

i) “Pre-Submission Core Strategy : November 2013” (“ the PSC Strategy”) and (ii) “Pre-Submission Core Strategy : Non-Preferred Sites : November 2013 (“the PSC Strategy NP Sites Document”) H266

REPRESENTATIONS ON BEHALF OF: HADDON PROPERTY DEVELOPMENTS LIMITED (“HPDL”)

By: John Church Planning Consultancy Limited (“JCPCL”) & Freeth Cartwright LLP

1. INTRODUCTION

1.1. The PSC Strategy and the PSCNP Sites Document are stated to be issued by Cheshire East Council (“CEC”) for public consultation as “..the last stage of public consultation before the Council publishes the version of the document that it wishes to submit to the Secretary of State in preparation for a public examination next year”.

1.2. In particular in respect of the PSC Strategy “..The Council asks that comments consider matters of legal compliance or to the government’s tests of soundness”.

1.3. CEC is aware that JCPCL represents HPDL which is the owner of important re-developable land at and around Gorstyhill Golf Club south-east of Crewe (“the Gorstyhill Lands”). We have made previous representations to CEC at earlier stages of the preparatory stages of the proposed core strategy for Cheshire East :

1.3.1. in February 2013; and

1.3.2. in May 2013

to draw CEC’s attention to the unsoundness of excluding the Gorstyhill Lands from positive policy recognising the high potential for sustainable development which it presents, amongst other matters.

1.4. Since the PSC Strategy and the PSCNP Sites Document are not consistent with the national planning policy framework (“the NPPF”) in relevant respects including in their proposed approach towards the Gorstyhill Lands we have summarised below the extent to which a development plan which reflected that dismissive approach would fail the test of soundness accordingly.

1.5. CEC has also specifically requested comment upon matters of “legal compliance”.

Section 19 of the 2004 Act provides:

“(1) Development plan documents must be prepared in accordance with the local development scheme.

(1A) Development plan documents must (taken as a whole) include policies designed to secure that the development and use of land in the local planning authority's area contribute to the mitigation of, and adaptation to, climate change.

(2) In preparing a development plan document or any other local development document the local planning authority must have regard to—

(a) national policies and advice contained in guidance issued by the Secretary of State;.... and the meaning of policy including that set forth in the NPPF is not a matter for CEC to determine but can be for the Court to determine (Supreme Court, Tesco v Dundee [2012] UKSC 13).

1.6. Section 20(1) of the 2004 Act requires that the Core Strategy will need to be submitted to the Secretary of State for independent examination. The examination must be carried out by a person appointed by the Secretary of State: s20 (4) of the 2004 Act and CEC has indicated that it intends to arrange for such an examination to take place during 2014.

1.7. Section 20(5) of the 2004 Act provides that the purpose of the examination is to determine in respect of the Core Strategy :

“(a) whether it satisfies the requirements of sections 19 and 24(1), regulations under section 17(7) and any regulations under section 36 relating to the preparation of development plan documents;

(b) whether it is sound; and

(c) whether the local planning authority complied with any duty imposed on the authority by section 33A in relation to its preparation.”

In its approach towards the Gorstyhill Lands CEC not only purports to promulgate a grossly unsound ‘local plan’ but it has also not complied with the legal requirements of the 2004 Act.

1.8. In addition to the statutory requirements, legal compliance with the requirements of procedural fairness and natural justice is also necessary. Amongst other failures of legal compliance it has come to our attention that the Leader of CEC issued a letter dated 23 April 2013 to residents of Wychwood Village (“the CEC Leader’s Letter”) which has so prejudiced the consultation process in respect of the emerging core strategy in this respect as to render it unlawful.

1.9. It was and is unlawful accordingly for the reasons that we have summarised and when the purported reasons for the inclusion of the Gorstyhill Lands within the PSCNP Sites Document are analysed (as below) it is clear that they do not stand up to scrutiny as planning judgments.

1.10. HPDL has therefore reasonable grounds for concern that some unstated reasoning is in fact relied upon and the plain terms of the CEC Leader’s Letter is clear evidence of a settled antipathy towards the development potential of the Gorstyhill Lands – which antipathy clearly pre-dates any of the “reasons” now offered for rejecting that development potential of the Gorstyhill Lands within the plan-making process.

1.11. We have therefore commented on the following issues in respect of the PSC Strategy or the PSC Strategy NP Sites Document (or both of them) below:

1.11.1. the unlawfulness of the consultation process and the development plan preparation process in view of the pre-determined opposition on CEC’s part to any development of the Gorstyhill Lands; and

1.11.2. the internal incoherence and inconsistency of the PSC Strategy or the PSC Strategy NP Sites Document insofar as the Vision and Strategic Priorities of the PSC Strategy would support the re-development of the Gorstyhill Lands in key respects whereas the PSCNP Sites Document identifies it as “Non-preferred

1.11.3. the irrelevance, inaccuracy and deficiency of the reasons advanced in the PSC Strategy NP Sites Document for the classification of the Gorstyhill Lands as “Non-preferred”;

1.11.4. the relative merit of the Gorstyhill Lands over and above the site identified as “Site SL3 : South Cheshire Growth Village, South East Crewe” (“the Crewe Hall Site”);

1.11.5. the unsoundness of any development plan which failed to recognise the development potential of the Gorstyhill Lands as a sustainable development for the purposes of the NPPF;

1.11.6. the unsoundness of the proposed approach towards the “Green Belt” around Crewe;

1.11.7. the inadequacy of the SEA as a putative basis for classifying the Gorstyhill Lands as “non preferred” at this early stage.

1.12. The balance of these representations is structured accordingly.

2. LEGAL COMPLIANCE : UNLAWFUL CONSULTATION AND PRE-DETERMINATION

2.1. It is clear that CEC had and has a statutory duty to consult in respect of its proposals for a new development plan. .

2.2. Where consultation is embarked upon, it must be carried out fairly.

2.3. The further legal principles which any lawful consultation process must give effect to are stated in R v Brent LBC ex parte Gunning 1985 84 LGR 168 and can be summarised as follows :

2.3.1. Consultation must take place when proposal is still at a formative stage.

2.3.2. 2. Sufficient reasons for proposal to allow for intelligent consideration and response.

2.3.3. 3. Adequate time given for consideration and response.

2.3.4. 4. Product of consultation must be conscientiously taken into account.

