

## Homework item 3: Note on the planning status of Ingersley Vale, Bollington (site ref 2148)

### Background

1. HPS/M2/12 ¶3.6 Matter 2 Hearing Statement: Cumberbirch by Knights (“Knights”) states that the planning permission for the Ingersley Vale site has lapsed and cannot be implemented.
2. This note provides the Council’s response to the questions raised by the Inspector at the hearing session and to the subsequent material sent by Knights to the Inspector on the 22.10.21 (Appendix 1).

### Planning history

3. The Council’s published commitments and completions data (at 31 March 2020)<sup>1</sup> records this site as under construction and an extract of this data is shown at Figure 1 below.

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<sup>1</sup> <https://www.cheshireeast.gov.uk/pdf/planning/spatial-planning/researchand-evidence/housing-monitoring-report/hmu-2019-20-completions-supply.pdf>

## Non strategic commitments: Bollington

### Awaiting 5106

Site Ref	Site Address	Gross Total Dwellings	Completions	Remaining losses	Net remaining	Permission Ref
5487	LAND OPPOSITE, Lowerhouse Mill, ALBERT ROAD, BOLLINGTON	34	0	0	34	18/3938M
		<b>34</b>	<b>0</b>	<b>0</b>	<b>34</b>	

### Full permission

Site Ref	Site Address	Gross Total Dwellings	Completions	Remaining losses	Net remaining	Permission Ref
5022	41A, SHRIGLEY ROAD, BOLLINGTON, SK10 5RD	1	0	1	0	17/4372M
5024	LAND OFF HIGHFIELD ROAD, BOLLINGTON, MACCLESFIELD, CHESHIRE, SK10 5LR	1	0	0	1	17/0398M
5752	BOWLING GREEN, INGERSLEY VALE, BOLLINGTON, CHESHIRE	12	0	0	12	18/2244M
6013	10, SANDY CLOSE, BOLLINGTON, SK10 5DT	1	0	0	1	17/3526M
6242	17, GREENFIELD ROAD, BOLLINGTON, CHESHIRE, SK10 5NE	1	0	0	1	18/0236M
6343	6, SOUTH WEST AVENUE, BOLLINGTON, CHESHIRE, SK10 5DS	2	0	0	2	18/0806M
6347	31-33, Water Street, BOLLINGTON, SK10 5PA	2	0	1	1	18/4048M
6484	38, PALMERSTON STREET, BOLLINGTON, MACCLESFIELD, CHESHIRE, SK10 5PX	1	0	0	1	18/1758M
6519	35, ALBERT ROAD, BOLLINGTON, MACCLESFIELD, CHESHIRE, SK10 5HS	1	0	1	0	18/6031M
6610	land between 24 & 26, HURST LANE, BOLLINGTON, MACCLESFIELD, CHESHIRE, SK10 5LP	1	0	0	1	18/5560M
6624	Land to the rear of the Water Street Centre, WATER STREET, BOLLINGTON	2	0	0	2	18/3539M
6748	5, HAZELHURST DRIVE, BOLLINGTON, MACCLESFIELD, CHESHIRE, SK10 5QT	1	0	0	1	18/3990M
		<b>26</b>	<b>0</b>	<b>3</b>	<b>23</b>	

### Outline permission

Site Ref	Site Address	Gross Total Dwellings	Completions	Remaining losses	Net remaining	Permission Ref
		0	0	0	0	
		<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	

### Under construction

Site Ref	Site Address	Gross Total Dwellings	Completions	Remaining losses	Net remaining	Permission Ref
781	49-51 Palmerston Street, Bollington	8	0	0	8	18/2672M
2148	Ingersley Vale Works, Ingersley Vale, Bollington	66	0	0	66	10/3279M
3422	LAND AT HIGH STREET, BOLLINGTON	6	1	0	5	16/5137M
3753	LAND AT CUMBERLAND DRIVE, BOLLINGTON	4	0	0	4	09/4335M
4719	3, STONEMILL COURT, WELLINGTON ROAD, BOLLINGTON, MACCLESFIELD, CHESHIRE, SK10 5HT 14	1	0	0	1	14/4124M
		<b>85</b>	<b>1</b>	<b>0</b>	<b>84</b>	

