replaced with an alternative condition suggested by the appellants and included on the list of Conditions in Dispute. Condition 21 should be replaced with the Council's model condition, suggested by the appellants and included on the list of Conditions in Dispute, with one minor amendment being the replacement of the word 'infrastructure' with 'points'. Conditions 15, 17, 22 and 31 should be replaced with the condition suggested by the appellants and included on the list of Conditions in Dispute. Finally, rather than Condition 32 requiring that the development be carried out in accordance with the drainage strategy outlined in the Flood Risk Assessment, it was agreed that the development should be carried out in accordance with an updated drainage strategy submitted as part of a reserved matters application.

### **Section 106 Agreement**

224. At the Hearing, the appellants submitted an Agreement<sup>42</sup> pursuant to Section 106 of the Town and Country Planning Act 1990, which includes a number of obligations to come into effect if outline planning permission is granted. These include the provision of 30% of the proposed dwellings constructed as affordable housing units; the provision of on-site open space, with a contribution of £75psqm or part thereof that the open space falls short of the required 40sqm per family dwelling; the setting up of a management company to manage the

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<sup>40</sup> Document INSP 2

<sup>41</sup> Document 1

<sup>42</sup> Document 2

open space; and a financial contribution of £27,000 or such other sum, equivalent to £1,000 per dwelling, towards the provision of recreation/outdoor sports facilities.

225. The Council submitted a Community Infrastructure Levy (CIL) Regulations 2010 Compliance Statement<sup>43</sup> at the Hearing in support of the planning obligations required by the Council and agreed with the appellants. This evidence addresses the tests in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and explains in each case why it is considered that the obligations would meet these on the basis of dealing with needs that would arise from the proposed development. Copies of local guidance documents covering the relevant matters, setting out the basis of the contributions that are sought from developments and how these would be spent, are provided. Policies H8, H9 and RT5 of the Local Plan are also relevant.
226. The Council confirmed at the Hearing that, with regards to Regulation 123(3), no other obligations have been entered into on or after 6 April 2010 which provide for the funding or provision of the infrastructure for which the Council is seeking any obligation in relation to this appeal proposal.

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<sup>43</sup> Document 14

## **Conclusions**

227. The numbers in square brackets [] in this section are references to previous paragraphs in the Report.

## **Main Considerations**

228. Having regard to the Council's reason for refusal of the application, the relevant policy context and the evidence to the Hearing, the main considerations that need to be addressed are as follows:

- a) the weight to be attached to the policies in the Local Plan, the emerging Local Plan Strategy and the emerging Neighbourhood Plan;
- b) whether or not the proposal would represent a sustainable form of development, having regard to local and national policies; and
- c) the planning conditions and planning obligations that would be required in the event of permission being granted and the likely effectiveness of these with respect to mitigation of impacts on infrastructure and the environment.

### **a) The weight to be attached to the policies in the Local Plan, the emerging Local Plan Strategy and the emerging Neighbourhood Plan**

#### *Local Plan*

229. The development plan for the area is the Macclesfield Borough Local Plan, which was adopted in January 2004. Local Plan Policy GC5 says that development in the open countryside beyond the Green Belt will not normally be permitted unless it is essential for agriculture, forestry, outdoor recreation or for other uses appropriate to a rural area. Paragraph 4.20 of the reasoned justification to this policy says that in the interests of preserving the countryside for its landscape, ecological and recreational value, and protecting the best and most versatile agricultural land, new development in the open countryside will continue to need careful control. [12 and 13]

230. The village of Marton does not have a defined settlement boundary on the Local Plan Proposals Map. As such, in terms of planning policy, it is located within the open countryside where Policy GC5 applies. Residential development is not listed as one of the exceptions within Policy GC5. [39, 70 and 159]

231. The Council cannot currently demonstrate a 5 year supply of deliverable housing land. It is therefore necessary, having regard to paragraph 49 of The Framework, to consider whether or not Policy GC5 is a relevant policy for the supply of housing and how much weight should be afforded to it. The settlement boundaries within the Local Plan were defined in order to allow for sufficient growth to meet future land use needs for the plan period, which was up to 2011. As such, post 2011, these settlement boundaries would have the effect of constraining development, including housing, within these settlements. The restriction imposed upon development within the open countryside, outside the settlement boundaries, within Policy GC5 of the Local Plan, is relevant to the supply of housing and should be considered out of date, moreover the plan period expired 5 years ago. [32, 40, 88 and 89]

232. Nevertheless, it is apparent from the reasoned justification to Policy GC5 that it has a dual purpose. As well as containing built development within existing settlements, it also seeks to protect the open countryside from development in order to preserve its landscape, ecological and recreational value, and to protect the BMV agricultural land. One of the 12 core planning principles set out in Paragraph 17 of The Framework includes recognising the intrinsic character and beauty of the countryside and thriving communities within it. Given this, notwithstanding that the policy is out of date, I have attached weight to the preservation of the landscape, ecological and recreational value of the open countryside, and the protection of BMV agricultural land. [89]
233. Policy DC16 of the Local Plan says that developments which are not capable of being serviced by existing infrastructure (for example highways, sewers etc) will not normally be permitted. Paragraph 17.20 of the reasoned justification to this policy says that this is to avoid excessive demand on existing infrastructure. [14]
234. Having regard to paragraph 215 of The Framework, I consider that Policy DC16 is generally consistent with the policies in The Framework which seek to ensure that development is undertaken in sustainable locations. I therefore consider that significant weight should be afforded to this Local Plan policy.

#### *Emerging Local Plan Strategy*

235. The Cheshire East Local Plan: Local Plan Strategy Submission Version was published in March 2014. The relevant draft policies in the emerging Local Plan Strategy are Policies PG 2, PG 5, SD 1 and SD 2. Also relevant is Table 9.1 in the reasoned justification to Policy SD 2. [15, 16, 17, 18, 19 and 20]
236. The Council considers that the emerging Local Plan Strategy policies are well advanced in respect of their preparation and are in line with the policies in The Framework. Furthermore, the Council states that no significant unresolved objections remain to Policies PG 2, PG 5, SD 1 and SD 2. However, the appellants argue that unresolved objections do remain. [37 and 86]
237. I note the Examination process which started on 16 September 2014 and which is not expected to conclude until October 2016. I also acknowledge that changes are proposed<sup>44</sup> to Policies PG 2, PG 5 and SD 1 and to the reasoned justifications to Policies PG 2, PG 5 and SD 2. [21 and 22]
238. The proposed changes to these policies and/or their reasoned justifications would be subject to a public consultation exercise, during which time further objections may be made. Furthermore, the Examination is not set to continue until September/October 2016, with adoption of the Local Plan Strategy unlikely until the end of 2016/early 2017, following the publication of main modifications for public consultation and the provision of the Inspector's Final Report on the Examination of the Local Plan Strategy. Having regard to the guidance in paragraph 216 of The Framework, I consider that only limited weight should be afforded to the policies in the emerging Local Plan Strategy, given the proposed changes, the need for a further public consultation exercise and the resumption of the Examination later this year. [22 and 86]

