

**Local Plan Strategy Submission Document
Haddon Property Developments Limited (ID: 799940) (Post Town: Chesterfield)**

In respect of this representation, do you consider the Local Plan Strategy is:

- (1) Legally Compliant
No
- (2) Sound
No
- (3) Compliant with the Duty to Co-operate
No

Please give details of why you consider the Local Plan Strategy is not legally compliant or is unsound or fails to comply with the duty to co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the Local Plan Strategy or its compliance with the duty to co-operate, please also use this box to set out your comments.

Executive Summary

1. INTRODUCTION

1.1. The “Local Plan Strategy: Submission Version March 2014” (“the LPS”) issued by Cheshire East Council (“CEC”) includes policy CS37.

1.2. Policy CS37 designates land adjacent to the historic parkland of Crewe Hall as “Site CS37: The South Cheshire Growth Village (“the SCGV”)”.

1.3. Haddon Property Developments Limited (“HPDL”) :

1.3.1. supports the concept that the LPS should designate a site south east of Crewe as the SCGV; but

1.3.2. objects to the designation of the land owned by the Duchy of Lancaster between the A500 and Crewe Hall as the SCGV; and

1.3.3. proposes instead that HPDL’s land at the pre-existing Wychwood Village south-east of Crewe (comprising the former Gorstyhill Golf Course and additional land) should be designated as the SCGV.

1.4. HPDL’s site has an area of circa 65 hectares comprising land (“the Gorstyhill Lands”) around the pre-existing core of Wychwood Village and its Country Park surroundings with scope for a sustainable mixed use development of housing and employment uses together with services, enhanced country park space and facilities to meet the new and existing communities needs.

1.5. The Gorstyhill Lands present a gilt-edged opportunity to achieve a “garden village” close to a growth city (Crewe) - they deserve serious consideration as an alternative site for the SCGV.

1.6. In order to assess why such consideration has not been afforded to the Gorstyhill Lands thus far within the plan-making process, it is first appropriate to consider the origins of the SCGV within emerging policy for Cheshire East. It will be apparent that the specific concept of the SCGV has been inextricably intertwined with a single large site understood to be owned by the Duchy and the refinement of the concept and of the site area (ha) of the site proposed for development within the emerging plan have proceeded in lock-step one with the other.

1.7. It will be seen that there has never been a fair, open-minded and robust comparison of the relative merits of that site versus the Gorstyhill Lands as the potential location for the SCGV.

2. SGCV : POLICY ORIGINS

2.1. In the draft of the Core Strategy promulgated by CEC in 2013 it identified the need for a SCGV.

2.2. The justification for the SCGV as it was expressed in the emerging core strategy in November 2013 included :

2.2.1. “The site will help meet the needs of Crewe’s growing population and labour force demand , to support the retention and growth of a highly skilled workforce...”; and

2.2.2. “The provision of this site will support growth in Crewe and the aspirations of ‘All Change for Crewe: High Growth City’ in improving local infrastructure,...The South Cheshire Growth Village will contribute to delivering the vision for Crewe...”.

2.3. The Gorstyhill Lands would be capable of meeting all such higher level policy aspirations – HPDL has an available site which could start to deliver on these sooner rather than later if it were given an appropriate designation within the LPS.

3. SITE SELECTION FOR THE SCGV

3.1. CEC identified a “Strategic Location” for a growth village in Cheshire south-east of Crewe in the pre-submission core strategy of November 2013 – figure 15.9 in that document showed a circular area edged red between the A500 at its southerly point and the listed buildings at Crewe Hall approximately at its northerly point.

3.2. In paragraph 15.6 of the pre-submission core strategy CEC stated that it had selected sites and strategic locations by a method which :

3.2.1. began with consideration of information available to CEC through contact/discussion with developers, land owners, agents and promoters from earlier responses to consultation in the emerging plan-making process when read together with pre-existing documentation forming part of the evidence base such as the SHLAA; and

3.2.2. included an assessment of all the evidence available to the Council including:

3.2.2.1. consideration of responses from the previous consultations;

3.2.2.2. The Sustainability Appraisal;

3.2.2.3. The Habitats Regulations Assessment;

3.2.2.4. The Flood Risk Assessment;

3.2.2.5. The Viability Assessment;

3.2.2.6. The Green Belt Assessment;

3.2.2.7. Known physical constraints;

3.2.2.8. Potential mitigation measures;

3.2.2.9. Availability of the site;

3.2.2.10. conformity with the emerging local plan policies;

3.2.2.11. ability to contribute to the strategic vision, priorities and objectives of the local plan;

3.2.2.12. Need for and contribution to infrastructure provision;

3.2.2.13. The Equality Impact Assessment;

3.2.2.14. The Rural Impact Assessment; and

3.2.2.15. The Health Impact Assessment.

3.3. The ‘red line’ shown on figure 15.9 however was not a search area within which site selection was to take place by applying some rational planning method which had regard to the factors addressed in the documents listed in paragraph 3.2.2. above.

3.4. The “red line” was clearly a pre-selected strategic location occupied almost entirely by a single site namely “Site I (i) – Village A Duchy Sites, South East Crewe” (“the Full Crewe Hall Site”) in the “Possible Additional Sites Proposed by Developer and Land Interests Consultation” on 2 May 2013, some six months previously.

3.5. CEC has to our knowledge never published or carried out a meaningful site selection exercise exclusively and specifically for a “growth village south east of Crewe” with defined characteristics for what it is looking for, robust and policy-compliant criteria for

discriminating between sites within the search area, and a sufficiently wide search area to take in two or more potential sites in order to assess their relative merits in planning terms.