2.4. It has also been established that a Decision-maker cannot “consult” on a decision that has already been made.

2.5. The CEC Leader’s Letter states :

“Cheshire East is considering a four week consultation from May 3rd concerning our Local Plan Core Strategy.

This will form part of a robust consultation; to consult you on sites that have come through from December by developers. None of these site applications are supported by the Council, however to be robust we are consulting you so that the Council can counter robustly any developers potential legal challenge.

I, as Leader of the Council, am personally shocked at the number of sites from Wistaston in Crewe, to Sandbach and Wychwood Park, and I state that I want the people of these areas that are being consulted to come and speak out. I want petitions, which cumulatively, we could use to force a parliamentary debate. Make no doubt, Cheshire East stands strongly against these unwanted, unsustainable developments. [emphasis added]

As we gather momentum to completing our Local Plan Core Strategy and our five year supply, developers are rushing to bring in sites purely to land bank, something I am on the record to say I find immoral.

I have attended several protest/resident’s meetings on some of these sites and developers are being quoted as saying that people want/need these houses. I disagree, but Cheshire East Council wants to know definitively.

So support your Council, support your Local Plan Core Strategy by responding, clearing stating what you want and DO NOT WANT. Send a message that enough is enough and that the Cheshire East Core Strategy has more than enough houses already .”

2.6. It is clear that as at 23 April 2013 the position taken by CEC was one of unqualified opposition towards any development of the Gorstyhill Lands. The rejection of the Gorstyhill Lands as a valuable site capable of making a positive contribution towards policy-making within the development plan process had apparently already been made. The consultation process has been unlawful accordingly.

2.7. Those consulted should be aware of criteria to be applied when considering proposals and what factors will be considered “decisive”. No such indication was given prior to that publication of the PSC Strategy however. The apparent use of the “Vision and Objectives” section of the PSC Strategy as determinative was not pre-stated.

2.8. Moreover since the Gorstyhill Lands are not in fact contrary to the “Vision and Objectives” (please see section 3 below) an opportunity to know the determinative character CEC intended to ascribe to them as criteria for identifying “non-preferred sites” would have enabled representations to be made accordingly.

2.9. However that opportunity never arose because the apparent criteria now relied upon by CEC in this respect were not pre-published in terms that made their status in that respect clear, or indeed pre-published per se at all. The consultation process has been further unlawful accordingly.

2.10. In assessing ‘the fairness’ of consultation in a legal context it is clear that in this case :

2.10.1. CEC has approached the role of the Gorstyhill Lands within the development plan making process with a closed mind (as the CEC Leader’s Letter makes clear); and

2.10.2. The purported “reasons” for classifying the Gorstyhill Lands as “non-preferred” do not stand up to scrutiny (please see section 4 below) ; and

2.10.3. The positive potential of the Gorstyhill Lands to deliver elements of the “Vision and Objectives” of the PSC Strategy is demonstrable (please see section 3 below) but is nowhere explored or even acknowledged by CEC

and the process of consultation has been unfair on the basis that something has gone clearly and radically wrong with CEC's approach towards the Gorstyhill Lands.

2.11. HPDL has been prejudiced accordingly - and so has the plan-making process in view of the positive contribution the Gorstyhill Lands could clearly make to the realisation of aspects of the Vision and Objectives of the PSC Strategy.

2.12. That unlawfulness /failure of legal compliance is moreover not capable of being "placed to one side" and left for the pre-programmed further steps of the process announced by CEC to take place as if the clear prejudice occasioned by the CEC Leader's Letter had not tainted the plan preparation process.

2.13. The CEC Leader is the guiding figure at CEC who is promulgating the plan – see the foreword to PSC Strategy where his Deputy's personal introduction appears). He is furthermore through the PSC Strategy NP Sites Document choosing to reject the development potential of many sites including the Gorstyhill Lands now, in advance of publication of the pre-examination text of the proposed Core Strategy.

2.14. CEC must therefore address the unlawfulness of the process to date, at this stage; it cannot simply continue in the hope that future stages will alleviate the prejudice to HPDL's interests and the promulgation of the plan.

3. THE PSC STRATEGY : THE VISION AND STRATEGIC PRIORITIES SUPPORTIVE OF THE RE-DEVELOPMENT OF THE GORSTYHILL LANDS

3.1. The Gorstyhill Lands offer the following key opportunities for strategic sustainable development:

3.1.1. the large-scale delivery of circa 630 units of market housing and circa 270 units of affordable housing (totalling circa 900 new homes) ("the Major Housing Opportunity");

3.1.2. the realisation of NPPF policy paragraph 52 which states :

"The supply of new homes can sometimes be best achieved through planning for larger scale development , such as new settlements or extensions to existing villages and towns that follow the principles of Garden Cities"("the Garden Cities Opportunity");

3.1.3. on a separate but related practical planning point, the integration (with the potential new development) and the improvement of the extensive existing country park at Gorstyhill ("the Country Park Opportunity") ; and

3.1.4. the efficient re-use of :

3.1.4.1. a redundant recreational facility (for which there is self-evident over-supply in the area) ("the Re-use of Redundant Land Opportunity") ;

3.1.4.2. land which has already been developed and landscaped thereby :

3.1.4.2.1 "saving" tens of hectares of agricultural land from development ("the Agricultural Land Saving Opportunity") ; and

3.1.4.2.2 reducing the consumption of materials for re-profiling/ constructing development platforms for new housing and community facilities ("the Sustainable Site Preparation Opportunity") ;

3.1.5. the reinforcement of a close and sustainable relationship with Crewe (including high-volume modal shift between bus and heavy rail) whose mainline railway station is only circa 4 kilometres away by road from the existing principal access to the Gorstyhill Lands ("the Sustainable Relationship with Crewe Opportunity") ;

3.1.6. the "making good" of strategic deficits in sustainability within existing under-resourced and fragmented communities south-east of Crewe where there are demonstrable "deficits" in sustainability ("the Sustainability Deficit Reduction Opportunity").

3.2. Whatever planning judgment might ultimately be reached it is obvious that the Gorstyhill Lands cannot – having regard to the scale and character of these opportunities – be reasonably set-aside at a pre-examination stage of a development plan making process for an area which contains them.

3.3. Amongst other things, to deny the Inspector appointed to hold the Independent Examination (“the IndEx”) the chance to consider the Gorstyhill Lands as a potential preferred site within the CEC’s own proposals for the Core Strategy and site allocations document to follow, is to potentially delay the ultimate adoption of the ‘local plan’ in the event that the Inspector were to recognise the strategic opportunities for what they are.