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<sup>44</sup> Document 13

### *Emerging Neighbourhood Plan*

239. I note the progress that has been made on the emerging Neighbourhood Plan and its objectives and policies in respect of housing; transport, school and parking; protecting the environment; traffic and safety; and, protecting community assets; amongst other things. [23, 24, 25, 26, 27, 28, 29 and 30]
240. The Parish Council considers that the emerging Neighbourhood Plan should be afforded significant weight. However, I note that the Council considers that the Neighbourhood Plan has not yet reached a stage at which weight should be attributed to it. The appellants and Fisher German, on behalf of The Capesthorpe Estate, have submitted substantive objections at various stages in the preparation of the emerging Neighbourhood Plan, many of which have not led to changes being made to the emerging Neighbourhood Plan. The appellants are of the view that these significant unresolved objections, along with the stage that it is currently at, with the Independent Examination, Referendum and Making of the Neighbourhood Plan still to go through, limit the weight that can be afforded to the emerging Neighbourhood Plan. [38, 90, 91, 184 and 185]
241. The emerging Neighbourhood Plan has recently been subject to a public consultation exercise, during which it is apparent that significant objections have been raised by the appellants and another party. The emerging Neighbourhood Plan will next be the subject of an Independent Examination, before a referendum takes place and the Neighbourhood Plan is made. Having regard to the guidance in paragraph 216 of The Framework, I consider that only limited weight should be afforded to the emerging Neighbourhood Plan, given the stage of preparation of the emerging plan, the significant unresolved objections to relevant policies and the need for an Independent Examination and Referendum prior to the Neighbourhood Plan being made.

### ***b) Whether or not the proposal would represent a sustainable form of development, having regard to local and national policies***

242. Paragraph 7 of The Framework sets out the 3 dimensions to sustainable development: economic, social and environmental and paragraph 8 says that the roles performed by the planning system in this regard should not be undertaken in isolation, because they are mutually dependent. It goes on to say that, to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system, which should play an active role in guiding development to sustainable solutions.
243. The appellants refer to a number of elements of the proposed development which they say would fulfil the sustainability objectives of The Framework. In terms of the economic role, they say that the proposed development would provide employment opportunities within the construction industry and benefits to the wider construction industry supply chain. Furthermore, once completed, they say that the residents of the development would spend money in local shops and businesses. The Council acknowledges that the proposed development would provide some economic benefits in these respects. The appellants also refer to the loss of 1.28ha of Grade 2 agricultural land as a disbenefit of the scheme in economic terms. [48, 77, 93, 95 and 97]

244. In terms of the social role, the appellants say that the proposed development would provide housing in the rural area which would make a contribution towards both market and affordable housing to meet the identified housing shortfall in the District. In addition, they state that the proposed development would increase the number of local residents in Marton, which would add to the community, utilising and enhancing local services. The appellants also refer to the potential for the proposed development to provide high quality public open space, which would be accessible to existing residents in the village, as well as future occupiers of the proposed dwellings. Furthermore, the appellants say that the proposed development would provide housing within the rural area in very close proximity to an existing primary school which has confirmed capacity. Finally, the appellants refer to the provision of a footway along School Lane and a pedestrian link onto Oak Lane from the proposed development. The Council acknowledges that the proposed development would provide 18 market houses and 9 affordable houses, along with the potential to provide a public open space that would be accessible to incumbent residents of the proposed development and members of the wider community. [76, 100, 109, 110 and 112]
245. With regards to the environmental role, the appellants and the Council concur that the impact on the landscape, including the loss of agricultural land; trees and hedges; ecology; the surrounding highway network; the character and appearance of the area; heritage assets; the JBO; and, neighbouring residential amenity would be of a limited and acceptable degree and that there would be no significant environmental health concerns arising from the proposal. [32, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 58, 59, 61, 62, 68, 69 and 115]
246. This is disputed by Marton Parish Council and neighbouring residents who consider that the proposed development would be detrimental to highway and pedestrian safety; the character and appearance of the area; the living conditions of neighbouring residents; Grade 2 agricultural land; a neighbouring listed building; the JBO; wildlife and the environment; and local infrastructure. Furthermore, the Parish Council and neighbouring occupiers say that the proposed development would be contrary to the emerging Neighbourhood Plan which seeks to meet local housing needs through the redevelopment of brownfield sites, infill development, conversions and at the edge of the existing settlement in locations that would not cause harm to the wider landscape and setting of Marton. [33, 149, 150, 151, 152, 177, 181, 182, 197, 205, 206, 207, 208, 209, 210, 220 and 221]
247. The Council refers to the appeal site being located within the open countryside and the proposed development would therefore be contrary to Local Plan Policy GC5 and Policies PG 2 and PG 5 of the emerging Local Plan Strategy. It also considers that the proposed development would not be serviced by existing infrastructure, contrary to Local Plan Policy DC16, and would not provide access to a range of key services and facilities, contrary to Policies SD 1 and SD 2 of the emerging Local Plan Strategy. Furthermore, the Council states that there is no public transport, multi-functional open space or convenience store within the recommended distance of the proposed development, and very few local employment opportunities, which would mean that future occupiers of the proposed dwellings would be dependent on the motor vehicle as the dominant mode of transport. On balance, therefore, the Council considers that the proposal would not represent a sustainable form of development. [70, 72, 79 and 80]