4. EMERGENCE OF CREWE HALL SITE AS PROPOSED SCGV

4.1. In May 2013 CEC consulted on the “Possible Additional Sites Proposed by Developer and Land Interests Consultation” including the Full Crewe Hall Site.

4.2. This was a site of 86.75 ha for circa 1,646 new dwellings. It described itself (and its antecedents within the pre-plan-making process) as including “the “New Settlement 2: South East Crewe: Village A Crewe Hall /Stowford” site area that was included in the Development Strategy. It is larger, extending towards Crewe Hall to the north; and the A500 to the south”.

4.3. The Full Crewe Hall Site did not emerge as the proposed SCGV however until the pre-submission core strategy was published in November 2013, at which point approximately two thirds of the area of the Full Crewe Hall Site was included within a circular red line area as a “strategic location” (which strategic location was almost entirely occupied by the Full Crewe Hall Site).

4.4. The specific concept of the SCGV has therefore emerged in parallel with the proposal to locate it on the Full Crewe Hall Site.

4.5. There are however signs that the flawed process and its deficient outcome are already beginning to unravel.

4.6. In the LPS of March 2014 the Full Crewe Hall Site has been replaced by a much smaller land area with specific site boundaries – denoted “Site CS37” (“the Residual Crewe Hall Site”) which is now being expressly proposed as the site for the SCGV.

4.7. The Residual Crewe Hall Site lies entirely within the former strategic location red line area. It is subject to a series of strategic planning constraints which call into question its suitability for this role.

4.8. The background to why the relative merits of HPDL’s Gorstyhill Lands have never been recognised notwithstanding these constraints on the only other site apparently being promoted as the SCGV is next summarised below.

5. FAILURE TO CONSCIENTIOUSLY CONSIDER HADDON PROPERTY DEVELOPMENTS LIMITED’S REPRESENTATIONS

5.1. HPDL has made representations to CEC at earlier stages of the preparatory stages of the proposed core strategy for Cheshire East :

5.1.1. in February 2013;

5.1.2. in May 2013 ; and

5.1.3. in December 2013

to draw CEC’s attention to the unsoundness of a local plan which failed to recognise the potential for sustainable development of HPDL’s own Gorstyhill Lands, to meet planning policy needs. In particular when the concept of the SCGV was propounded within the plan-making process in November 2013 HPDL pointed out that its site at the Gorstyhill Lands was more sustainable than the Full Crewe Hall Site or any substantial version thereof within the circular red line strategic location then being put forward by CEC.

5.2. The LPS nonetheless makes no reference to the Gorstyhill Lands whatsoever.

5.3. The absence of the Gorstyhill Lands from the LPS - as either an LPS Site or an LPSS Location – is irreconcilable with the:

5.3.1. The LPS Policy Needs specific to Cheshire East promulgated in the first part of the LPS itself; and

5.3.2. The framework within which local plan-making is to be carried out in order to deliver national planning policy stated in the national planning policy framework (“the NPPF”) and HPDL has reason for concern that its representations have not been conscientiously considered accordingly.

5.4. That concern is compounded by the letter written by the Leader of CEC in Spring 2013 to residents in the vicinity of the Gorstyhill Lands – the full text of this appears at appendix 1.

5.5. 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 existed before the Full Crewe Hall Site was consulted upon by CEC in May 2013.

6. OBJECTIONS TO THE CREWE HALL SITE AS THE SCGV

6.1. The Residual Crewe Hall Site is subject to four major strategic planning constraints. In respect of the latter of these four it is arguably even more constrained than was the Full Crewe Hall Site.

Strategic Constraint Number One: Heritage Assets

6.2. Crewe Hall itself is amongst the most important heritage assets in England. 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.

6.3. The LPS itself acknowledges that there will be “...detrimental visual impact to the open countryside and the setting of Crewe Hall Registered Park and Garden...”. (The only suggestion It appears to make within the policy specific to site CS37 to try to “off-set” this is “...habitat screening along all boundaries...”).

6.4. 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...” .

6.5. The Crewe Hall Site is clearly heavily constrained by a designated heritage asset within the terms of this definition. Crewe Hall itself and its parkland are not the only designated heritage assets however.

6.6. The Full Crewe Hall Site “drew a box around” another heritage asset - the Grade II* listed Holly Hedge Farm – so as to exclude that farm and its immediate curtilage from the proposed site.

6.7. This building and its setting would themselves have constituted a strategic constraint – the compression of the proposed site area into what is now CS37 as proposed in the LPS would leave Holly Hedge Farm located within the site on what would be an important southern border with agricultural land beyond it.

6.8. The reduction in site area as between the Full and the Residual Crewe Hall Sites has therefore done nothing to reduce the potential for harm to the significance of the Farm or its setting and done nothing to reduce the weight attributable in principle to the listed building within planning decision-taking.

6.9. Whilst the site specific policy in the LPS makes repeated reference to one heritage asset namely Crewe Hall and its registered parkland, it makes no reference to Holly Hedge Farm whatsoever even though it is centrally located within the southern part of site CS37 and is listed building of Grade II* - second in importance only to the grade I buildings of which Crewe Hall is admittedly an example.

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

Strategic Constraint Number Two: Green Belt / Green Gap

6.11. Furthermore in respect of the Residual Crewe Hall Site the south-eastern quadrant is within the Green Belt. In the “Local Plan Strategy Site Justification paper “ of March 2013 (“the LPSSJ Paper”) it is stated at paragraph 4.153 that :”The site is in an area designated as part Green Gap and part Open Countryside in the Borough of Crewe and Nantwich Local Plan 2011. It is not intended that any alteration to the Green Belt boundary will be required, as the area that lies within the green belt will be designated as protected open space”.

6.12. That “bites” a large part out of the eastern part of the site however since that too is a strategic constraint; master-planning of the rump of the “growth village” remaining in the CS37 site is still further constrained accordingly.