Site Ref	Site Address	Gross Total Dwellings	Completions	Remaining losses	Net remaining	Permission Ref
	<b>Bollington Total</b>	<b>145</b>	<b>1</b>	<b>3</b>	<b>141</b>	

Figure 1 : Commitments at Bollington (March 2020)

4. Relevant planning history of the site is provided in Table 1 below:

Application ref	Description	Decision date	Comments
08/0791P	Demolition of all buildings except the Mill. Conversion of Mill to 24no. apartments and erection of 24no. apartments and 18no. Townhouses with associated landscaping and car parking	Approved 30/12/2009	<p>Planning permission granted for the demolition of all buildings at the site except for the Mill. The scheme included the conversion of the Mill to 24 apartments plus 42 new build dwellings.</p> <p>Response from the Council's Building Control Officer dated May 2008 confirms that following fire damage in 1999, only the walls of the Mill remain.</p> <p><u>Attached as Appendix 2:</u></p> <ul style="list-style-type: none"> <li>• (a) Existing and proposed elevations for the Mill building</li> <li>• (b) Demolition plan</li> <li>• (c) Copy of response from Building Control Officer confirming that only the walls of the Mill remain following fire damage in 1999</li> <li>• (d) Copy of response from Environment Agency dated June 2008</li> <li>• (e) Officer Report</li> <li>• (f) Copy of letter from Environment Agency dated September 2008 withdrawing objection to the development proposal</li> <li>• (g) Copy of letter from Government Office for the North West dated October 2008 confirming that the decision will not be called in to the Secretary of State for determination</li> <li>• (h) Copy of Decision Notice</li> <li>• (i) Copy of letter discharging condition 30</li> </ul>
08/0879P	Conservation Area Consent for Demolition of Existing Buildings	Approved 04/04/2010	

09/4033P	ERECTION OF 14NO. 3 BED TOWNHOUSES & 16NO APARTMENTS WITH ASSOCIATED WORKS – application withdrawn 18/02/2010		
10/2369B	Building Regulations Demolition Notice	Approved 27/08/2010	
10/3279M	Non-material amendment to application 08/0791P	Approved 08/09/2010	<p>Variation to conditions on 08/0791P to exclude demolition from the requirements of the majority of 'pre-commencement' conditions (except those, e.g., vehicle movement method statement, for which details were submitted and approved by variation of condition with this application).</p> <p>The buildings were demolished prior to expiry of 08/791P (see Committee report 12/0515M referred to below).</p> <p>Therefore, the development was lawfully commenced, by demolition, following variation of pre-commencement conditions.</p> <p><u>Attached at Appendix 3:</u></p> <ul style="list-style-type: none"> <li>• Copy of Decision Notice</li> </ul>
12/0515M	Variation of Condition 41 Relating to the Approved Plans on Approval 08/0791P for Demolition of all Buildings Except the Mill, Conversion of Mill to 24no. Apartments and Erection of 24no. Apartments and 18no. Townhouses with Associated Landscaping and Car Parking	Resolution to Approve at Northern Planning Committee 4/04/2012 – subject to a revised section 106 agreement	<p>The committee report for this application states: <i>This permission has been implemented by virtue of the demolition of the existing buildings.</i></p> <p><u>Attached at Appendix 4:</u></p> <ul style="list-style-type: none"> <li>• Committee report</li> </ul>
19/2624M	Variation of conditions 3, 5, 6, 11 & 41 on approval 08/0791P for demolition of all buildings except the mill, conversion of mill to 24 apartments and erection of 24 apartments and 18 townhouses with associated landscaping and car parking	Withdrawn	<p>This application proposed the demolition of the majority of the Mill building as shown on the submitted Demolition Plan. The application was ultimately withdrawn as the detailed extent of the demolition works (Appendix 5(b)) was considered to lie beyond the scope of the original application (Appendix 2(b)).</p> <p>The submitted planning statement by Emery planning states at paragraph 1.6 that: "<i>development has been commenced by demolition of all</i></p>

			<p><i>buildings on the site with the exception of the mill</i>’.</p> <p><u>Attached at Appendix 5:</u></p> <ul style="list-style-type: none"> <li>• (a) Copy of Planning Statement</li> <li>• (b) Demolition Plan</li> <li>• (c) Copy of response from Environment Agency</li> <li>• (d) Copy of structural report</li> <li>• (e) Copy of response from Council’s Building Control Officer</li> </ul>
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**Table 1: Site 2148: Ingersley Vale Planning history**

5. The council’s position is that a technical start has been made as referenced in the documentation cited in Table 1 and the permission is extant.