248. In my opinion, in respect of the economic role of sustainable development, the provision and maintenance of employment within the construction industry, through the construction of the proposed dwellings, along with the additional spending from future occupiers, would help support the local economy and maintain facilities and services in the local area. I therefore consider that this matter should be afforded some weight.
249. The proposed development would lead to the loss of around 1.28ha of Grade 2 agricultural land. Government guidance in paragraph 112 of The Framework says that account should be taken of the economic and other benefits of the BMV agricultural land and that where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. The appeal site is currently used for grazing livestock and it is apparent, from evidence presented to the Hearing by the Parish Council, that this has been the predominant use of the appeal site for many years. Given this, along with the relatively small size of the appeal site, its location within a village, its shape and enclosed nature, I am satisfied that it would not offer significant opportunities for agricultural production. Furthermore, given that much of Cheshire East comprises the BMV agricultural land and the use of such areas would be necessary to provide an adequate supply of housing land, I consider that the loss of agricultural land at the appeal site should be afforded little weight. [48, 97 and 182]
250. In terms of the social role, I consider that the construction of up to 27 houses, including 9 affordable dwellings, would be a substantial benefit of the proposal. Furthermore, I acknowledge the difficulties which may occur when seeking planning permission for residential development within parts of the JBO consultation zone and the need to deliver more dwellings in the rural area. Given the lack of a 5 year supply of deliverable housing land, along with the need to boost significantly the supply of housing in Cheshire East, I consider that the provision of up to 27 houses, including 9 affordable dwellings, should be afforded substantial weight. [40, 42, 66, 67, 73, 74, 94 and 100]
251. Marton benefits from a number of local shops and businesses including the Chapeau Café and Farm Shop, the Davenport Arms Public House, Le Popote restaurant, Marton Meadows Golf Course, Marton Heath Trout Pools, Escape Beauty and Holistic Treatments and Bela Casa gifts and homeware shop. I note the views of the Parish Council that many of these local shops and businesses mainly serve visitors to Marton and benefit from passing trade, including cyclists, given their siting along the A34 Congleton Road and close proximity to the National Cycle Network (Route 55). Nevertheless, these shops and businesses are within walking distance of the appeal site and future occupiers of the proposed dwellings would be able to access these services and facilities. [95 and 200]
252. Table 9.1 of the emerging Local Plan Strategy provides a guide to the appropriate distances for access to services and amenities. Although the appeal site is not located within the desired proximity to a bus stop, multi-functional open space or convenience store, it would provide access to other services, facilities and amenities, including public rights of way, a primary school, outdoor sports facilities and a public house. Furthermore, the proposal would include the provision of on-site public open space, which may incorporate children's play

- facilities, and a financial contribution to off-site open space where there is a shortfall in the required provision on-site, along with a financial contribution towards recreation/outdoor sports provision elsewhere in Marton. [109, 127, 128, 203 and 224]
253. The appellants refer to the proposal in the emerging Local Plan Strategy for 2,950 dwellings in the rural area and to a document prepared by the Council entitled 'Determining the Settlement Hierarchy'<sup>45</sup>, which lists the settlements in the rural area and sets out the facilities within these settlements. This indicates that of the 103 settlements in the rural area, only 7 have more services and facilities than Marton, which, the appellants say, demonstrates that Marton is one of the best served settlements in the rural area. [73, 74 and 130]
254. As part of its consultation response on the planning application, the Parish Council submitted a Technical Note, prepared by Progress10 Design, dated June 2015. This report reviewed the Transport Statement that was submitted by the appellants as part of the planning application and made comments on the proposed development in respect of sustainability, cycle routes, bus service and Congleton railway station. Furthermore, it raised concerns about the accuracy of the appellants' Transport Statement. The Parish Council's representation to the appeal included a Technical Note Addendum, prepared by Progress10 Design, dated October 2015. This endorsed the objections to the proposed development on the grounds of a lack of sustainability. [205 and 206]
255. In response to the representations made by third parties and the Parish Council in respect of sustainability at the appeal stage, the appellants submitted a Highways Statement in Response to Third Party Representations<sup>46</sup>, dated February 2016, at the Hearing. The appellants' Highway Statement sets out their response to the Parish Council's appeal representation in respect of locational sustainability. This concluded that the level of facilities locally available is good, relative to the location and scale of the proposed development, with the presence of a primary school adjacent to the appeal site of particular benefit, this being the centralised facility for the rural area and villages north of Congleton. [127]
256. Government guidance in The Framework recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas. Furthermore, it states that plans and decisions should ensure that developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. It goes on to say that this needs to take account of policies set out elsewhere in The Framework, particularly in rural areas. Although I acknowledge that the use of the car by future occupiers of the proposed development is likely to be the dominant mode of transport, a Travel Plan would be prepared which would include steps to reduce the use of the car. Given this, along with the existence of some local services and facilities in the settlement, including a primary school, I am satisfied that the number of trips that would need to be made by private car from the proposed development could be reduced. In addition, given the proposed level of housing to be constructed in the rural area, I consider that Marton is relatively well served in comparison to other rural settlements and would therefore be

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<sup>45</sup> Appendix 16 to the appellants' appeal statement

<sup>46</sup> Document 5

locationally sustainable. As such, I consider that this matter should be afforded significant weight. [73, 74, 126, 129 and 130]

257. In terms of the environmental role, the proposal would lead to the loss of an area of open countryside, which the Council considers would be contrary to Local Plan Policy GC5 and Policy PG 5 of the emerging Local Plan Strategy. However, the Council is currently unable to demonstrate a 5 year supply of deliverable housing sites and I consider that Policy GC5 is a relevant policy for the supply of housing and should be considered out of date. The Council and the appellants agree that the proposed development would not have any significant landscape or visual impacts. Nevertheless, the Parish Council considers that the proposed development would harm the character and appearance of the area and would be detrimental to the rural landscape and setting of the village. Although the appeal site is not unattractive, it has no formal landscape designation or protection. However, it was apparent from the written representations and the evidence presented at the Hearing that it is an important open area within the village which is valued highly by local residents. I note that most of the trees and hedges within and around the appeal site would be retained and additional landscaping could be secured by an appropriate condition on any approval. However, views into and across the site from neighbouring residential properties and from users of School Lane and Oak Lane would change through the introduction of built development in an area which is currently open. [32, 39, 40, 45, 70, 122 169, 195 and 210]
258. The appellants consider that the appeal site is well contained by existing development and that views of open countryside to and from the site are limited. From my site visit, it was apparent that 4 residential properties are sited to the north west of the appeal site, on the other side of School Lane. The Spinney, a further residential property, is located immediately to the north of the appeal site. A residential estate, along Oak View, which includes both single and 2 storey dwellings, is sited immediately to the south and south east of the appeal site, with Marton CE Primary School and other residential properties located to the north east and east respectively, on the other side of Oak Lane. A further 3 dwellings, which front onto Congleton Road, are sited adjacent to the south western part of the appeal site. Although glimpsed views of the open countryside beyond the settlement of Marton are available from and across the appeal site, from neighbouring properties and public viewpoints, in my opinion, the appeal site is well contained by existing development. Furthermore, the proposed development would not be dissimilar in size to the residential estate along Oak View and would not appear visually obtrusive or out of keeping with the settlement of Marton. [7, 32, 58, 59 and 122]
259. The proposed development would include the loss of some open countryside. However, given the contained nature of the appeal site and its location within the settlement of Marton, along with the retention of many of the existing landscape features, including boundary trees and hedges, and the addition of further planting within the proposed development, I do not consider that the proposal would introduce features that would be completely uncharacteristic of the immediate area or would represent a substantial intrusion into the landscape of the wider area. Furthermore, I consider that, given the outline nature of the proposal, further opportunities exist for the development of a masterplan to secure an appropriate design and landscape management regime at the reserved

matters stage. I consider, therefore, that only limited weight should be afforded to the landscape changes that would result from the proposed development.