6.13. 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”.

6.14. The Residual 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 it is within the green belt.

6.15. 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.

Strategic Constraint Number Three: Loss of Valuable Agricultural Land

6.16. Furthermore :

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

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

6.17. In contrast the Gorstyhill Lands are predominantly 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.

6.18. This preference is directly in line with LPS Policy SE 2 “Efficient Use of Land”, and the Council’s aim to “encourage the redevelopment / re-use of previously developed land”, and safeguard “natural resources including high quality agricultural land”.

Strategic Constraint Number Four : Existing Heavy Rail and Highway Infrastructure

6.19. The Residual Crewe Hall Site is moreover cut into sections by a:

6.19.1. railway line on a west/east axis bi-secting the site; and

6.19.2. 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.

6.20. 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.

7. REASONS FOR DESIGNATING WYCHWOOD GARDEN VILLAGE AS THE SCGV (UTILISING THE GORSTYHILL LANDS)

7.1. There is no existing core of residential development at the Residual Crewe Hall Site i.e. there is no village which can be designated for growth as the very concept of a “growth village” implies.

7.2. At the Gorstyhill Lands one already has exactly that however – Wychwood Village is a recently developed core of good quality housing. It therefore is a “village” already and one which can readily be designated for sustainable “growth”.

7.3. The very concept of a “South Cheshire Growth Village” is therefore far more applicable and apposite to Wychwood Village and the Gorstyhill Lands on which housing growth and complementary land uses can be accommodated than it is to the Residual Crewe Hall Site .

7.4. None of the four strategic constraints applicable to the Residual Crewe Hall Site applies to the Gorstyhill Lands.

7.5. On the contrary, the Gorstyhill Lands offer a series of significant opportunities to realise sustainable development by (amongst other things) :

- 7.5.1. expanding and enhancing the existing country park area and creating a “garden village”;
 - 7.5.2. with a sustainable relationship with the existing core of Wychwood Village and with Crewe which is only 3.1 km to the north of the Gorstyhill Lands;
 - 7.5.3. upon which HPDL could deliver 900 new homes, new employment, new services and facilities to serve new and existing dwellings,
 - 7.5.4. all supporting and supported by a high quality public transport connection with Crewe Railway Station, only 11 minutes away from the principal existing access roundabout by bus.
- 7.6. The LPS will be unsound if it focuses the ‘South Cheshire Growth Village’ approach on the Residual Crewe Hall Site - rather than the unconstrained Gorstyhill Lands - accordingly.
8. FURTHER OBJECTIONS TO THE LPS
- 8.1. In addition to those matters set out above:
 - 8.1.1. CEC has failed to comply with duty to cooperate under section 33A Planning and Compulsory Purchase Act 2004;
 - 8.1.2. Policy SE3 of the LPS, on biodiversity and geodiversity, is inconsistent with relevant legal requirements and NPPF policy and as such is unacceptably strict; and
 - 8.1.3. Our position in relation to the Habitats Regulations Assessment (“HRA”) is fully reserved. We note in particular that the HRA is unsound in that it does not meet the certainty test set out in the Waddenzee judgement of the European Court of Justice (case C-127/02).

APPENDIX: THE CEC LEADER’S LETTER

The CEC Leader’s Letter of 2013 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, clearly 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 .”

“Local Plan Strategy: Submission Version March 2014” (“the LPS”): 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 “Local Plan Strategy: Submission Version March 2014” (“the LPS”) is stated to be issued by Cheshire East Council (“CEC”) for submission to the Secretary of State (“the

SOS”) together with all the representations thereon for consideration at an Independent Examination by an inspector appointed by him.

1.2. In particular in respect of the LPS, CEC affirms that “Representations at this stage should only be made with respect to the legal compliance of the Local Plan and to its soundness...”

These representations will demonstrate that the LPS is unsound in its exclusion of land at Gorstyhill Golf Club and its approach to the proposed South Cheshire Growth Village.

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”). The Gorstyhill Lands are focussed upon the pre-developed core of Wychwood Village where 315 dwellings were permitted pursuant to the grant of an outline planning permission in October 2003, the majority of which are now occupied, and an existing country park with improvement/expansion potential. The Gorstyhill Lands themselves comprise pre-landscaped/engineered areas associated with the redundant golf course and additional land having an aggregate total area of circa 65 ha.

1.4. The Gorstyhill Lands are only 3.1 km from the existing southern edge of Crewe “as the crow flies”, but more importantly the bus journey time from the Newcastle Road/A500 roundabout to Crewe Railway station on the local highway network even as it is now, is only 11 minutes.

1.5. The Gorstyhill Lands are clearly capable in principle of accommodating a development which:

1.5.1. is sustainable in itself (insofar as the remaining available land area is sufficient to accommodate not only much needed affordable housing and market housing, but also additional facilities to meet its own needs and those of the existing core village of Wychwood);

1.5.2. has a sustainable relationship with the Wychwood Village and with other small settlements and hamlets in the vicinity which currently suffer from a deficit of amenities and facilities; and

1.5.3. has a sustainable relationship with Crewe, and in particular in terms of modal shift, the railway station on the southern side of Crewe.

1.6. On any fair and open-minded consideration of the planning merits of the Gorstyhill Lands, they were deserving of serious consideration as a location for sustainable development to meet housing and other acknowledged needs, which a new local plan for Cheshire East ought to have recognised accordingly.

1.7. Representations were therefore made to CEC at earlier stages of preparation of the proposed Core Strategy for Cheshire East:

1.7.1. in February 2013;

1.7.2. in May 2013; and

1.7.3. in December 2013

to draw CEC’s attention to the unsoundness of a local plan which failed to recognise the potential of the Gorstyhill Lands for sustainable development to meet planning policy needs. The LPS nonetheless makes no reference to the Gorstyhill Lands whatsoever.