3.4. Moreover, the PSC Strategy itself in fact clearly does – to some extent – recognise some of these opportunities, for all that in the PSC Strategy NP Sites Document it is asserted that : “The Site does not relate well to the Vision and Strategic Priorities”.

3.5. In the PSC Strategy the Case for Growth is set out in paragraphs 5.1 and 5.20. The final “bullet point” states CEC’s view that growth in Cheshire East is both:

3.5.1. necessary and

3.5.2. beneficial

“to provide improved physical infrastructure and other services which are accessible to all”.

3.6. The re-development of the Gorstyhill Lands would clearly relate perfectly well to that case for growth made by CEC, in terms of the Major Housing Opportunity, the Garden Cities Opportunity, and the Sustainable Relationship with Crewe Opportunity.

3.7. The PSC Strategy goes on to state Strategic priorities in paragraphs 6.1 – 6.7.

3.8. Paragraph 2 of Strategic Priority 2 states that the creation of sustainable communities will be delivered by, amongst other things, “ensuring that development provides the opportunity for healthier lifestyles to the provision of high quality green infrastructure and cultural, recreational, leisure and sports opportunities”.

3.9. The re-development of the Gorstyhill Lands would clearly relate perfectly well to that strategic priority, in terms of the Garden Cities Opportunity and the Country Park Opportunity” it presents.

3.10. The fact that the Gorstyhill Lands centre upon a redundant golf course is not a material consideration weighing against their allocation for re-development for housing because within a relatively small area there is a large number of 18 hole operational golf courses. CEC has not adequately assessed the demand/supply position in respect of golf courses but there is no deficit in their provision whatsoever – on the contrary there is significant over-supply. Since it is clearly redundant as a golf course the Garden Cities Opportunity and the Country Park Opportunity it presents are not diminished in their ability to contribute to this strategic priority of the PSC Strategy.

3.11. Paragraph 3 of this part of the PSC Strategy goes on to indicate that delivery will be achieved by “working with infrastructure providers to make sure that infrastructure to support the community is provided; this will include local health and social care facilities, indoor and outdoor leisure and recreation facilities, green spaces, education, transport, super-fast broadband, mobile and other ICT connectivity, water, waste and energy”.

3.12. The Sustainability Deficit Reduction Opportunity and the Sustainable Relationship with Crewe Opportunity which it presents however, would clearly entail that the re-development of the Gorstyhill Lands would also relate well to this delivery objective of CEC’s also.

3.13. Paragraph 4 of that part of the PSC Strategy then goes on to refer to delivery by “improving links between existing and new neighbourhoods by giving priority to walking, cycling and public transport and providing a genuine choice for transport modes and supporting community integration.” Again, this is JCPCL’s objective in terms of realising the Sustainability Deficit Reduction Opportunity and the Sustainable Relationship with Crewe Opportunity which the Gorstyhill Lands offer.

3.14. The same applies to paragraph 5 of that part of the PSC Strategy which states as a strategic objective : “ensuring that all new development is well-designed, sustainable and energy efficient” (emphasis added). The Re-use of Redundant Land Opportunity relates well

to that, as does the Agricultural Land Saving Opportunity and the Sustainable Site Preparation Opportunity.

3.15. The Presumption in Favour of Sustainable Development is set out in paragraph 7.1 – 7.8 of the PSC Strategy . Sub-paragraph 1 is important because it says that CEC will take a positive approach “that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework. It will always work proactively with applicants to jointly find solutions, which means that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area” (emphasis added).

3.16. That contemplates that the positive recognition that alleviating pre-existing deficits in sustainability within an area – thereby improving economic, social and environmental conditions – is a strategic objective for CEC. The Sustainability Deficit Reduction Opportunity self-evidently relates well to that.

3.17. Paragraph 8.1 – 8.19 of the PSC Strategy contain details of the intentions in respect of housing land supply. There is a calculated need to provide for 18,233 new dwellings from future allocations and other windfall sources. The Major Housing Opportunity presented by the Gorstyhill Lands relates well to that.

3.18. The “Settlement Hierarchy” in the PSC Strategy is contained within paragraphs 8.20 – 8.34. Paragraph 8.20 is of relevance because the Council seeks to ensure that “the places where development takes place and where there is good access to jobs health and community services, education, shops, leisure, open space and sport and recreation facilities”. The Sustainability Deficit Reduction Opportunity and the Sustainable Relationship with Crewe Opportunity at Gorstyhill clearly relate well to that also.

3.19. Section 15 of the PSC Strategy then addresses “Core Strategy Sites and Strategic Locations”. Paragraphs 15.14 – 15.19 and Strategic Location Policy SL1 refer to the Crewe area - and the attached diagram even shows proposals for a “South Cheshire Growth Village” - south east of Crewe.

3.20. Despite :

3.20.1. the evidence that the strategic opportunities it presents all relate well to the Vision and Strategic Priorities of the PSC Strategy; and

3.20.2. the fact that CEC has arrived at the planning judgment that a substantial new settlement south-east of Crewe is necessary and appropriate

HPDL is surprised and concerned to note that the site CEC is now suggesting for that is not the Gorstyhill Lands.

3.21. In is our view that there should indeed be a ‘Growth Village’ south-east of Crewe and that this should be on the Gorstyhill Lands where abundant opportunity for a development which is not only sustainable in its own terms but helps to make good pre-existing deficiencies in that respect, is achievable on land in a single ownership (HPDL’s) which is available now.

3.22. We have therefore addressed the relative merits of the Gorstyhill Lands and the Crewe Hall site in section 5 below. In advance of that however we have commented next below on the purported “reasons” advanced in the PSC Strategy NP Site Document for the classification of the Gorstyhill Lands as non-preferred since not only is that conclusion inconsistent with the Vision and Strategic Priorities of the PSC Strategy which when read fairly clearly lend significant support to the Gorstyhill Lands , but the “reasons” given do not stand up to scrutiny in their own right.