260. With regards to the living conditions of neighbouring occupiers, I am satisfied that the submission of reserved matters could include details of a proposed development that would provide sufficient space between the existing and proposed dwellings to safeguard the living conditions of neighbouring residents, with particular reference to privacy, outlook, noise and disturbance, pollution, sunlight and daylight. Given this, I consider that the proposal would not harm the living conditions of neighbouring residents. [32, 62, 149 and 210]
261. Local residents and the Parish Council have raised concerns about the impact of the proposed development on the existing highway and pedestrian safety issues arising from on street parking by parents dropping off and picking up children from the primary school. Furthermore, photographs showing the extent of this on street parking have been submitted by third parties and, at the Hearing, by the Parish Council<sup>47</sup>. I observed the current situation during my pre-Hearing site visit, and again, to a certain extent, at the site visit I undertook following the close of the Hearing. It was apparent from my visits that vehicles park along School Lane, including immediately outside the appeal site, during school drop off and collection times. Children and their parents then have to walk along School Lane, in the carriageway, given that there are no footways, to the main school entrance along School Lane, to the north of the junction with Oak Lane. It was also clear from my site visits, as well as from third party representations, that vehicles park along Oak View at these times, given that a separate pedestrian access to the school is located on Oak Lane. [149, 150, 151, 192, 197, 205, 206, 207, 208 and 209]
262. Government policy in The Framework says that development should only be prevented or refused on transport grounds where the residual cumulative impacts of the development are severe. The Highway Authority has no objections to the proposed development, subject to the developer entering into a Section 278 Agreement for the proposed works. Furthermore, it considers that the development proposal would not result in a significant increase in the level of traffic or have a material impact on the adjacent or wider highway network. As such, the Highway Authority considers that the proposal could be safely accommodated on the adjacent highway network. [134 and 135]
263. The Technical Note submitted by the Parish Council as part of its consultation response on the planning application, reviewed the Transport Statement that was submitted by the appellants as part of the planning application and made comments on the proposed development in respect of the proposed site access junction, highway safety, the provision of new footways and the proposed footpath link from the proposal to the A34. Furthermore, it raised concerns about the accuracy of the appellants' Transport Statement. The Parish Council's Technical Note Addendum, endorsed the objections to the proposed development on the grounds that the proposed design would produce a development which would be likely to be less safe in highway terms than other better located sites would be. The Parish Council also submitted a Risk Assessment: Car Parking,

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<sup>47</sup> Document 12

dated March 2014, as part of its representation to the appeal. [205, 206 and 208]

264. In response to the representations made by third parties and the Parish Council in respect of highway safety at the appeal stage, the appellants submitted a Technical Note: School Parking Surveys<sup>48</sup>, dated 22 February 2016, and a Highways Statement in Response to Third Party Representations, at the Hearing. The former provides information in respect of surveys of parking activity along School Lane and Oak Lane on Friday 5 February 2016 and Tuesday 9 February 2016, between 0815hrs and 0915hrs and between 1500hrs and 1600hrs on each day. It split the roads around the school into 6 zones. This Technical Note concluded that the maximum number of cars parked on School Lane was 43 and, at that time, only 3 cars were parked within Zone 1, in which the access to the proposed development would be located. It stated that this number of cars could continue to park within Zone 1 without having a significant effect on highway safety with the proposed access in place. Furthermore, it concluded that parking on School Lane was not observed to extend onto the frontage of the appeal site at any times other than for a brief period around school start and end time. The Technical Note also stated that the proposed site access would not have a significant impact on school drop off and collection activity as sufficient space would be available within existing areas of School Lane to accommodate this activity and in the event that parking is not available on School Lane, then sufficient space would be available within the proposed development. These findings were endorsed<sup>49</sup> by the Highway Authority. [127, 133, 134 and 208]
265. The appellants' Highway Statement states that the proposed development is expected to generate low levels of traffic, with around 15 vehicle movements in the morning peak hour and 16 vehicle movements in the evening peak hour. The existing 2 way peak hour movements are 131 vehicles and 133 vehicles in the morning and evening peak hours respectively. As such, the Statement says that the predicted volume of traffic movement is not expected to have a material effect on traffic conditions. Furthermore, in respect of the visibility at the proposed junction of the access road with School Lane, the Highway Statement acknowledges that there may be a degree of school activity in the vicinity of the proposed junction, but this would be limited in both extent and duration and, in any event, parking within junction visibility splays is a regular occurrence and would not typically be expected to result in significant adverse operational issues. The proposed development would include a footpath across the site frontage on School Lane and footpath links from the proposed development onto Oak Lane and the A34 Congleton Road. Although a footpath would not be provided along School Lane between the appeal site and Oak Lane, the Highway Statement considers that this is a short distance of around 30m on a quiet rural lane with very low background traffic flows and the absence of this short length of footway would not constitute a significant road safety hazard. This is endorsed by the Highway Authority. [135, 136 and 137]
266. The Highway Statement also considers that Oak Lane offers a quiet lane environment for pedestrians, with it and School Lane providing a suitable