1.8. The LPS is structured so as to :

1.8.1. First, set out the planning needs for Cheshire East for the period up to 2030 (“the LPS Policy Needs”); and

1.8.2. Secondly, identify 36 “Local Plan Strategy Sites” (“LPS Sites”) at which the LPS Policy Needs are intended to be met and “Where the intended uses and location of development [are] precisely defined and allocated on the policies map and [are] deliverable in the short to medium term”; and

1.8.3. Thirdly, identify in addition 10 “Local Plan Strategy Strategic Locations (“LPSS Locations”) as “broadly defined areas of land with the capacity to deliver proposals of

strategic importance, where definitive site boundaries and intended uses will be included in the medium to long term in the Site Allocations and Development Policies Document”.

1.9. The absence of the Gorstyhill Lands from the LPS - as either an LPS Site or an LPSS Location – is irreconcilable with:

1.9.1. The LPS Policy Needs specific to Cheshire East promulgated in the first part of the LPS itself; and

1.9.2. The framework within which local plan-making is to be carried out in order to deliver national planning policy stated in the national planning policy framework (“the NPPF”) and we have summarised below the grounds upon which a development plan which reflected this dismissive approach towards meeting Policy Needs at the Gorstyhill Lands, would fail the test of soundness accordingly.

1.10. Having regard to the LPS Policy Needs articulated in the LPS, it can be seen that the case for identifying the Gorstyhill Lands has become stronger during the pre-submission draft stages of the local plan preparation process. As CEC has revised and sought to improve the soundness of the non-site specific policies of the emerging plan, the omission of the Gorstyhill Lands as a site or location at which such needs could be met on a sustainable basis has become all the more glaring.

1.11. It is an omission thrown into still sharper relief when reasonable comparison is made with Site CS37 – the south Cheshire growth village. For the reasons set forth more fully below, the Gorstyhill Lands are clearly superior in their ability to meet the LPS Policy Needs than is site CS37, a reduced residual site so compromised by existing rail and road infrastructure and the presence of heritage assets as to lack credibility.

1.12. CEC has also specifically requested comment upon matters of “legal compliance”. Section 19 of the Planning and Compulsory Purchase Act 2004 (“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).

1.13. 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 the LPS is the document in respect of which it intends to arrange for such an examination to take place, later in 2014.

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

“(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.”

1.15. In its approach towards the Gorstyhill Lands however 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.

1.16. 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 Local Plan in this respect as to render it unlawful.

1.17. The CEC Leader's Letter gives substance to the concern on HPDL's part that the omission of the Gorstyhill Lands from the LPS as an LPS Site or even a LPSS Location, is not the result of a fair and otherwise lawful process of appraisal but may instead be better regarded as resulting from a settled antipathy towards the development of the Gorstyhill Lands founded in political considerations rather than land use planning. It also gives substance to HPDL's concern that its previous representations have not been conscientiously considered by CEC accordingly.

1.18. The promulgation of the emerging new Local Plan was and is unlawful accordingly for the reasons that we have summarised, and when:

1.18.1. the purported reasons for the inclusion of the Gorstyhill Lands within the Pre Submission Core Strategy Non Preferred Sites Document ("PSCSNP") at the previous stage of that process; and

1.18.2. the point by point responses to HPDL's previous comments on the sustainability appraisal

are analysed (as below) it is clear that they do not stand up to scrutiny as planning judgments or as assessments of strategic environmental effects respectively.

1.19. HPDL has therefore reasonable grounds for concern that some unstated reasoning is in fact tainting CEC's plan-making approach towards the area south-east of Crewe and the Gorstyhill Lands. 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 by CEC for rejecting that development potential of the Gorstyhill Lands within the plan-making process.

1.20. We have therefore commented on the following issues in respect of the LPS below:

1.20.1. 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;

1.20.2. the internal incoherence and inconsistency of the LPS insofar as the LPS Policy Needs would support the re-development of the Gorstyhill Lands as a sustainable location at which to meet those needs;

1.20.3. the irrelevance, inaccuracy and deficiency of the reasons previously advanced (in the PSCSNP at the previous stage of the plan-making process) for the classification of the Gorstyhill Lands as "Non-preferred (and hence its exclusion from the LPS as an LPS Site or even an LPSS Location);

1.20.4. the relative merit of the Gorstyhill Lands over and above the site identified as "Site CS37: South Cheshire Growth Village" ("the Crewe Hall Site") (including now the reasons advanced in the Pre-Submission Core Strategy Sustainability Appraisal Report 2013 for rejecting any change of approach on CEC's part towards the Gorstyhill Lands notwithstanding HPDL's previous representations);

1.20.5. 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 and the National Planning Practice Guidance ("NPPG");

- 1.20.6. the unsoundness of the proposed approach towards the “Green Belt” around Crewe;
- 1.20.7. the absence of legal compliance in respect of the duty to cooperate under section 33A;
- 1.20.8. the unsoundness of Policy SE3 on biodiversity and geodiversity and the absence of legal compliance in respect of the Habitats Regulations Assessment;
- 1.20.9. the absence of legal compliance and inadequacy of the SEA as a putative basis for omitting the Gorstyhill Lands as an LPS Site or an LPSS Location at this early stage.
- 1.21. 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. 1. Consultation must take place when a proposal is still at a formative stage.

2.3.2. 2. Sufficient reasons for proposals must be put forward to allow for intelligent consideration and response.

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

2.3.4. 4. Products of consultations 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 in 2013 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, clearly 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 at least as long ago as 23 April 2013 the position already being taken by CEC was one of unqualified opposition towards any development of the Gorstyhill Lands.