4. PSC STRATEGY NP SITES DOCUMENT : CLASSIFICATION OF THE GORSTYHILL LANDS AS “NON-PREFERRED”

4.1. In the PSC Strategy NP Sites Document the following reasons are offered for the decision to classify the Gorstyhill Lands as “non-preferred”:

- 4.1.1. “The Site does not relate well to the Vision and Strategic Priorities ...” (“ Proposition One”);
- 4.1.2. “The site’s outlying location means its access to existing services and facilities is limited... (Proposition Two”);
- 4.1.3. “...the costs of delivering a sustainable development and other mitigation are likely to be significantly high” (“Proposition Three”);
- 4.1.4. “the appropriateness and viability of such improvements necessary to mitigate against development harm in this location are not considered achievable”(“Proposition Four”);
- 4.1.5. “There are other more appropriate sites with fewer constraints and better access to services, facilities and the transport network which are capable of meeting housing and other development need” (Proposition Five”);
- 4.1.6. “..the development would result in the permanent loss of a recreational area, in the form of a golf course” (“Proposition Six”).
- 4.2. In the previous section of these representations we have identified a series of key opportunities presented by the development potential of the Gorstyhill Lands which relate well to specific policies in the Vision and Strategic Priorities section of the PSC Strategy. Proposition One cannot be substantiated accordingly.
- 4.3. The Gorstyhill Lands are not within an existing settlement although they are in proximity to the southern edge of Crewe which is only circa 3.1 kilometres from the northerly edge of the Gorstyhill Lands.
- 4.4. Since however CEC itself ascribes a site area of 64.39 ha to the Gorstyhill Lands “services and facilities” could self-evidently be provided on site - not only to meet the local needs of the new population but to actually improve the “sustainability” of the pre-existing surrounding communities who are – as CEC clearly accepts – under-provided for in terms of “services and facilities”. The Sustainability Deficit Reduction Opportunity presented by the Gorstyhill Lands addresses this very issue. Proposition Two cannot be substantiated accordingly.
- 4.5. Proposition Three appears to assert that where the costs of achieving “sustainable development” would be high (although there is no explanation of what is meant by “significantly high” in Proposition Three) that is a reason for not recognising the development potential of a site. The investment costs of actually developing any site of circa 65 ha with a potential capacity of circa 900 new homes would be measured in £ millions – but there is no logic in treating that as a reason not to develop them.
- 4.6. The Sustainable Site Preparation Opportunity offered by the Gorstyhill Lands obviously means that the costs will be significantly lower than the costs of “starting from scratch” and trying to develop agricultural land.
- 4.7. Proposition Three – insofar as it can be understood at all – is not capable of being a reason for finding a site to be “non-preferred “ and the conclusion reached in the PSC NP Sites Document is Wednesbury unreasonable accordingly.
- 4.8. Proposition Four is in our respectful view incomprehensible. There is no explanation of what is meant by “harm” or “mitigation” or how any view as to what is or is not “achievable” has been arrived at.
- 4.9. Proposition Five is addressed below in practical planning terms by a comparison between the Gorstyhill Lands and the Crewe Hall Site in the specific terms of the Vision and Strategic Objectives of the PSC Strategy. The suggestion that such a site has “fewer constraints” is clearly wrong for the reasons we have summarised below, which are matters of fact or indeed public record.
- 4.10. Proposition Six is correct in itself but irrelevant and immaterial to the decision CEC is seeking to make in classifying the Gorstyhill Lands as Non-preferred. There is for planning purposes no “loss” because the golf course is redundant for planning purposes, there being in

this part of Cheshire and the adjoining parts of Staffordshire one of the highest concentrations of golf courses in England amounting to significant “over-provision”.

4.11. The NPPF states at paragraph 73 that “Planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision...” but CEC does not have such an assessment within its evidence base to support Proposition Six and in our respectful view such an assessment could not support this proposition because of the substantial over-supply of golf course land in the area.

4.12. When therefore the “reasons” offered in the PSC Strategy NP Sites Document are briefly analysed it is clear that they simply do not stack up – they are incomprehensible, immaterial to the decision CEC is seeking to make, or in the case of the relative merits of potential sites south-east of Crewe capable of housing the ‘growth village’ for which CEC perceives a need, inconsistent with the facts and material planning constraints in the manner illustrated in section 5 below.

5. THE RELATIVE MERIT OF THE GORSTYHILL LANDS OVER AND ABOVE THE CREWE HALL SITE

5.1. CEC’s preferred site south-east fringe of Crewe for its “South Cheshire Growth Village, South East Crewe” is the Crewe Hall Site.

5.2. Crewe Hall is amongst the most important heritage assets in England having been included on the list of buildings of special architectural or historic interest maintained by the Secretary of State as a “Grade I” building – the highest available ranking.

5.3. It is the key building to a group of related structures and buildings listed in their own right and having extensive settings both individually and collectively.

5.4. As a Jacobean mansion it sits moreover within a landscape whose retained rural character has significant relationship with the C17th origin of the listed buildings. Its parkland setting and the need for its protection are recognised in the existing local plan.

5.5. Cheshire East does not enjoy a super-abundance of such heritage assets.

5.6. The NPPF defines a heritage asset as : “ A building,...identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage assets include designated heritage assets and assets identified by the local planning authority...” .

5.7. The Crewe Hall Site is clearly heavily constrained by a designated heritage asset within the terms of this definition.

5.8. The soundness of those policies is apparent from paragraph 126 of the NPPF which provides that in policy-making for a local plan, a local planning authority should : “ ..recognise that heritage assets are an irreplaceable resource.” (emphasis added).

5.9. No policy promoting the re-development of the Crewe Hall Site as a “growth village” could be “sound” in the face of such clear national planning policy guidance.

5.10. The NPPF goes on to set out at paragraph 133 that “Where a proposed development would lead to substantial harm to... a designated heritage asset local planning authorities should refuse consent..”(emphasis added)

5.11. Not only would planning decision-making be constrained by very strong policy against any substantial development at the Crewe Hall Site, but additional statutory duties would have to be performed by CEC if faced with any planning application for the same.

5.12. In *East Northamptonshire District Council v Secretary of State for Communities and Local Government* [2013] EWHC 473 (Admin) Mrs Justice Lang (in quashing the decision of the Secretary of State’s Inspector) stated : at paragraph 38 “In *Bath Society v Secretary of State for the Environment* [1991] 1 WLR 1303, Glidewell LJ held that the desirability of preserving or enhancing the conservation area, was in formal terms, a material consideration but added at 1318F : “..[s]ince...it is a consideration to which special attention is to be paid as

a matter of statutory duty, it is must be regarded as having considerable importance and weight” .(emphasis added)

5.13. Mrs Justice Lang went to state at paragraph 39 :” In my judgment , in order to give effect to the statutory duty under s66(1) , a decision maker should accord considerable importance and weight to the desirability of preserving ...the setting of listed buildings when weighing this factor in the balance with other ‘material considerations’ which have not been given this specials statutory status. ...”.

