

**Town and Country Planning Act 1990
(As Amended)**

**Cheshire East Local Plan
Site Allocations and Policies DPD
Examination in Public**

Matter 2 Hearing Statement

Site: BOL1 - Land at Henshall Road,
Bollington

Document Date: September 2021

Client: Mr H Cumberbirch

Reference: CUM5/5/SADPD/EX/M2

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Executive Summary

This response to the Inspector's Matters, Issues and Questions relates to Matter 2 and sets out the following:

1. Exceptional circumstances exist to justify the release of Green Belt land in Bollington for the following reasons:
 - a. The CELPS established the need to review Green Belt boundaries through its strategic policies. The SADPD does not provide an opportunity to revisit or amend the strategic policies of the CELPS.
 - b. There is a requirement to meet open market and affordable housing needs across Cheshire East, and a substantial shortfall of 6000 affordable homes across Cheshire East still exists.
 - c. There is a need to deliver some growth around the northern towns in Cheshire East for the reasons accepted by Inspector Pratt during the examination of the CELPS, namely to ensure the vitality and viability of these towns, to meet local development needs and to avoid unsustainable patterns of development and commuting which may occur in the event that all development is channelled to the south of the Borough.
2. There is a need to release sites from the Green Belt to deliver housing and such allocations should be made now, as demonstrated by the exceptional circumstances above, and the Council cannot rely on safeguarding land for release for housing at a later date.
3. Reliance on windfall development coming forward is not a suitable or viable option for meeting open market and affordable housing needs and is not a plan-led strategy.
4. Windfall development would not deliver sufficient affordable housing. Many small windfall sites would not meet the threshold for delivering affordable housing, nor would the conversion of other buildings deliver any other buildings because they could be advanced under the provisions of the General Permitted Development Order, or they could utilise the Vacant Building Credit to reduce or remove completely the requirement to provide any affordable housing.
5. There appears to be some double counting associated with the Council's reliance on windfalls, as the CELPS clearly provides a separate allowance for small scale windfall development from the 2019/20 monitoring year, and the Inspector is invited to request further evidence from the Council to show the breakdown of windfall delivery and commitments between small and large sites, as this is considered to be distorting the Council's figures for the LSCs.
6. Exceptional circumstances exist to release site **BOL1** from the Green Belt. It can deliver a policy compliant level of affordable housing, is a visually self-contained and discreet site which makes a very limited contribution to Green Belt purposes, is enclosed on three sides by existing residential development and has a defensible boundary to the north comprising a mature area of woodland and steep topography. It is also accessible to a range of local services and facilities on foot and is accessible by public transport. The release of this site from the Green Belt is robustly supported by the evidence base when considered against all reasonable alternatives.

1. QUESTION 11 - IS POLICY PG 8 CONSISTENT WITH THE STRATEGY IN THE LPS FOR GROWTH AND THE SPATIAL DISTRIBUTION OF DEVELOPMENT AT THE LSCS, AND WITH THE RELEVANT PROVISIONS OF NATIONAL POLICY?

- 1.1 Policy PG7 of the CELPS identifies that LSCs will accommodate in the order of 3,500 homes over the plan period (2010 - 2030), and this overall number is repeated in Policy PG8 of the SADPPD. Policy PG7 of the CELPS did not determine how the 3,500 would be distributed and delivered in the SADPD.
- 1.2 Appendix A of the CELPS identified that as of the end of March 2016, there were 568 completions and 2056 commitments, with 1125 dwellings to be delivered through site allocations. Up to 31 March 2020, there have been 2007 completions and the Council's response to the Inspector's Initial Questions states that there are a further 1193 commitments and a neighbourhood plan allocation of 10 units to be delivered over the remainder of the plan period. This totals 3210 dwellings, which is lower than the 3500 target expressed through strategic policy PG 7 within the CELPS.
- 1.3 It is not clear from the evidence how windfalls are going to deliver the remaining 300 dwellings across the LSCs, so we consider that there is an inconsistency between SADPPD Policy PG8 and CELPS Policy PG7, where allocations were clearly envisaged.
- 1.4 It is therefore considered that the policy as it stands, with a reliance on windfalls, is inconsistent with PG 7 of the CELPS, and the matter of windfalls is considered later in this statement.