2.7. 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 and CEC has not rectified that or even attempted to do so at any stage of the plan-making process up to and including the LPS.

2.8. If a consultation exercise is to be lawful, 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 at the previous stage however. The apparent use of the “Vision and Objectives” section of the PSC Strategy as determinative at that stage was not pre-stated.

2.9. Moreover since the development of the Gorstyhill Lands was not in fact contrary to the “Vision and Objectives” at the previous stage nor to the LPS policies at this stage (in which respect 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.

2.10. In the event that opportunity never arose because the apparent criteria then 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 was rendered unlawful on that further basis accordingly.

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

2.11.1. 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

2.11.2. The purported “reasons” for classifying the Gorstyhill Lands as “non-preferred” at the previous stage of the plan-making process did not stand up to scrutiny (please see section 4 below); and

2.11.3. The positive potential of the Gorstyhill Lands to meet the LPS Policy Needs 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.

2.12. 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 LPS.

2.13. 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.

2.14. The CEC Leader is the guiding figure at CEC who is promulgating the plan – see the foreword to LPS where his Deputy’s personal introduction appears. He is through the LPS choosing to reject the development potential of many sites including the Gorstyhill Lands and to exclude them from further consideration. That would be quite wrong and contrary to the NPPF and indeed to the relevant rules of law indicated in these representations.

3. THE LPS : THE CAPACITY OF THE RE-DEVELOPMENT OF THE GORSTYHILL LANDS TO MEET LPS POLICY NEEDS

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 5 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. The LPS itself in fact clearly does define LPS Policy Needs which the Gorstyhill Lands are capable of meeting and – to some extent – does recognise some of these opportunities it presents.

3.4. In the LPS the Case for Growth is set out in paragraphs 4.1 - 4.20 and states CEC’s view that growth in Cheshire East is both:

3.4.1. necessary and

3.4.2. beneficial

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

3.5. 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.

3.6. In the LPS, two additions have been made to the list of reasons for considering growth to be necessary and beneficial, namely: (i) “To provide improvements to the built and natural environment”; and (ii) “To promote a thriving rural economy and tourism industry”. Both of these additional reasons could equally well be cited as reasons for recognising the potential of the Gorstyhill Lands since the Sustainability Deficit Reduction Opportunity is exactly targeted at improvement of existing built environment and the Country Park Opportunity is exactly targeted both at improvement of the natural environment and at tourism promotion.

3.7. There is however no evidence that CEC has re-visited its rejection of the Gorstyhill Lands as a consequence. Instead, CEC appears to have focussed its efforts on identifying further reasons for future growth, an objective which patently and inherently underpins the entire plan-making process. It is this type of example which reinforces HPDL’s concern that even though the capacity of the Gorstyhill Lands to meet LPS Policy Needs is becoming stronger as the plan-making process advances, CEC’s antipathy is such that it resolutely turns a blind eye to the merits even when the refinement of its own emerging policies enhances the

weight which should be ascribed to those merits. The Gorstyhill Lands are eminently suitable for meeting LPS Policy Needs.

3.8. The LPS goes on to state Strategic Priorities in paragraphs 6.1 – 6.7.

3.9. 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”.

3.10. 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.

3.11. 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 LPS.

3.12. Furthermore, Policies SC1 (“Leisure and Recreation”) and SC2 (“Outdoor Sports Facilities”) in the LPS support the maintenance of existing outdoor and leisure facilities except in cases where it can be proven that such facilities are “proven to be surplus” to requirement. Gorstyhill Golf Course’s closure in April 2013 due to financial instability and a high degree of local competition is proof of this superfluity.

3.13. The Country Park Opportunity presented by re-development at Gorstyhill would clearly be in accordance with the policy of enhancement of existing recreation facilities – HPDL wishes to expand and enhance the Country Park for the benefit of the local and the dispersed community and residents of Crewe itself. Additional built facilities to enhance visitor experience and/or expand the range of cultural and leisure activities could include: further permissive pathways and nature trails; habitat creation and restoration; sculpture park; visitor centre; bird watching centre; athletics track; cycle trails; outdoor events space; arboretum; green burial ground.

3.14. The ‘net’ social sustainability of the Gorstyhill Lands as a result of the re-development would be greatly enhanced and the “loss” of the golf course could only be ascribed little or no weight accordingly. The presence – within a few hundred metres of the Gorstyhill Lands (immediately to the south of Newcastle Road) of the Wychwood Park Golf Club undermines any suggestion of significant detriment to social sustainability arising from the re-use of redundant golf course space at the Gorstyhill Lands themselves.

3.15. Furthermore ignoring the potential of the Gorstyhill Lands to meet LPS Policy Needs as a matter of economic sustainability site, serves only to hinder the creation of “stronger communities”, and as stated in the LPS’ Case for Growth’, the provision of “new homes including much needed affordable housing” and the promotion of a “thriving rural economy”.

3.16. Paragraph 3 of Strategic Priority 2 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”.

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

3.18. 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 HPDL’s objective in terms of realising the Sustainability Deficit Reduction Opportunity and the Sustainable Relationship with Crewe Opportunity which the Gorstyhill Lands offer.

3.19. The same applies to that part of the LPS 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.

3.20. The Presumption in Favour of Sustainable Development is set out in paragraph 7.1 – 7.9 and in Chapter 9 of the LPS. Policy MP1 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 find joint solutions, which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area” (emphasis added).

3.21. The antipathy towards the development potential of the Gorstyhill Lands evidenced in the CEC Leader’s Letter is totally at odds with the exhortation to work proactively with applicants; beyond the formal scoping process for potential environmental impact assessment, no constructive feed-back has been provided by CEC.