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<sup>48</sup> Document 3

<sup>49</sup> Document 4

- environment for pedestrians to access the A34. The proposed footpath link directly from the appeal site to the A34 is considered to be technically feasible, albeit not essential for pedestrian movement, and would provide an additional benefit to future occupiers. [137]
267. The Indicative Layout, which was submitted as part of the planning application for illustrative purposes only, includes a footpath along School Lane for the majority of the frontage of the appeal site. In addition, a footpath is shown within the proposed development from the junction of the access road with School Lane to Oak Lane, opposite the existing pedestrian access to the primary school. In my opinion, both of these footpaths would provide a safe route to school for future occupiers of the proposed development and existing pupils. Given the close proximity of the proposed development to the primary school, it is highly likely that children from the new houses would walk to school. Therefore, it would be unlikely that the proposal would lead to further on street parking along School Lane and Oak View at drop off and collection times.
268. I am satisfied that the proposed development would not lead to a significant increase in vehicular movements along School Lane or the A34 at peak times, given that it would generate relatively low levels of traffic. Furthermore, although the construction of a new access junction with School Lane would reduce the available space for on street parking, given the findings of the parking survey carried out by the appellants, I am satisfied that sufficient space would remain along School Lane for vehicles to park. In any event, it is apparent that space would also be available within the proposed development for on street parking if necessary. [54, 133, 135, 192 and 207]
269. On street parking close to junctions is not unusual. From the evidence before me, given the existing low levels of traffic along School Lane, along with the frequency and duration of parking along this road, I am satisfied that vehicles entering and leaving the proposed development would be able to do so safely. [53, 135 and 206]
270. Having regard to all of the highway safety matters raised, I consider that it has not been demonstrated that the residual cumulative impacts of the proposed development would be severe. Indeed, it is apparent from the evidence before me that some benefits would flow from the proposed development through the provision of a footway along the School Lane frontage of the appeal site, along with a pedestrian link onto Oak Lane.
271. There are 4 listed buildings in the vicinity of the appeal site, with the closest being Greenacre, a residential property which is sited on the north western side of School Lane, directly opposite the access to the proposed development. I note that the Council's Design/Conservation Officer is satisfied that the access to the proposed development could be designed and constructed in a manner that would ensure that there would be no detrimental impact on this listed building. Greenacre is a Grade II listed building which is set back from, and sited perpendicular to, School Lane. The special interest of this building derives not only from its age and history, but also its form and appearance. The elements of its setting which contribute to the building's significance include its relationship with the street and its immediate plot. In that context, I consider that the appeal site contributes little, if anything, to the significance of this building, or its setting. The Indicative Layout shows that the proposed dwellings would be set

back from the School Lane frontage with some intervening landscaping.

Furthermore, I note that the proposed access could be sensitively designed and constructed. Given this, I am satisfied that the proposed development would preserve the setting of the listed building. [32, 60, 115 and 116]

272. Policy SE 14 of the emerging Local Plan Strategy states that within the Jodrell Bank Radio Telescope Consultation Zone development will not be permitted if it impairs the efficiency of the telescopes, amongst other things. The Council and appellants concur that the proposed development would have a minor impact on the level of interference for the JBO. I note the comments from the JBO that evaluation undertaken by it of the potential radio frequency interference from the type of equipment commonly used at residential dwellings within the consultation zone is that it can impair the efficient operation of the radio telescopes. For this reason, the JBO now opposes development across a significant part of the consultation zone as a matter of principle and advises the Council on its view of the degree of impact on a case by case basis, so that this can be taken into account as part of the planning decision. In this case, the view of the JBO is that the additional potential contribution to the existing level of interference would be relatively minor. However, it is in a direction from the telescope which has less development within the consultation zone. As such, the JBO requests that this be taken into account and stresses that such additional contributions should be viewed as cumulative. Given that the additional potential contribution to the existing level of interference would be relatively minor, but that this would have a cumulative impact along with other developments in this zone, I consider that this matter should be afforded some weight. [32, 66 and 68]
273. The Parish Council and local residents are concerned about the loss of trees and hedgerows in and around the appeal site. A TPO was placed on a number of trees within and around the appeal site, following the receipt of the planning application. The Council considers that although there may still be some areas of conflict with regards to the impact of the proposed development on the trees and hedges within the Indicative Layout, it is satisfied that such matters could be addressed at reserved matters stage via the submission of an Arboricultural Impact Assessment. Indeed, this matter could be controlled by an appropriate planning condition. I also note that some existing hedges would be removed to accommodate the proposed development. In my opinion, a scheme could be developed to ensure that there would be no detrimental impact on the preserved trees, given their siting around the boundaries of the appeal site. Furthermore, the Indicative Layout shows that existing hedgerows would be retained and enhanced where possible. Both of these matters could be satisfactorily controlled by appropriate planning conditions. As such, I am satisfied that the proposal would not unduly harm the trees and hedgerows in and around the appeal site. [9, 32, 46, 47, 49, 117, 149 and 210]
274. Local residents and the Parish Council are concerned about the impact of the proposed development on the ecology of the local area. I note that there are opportunities for the incorporation of a significant length of new hedgerow planting as part of the proposed development which would, in part, mitigate for the loss of the existing hedgerows. A condition could safeguard the retained hedgerows, the translocation of the ground flora associated with the hedgerows to be lost and the establishment of replacement native species hedgerows. There is no evidence of roosting bats before me, however, there are a number of trees on the appeal site which would have the potential to support roosting bats. The

submitted Indicative Layout illustrates, however, that these trees would be retained as part of the proposed development. It is highly likely that nesting birds and hedgehogs would be present on the appeal site. Conditions could be imposed to safeguard them from the impact of the proposed development. Given this, I am satisfied that the proposed development would not unduly harm the ecology of the local area. [49, 50, 51, 52, 114, 195 and 220]

275. I have afforded some weight to the provision and maintenance of employment within the construction industry, through the construction of the proposed dwellings, along with the additional spending from future occupiers of the proposed dwellings, which would help support the local economy and maintain facilities and services in the local area. Furthermore, I have afforded the provision of up to 27 houses, including 9 affordable dwellings, substantial weight. I also consider that, given that Marton is relatively well served in comparison to other rural settlements, the proposed development would be locationally sustainable. In my view, this matter should be afforded significant weight. In addition, I have identified that some benefits would flow from the proposed development through the provision of a footway along the School Lane frontage of the appeal site, along with a pedestrian link onto Oak Lane.
276. On the other hand, I have afforded the loss of agricultural land at the appeal site little weight and the harm to the character and appearance of the open countryside limited weight. In addition, I have afforded the impact of the proposed development on the JBO some weight.
277. Having regard to the guidance in The Framework and the weight attached to each of the matters raised, I consider that, on balance, the economic, social and environmental gains of the proposal would jointly and simultaneously achieve sustainable development in this case. I conclude, therefore, that the proposal would represent a sustainable form of development, having regard to local and national policies.

***c) The planning conditions and planning obligations that would be required in the event of permission being granted and the likely effectiveness of these with respect to mitigation of impacts on infrastructure and the environment***

***Conditions***

278. I have had regard to the advice in The Practice Guidance<sup>50</sup> when considering the suggested conditions. [223]
279. It would be necessary to require that the development be carried out in accordance with some of the approved plans, given that access is not a reserved matter. Conditions which require the submission and approval of details of the earthworks proposed and the protection of the retained trees during the construction of the proposed development would be reasonable to safeguard the character and appearance of the area. The submission of details of the existing and proposed ground levels and the level of proposed floor slabs and limiting the height of buildings on the site to 2 storeys, would be necessary to safeguard the

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<sup>50</sup> Circular 11/95: The Use of Conditions in Planning Permissions has been largely superseded by the Planning Practice Guidance, with the exception of Appendix A (Model Conditions)



living conditions of neighbouring residents and the character and appearance of the area.