5.14. The presence of listed buildings and their settings is therefore not only a constraint but a special constraint having enhanced weight above other material considerations. Where a “grade I” listed building is involved that constraint has the highest possible weight within planning decision-making.

5.15. The Gorstyhill Lands are not subject to any such constraint. There are no listed buildings or their settings affecting them.

5.16. Furthermore in respect of the Crewe Hall Site the south-eastern quadrant is within the Green Belt.

5.17. The National Planning Policy Framework stresses that Central Government attaches “great importance” to Green Belts. Paragraph 84 indicates that Local Planning Authorities should “... consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary”.

5.18. The Crewe Hall Site is not within any of those types of land area to which sustainable development should be channelled according to the NPPF insofar as a substantial part of is within the green belt.

5.19. The Gorstyhill Lands in contrast are within one of those areas to which sustainable development should be channelled insofar as they are located entirely outside the outer green belt boundary.

5.20. Furthermore :

5.20.1. the south-eastern quadrant of the Crewe Hall Site is high quality productive agricultural land

5.20.2. Much of the remainder of the site is in productive agricultural use.

5.21. In contrast the Gorstyhill Lands are pre-developed for golf course use – there is no loss of agricultural land and the opportunity to avoid using up agricultural land is a specific benefit of preferring the Gorstyhill Lands as the site for the south Cheshire growth village which CEC is seeking a location for south-east of Crewe.

5.22. The Crewe Hall Site is moreover cut into sections by several major public highways which will force compromise upon those seeking to optimise a sustainable development in terms of a coordinated layout for buildings and land uses within it. The problem is exacerbated by the presence of a railway line posing further difficulties in realising an optimally sustainable development.

5.23. In contrast the Gorstyhill Lands are not constrained by major pre-existing highways or railway corridors limiting the freedom of master-planners to optimise the potential of the site.

5.24. A further iteration of the ‘local plan’ which focussed the south Cheshire growth village approach on the Crewe Hall Site - rather than the unconstrained Gorstyhill Lands - would therefore be unsound.

5.25. Specifically, such a proposal would not be: (i) “justified” because it would not have given adequate consideration to sustainable alternatives (such as the availability of the Gorstyhill Lands of which the Council has previously been made aware) and would thereby fail to meet the requirements of the second limb of the soundness test; and (ii) it would not be consistent with national policy (including Heritage Asset policy of the (NPPF) and would thereby fail to meet the requirements of the 4th limb of that test).

5.26. A straight-forward comparison of the Crewe Hall Site and the Gorstyhill Lands therefore establishes that Proposition Five is simply wrong – the alternative candidate site put forward by CEC has demonstrably more constraints than the Gorstyhill Lands.

5.27. In that respect any Core Strategy which purported to establish a preferential policy position for major development of a new settlement affecting the landscape and setting of designated heritage assets – and partly in the Green Belt – against and above more sustainable pre-existing non-green belt sites without heritage asset issues - would also not in our view have been “positively prepared” on the basis of objective assessment – and for that further reason would fail the test of soundness accordingly.

5.28. CEC will appreciate that in light of the apparent absence of objective justification for the preference for the Crewe Hall Site over the Gorstyhill Lands HPDL is naturally concerned that it is the subjective and unjustified antipathy towards the Gorstyhill Lands evidenced by the CEC’s Leader Letter which lies behind that apparent preference at this stage of the plan-preparation process.

6. THE UNSOUNDNESS OF PROPOSED DEVELOPMENT PLAN : NON-ACCORDANCE WITH THE NATIONAL PLANNING POLICY FRAMEWORK

6.1. In addition to the legal requirements whose substance is set out within the statute itself the requirement of “soundness” entails compliance with paragraph 184 of the National Planning Policy Framework (“NPPF”) which defines this in the following terms :

“A local planning authority should submit a plan for examination which it considers is “sound” – namely that it is:

- Positively prepared – the plan should be prepared based on a strategy which seeks to meet objectively assessed development and infrastructure requirements, including unmet requirements from neighbouring authorities where it is reasonable to do so and consistent with achieving sustainable development;
- Justified – the plan should be the most appropriate strategy, when considered against the reasonable alternatives, based on proportionate evidence;
- Effective – the plan should be deliverable over its period and based on effective joint working on cross-boundary strategic priorities; and
- Consistent with national policy – the plan should enable the delivery of sustainable development in accordance with the policies in the Framework.” (emphases added)

6.2. The Vision and Strategic Priorities states at paragraph 5.19 that :

“Sustainable development is therefore the best preparation for a future whose defining characteristic is uncertainty. The Core Strategy unashamedly promotes economic development – but does so in a way that builds upon existing strengths whenever possible. New development will be necessary, but it protects environmental assets wherever possible. Urban extensions and new villages provide not only a better environment but a more effective use of resources”. (emphasis added)

6.3. We agree that a new village south-east of Crewe would provide “..a better environment...” . By focussing the south Cheshire growth village on the Gorstyhill Lands CEC would moreover give effect to its aspiration to build upon “existing” strengths and achieve a “more effective use of resources” because it already has a baseline pre-developed site – in the right area within Cheshire East – concentrated in hands of a single owner which actually wishes to re-develop it sustainably.

6.4. It is difficult to regard as “positively prepared” a development plan which:

- (a) not only eschews all the opportunities which the Gorstyhill Lands present to realise specific aspects of the Vision and Strategic Priorities, but
- (b) apparently favours instead a more constrained site whose focal point is a Grade I listed C17th Hall of national importance as a designated heritage asset.

Such a plan could not be “justified” since “reasonable alternatives” i.e. the Gorstyhill Lands would seemingly have been by-passed for purported reasons which do not stand up to even preliminary scrutiny.

6.5. Soundness entails moreover that the plan must be deliverable – in order to have the flexibility to manage the sustainable expansion of Crewe itself over the plan period the availability of over 60 ha of redundant but pre-developed land in proximity to Crewe at the Gorstyhill Lands should be a welcome asset for CEC in achieving delivery.