2. QUESTION 11A - SHOULD IT INCLUDE A DISAGGREGATION OF THE INDICATIVE LEVELS OF DEVELOPMENT FOR THE LSCS, OF 3,500 DWELLINGS AND 7HA OF EMPLOYMENT LAND, TO INDIVIDUAL SETTLEMENTS, IN ORDER TO ENSURE DECISIONS ARE PLAN-LED AND THAT THE NEEDS OF INDIVIDUAL SETTLEMENTS ARE MET?

- 2.1 With regard to the disaggregation of growth across the LSC, it is our professional opinion that there should be a disaggregation of levels of development for each of the LSCs. In particular, if LSCs are not assigned a growth target, and sites are not allocated accordingly, then the following may happen:
- (a) Firstly, development would be skewed to the south of the Borough, resulting in unsustainable patterns of development and commuting and a less balanced approach to housing delivery across the Borough;
 - (b) Secondly, growth would be restricted in the northern LSCs that are heavily constrained by Green Belt, which may harm the vitality and viability of services and facilities provided within these settlements;
 - (c) Thirdly, the absence of any growth in the northern LSCs would remove their ability to deliver some affordable housing and overall housing affordability is likely to worsen in the settlements constrained by Green Belt;

- (d) Fourthly, and linked to the first point above, were the council to reach a stage where it did not have a 5 year housing land supply towards the end of the plan period, then speculative applications would be submitted on non-Green Belt sites to the south of the Borough, exacerbating the imbalance between the north and the south of the Borough further and increasing the likelihood of unsustainable patterns of development.
- 2.2 As is clearly apparent in ED 05, table 11, of the 3210 number of dwellings identified across LSCs, 2179 dwellings (68%) of the requirement for LSCs would be delivered in settlements to the south of the Borough.
- 2.3 As set out in our representation, which was supported by evidence from Tetlow King, there is an affordable housing need of over 6,000 affordable homes across Cheshire East and a specific affordable housing shortfall of 61 affordable homes in Bollington. If the Council were to pursue the option of meeting the needs of LSCs through windfalls, then again, as set out in our original representation, a reliance on windfalls is unlikely to deliver any affordable housing units for the following reasons:
 - (a) Firstly, small sites delivering less than 11 dwellings (or less than 1,000 square metres of floorspace) are not required by CELPS policy SC5 to deliver any affordable housing;
 - (b) Secondly, any conversion of vacant buildings to residential use are unlikely to deliver affordable housing because the Vacant Building Credit would apply;
 - (c) Thirdly, other routes to securing permission to change the use of existing buildings, or redevelop certain commercial buildings to residential use, in particular, via prior approval under the General Permitted Development Order (As amended), do not require the provision of any affordable housing.

3. QUESTION 11C - IS IT POSITIVELY PREPARED AND JUSTIFIED IN RELYING ON EXISTING COMMITMENTS AND WINDFALL DEVELOPMENT TO MEET THE INDICATIVE LEVEL OF HOUSING DEVELOPMENT FOR LSCS, SET IN POLICY PG 7, RATHER THAN ALLOCATING ADDITIONAL SITES AT THE LSCS?

- 3.1 With regard to whether or not Policy PG 8 is positively prepared and justified in relying on existing commitments and windfall development, it is our professional opinion that the plan has not been positively prepared or justified by the evidence. Whilst it is accepted that unexpected windfall development is likely to occur over the plan period, for the reasons set out above, windfall development will be heavily skewed towards the south of the Borough, would result in unsustainable patterns of commuting and would not enable the Council to meet the clear and pressing need for affordable housing.
- 3.2 Addressing windfalls further, the Council, in their response to the Inspector's Initial Questions at paragraph 3 refer to the 2007 windfall permissions as arising from sites of all sizes, with further windfall commitments of 1193 dwellings. What the Council have failed to do is take account of the small sites windfall allowance outside of Crewe and Macclesfield, which is a

separate allowance from the 3500 figure directed to LSCs as set out at Table E.2. at Appendix E of the CELPS, which allows for a small sites windfall allowance of 1375.