280. Details of the proposed pedestrian access points would be necessary in the interests of highway and pedestrian safety. Limiting the hours of construction would be necessary to safeguard the living conditions of neighbouring residents. The submission, as part of the reserved matters application, of an Arboricultural Impact Assessment, a Noise Impact Assessment, a Travel Plan and a Phase II Contaminated Land Investigation, would be necessary to safeguard the retained trees and the living conditions of future and existing residents and to provide a sustainable development. These matters could, as agreed by the main parties at the Hearing, be dealt with in one condition.
281. The submission of a Method Statement detailing how the retained hedgerows are to be safeguarded, along with the translocation of woodland ground flora from hedgerows to be lost and the establishment of replacement native species hedgerows, would be reasonable to safeguard the character and appearance of the area. Conditions which would protect nesting birds during the construction period and which would require the submission and approval of a scheme to include features for roosting bats and birds and details of appropriate gaps for hedgehogs within the development would be necessary in the interests of protecting wildlife.
282. A scheme for the drainage of surface water would be reasonable in the interests of safeguarding the area from flooding. At the Hearing, the Council confirmed that it was content with the suggested condition put forward by the appellants in this respect. The Council also confirmed at the Hearing that it was content with the amended condition put forward by the appellants in respect of the submission and approval of details of the electric vehicle points to be installed on-site. Such a condition would be reasonable in the interests of sustainable development. The inclusion of a Construction Method Statement would be necessary to safeguard the living conditions of neighbouring occupiers and in the interests of highway safety during the construction period. Again the Council confirmed at the Hearing that it was happy with the suggested condition put forward by the appellants. This condition would include details of any piling operations to be carried out, rather than being the subject of a separate condition. Rather than a condition requiring that the development be carried out in accordance with the drainage strategy outlined in the Flood Risk Assessment, it was agreed at the Hearing by the main parties that the development should be carried out in accordance with an updated drainage strategy submitted as part of a reserved matters application. I am satisfied that this would be reasonable to safeguard the area from potential flooding.
283. I conclude, therefore, that the suggested planning conditions would be reasonable and necessary in the event that outline planning permission is granted.

### ***Obligations***

284. I have considered the planning obligations included within the Section 106 Agreement in the light of the statutory tests contained in Regulation 122 of The CIL Regulations 2010. I have also had regard to the Community Infrastructure

Levy Regulations 2010 Compliance Statement<sup>51</sup>, submitted at the Hearing by the Council. [224 and 225]

285. The Macclesfield Borough Council Supplementary Planning Guidance (SPG) on S106 (Planning) Agreements<sup>52</sup>, May 2004, sets out the principles and practice of the Council in relation to the negotiation of planning obligations, including the provision of affordable housing and public open space, along with financial contributions and off-site provision. The obligations within the Section 106 Agreement relate to the following matters.
286. *Affordable Housing:* Local Plan Policy H8 says that until such time as the need for affordable housing ceases, the provision of affordable housing will be negotiated in developments of 25 or more dwellings or on residential sites of 1 hectare or more, irrespective of the number of dwellings. It goes on to say that the provision of 25% of the dwellings as affordable housing will be negotiated, taking into account a number of factors. Policy H9 states that, where the applicant is not a registered social landlord, planning permission may be granted for the whole scheme providing the applicant enters into a legal agreement to secure the affordable housing and its occupation. The Council's Interim Planning Statement: Affordable Housing<sup>53</sup> says that the provision of affordable housing on all unidentified windfall sites of 0.4ha in size or 15 dwellings or more will be negotiated. The general minimum proportion of affordable housing for any site will normally be 30%. The Council says that the appeal site is within the Parish of Marton, which is set within the SHMA (updated 2013) Macclesfield Rural Area, where there is an identified net requirement for 59 affordable homes per annum for the period 2013/14 – 2017/2018. This need is still unmet and, as such, the Council considers that the need for 30% affordable housing remains necessary to make this scheme acceptable in planning terms.
287. The Council is seeking a scheme for a target provision of 30% affordable housing (65% to be provided as social rent/affordable rent with 35% intermediate tenure). The Section 106 Agreement includes such provision. Given the level of unmet need for affordable housing in the Macclesfield Rural Area, I am satisfied that this obligation meets the statutory tests.
288. *Public Open Space:* Local Plan Policy RT5 seeks to secure the provision of outdoor playing space and amenity open space by planning obligations. The SPG places a trigger on developments which seek to provide 6 dwellings or more to provide on-site public open space of either 40sqm per family dwelling or a financial contribution of £3,000 per family dwelling towards off-site provision. The Council considers that it is important that the proposed development provides public open space on-site of 40sqm per family dwelling, given that Marton has limited community spaces in which to direct a commuted sum. However, in the event of a shortfall, the Council is seeking a financial contribution at the rate of £75psqm or part thereof towards off-site provision. The Section 106 Agreement includes a requirement that an Open Space Scheme and a Management Plan be submitted to, and approved in writing, by the Council as part of the reserved matters application. In addition, in line with the Council's SPG, the Section 106 Agreement includes the requirement that if the proposed

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<sup>51</sup> Document 14

<sup>52</sup> Appended to Document 14

<sup>53</sup> Appended to Document 14

on-site open space is to be less than 40sqm per family dwelling, a financial contribution of £75psqm or part thereof that the open space falls short of 40sqm per family dwelling, will be made to facilitate the provision or enhancement by the Council of publicly accessible open space within Marton. Given the scale and nature of the proposed development it is likely that there would be significant demand for the use of public open space. I consider, therefore, that these obligations would pass the statutory tests.

289. *Recreation/Outdoor Sports Facilities*: Local Plan Policy RT5 seeks to secure the provision of outdoor playing space and amenity open space by planning obligations. The SPG places a trigger on developments which seek to provide 6 dwellings or more to provide on-site provision or a commuted sum in lieu of recreation/outdoor sports facilities of £1,000 per family dwelling or £500 per 2 bed spaces for off-site provision. The Section 106 Agreement includes a financial contribution of £27,000 or other such sum as is equivalent to £1,000 per dwelling which is not an apartment and £500 for each dwelling which is an apartment, such sum being calculated by reference to the number and type of dwellings approved pursuant to the approval of reserved matters. Given the scale and nature of the proposed development it is likely that there would be significant demand for the use of recreation/outdoor sports facilities. I consider, therefore, that this obligation would pass the statutory tests.

290. I conclude, therefore, that the obligations in the Section 106 Agreement pass the statutory tests and would be necessary to mitigate the impacts of the proposed development on infrastructure and the environment.

### **Planning Balance**

291. Paragraph 49 of The Framework says that housing applications should be considered in the context of the presumption in favour of sustainable development and that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a 5 year supply of deliverable housing sites. The Council and the appellants agree that the Council is unable to demonstrate a 5 year supply of deliverable housing sites. As such paragraph 49 is engaged in this case.