6.6. A sustainable development of the Gorstyhill Lands would moreover clearly be highly deliverable in itself.

6.7. The 4th element of “soundness” is accordance with national planning policy. In addition to the points made elsewhere in these representations it is important to acknowledge the following further respects in which a ‘local plan’ which threw away :

6.7.1. the Major Housing Opportunity,

6.7.2. the Garden Cities Opportunity,

6.7.3. the Country Park Opportunity,

6.7.4. the Re-Use of Redundant Land Opportunity,

6.7.5. the Agricultural Land-Saving Opportunity,

6.7.6. the Sustainable Site Preparation Opportunity;

6.7.7. the Sustainable Relationship with Crewe Opportunity; and

6.7.8. the Sustainability Deficit Reduction Opportunity

would not be in accordance with the NPPF.

6.8. The Ministerial Foreword of the NPPF states that “...the purpose of planning is to help to achieve sustainable development ... and that development that is sustainable should go ahead without delay – a presumption in favour of sustainable development that is the basis for every plan and every decision.” (emphasis added).

6.9. The NPPF states that " There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

- a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

- an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.

6.10. Each of the opportunities presented by Gorstyhill Lands is rooted in one of more of these dimensions of sustainable development.

As to the Garden Cities Opportunity, and the Country Park Opportunity, the chance for major housing to be developed in a rural environment giving effect to the principles of the Garden Cities movement which sought to combine all the advantages of the town by way of accessibility and all the advantages of the country by way of environment without any of the disadvantages of either.

6.11. The Gorstyhill Lands would be developable in accordance with the principles they espoused including:

- strong vision, leadership and community engagement;

- community stewardship of assets;
- high quality, imaginative design including homes with gardens;
- mixed tenure homes which are affordable for ordinary people;
- a strong local jobs offer with a variety of employment opportunities well related to homes;
- generous green space linked to the wider countryside, well managed and high quality gardens, tree lined streets and open spaces with opportunities for residents to grow their own food;
- access to strong local, cultural, recreational and shopping facilities in walkable neighbourhoods; and
- integrated and accessible transport systems.

6.12. That approach would be rooted most in the dimensions of environmental and social sustainability, but has its economic benefits also.

6.13. As to the Re-Use of Redundant Land Opportunity, the Agricultural Land-Saving Opportunity, and the Sustainable Site Preparation Opportunity, these are rooted in the paragraphs 110 to 112 of the NPPF state as follows :

“[110] In preparing plans to meet development needs, the aim should be to minimise pollution and other adverse effects on the local and natural environment. Plans should allocate land with the least environmental or amenity value, where consistent with other policies in this framework.

[111] Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed..., provided that it is not of high environmental value...

[112] Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. ...

6.14. It could not be a “sound” plan which put forward – as the site of the south Cheshire growth village – agricultural land in favour of “previously –developed land” such as the Gorstyhill Lands. It would arguably not be “effective” either and unsound on that further basis accordingly having regard to paragraph 111.

6.15. As to the Sustainable Relationship with Crewe Opportunity it is noted that the is according to other proposals in the PSC Strategy for West and East Basford the Gorstyhill Lands are to be brought into even greater physical proximity with the southern edge of Crewe if those two sites were to be developed. The north-westerly edge of the Gorstyhill Lands would only be circa 2 kilometres from the south-easterly edge of the East Basford site and circa 2.75 kilometres from the south-easterly edge of the West Basford site.

6.16. The Sustainable Relationship with Crewe Opportunity is already recognised by CEC insofar as CEC accepts that there should be a growth village south-east of Crewe. Moreover - taken together with the Sustainability Deficit Reduction Opportunity – these strengths of the Gorstyhill Lands as a development location are firmly rooted in the social, environmental and the economic dimensions of sustainable development.

6.17. The existing communities around south-east Crewe are not strong examples of sustainable development in themselves – they lack services and amenities thereby entailing high volume traffic movements between them and Crewe or other settlements further afield.

6.18. That existing problem is exacerbated by a lack of existing good public transport links even with Crewe itself. Short distance - single driver(no passenger) – private car journeys for most work, leisure, shopping and other activities are the norm to the detriment of the capacity of the strategic highway network and the environment.

6.19. Paragraph 35 of the NPPF confirms that : “ Plans and decisions should ensure developments are that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. ...” and

paragraph 35 confirms ...” Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people...”

6.20. A development of circa 900 housing units at the Gorstyhill Lands would fund public transport subsidy for 10 years+ for a bus service that would not only link the new community at Gorstyhill with Crewe railway station (there being approximately only an 11 minute journey time for bus travel from the existing roundabout entrance of Wychwood Village to Crewe Railway Station at present ((according to current to the timetable for service 85) but would enable that service to be enjoyed by the other settlements en route or reasonably included within a circular route. The existing “deficit” in sustainable transport provision could be made good accordingly.

6.21. In simple terms, the other settlements and hamlets would benefit from the Gorstyhill Lands bus service because they can reasonably be regarded as en route or reasonably related to the development – that opportunity will not arise in respect of the West Basford, East Basford or Crewe Hall sites.

6.22. The Sustainable Relationship with Crewe Opportunity goes much further than that – and once the public transport network is established linking “garden suburb” type development at West Basford with Crewe station and with the Gorstyhill Lands for example much more could be done to get “the best of both worlds” for south Crewe and for the Gorstyhill Lands.

6.23. The Country Park for example – enhanced as would be possible as part of the development of the Gorstyhill Lands – would be an amenity reasonably accessible for people in south Crewe by public transport. The need for additional wide-scale public recreational space of that character within Crewe itself could be reduced accordingly so that further built development within the urban envelope could be “sustainably” undertaken there – a “virtuous circle” of sustainability provided that a positive and imaginative approach is taken towards the plan-making for Crewe and the settlements to the south of it.

6.24. It is not the “sound” plan-making which the NPPF requires, to forgo deliverable opportunities to achieve sustainable outcomes for existing and proposed new developments, in favour of less sustainable urban extensions subject to significant constraints.

6.25. That “unsoundness” of approach is also apparent in the proposed approach towards the Green Belt – and its application to the Gorstyhill Lands. We have therefore next addressed this issue below.

7. THE UNSOUNDNESS OF THE PROPOSED DEVELOPMENT PLAN : APPROACH TOWARDS THE “GREEN BELT” AROUND CREWE

7.1. The protection of Green Belt land is embodied in the NPPF.

7.2. The NPPF reiterates previous Government Green Belt policy and in particular paragraphs 79 to 92 of the NPPF specifically deal with protecting Green Belt land.