- 3.3 The housing trajectory (Figure E.2 of the CELPS) shows that the small sites windfall allowance (for sites of 9 units or less) starts from the 2019/20 monitoring year. The Council, at the request of Inspector Pratt (paragraph 73 of the Inspector's examination report) agreed to include an allowance for small windfalls from 2019/20 onwards, which identifies these units as "additional".
- 3.4 It is our professional opinion that there has been some double counting of the small sites windfall allowance, and this element of supply will need to be reviewed. This will require the Council to do two things:
- (a) Firstly, discount completions on small windfall sites during the 2019/20 monitoring year referred to in their response to the Inspector's Initial Questions;
 - (b) Secondly, discount small windfall sites from the remaining commitments.
- 3.5 ED05 only provides summary totals of the housing figures for each LSC, and does not provide a breakdown of the components of their housing supply figures for the LSCs which show differentiation between small and large windfalls. We therefore invite the Inspector to request this information from the Council, as we believe that there is double counting as a result.
- 3.6 In addition, we believe that one of the large windfall sites in Bollington, as referred to in our representation at paragraph 4.25 and 4.26, the Ingersley Vale site, has a planning permission which we believe has lapsed and cannot be implemented. We therefore believe that 66 dwellings should be discounted from the Council's commitments.
- 3.7 As a result, our estimate of the windfall supply for LSCs, when the above factors are taken into account, is that there has been delivery and commitments of windfalls above 9 dwellings totalling 2996 dwellings, rather than 3210 as indicated by the Council. The difference between these two figures is 214 dwellings, 66 of which are from the Ingersley Vale site, and 148 dwellings coming from small windfalls which should be part of the Council's annual small sites windfall allowance, rather than the separate housing requirement figure for LSCs.
- 3.8 It is therefore our professional opinion that PG 8 has not been positively prepared, nor is it justified by the evidence.

4. QUESTION 12 - ARE THE OTHER POLICIES IN THE LPS AND SADPD SUFFICIENTLY FLEXIBLE TO ENABLE THE REMAINING PART OF THE INDICATIVE LEVEL OF HOUSING DEVELOPMENT FOR LSCS, SET IN POLICY PG 7, TO BE MET FROM FURTHER WINDFALL SITES? IS THERE ANY SUBSTANTIVE EVIDENCE OF OPPORTUNITIES FOR FURTHER WINDFALL DEVELOPMENT ON SITES WITHIN THE PROPOSED SETTLEMENT AND VILLAGE INFILL BOUNDARIES?

- 4.1 With regard to flexibility, as set out earlier, we do not believe that the indicative level of housing development for LSCs will be met from further windfall sites. The evidence that is available

suggests that the scope for delivery in a number of LSCs is severely limited because there are very few industrial legacy sites, or they have tightly drawn settlement boundaries. In addition, this statement already sets out that windfalls are unlikely to deliver any affordable housing within the LSCs.

- 4.2 The Council's brownfield register shows that there are only opportunities to deliver 36 dwellings within all LSCs on previously developed sites, so other sources of supply are unknown. This further justifies the need to allocate sites on the edge of LSCs.

5. QUESTION 13 - IS THERE A NEED FOR FURTHER SITE ALLOCATIONS FOR HOUSING AT THE LSCS TO BE INCLUDED IN THE SADPD TO ENSURE THE INDICATIVE LEVEL OF HOUSING DEVELOPMENT SET IN POLICY PG 7 OF THE LPS WILL BE MET IN FULL AND THE NEED FOR AFFORDABLE HOUSING ADDRESSED, IN PARTICULAR AT SETTLEMENTS WITHIN THE NORTH CHESHIRE GREEN BELT?

- 5.1 As already set out above in response to question 11 and its sub parts, there is a need for further site allocations at LSCs. There is a need to deliver around 300 dwellings in LSCs to meet the requirement for 3,500 dwellings in full if the Council's delivery and commitment figures (which include large and small windfalls) are accepted.