3.22. The LPS contemplates nonetheless 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.

3.23. Paragraph 8.1 – 8.21 of the LPS contain details of the intentions in respect of housing land supply. There is a calculated need to provide for 27,000 new dwellings from future allocations and other windfall sources. The Major Housing Opportunity presented by the Gorstyhill Lands could make a significant contribution towards that over the plan period to 2030.

3.24. The “Settlement Hierarchy” in the LPS is contained within paragraphs 8.22 – 8.37. Paragraph 8.22 is of relevance because the Council seeks to ensure that “the places where development takes place have good access to jobs health and community services, education, shops, leisure, open space and sport and recreation facilities”. Those LSP Policy Needs can clearly be met at the Gorstyhill Lands.

3.25. Section 15 of the LPS then addresses “Local Plan Strategy Sites and Strategic Locations”. Paragraphs 15.16 – 15.17 and Figure 15.1 refer to the Crewe area - and Figure 15.1 (the Crewe Town Map) even shows proposals for a “South Cheshire Growth Village” - south east of Crewe.

3.26. The Gorstyhill Lands appear on the Crewe Town Map since they form part of the immediate hinterland of Crewe – but without being identified by name or in any other way – and partially obscured by the rubric for Crown copyright and the scale bar.

3.27. Despite :

3.27.1. the evidence that the strategic opportunities it presents all relate well to the Vision and Strategic Priorities of the LPS; and

3.27.2. the fact that CEC itself 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.

3.28. It is HPDL's respectful view that there should indeed be a 'Growth Village' south-east of Crewe and that this should be on the Gorstyhill Lands where there is abundant opportunity for a development which is:

3.28.1. not only sustainable in its own terms; but

3.28.2. helps to make good pre-existing deficiencies in that respect

and is achievable on land in a single ownership (HPDL's) which is available now.

3.29. We have therefore addressed the relative merits of the Gorstyhill Lands versus the Crewe Hall site in section 5 below. It is important to confirm that in our respectful view it has strong merits in and of itself in absolute terms for the reasons summarised.

3.30. In advance of addressing relative merits vis-a-vis the Crewe Hall Site however, we have commented next below on the purported "reasons" as they were advanced in the PSC Strategy NP Site Document for the classification of the Gorstyhill Lands as "non-preferred" – at the previous stage of the plan-making process. Those 'reasons' did not stand up to scrutiny in their own right.

3.31. That "reasoning" is not repeated in the LPS, but we have reiterated our concerns in respect of them in section 4 below in order that they should be highlighted for consideration in any assessment of the soundness of the emerging plan.

3.32. There are furthermore now "reasons" advanced in the Pre-Submission Core Strategy Sustainability Appraisal Report 2013 (in response to HPDL's previous comments) for rejecting any change of approach on CEC's part towards the Gorstyhill Lands; these attempts to rebut concerns raised on HPDL's behalf at the previous stage are therefore also addressed below in section 10. These further "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 November 2013 in the PSC Strategy NP Sites Document the following reasons were 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 LPS (just as they did with the relevant sections of the PSC Strategy NP Sites Document). Proposition One can no more be substantiated now than it could be in November/December 2013.

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, supporting the search for “[e]conomic prosperity” and CEC’s own employment policy stated in 11.17 of the LPS, which favours a more “more sustainable pattern of development”. Proposition Two still cannot be substantiated accordingly.

4.5. Proposition Three appears to assert that where the costs of achieving “sustainable development” would be high (although there was no explanation for what is meant by “significantly high” in Proposition Three), that could be 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 was Wednesbury unreasonable accordingly. There is nothing in the LPS to suggest otherwise.

4.8. Proposition Four was (and is) in our respectful view incomprehensible. There was no explanation of what was 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 LPS. The suggestion that the Crewe Hall Site has “fewer constraints” than the Gorstyhill Lands was clearly wrong for the reasons we have summarised below, which were and are matters of fact or indeed public record.

4.10. Those relative strengths of the Gorstyhill Lands as against the Crewe Hall Site were already apparent in 2013 when the Crewe Hall Site was much greater in extent than is now proposed; what remains of that site now however is even more heavily constrained. Built heritage considerations weigh against it generally but the pre-existing road and rail infrastructure divide it into awkwardly-shaped sub-sections presenting master-planners with significant – and in some areas severe – constraints on strategic design and layout.

4.11. Proposition Six was correct in itself, but it was irrelevant and immaterial to the decision CEC was seeking to make in classifying the Gorstyhill Lands as “Non-preferred” last year. 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”.

4.12. 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.

4.13. When therefore the “reasons” offered in the PSC Strategy NP Sites Document were briefly analysed it appeared clear that they simply did not stack up – they were either

incomprehensible, immaterial to the decision CEC was 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.

Strategic Constraint Number One: Heritage Assets

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. The LPS itself acknowledges that there will be “...detrimental visual impact to the open countryside and the setting of Crewe Hall Registered Park and Garden...”. (The only suggestion it appears to make within the policy specific to site CS37 to try to “off-set” this, is “...habitat screening along all boundaries...”.)

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 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 special statutory status. ...”.

5.14. That additional legal compliance requirement has been reinforced and reiterated by the Court of Appeal in *Barnwell Manor v East Northamptonshire* (which is the appeal against Lang J’s judgment as above) the Court of Appeal judgment having been made on 14 February 2014. Lord Justice Sullivan stated :

In my view, Glidewell LJ’s judgment is authority for the proposition that a finding of harm to the setting of a listed building is a consideration to which the decision-maker must give “considerable importance and weight”.