**Is the site deliverable/ developable?**

6. In their response dated 22 October 2022 (Appendix 1), Knights raise the issue of the deliverability of the Ingersley Vale site. Before responding to the points in turn (see Table 2), some general observations about the deliverability/ developability of housing sites is provided below.

**Deliverable housing sites**

7. Reference to ‘deliverable sites’ in the NPPF is largely concerned with the assessment of five-year housing land supply. In terms of plan-making, NPPF ¶68 confirms that it is the role of strategic plans to identify a specific deliverable supply of sites for years 1 to 5 of the plan-period.
8. As set out in ¶ED 05 ‘The Provision of housing and employment land and the approach to spatial distribution’ confirmation of deliverable five-year housing land supply is not sought through the examination of the SADPD. In the Inspector’s document INS/08 ‘Matters, Issues and Questions’ the introduction identifies that there is no requirement to confirm five-year housing land supply for non-strategic plans or policies. It should not therefore be necessary to consider through the examination of the SADPD, the deliverability of a disputed site in terms of whether it is capable of delivering first completions within five years. If however, a detailed assessment is to be made in considering whether a site is deliverable, it is necessary to consider the relevant definition at Annexe 2 of the NPPF:

*‘Deliverable: To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:*

*a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).*

*b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.*

9. Ingersley Vale falls into Category A of the definition - it is a site with full planning permission where a technical start has been made. The site should be considered deliverable unless there is clear evidence to the contrary. The burden of proof for disputed sites with detailed permission/ under construction rests with those parties that dispute their deliverability.
10. It is highlighted that the NPPF definition of 'deliverable' refers to sites. It does not refer to the deliverability of planning permissions. It is the site and not the permission that is being assessed for its deliverability. The permission is simply the vehicle that brings the site forward.
11. Even if a planning judgement was reached that elements of the current planning permission are not deliverable, it does not automatically follow that the site is not deliverable or even developable.

### **Developable housing sites**

12. Developable sites are referred to at NPPF ¶68 as sites that have the potential to deliver dwellings over the longer term – i.e. beyond years 1-5 of the plan period. Demonstrating developable supply is also a matter for strategic plan making with strategic policies requiring a trajectory illustrating the expected rate of housing delivery over the plan period (NPPF ¶74).
13. NPPF Annex 2 provides the following definition of developable sites:

*To be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.*
14. The NPPF evidential bar for developable sites is clearly lower than that for deliverable sites. Ingersley Vale site is a c1ha brownfield site, largely cleared of buildings, located in the Bollington Settlement Boundary with an owner actively interested in bringing the site forward for development. The planning history suggests that it is suitable for housing with a reasonable prospect that it will be available and developed given the planning history.

Summary of issue raised by Knights (Appendix 1)	Council response
<p>There are elements of the development, namely the mill which are not deliverable:</p> <ul style="list-style-type: none"> <li>• The existing Mill building is no longer structurally sound and this is confirmed in the planning statement by Emery Planning, the response from the Council's structural engineer and the structural report submitted in relation to Variation of Condition application (19/2624M).</li> <li>• Since the submission of the report, there has been further collapse (see photo provided by Knights).</li> <li>• The building requires new structural elements and substantial re-building. This would go beyond the scope of the current planning permission.</li> <li>• It is assumed that the S73 application submitted in 2019 was withdrawn because the scope of the rebuilding went beyond the scope of the original permission.</li> </ul>	<p>The evidence provided by Knights is largely taken from planning application records rather than first-hand knowledge of the site, the owner's intentions or any independent feasibility study.</p> <p>The examples of 'clear evidence' cited within Category A of the NPPF definition of deliverable, suggest that any challenges must provide empirical evidence demonstrating that completions will not occur within the five-year period. This is a high bar - the same 'clear evidence' test local planning authorities must meet to demonstrate the deliverability of category b) sites.</p> <p>NPPG<sup>2</sup> also cites examples of 'clear evidence', including seeking written agreement from site developers. Knights do not act for the owner/developer nor do not know what their intentions are.</p> <p>Ultimately, Knights' conclusions are based upon historic planning permission documents, rather than any empirical evidence of its future. This falls short of the 'clear evidence' needed to demonstrate that the site is undeliverable.</p> <p>Knights consider that there are elements of the development (i.e the planning permission) that are not deliverable. It is the site and not the permission that is being assessed for its deliverability.</p> <p>Whilst it is acknowledged that the Mill building has structural issues, the recent S73 Variation of Condition application (19/2624M) sought the demolition of the vast majority of the Mill building as shown on the demolition plan. The application was withdrawn because the detailed extent of the demolition works was considered to fall beyond the scope of the original permission. It is possible that an alternative scheme could come</p>