- 5.2 There is a clear and pressing need to deliver affordable housing in Cheshire East as evidenced in the report by Tetlow King which accompanied our original representation. This highlighted an affordable housing need of 6,000 dwellings across the Borough and more specifically a need for 61 affordable homes in Bollington.

- 5.3 One site which could deliver a quantum of affordable housing within Bollington is site BOL1 which is owned and controlled by our client.

- 5.4 The need to release sites from the Green Belt was established through the CELPS, with Inspector Pratt endorsing this approach.

- 5.5 In the above context, the release of Green Belt sites in the north of the Cheshire East Borough was a specific matter addressed by Inspector Pratt during the examination of Cheshire East Local Plan Strategy (which sits above the Site Allocations and Policies DPD) when considering the distribution of development at a strategic level. In particular, the Inspector's further interim views (appendix 2 to the Inspector's report) stated at paragraph 68 that:

*The SDUR considers alternative options, and recognises that channelling too much development to areas beyond the North Cheshire Green Belt to the south of the borough would result in unsustainable patterns of development and commuting, and would not address the development needs of the northern settlements. **There is a need for a reasonable balance of development throughout the borough, and the allocation of more development to the northern settlements would almost inevitably result in the loss of some Green Belt land.** The UPA & EPA identify a large "pool" of sites from which strategic site allocations could be made to meet the development needs of each settlement, and issues about specific sites will*

be addressed later in the examination. There is also a need for a transparent and consistent judgement based on the available evidence, which is reflected in the SDUR study. [emphasis added]

5.6 At paragraph 84 of the Inspector's main examination report, the Inspector stated that:

Many participants challenge the revised spatial distribution of development, but it is important to note that CEC's Spatial Distribution Report (SDUR) [PS/E035] is the only evidence that comprehensively addresses all the relevant factors relating to a soundly-based spatial distribution of development for all of the settlements in the hierarchy and uses these to identify an clear, logical and consistent approach to apportioning the amount of proposed development across the district. Any increase or decrease in the amount of development proposed for a particular town would have to be offset or made up by decreases or increases in other towns, since there is no justification to increase or decrease the overall level of proposed provision; this would almost inevitably affect the number and location of greenfield or other sites in the Green Belt, which would raise other and sometimes controversial issues. It is also important to recognise the particular development constraints affecting each town, including the Green Belt around Macclesfield and the northern towns. Moreover, additional development is not needed to meet the overall level of development requirements currently identified.

5.7 The previously proposed spatial distribution of development for the Local Service Centres would have followed the overall development strategy endorsed by Inspector Pratt, which was considered to be sound. By comparison, the strategy now proposed is not considered to be sound.

5.8 The previous strategy of identifying and allocating housing sites around LSCs would achieve a better balance of housing across the Borough and enable the LSCs to retain local services and facilities.

5.9 At paragraph 94 of the examination report, the Inspector stated the following;

I considered that CEC has provided sufficient evidence to establish the exceptional circumstances needed to justify altering Green Belt boundaries; this is essentially based on the need to allocate sufficient land for market and affordable housing and employment development, combined with the adverse consequences for patterns of sustainable development of not doing so, since it is not practicable to fully meet the assessed development needs of the area without amending Green Belt boundaries.

5.10 The above exceptional circumstances still apply, and the release of further sites from the Green Belt around LSCs in the north of the Borough is still considered to be justified. In the case of BOL1 in particular, the allocation of this site for housing would comply with the exceptional circumstances established through the CELPS to deliver affordable housing and to address the consequences for sustainable patterns of development. The purpose of this SADPD is not to re-open the strategic policies of the CELPS which established the need to release land from the Green Belt.