[23] That conclusion is reinforced by the passage in the speech of Lord Bridge in *South Lakeland* to which I have referred (para 20 above). It is true, as Mr Nardell submits, that the ratio of that decision is that “preserve” means “do no harm”. However, Lord Bridge’s explanation of the statutory purpose is highly persuasive, and his observation that there will be a “strong presumption” against granting permission for development that would harm the character or appearance of a conservation area is consistent with Glidewell LJ’s conclusion in *Bath*. There is a “strong presumption” against granting planning permission for development which would harm the character or appearance of a conservation area precisely because the desirability of preserving the character or appearance of the area is a consideration of “considerable importance and weight”.

5.15. Sullivan LJ made clear that an equivalent statutory duty arises in respect of listed buildings and their settings. There is however no indication that the detailed work necessary to even begin to address that issue has been undertaken in respect of the Crewe Hall Site and in the context of the Court of Appeal’s clear guidance the presence of a Grade I listed building and its registered historic landscape (and indeed a grade II* listed building as noted below) can only be considered a strategic constraint of very significant weight against any large scale development within the Crewe Hall Site.

5.16. 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.

5.17. Indeed the selection of the Crewe Hall heritage site as a site for future development falls contrary to policies SE4 and SE7 which seek to preserve heritage assets and “conserve and enhance the quality of the landscape and to protect it from development which is likely to have an adverse effect on its character and appearance and setting”.

5.18. Point 3.ii. of Policy SE 7 requires that “development proposals that cause harm to, or loss, of, a designated heritage asset and its significance, including its setting” provide “...a clear and convincing justification...” for such harm or loss. However no aspect of the South East Growth Village proposed site can possibly be said to justify its detrimental impact to render the site preferential to the Gorstyhill Lands since the latter has no such constraint and is a previously-developed location.

5.19. The Crewe Hall Site as it is now put forward in the LPS is a reduced or residual part of the site as previously put forward in 2013. The southern boundary of the developable land now proposed is much further north. The proposed site is now an awkwardly-shaped area compromised by existing rail and road infrastructure, as well as the line of the registered historic parkland which ‘pushes’ its westerly boundary to the east.

5.20. In its previous form, it “drew a box around” another heritage asset - the Grade II* listed Hollyhedge Farm – so as to exclude that farm and its immediate curtilage from the proposed site. This building and its setting would themselves have constituted a strategic constraint – the compression of the proposed site area into what is now CS37 as proposed in the LPS would leave Hollyhedge Farm located within the site on what would be an important southern

border with agricultural land beyond it. That reduction in the site area has therefore done nothing to reduce the potential for harm to the significance of the Farm or its setting and done nothing to reduce the weight attributable in principle to the listed building within planning decision-taking (see Barnwell Manor above).

5.21. Whilst the site specific policy in the LPS makes repeated reference to one heritage asset namely Crewe Hall and its registered parkland, it makes no reference to Holly Hedge Farm whatsoever even though it is centrally located within the southern part of site CS37 and is listed building of Grade II* - second in importance only the grade I buildings of which Crewe Hall is admittedly an example.

5.22. The LPS shows the Crewe Hall Site as it is now proposed, to be subject to constraint by the presence of two buildings/groups of buildings within the top 6 % of listed buildings in England/Wales.

5.23. CEC states that it has not carried or received and appraised any heritage assessment of the Crewe Hall Site however. To identify it as a development site CS37 is inexplicable in those terms and contradicts national policy and law on listed buildings and their settings, and also policies in the LPS itself which is internally incoherent accordingly. The LPS is unsound insofar as it purports to identify the Crewe Hall Site for development.

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

Strategic Constraint Number Two: Green Belt / Green Gap

5.25. Furthermore in respect of the Crewe Hall Site the south-eastern quadrant is within the Green Belt. In the “Local Plan Strategy Site Justification Paper“ of March 2013 (“the LPSSJ Paper”), it is stated at paragraph 4.153 that: ”The site is in an area designated as part Green Gap and part Open Countryside in the Borough of Crewe and Nantwich Local Plan 2011. It is not intended that any alteration to the Green Belt boundary will be required, as the area that lies within the green belt will be designated as protected open space”.

5.26. That “bites” a large part out of the eastern part of the site however since that too is a strategic constraint; master-planning of the rump of the “growth village” remaining in the CS37 site is still further constrained accordingly.

5.27. 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”.

5.28. 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 it is within the green belt.

5.29. 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.

Strategic Constraint Number Three: Loss of Valuable Agricultural Land

5.30. Furthermore:

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

5.30.2. much of the remainder of the site is in productive agricultural use.

5.31. In contrast the Gorstyhill Lands are predominantly 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.

5.32. This preference is directly in line with LPS Policy SE 2 “Efficient Use of Land”, and the Council’s aim to “encourage the redevelopment / re-use of previously developed land”, and safeguard “natural resources including high quality agricultural land”.

Strategic Constraint Number Four: Existing Heavy Rail and Highway Infrastructure

5.33. 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.

5.34. 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.

5.35. The LPS will be unsound if it focuses the ‘south Cheshire Growth Village’ approach on the Crewe Hall Site - rather than the unconstrained Gorstyhill Lands.

5.36. There is furthermore no existing core of residential development at the Crewe Hall Site that is to say, there is no village which can be designated for growth, as the very concept of a “growth village” implies.

5.37. At the Gorstyhill Lands one already has exactly that however – Wychwood Village is a recently developed core of good quality housing of which the final units are currently being marketed by Bovis Homes. It therefore is a “village” already and one which can readily be designated for sustainable “growth”.

5.38. The very concept of a “South Cheshire Growth Village” is therefore far more applicable and apposite to Wychwood Village and the Gorstyhill Lands on which housing growth and complementary land uses can be accommodated.

5.39. If despite all that one were to nonetheless designate site CS37 (the Crewe Hall Site) as the growth “village” 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).