<sup>2</sup> NPPG ¶007 Reference ID: 68-007-20190722

	<p>forward for the Mill that did not require such extensive demolition. The response from the Council's Building Control Officer to application 19/2624M does not rule out this:</p> <p><i>'it <b>may</b> be possible to only demolish part of the bottom sections of the south and north elevations where infill of openings in the past has given more stability to this lower areas. However this <b>may</b> prove difficult due to health and safety of the work force undertaking the demolition and full demolition <b>may</b> be the only option'.</i></p> <p>The site has an extant planning permission for 66 dwellings, 24 of which are within the Mill building. Subject to the discharge of any pre-commencement conditions, development could potentially commence on (at least) 42 of the new build dwellings permitted.</p> <p>The site is available (given that most of the site has been cleared), it is a suitable location for development (a brownfield site within the Bollington Settlement Boundary) and there is a realistic prospect that housing will be delivered on the site (given that planning permission has been previously granted).</p> <p>Even if a different conclusion was reached, the site is capable of being considered developable as a brownfield site within the existing settlement boundary.</p>
<p>The Environment Agency objected to the original application and the 2019 S73 application.</p> <p>Any new application site would have to be accompanied by a Flood Risk Assessment on the grounds that the site is located within flood zone 3. Any new application for the site would need to follow the sequential approach to flood risk.</p>	<p>Whilst the Environment Agency originally objected to 08/0791P in June 2008, the Council's records shows that this objection was later withdrawn (Appendix 5e).</p> <p>The Environment Agency objected to the 2019 Variation of Condition application (19/2624M) mainly on the basis of a lack of information. Given that the application was withdrawn for other reasons, further technical reports were not requested.</p>



	This is not clear evidence that the site is undeliverable or undevelopable given the planning history of the site.
As a minimum, 24 units cannot be delivered on this site even if the remainder of the development was lawfully commenced by virtue of demolition	Knights accept that the remaining 44 dwellings are deliverable, provided that the permission is extant. Whatever happens to the Mill in the future, the land will remain brownfield and within the settlement boundary. There may be further capacity for residential development subject to detail.
Nothing has happened on the site in the last 10 years.	This is not clear evidence that the site is undeliverable or undevelopable. Many slow/ stalled sites do come forwards after a period of inactivity and the Council can provide examples if needed. Additionally, brownfield sites can take longer to come forwards particularly where there is a requirement to retain a historic building.
Alternative sites are required in Bollington to meet local and market housing.	<p>The Council's approach to the allocation of sites at LSCs is set out in ED 05 'The Provision of housing and employment land and the approach to spatial distribution', CEC/01 'Council response to Inspector's Initial Questions' and the Matter 2 Hearing Statement (HPS/M2/09). Even if deliverability/ developability of this particular site was in doubt, this would not automatically amount to the exceptional circumstances needed to release Green Belt sites for allocation at Bollington (or any other LSC) given the overall housing supply context within which the SADPD is being prepared. It would also be necessary to consider whether any non-green belt sites existed across LSCs before considering green belt release.</p> <p>It is also relevant that national planning guidance encourages the re-use of brownfield land. The constraining effect of the Green Belt can have the effect of encouraging brownfield sites to come forwards within settlements.</p>

15. It is hoped that this addresses the Inspector's query but the Council is happy to assist further with any additional questions that the Inspector may have.

#### Appendices

1. Submission from Knights 22.10.21
2. 08/0791P
3. 10/3279M
4. 12/0515M
5. 19/2624M
6. Response from Knights 03.11.21
7. Response from Emery Planning 04.11.21