- 5.11 It is also important to note that earlier consultation drafts of the SADPD explicitly adopted and endorsed the above approach and reasoning when justifying the proposed release of land around LSCs in the north of the Borough, as shown at strikethrough paragraphs 2.15 and 2.16 of ED01a¹
- 5.12 It is clearly the case that the 3500 figure for LSCs will not be met through windfalls, and there would be no harm allocating further sites to significantly boost the delivery of open market and affordable housing as required by the Framework.
- 5.13 We would like to bring to the Inspector's attention the High Court judgement in the matter of Compton Parish Council (and others) vs Guildford Borough Council and the Secretary of State for Housing, Communities and Local Government [2019] EWHC 3242 (Admin).
- 5.14 The court judgement confirms that once meeting the OAN is accepted as a strategic level factor contributing to exceptional circumstances for releasing Green Belt land (which is the case in Cheshire East through the CELPS), it follows that the provision of headroom against slippage and for flexibility to meet changes in future circumstances would contribute to such circumstances. It is considered that such an approach is warranted for the LSCs in Cheshire East, particularly with regard to the consequences for achieving sustainable development.
- 5.15 The above analysis confirms that the distribution of housing across the Borough would be distorted to the south of the Borough if Green Belt and other constraints were allowed to lead the way and determine where housing is distributed. In particular, paragraph 3.30 of the Sustainability Appraisal (ED03) states that directing development to settlements in the south of the Borough would result in negative effects on air quality, transport, biodiversity, flora, fauna, cultural heritage, landscape, water and soil at those settlements that are not constrained by Green Belt.
- 5.16 It is therefore our professional opinion that exceptional circumstances exist to justify allocating additional sites at the LSCs and removing sites from the Green Belt on the edge of LSCs in the north of the Borough.

6. QUESTION 15 - IS THE IDENTIFICATION OF ADDITIONAL SAFEGUARDED LAND AT THE LSCS JUSTIFIED TO MEET THE LONGER-TERM DEVELOPMENT REQUIREMENTS OF THE BOROUGH, TAKING ACCOUNT OF THE EXPECTATIONS OF THE LPS, THE POTENTIAL FOR THE DEVELOPMENT REQUIREMENTS OF CHESHIRE EAST BEYOND 2030 TO CHANGE UNDER THE STANDARD METHOD FOR CALCULATING LOCAL HOUSING NEED, AND THE REQUIREMENT IN PARAGRAPH 140 OF THE NPPF THAT GREEN BELT BOUNDARIES SHOULD ONLY BE ALTERED WHERE JUSTIFIED BY EXCEPTIONAL CIRCUMSTANCES?

- 6.1 As set out in response to the questions above, we are of the view that there are exceptional circumstances for releasing land from the Green Belt.

¹ Revised Publication Draft SADPD (tracked changes version), pages 9 and 10

- 6.2 Paragraph 140 of the Framework is very clear that strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans.
- 6.3 With regard to the housing requirement, the current requirements are set out as a strategic policy through the CELPS and the need to amend Green Belt boundaries has also been established through the CELPS. It is not the purpose of the SADPD to amend the adopted strategic policies or the minimum housing requirement specified in the CELPS. Such an action can only be done through a review of the CELPS, which the Council are not proposing.
- 6.4 With regard to the Standard Method, it is not possible to know with any degree of certainty what housing need will be in 10 years time (or at any such time that there may be a Local Plan review), or whether or not there will be any further changes to calculating housing need through a Standard Method.
- 6.5 Crucially, the Standard Method tends to reflect past trends rather than predict future needs, and it was very clear during the early stages of the CELPS examination that there was a mismatch between the proposed housing growth and economic growth aspirations of the plan, which was one of the main drivers for Inspector Pratt to suspend the examination and for the Council to review their evidence base and propose a series of main modifications to the plan.
- 6.6 Paragraph 61 of the Framework and the PPG are both clear that housing needs calculated using the Standard Method are not a requirement, but a minimum starting point, and where exceptional circumstances exist, a housing requirement figure can be established, which also reflects current and future demographic trends and market signals.
- 6.7 As already established, there is a substantial need for affordable housing across Cheshire East which justifies the current housing requirement established through the CELPS.
- 6.8 Crucially, the identification of safeguarded sites will mean that Green Belt boundaries will not have to be reviewed again until at least 2045 as confirmed at paragraph 99 of Inspector Pratt's examination report.
- 6.9 Again, the exceptional circumstances for releasing land from the Green Belt, both for housing allocations and for safeguarded land, has been established through the strategic policies of the CELPS, and any review of housing requirements and the consequences of any change to the housing requirement are matters which can only be considered through a Local Plan review.
- 6.10 It is our professional opinion that once the current housing requirement of the CELPS is delivered by the end of the plan period, then even a lower housing requirement established through the Standard Method is still likely to require land beyond existing settlement boundaries and land that is identified as safeguarded land.