7.3. The fundamental aim of Green Belt Policy is to check the unrestricted sprawl of large built-up areas, prevent neighbouring towns merging into each other, assist in safeguarding the countryside from encroachment, preserve the setting and special character of historic towns, and assist in urban regeneration by encouraging the recycling of derelict and other urban land.

7.4. There is already a defined Green Belt around the south of Crewe. CEC proposes to “lift and shift” that boundary to release certain land from the Green Belt – including part of what is now the Crewe Hall Site – and to include alternative land within it – including potentially the Gorstyhill Lands.

7.5. This is a new approach within the ‘local plan preparation’ process. Previous consultations have centred on the protection of existing Green Belt areas (with the exception of developments proposed by the Council within them) and the addition of a new area of Green Belt to reinforce the gap between Crewe and Nantwich to the south-west.

7.6. Paragraph 8.38 of the PSC Strategy now indicates that the general extent of the existing Green Belt will be maintained “but to achieve sustainable development over a period of several decades, some alterations to the detailed Green Belt boundaries around settlement in both the north and south of the Borough are necessary through this Core Strategy (emphasis added).

7.7. Policy BG3 addresses this more specifically at paragraph 7 where it refers to “a new area of Green Belt [which] will be designated adjacent to Crewe to prevent its merger with Nantwich and other surrounding settlements. It will also link to the existing Green Belt to help maintain the strategic openness of the gap between Crewe and The Potteries. The area of search for this new area of Green Belt is shown on figure 8.2. The detailed boundaries of this new area of Green Belt will be defined through the Site Allocations and Development Policies Document”.

7.8. Figure 8.2 shows, cross-hatched in green, the broad area of search for the new Green Belt, including the whole of the Gorstyhill Lands.

7.9. However the NPPF clearly states that : “ Once established, green belt boundaries should only be altered in exceptional circumstances,” (paragraph 83). (emphasis added)

7.10. CEC has not established that such exceptional circumstances exist.

7.11. In paragraph 82 of the NPPF it is stated that where “..proposing a new green belt, local planning authorities should :

“ demonstrate why normal planning and development management policies would not be adequate;

Set out whether any major changes in circumstances have made the adoption of this exceptional measure necessary;

Show what the consequences of the proposal would be for sustainable development;

Demonstrate the necessity for the green belt and its consistency with Local Plans for adjoining areas;

Show how the Green Belt would meet the other objectives of the Framework”.

7.12. CEC has not met these requirements. The “New Green Belt and Strategic Open Gap Study : Final Report September 2013” does not address the specific requirements of paragraph 82 in the context of the key rule that exceptional circumstances must be proven before such change could begin to be justified.

7.13. Whilst the Council’s Statement on the “Duty to Cooperate” indicates in paragraph 3.102 that a number of potential-cross boundary impacts have been taken into account in the preparation of the Draft Core Strategy including, amongst other things in respect of Green Belt, the minimisation of “the loss of Green Belt land in the Borough in ways of consistent with the sustainable location of new development and balanced with retaining the openness of the countryside in the long-term” this does not even establish consistent with the local plans for adjoining areas.

7.14. The duty to co-operate in section 33A of the 2004 Act does not over-ride the requirement for a plan to be sound.

7.15. In particular and in the context of the serious concerns engendered by the CEC Leader’s Letter and the approach taken by CEC towards the Gorstyhill Lands, it has not begun to establish a need to include the Gorstyhill Lands within a new green belt.

7.16. The suggestion that it might seek to do so however appears to HPDL all of a piece with the pre-determinate approach expressed in the CEC Leader’s Letter.

7.17. As it stands the concept of a south Cheshire growth village which we agree with CEC ought to be provided for in the plan at a sustainable location south-east of Crewe (and we say, at the Gorstyhill Lands) is proposed to be located by CEC partly on land within the existing Green Belt – whereas no part of the Gorstyhill Lands lie within the Green Belt.

7.18. It could not however be good plan-making to start with the objective of reversing the relative merits of the two sites in that respect - by releasing the former and looking to constrain the latter within a new green belt - on the pretext that this is somehow strategically appropriate to prevent coalescence between Crewe and “The Potteries”.

7.19. Given the lack of adequate justification for the purported new approach towards the Green Belt in the PSC Strategy, and the clear antipathy towards the Gorstyhill Lands stated publically in the CEC Leader’s Letter, it is not unreasonable for HPDL to have exactly that concern.

7.20. We would therefore respectfully invite CEC to re-consider its proposed approach towards the Green Belt in relevant respects and in particular draw its attention to requirements of the NPPF.

7.21. If the ‘south Cheshire growth village’ were to be sited at the Gorstyhill Lands where a previously-developed and unconstrained site is available then clearly on the basis of CEC’s own approach in the PSC Strategy towards the Crewe Hall Site, there would be no basis for including the Gorstyhill Lands within a new green belt.

7.22. Even however if the Gorstyhill Lands were not developed in the near future there is no case for such a new green belt to include the Gorstyhill lands.

7.23. Only in exceptional cases where it is necessary to do so would it be “sound” for a new development plan to change the green belt in that way.

7.24. Neither these requirements nor the other specific requirements of the NPPF have been met in this respect.

8. THE INADEQUACY OF THE STRATEGIC ENVIRONMENTAL ASSESSMENT AS A BASIS FOR CLASSIFYING THE GORSTYHILL LANDS AS “NON PREFERRED”

8.1. In the context of Strategic Environment Assessment (“SEA”) the Core Strategy will have - by virtue of Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment – to satisfy the requirements of the regulations whereby these have been transposed into domestic law namely the Environmental Assessment of Plans and Programmes Regulations 2004 SI no.1633.

8.2. We note that “The Sustainability Appraisal of Focused Changes (2013)” sets out to analyse issues in respect of a range of sites including the Gorstyhill Lands on pages 5 and 13 in brief detail in particular in paragraph 6.56 – 6.59.