292. Paragraph 14 of The Framework states that at its heart there is a presumption in favour of sustainable development, which should be seen as a golden thread running through both plan-making and decision-taking. For the latter this means where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in The Framework as a whole.

293. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Framework does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise.

294. I have found that the development plan is out of date in respect of the restriction imposed upon development within the open countryside, outside the

settlement boundaries, within Policy GC5 of the Local Plan, but that Policy DC16 should be afforded significant weight. I have also found that relevant policies in the emerging Local Plan strategy and emerging Neighbourhood Plan should only be afforded limited weight. I have concluded that the proposal would represent a sustainable form of development and as such would not be contrary to local and national policies. Furthermore, I have concluded that the suggested planning conditions and the obligations in the Section 106 Agreement would be reasonable and necessary and would pass the relevant statutory tests.

295. I have considered all the other matters raised by the Council and third parties including the preference within the emerging Neighbourhood Plan for the development of small, infill brownfield sites within the village; flood risk concerns; the scale of the development proposed; anti-social behaviour and vandalism; the lack of a secondary school in the village; and, the impact on the quality of life of existing residents. However, I do not consider that these matters, or the limited harm identified to the landscape changes and the minor harm to the JBO, would significantly and demonstrably outweigh the benefits of the proposed development, which would provide much needed housing in Cheshire East. As such, I consider that the appeal should be allowed.

### **Recommendation**

296. I recommend that the appeal be allowed and planning permission be granted subject to conditions.

*Karen L Baker*

INSPECTOR

## **APPEARANCES**

### FOR THE APPELLANTS:

Mr Ian Ponter of Counsel	Instructed by Mr Matthew Symons
Mr Matthew Symons BA MPlan MRTPI	Planning Manager, Hollins Strategic Land LLP
Mr John Thompson BEng MIHT CMILT	Project Director, SK Transport Planning

### FOR THE LOCAL PLANNING AUTHORITY:

Mr Matthew Barrett LLB	Solicitor
Mrs Louise Whinnett MRTPI	Senior Planning Officer
Councillor Lesley Smetham	Ward Councillor

### INTERESTED PERSONS:

Mr John Knight MRTPI	Planning Consultant, representing Marton Parish Council
Mrs Lucy Nixon	Marton Parish Council
Mr Dick Schwendener	Marton Parish Council
Mr David McGowan	Marton Parish Council
Mr John Rylands	Chair, Marton Parish Council
Mr John Bowden	Interested Party
Mr Barry Nolan	Marton Parish Council (Site Visit only)

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 List of suggested conditions, both agreed and in dispute, submitted by the appellants
- 2 Agreement pursuant to Section 106 of the Town and Country Planning Act 1990, submitted by the appellants
- 3 Technical Note: School Parking Surveys, dated 22 February 2016, submitted by the appellants
- 4 Email from Paul McDowell, Strategic Infrastructure, Cheshire East Highways, dated 24 February 2016 (1230hrs), submitted by the appellants
- 5 Highways Statement in response to third party representations, dated February 2016, submitted by the appellants
- 6 Appeal and Costs Decisions (Ref. APP/R0660/W/15/3130803), submitted by the appellants
- 7 Cheshire East Council's letter to the Local Plan Strategy Inspector in response to his Further Interim Views, dated 13 January 2016, submitted by the appellants
- 8 Marton Village Neighbourhood Plan 2015 -2030, Consultation Response by Hollins Strategic Land, February 2016, submitted by the appellants
- 9 Planning application Decision Notice (Ref. 04/1026P) relating to an application for the variation of a condition to allow for the sale of additional goods at the Village Shop, Church Farm, Congleton Road, Marton SK11 9HF, submitted by the Council
- 10 List of goods for sale at The Chapeau Farm Shop, submitted by the appellants

- 11 Internal Consultee response on a current planning application on the appeal site (Ref. 15/5637M) from Heritage and Design – Forestry, submitted by the appellants
- 12 Photographs of cars parking on School Lane, submitted by Marton Parish Council
- 13 Extract from the Cheshire East Local Plan Strategy – Proposed Changes (Committee Report Publication Document), to be presented to the Full Council on Friday 26 February 2016, submitted by the Council
- 14 The Community Infrastructure Levy Regulations 2010 Compliance Statement, submitted by the Council

#### **DOCUMENT SUBMITTED AT THE SITE VISIT**

- 15 Marton Village Neighbourhood Plan Consultation Statement, February 2016, submitted by Marton Parish Council

#### **DOCUMENTS SUBMITTED FOLLOWING THE CLOSE OF THE HEARING**

- 16 Email from Marton Parish Council, dated 28 February 2016 (1104hrs), confirming that the Marton Neighbourhood Plan is now at Regulation 16 stage
- 17 Letters, dated 31 March 2016, to the Council and the appellants informing them that the Secretary of State has directed that the appeal be recovered for his own determination
- 18 Email, dated 12 April 2016 (1409hrs), from Matthew Symons, including a letter, dated 12 April 2016, from the appellants with regard to the emerging Marton Neighbourhood Plan, a copy of the appellants' consultation response to the emerging Neighbourhood Plan, dated April 2016, and a copy of a consultation response to the emerging Neighbourhood Plan, dated April 2016, prepared by Fisher German, on behalf of The Capesthorpe Estate
- 19 Email from The Planning Inspectorate, dated 25 April 2016 (0807hrs) confirming that the Council had not submitted any comments in response to the matters raised by the appellants in their consultation response

#### **INSPECTOR'S DOCUMENTS**

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| INSP 1 | Written representations to the appeal (excluding Marton Parish Council)                        |
| INSP 2 | Officer's Report to the Planning Committee on the planning application                         |
| INSP 3 | Statement of Common Ground   |
| INSP 4 | Written representation to the appeal by Marton Parish Council                                  |
| INSP 5 | Extract from the Macclesfield Borough Local Plan and the Saving Direction                      |
| INSP 6 | Extract from the Cheshire East Local Plan, Local Plan Strategy, Submission Version, March 2014 |
| INSP 7 | Marton Village Neighbourhood Plan 2015-2030  |
| INSP 8 | Council's Statement of Case  |
| INSP 9 | Appellants' Statement of Case  |

#### **APPLICATION PLANS**

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| A1/1 | Location Plan (Drawing No. (0-)A000)                                 |
| A1/2 | Indicative Layout (Drawing No. Revision P2)                          |
| A1/3 | Elevation along School Lane  |
| A1/4 | Residential Development Access Junction General Arrangement (Drawing |