7. QUESTION 16 - IS THE SELECTION AND DISTRIBUTION OF SITES FOR DESIGNATION AS SAFEGUARDED LAND AT THE LSCS, AS SET OUT IN THE LOCAL SERVICE CENTRES SAFEGUARDED LAND DISTRIBUTION REPORT AND THE SETTLEMENT REPORTS FOR ALDERLEY EDGE, BOLLINGTON, CHELFORD, DISLEY, MOBBERLEY AND PRESTBURY, BASED ON A ROBUST METHODOLOGY AND JUSTIFIED BY PROPORTIONATE EVIDENCE AND IS IT CONSISTENT WITH THE LPS AND NATIONAL POLICY?

- 7.1 The methodology as set out in the LSCs Safeguarded Land Distribution Report is considered to be robust, justified and proportionate. The evidence considers a range of factors for each settlement, including urban capacity, infrastructure, deliverability and viability, policy and physical constraints², potential future development opportunities, and other material factors.
- 7.2 The document then considers a range of options for distributing growth, including options which minimise the impact on the Green Belt. A total of 8 options have been considered with a sustainability appraisal for each of the proposed options. Further revised options were then considered before undergoing a further sustainability appraisal. A final preferred option was then put forward with a reasoned justification for the progression or rejection of alternative options.
- 7.3 This approach is considered to be robust and justified and consistent with the requirements of paragraph 35 of the Framework.

8. QUESTION 17 - HOW HAVE THE CUMULATIVE IMPACTS OF THE FUTURE DEVELOPMENT OF THE SITES PROPOSED FOR DESIGNATION AS SAFEGUARDED LAND BEEN CONSIDERED, SUCH AS ON THE HIGHWAY NETWORK, NATURE CONSERVATION ASSETS AND THE GREEN INFRASTRUCTURE NETWORK? WHAT EVIDENCE IS AVAILABLE TO DEMONSTRATE THIS?

- 8.1 As set out in the response to question 16 above, the Local Service Centres Safeguarded Land Distribution Report and the Settlement Reports for Alderley Edge, Bollington, Chelford, Disley, Mobberley and Prestbury have considered a range of options, opportunities and physical and policy constraints, which have been informed by sustainability appraisal, the consideration of further options and informed again by a sustainability appraisal. These documents have also been informed by physical and green infrastructure reports. It is therefore considered that there is sufficient robust evidence to demonstrate that the cumulative impacts of future development has been fully considered.

² Including landscape designations, nature conservation, flood risk, agricultural land classification, historic environment.

9. QUESTION 18 - HAVE EXCEPTIONAL CIRCUMSTANCES FOR REMOVING EACH OF THE EIGHT SAFEGUARDED LAND SITES FROM THE GREEN BELT BEEN FULLY EVIDENCED AND JUSTIFIED, AND ARE THE SITES DEFINED BY BOUNDARIES USING PHYSICAL FEATURES THAT ARE RECOGNISABLE AND LIKELY TO BE PERMANENT?

9.1 It is considered that the exceptional circumstances for releasing land from the Green Belt exist as set out elsewhere in this statement.

9.2 With particular reference to site BOL1³, the release of this particular site from the Green Belt is considered to be justified both for the above reasons already set out, and because it makes a limited contribution to Green Belt purposes. This site is enclosed on three sides by existing residential development. It is visually self-contained, and the northern boundary of the site which is not abutted by development is entirely defensible, comprising a mature woodland buffer zone and an embankment dropping down to the site to the north. Given the specific characteristics of this discreet area of land, it is very clear that site BOL1 makes a limited contribution to Green Belt purposes and it is not necessary to keep this area of land permanently open. Combined with the exceptional circumstances for releasing land from the Green Belt, and in particular, the pressing need to deliver affordable housing across both Cheshire East and Bollington (which this site could make a material contribution towards), there is a compelling case for releasing site BOL1 from the Green Belt.

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September 2021

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³ Land at Henshall Road, Bollington