8.3. That summary establishes that the appraisal of sustainability has been flawed in at least the following respects :

8.3.1. it classifies the Gorstyhill Lands as “Greenfield” – they are in fact (and for the planning purposes of the NPPF) previously-developed land however;

8.3.2. it mis-states the envisaged potential number of housing units by over 10 % - circa 900 units are contemplated by HPDL not 1000;

8.3.3. It purports to have identified “negative effects” on the causes and effects of climate change but by sustainable co-location of employment with housing and the introduction of sustainable public transport arrangements between it and Crewe and the making good of existing deficits in sustainable travel patterns between Crewe and the existing settlements south-east of Crewe, there would be no negative effect in climate change terms as far as emissions are concerned;

8.3.4. It purports to have identified “negative effects” in terms of “pollution” but the development of the Gorstyhill Lands does not contemplate any polluting land uses whatsoever and any concern about emissions from vehicles is capable of being alleviated through public transport subsidy arrangements which a development of this scale could readily put into place;

8.3.5. It purports to have identified “negative effects” on “biodiversity and geodiversity” but since it is not an SPA, SAC, in an AONB nor does it contain any SSSI – nor is it even in fact a Greenfield site - this is unjustifiable;

8.3.6. It purports to have identified “negative effects” on “heritage, landscapes and townscapes” but there are no listed buildings or conservation areas or the settings for either of the same on or in proximity to the Gorstyhill Lands this is inexplicable as far as heritage is concerned – and since the Gorstyhill Lands centre upon a redundant golf course it is equally unjustified as far as “landscape” is concerned; there are no “towns” at the Gorstyhill so townscape impact is entirely imaginary also;

8.3.7. It purports to have identified “overall very negative impacts on sustainable access to jobs services and facilities”- but employment development, services and additional facilities can all be accommodated on-site within a sustainable development at the Gorstyhill Lands and CEC has already acknowledged that “[the Gorstyhill] .site may be of a sufficient size to create a sustainable settlement” in the 2013 SHLAA. That is clearly the case and development of the Gorstyhill Lands would naturally be a “mixed” use scheme since together with the circa 900 units of housing appropriate additional employment, retail, community and other development could readily be accommodated within the 64 ha of the Gorstyhill Lands. This negative conclusion on CEC’s part is contradicted by the recognition in the SHLAA of its capacity to be developed sustainably in this respect, and cannot be justified. Clearly there will be some services and facilities for which residents would travel to Crewe but since : (a) sustainable public transport arrangements with Crewe would be integral to any development of the Gorstyhill Lands; and (b) the southern edge of Crewe is already close to the Gorstyhill Lands - and would become even closer if developments at West Basford and East Basford were to proceed- the expression “overall very negative” represents severe over-statement and is wrong.

8.4. The summary is also incoherent in itself. Since for example the Gorstyhill Lands are acknowledged in paragraph 6.57 to be “..likely to have an overall positive impact...” (emphasis added) in terms of ability to deliver :

8.4.1. Equality and social inclusion;

8.4.2. Healthy and active lifestyles;

8.4.3. Safety and the discouragement of crime;

8.4.4. Infrastructure ,services and facilities;

8.4.5. Energy efficiency and use of renewables;

8.4.6. A sustainable, competitive, low carbon economy;

8.4.7. Vital,vibrant and diverse town and village centres; and

8.4.8. Education training jobs and employment opportunities

the sustainability appraisal simply cannot justify the “overall very negative” impacts asserted in paragraph 6.58 to arise in respect of access to exactly the same employment opportunities , services and facilities which in the immediately preceding paragraph have been acknowledged to be positively available.

8.5. As to the regulations, regulation 8 prohibits a plan being adopted until regulation 12 , amongst others, has been complied with.

8.6. Regulation 8 also prohibits the adoption of a plan before the environmental report and the consultation response have been taken into account.

8.7. Regulation 12 (2) (b) then requires an environmental report “to identify, describe and evaluate the likely significant” environmental effects of implementing the plan, and of “reasonable alternatives taking into account the objectives and the geographical scope of the plan or programme.” (emphasis added)

8.8. Our concern in all the circumstances, however, is that the requirements of the regulations and of the Directive will not be met unless an objective appraisal has been made.

8.9. No such appraisal has been made; in particular the approach taken towards the Gorstyhill Lands both in itself and in terms of objective evaluation of the alternative of the Gorstyhill lands as against the heavily constrained Crewe Hall Site – has been seriously flawed.

8.10. CEC has not undertaken a legally compliant SEA process and lacks evidence or reasoned objective assessment of environmental effects which could justify the relevant conclusions it purports to have reached.

8.11. That claim that the south Cheshire growth village should be located at Crewe Hall rather than Gorstyhill does not appear capable of being substantiated if an objective assessment is made in accordance with the regulations and the Directive. It is moreover strongly refuted in this objection.

8.12. HPDL 's interests have been prejudiced accordingly.

9. CONCLUSION

9.1. In recognising the need for a “growth village” south-east of Crewe CEC has taken a significant step – HPDL agrees with CEC that there should be a growth village south-east of Crewe and that the local plan should provide for this.

9.2. Since the Gorstyhill Lands clearly offer the best available opportunity for this HPDL invites CEC to re-appraise its approach towards “preferred” and non-preferred ” sites accordingly. The Gorstyhill Lands should – on the basis of any objective planning comparison with the Crewe Hall Site – be selected as the “preferred” location for the growth village.

9.3. In simple terms, how could it be “sound” to favour for major development a site located partly in the Green Belt – comprising large areas of good productive agricultural land – anchored upon one of the most important designated heritage assets in the region – when there is instead a redundant golf course unconstrained by any such considerations only a few kilometres away ?

9.4. The approach towards identifying a preferred site for the growth village has been seriously flawed thus far and we have sought to indicate some of the relevant respects in which that is evident in these representations (which are made without prejudice to any argument which may be advanced or any step which may be taken by or on behalf of HPDL hereafter).

9.5. There are moreover significant issues of non-compliance with the relevant law not only insofar as it specifically governs the process of adoption of a new ‘local plan’ but also in respect of the requirements of fairness and natural justice which any consultation process must meet.

9.6. The CEC Leader’s Letter is clear evidence of pre-determination against the Gorstyhill Lands – and the consultation which has been undertaken and the “results” of that flawed consultation – have been unlawful and cannot be lawfully treated as material hereafter.

9.7. Since CEC has now recognised the importance of having a “growth village” south-east of Crewe it is all the more important that CEC should rectify the defective state of affairs which has resulted from that flawed process and re-engage with the issues with an open mind, from a starting point which fully addresses the serious prejudice to HPDL’s interests – and to the interests of the plan-making process for the wider community of Cheshire East – which now exists.

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