- No. SK21519-003)
- A1/5 Residential Access Visibility Profile (Drawing No. SK21519-005)
- A1/6 Residential Development Access Junction General Arrangement (Levels and Contours Shown) (Drawing No. SK21519-003 Rev. A)
- A1/7 Tree Survey Plan (Drawing No. 1982\_01)
- A1/8 Topographical Survey (Drawing No. 01274)

## **Annex 1: 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 either before the expiration of three years from the date of this permission or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.
- 4) The development hereby permitted shall be carried out in accordance with the following approved plans: Location Plan (Drawing No. (0-)A000); Residential Development Access Junction General Arrangement (Drawing No. SK21519-003); Residential Development Access Junction General Arrangement (Levels and Contours Shown) (Drawing No. SK21519-003 Rev. A); and, Residential Access Visibility Profile (Drawing No. SK21519-005).
- 5) No development shall take place until details of any earthworks proposed have been submitted to and approved in writing by the local planning authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, showing the relationship of proposed mounding to existing vegetation, surrounding landform and buildings. The development shall be carried out in accordance with the approved details.
- 6)
  - (a) Prior to the commencement of the development hereby permitted or other operations being undertaken on-site a scheme for the protection of the retained trees, produced in accordance with BS 5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations), which provides for the retention and protection of trees, shrubs and hedges growing on or adjacent to the site, including trees which are the subject of a Tree Preservation Order currently in force, shall be submitted to and approved in writing by the local planning authority. No development or other operations shall take place, except in complete accordance with the approved protection scheme.
  - (b) No operations shall be undertaken on-site in connection with the development hereby approved (including demolition works, soil moving, temporary access construction and/or widening or any operations involving the use of motorised vehicles or construction machinery) until the protection works required by the approved protection scheme are in place.
  - (c) No excavations for services, storage of materials or machinery, parking of vehicles, deposit or excavation of soil or rubble, lighting of fires or disposal of liquids shall take place within any area designated as being fenced off or otherwise protected in the approved protection scheme.



- (d) Protective fencing shall be retained intact for the full duration of the development hereby approved and shall not be removed or repositioned without the prior written approval of the local planning authority.
- 7) Details of the existing ground levels, proposed ground levels and the level of proposed floor slabs shall be submitted as part of the reserved matters application. The development shall be carried out in accordance with the approved details.
  - 8) No building on any part of the development hereby permitted shall exceed 2 storeys in height.
  - 9) Notwithstanding any detail indicated on the plans hereby approved, details of the pedestrian access points shall be submitted to and approved in writing by the local planning authority before the development hereby permitted commences. The development shall be carried out in accordance with the approved details and the pedestrian access points shall be retained thereafter.
  - 10) The construction of the development hereby permitted and associated deliveries to the site shall not take place outside the following hours:  
0800 to 1800 hours (Mondays to Fridays); and,  
0900 to 1400 hours on Saturdays.  
Nor at any time on Sundays, Bank or Public Holidays.
  - 11) The application for reserved matters shall include:
    - a) An Arboricultural Impact Assessment;
    - b) A Noise Impact Assessment;
    - c) A Travel Plan; and,
    - d) A Phase II Contaminated Land Investigation.These documents shall be approved in writing by the local planning authority prior to the commencement of the development hereby permitted. The development shall be carried out in accordance with these approved documents.
  - 12) Prior to the commencement of the development hereby approved, a Method Statement, which includes details of the safeguarding of the retained hedgerows, the translocation of woodland ground flora from hedgerows to be lost and the establishment of replacement native species hedgerows, shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved Method Statement.
  - 13) Prior to the removal of any vegetation, or the demolition or construction of any buildings, between 1 March and 31 August in any year, a detailed survey shall be carried out to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub or other habitat to be removed (or demolished in the case of buildings), a 4m exclusion zone shall be left around the nest until breeding is complete. Completion of nesting shall be confirmed by a suitably qualified person and a further report submitted to and approved in writing by the local planning authority before any further works within the exclusion zone take place.

- 14) A scheme to include features for roosting bats and birds and details of appropriate gaps for hedgehogs within the development shall be submitted to and approved in writing by the Council as part of the reserved matters application. The development shall be carried out in accordance with the approved scheme.
- 15) None of the dwellings hereby permitted shall be occupied until a scheme for the drainage of surface water has been provided on-site, in accordance with the details that shall have been first submitted to and approved in writing by the local planning authority. Before any details are submitted to the local planning authority an assessment shall be carried out of the potential for disposing of surface water by means of a sustainable drainage system, including in respect of the hydrological and hydrogeological context of the development, and the results of the assessment shall have been provided to the local planning authority. The submitted details shall:
  - a) provide information about the design storm period and intensity, the method employed to delay and control the surface water discharged from the site and the measures taken to prevent pollution of the receiving groundwater and/or surface waters;
  - b) include a timetable for its implementation; and,
  - c) provide a management and maintenance plan for the lifetime of the development to secure the operation of the scheme throughout its lifetime.
- 16) The development hereby approved shall be carried out in accordance with an updated Drainage Strategy to be submitted to, and approved in writing by, the local planning authority, as part of a reserved matters application.
- 17) Prior to the first occupation of the development hereby permitted, details of electric vehicle points to be installed on the site shall be submitted to and approved in writing by the local planning authority. No property shall be occupied until the approved points relating to that property have been fully installed in accordance with the approved details. The approved points shall thereafter be retained.
- 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 of site operatives and visitors;
  - ii) loading and unloading of plant and materials;
  - iii) storage of plant and materials used in constructing the development;
  - iv) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - v) wheel washing facilities and their use;
  - vi) measures to control the emission of dust and dirt during construction;
  - vii) a scheme for recycling/disposing of waste resulting from demolition and construction works; and,
  - viii) a scheme to ensure any necessary piling is carried out using best practicable means to reduce the impact of noise and vibration on

neighbouring sensitive properties. The scheme shall include details of the method of piling, days and hours of work, duration of the pile driving operations (expected starting date and completion date), prior notification to the occupiers of potentially affected properties and details of the relevant site person(s) who can be contacted in the event of a complaint. Piling operations shall not be carried out on the site outside the following hours:

0900 to 1730 hours (Mondays to Fridays); and,

0900 to 1300 hours on Saturdays.

Nor at any time on Sundays, Bank or Public Holidays.



## **RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT**

**These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).**

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

### **SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS**

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act).

#### **Challenges under Section 288 of the TCP Act**

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the day after the date of the decision.

### **SECTION 2: ENFORCEMENT APPEALS**

#### **Challenges under Section 289 of the TCP Act**

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

### **SECTION 3: AWARDS OF COSTS**

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

### **SECTION 4: INSPECTION OF DOCUMENTS**

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the day after the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.