5.40. It is stated in the LPS that the South East Growth Village would be “expected to contribute towards and / or facilitate road infrastructure improvements in the area...”. it is known by CEC that in line with the Community Infrastructure Levy, developer contributions may be sought (as stated in Policy IN 2) to aid “any other infrastructure related costs permitted by law and identified as a local need” (emphasis added). Furthermore, once in place (on or prior to April 2015), the Community Infrastructure Levy Charging Schedule will be applied to a new development to fund infrastructure “that will serve a wider area than any one development in particular” (paragraph 10.13). As a standard charge calculated in £ per sq m of new buildings, the Gorstyhill Lands therefore serves as an equal (if not greater) opportunity to better the local infrastructure, given the proposed construction of 900 new dwellings, against the Crewe Hall site’s 800.

5.41. It cannot therefore be said that, in terms of benefit to local infrastructure, and by abstraction, Cheshire East’s long-term economy, the Crewe Hall site will be of any greater benefit than the proposed Gorstyhill Lands development.

5.42. 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.

5.43. In that respect any LPS 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.

5.44. 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 Case for Growth states at paragraph 4.19 that :

“Sustainable development is therefore the best preparation for a future whose defining characteristic is uncertainty. The Local Plan Strategy unashamedly promotes economic development – but does so in a way that builds upon existing strengths whenever possible”. Consistent with this aim, Policy SE 2 promotes efficiency of land use by ensuring that: “...development is making the best use of land and existing infrastructure, and that resources are being managed prudently and efficiently.” (emphasis added)

6.3. We agree that a new village south-east of Crewe would provide an opportunity for sustainable development. 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 ensure resources are “managed prudently and efficiently” because it already has a baseline pre-developed site – in the right area within Cheshire East – concentrated in the 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 meet LPS Policy Needs, but

(b) apparently favours instead a site subject to multiple strategic constraints not shared by the Gorstyhill Lands.

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.

6.11. As to the Garden Cities Opportunity and the Country Park Opportunity, the Gorstyhill Lands offer 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.

6.12. 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.

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

6.14. 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...”

6.15. 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.

6.16. As to the Sustainable Relationship with Crewe Opportunity, it is noted that according to other proposals in the LPS for Basford West and East, 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 Basford East site and circa 2.75 kilometres from the south-easterly edge of the Basford West site.

6.17. 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.

6.18. 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.

6.19. 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.

6.20. Paragraph 35 of the NPPF confirms that: “Plans and decisions should ensure developments that generate significant movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised...”, and paragraph 35 confirms “Plans should protect and exploit opportunities for the use of sustainable transport modes for the movement of goods or people...”.

6.21. 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 to 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.

6.22. 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 Basford West, Basford East or Crewe Hall sites.

6.23. 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 Basford West 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.

6.24. 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.

6.25. 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, does not indicate evidence of the “sound” plan-making which the NPPS requires.

6.26. That “unsoundness” of approach is also apparent in the proposed attitude towards the Green Belt – and its application to the Gorstyhill Lands. We have therefore next addressed this issue below (section 7).

6.27. Policy SE3 of the LPS, on Biodiversity and Geodiversity, is also inconsistent with the NPPF and relevant legal requirements. We address this issue in section 8, below, where we also address the absence of legal compliance in respect of the Habitats Regulations Assessment.

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 8.41 of the LPS 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 settlements in both the north and south of the Borough are necessary through this Local Plan Strategy” (emphasis added).

7.7. Policy PG3 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 in the LPS shows, cross-hatched in green, the broad area of search for the new Green Belt, as 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. The Council’s Statement on the “Duty to Cooperate” indicates in paragraph 3.102 that a number of potential-cross boundary impacts had been taken into account in the preparation of the Draft Core Strategy (the predecessor to the LPS), including, amongst other things in respect of Green Belt, the minimisation of “the loss of Green Belt land in the Borough in ways consistent with the sustainable location of new development and balanced with retaining the openness of the countryside in the long-term”. However the document goes no way towards establishing consistency of approach 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 inadequate justification for the purported new approach towards the Green Belt in the LPS, 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 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. UNSOUNDNESS OF BIODIVERSITY AND GEODIVERSITY POLICY SE3 AND FAILURE OF LEGAL COMPLIANCE OF HABITATS REGULATIONS ASSESSMENT Biodiversity and Geodiversity Policy SE3 of the LPS

8.1. Policy SE3 on Biodiversity and Geodiversity is inconsistent with relevant legal requirements and NPPF policy and as such is unacceptably strict. SE3 must be amended to reflect an approach consistent with the relevant legal and policy requirements.

8.2. Paragraph 2 contains a blanket refusal in respect of development proposals with significant adverse impacts on certain sites. Paragraph 2 of SE3 states: "Development proposals which are likely to have a significant adverse impact on a site with one or more of the following national or international designations will not be permitted:

Special Protection Areas (SPAs)

Special Areas of Conservation (SACs)

Ramsar Sites

Any potential Special Protection Areas (SPAs), candidate Special Areas of Conservation (SACs) or proposed Ramsar sites

Sites of Special Scientific Interest (SSSI)

Sites identified, or required, as compensatory measures for adverse effects on European sites, candidate Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites

The Peak District National Park

National Nature Reserves."

8.3. In respect of European sites (SPAs and SACs), this policy conflicts with the legal requirements of Article 6(3) and 6(4) of the Habitats Directive and regulations 61, 62 and 66 of the Conservation of Habitats and Species Regulations 2010. This legal framework acknowledges that development may proceed notwithstanding adverse effects on a site where there is no alternative solution, there are imperative reasons of overriding public interest and compensatory measures are taken.

8.4. In respect of (i) Ramsar Sites; (ii) any potential Special Protection Areas, candidate Special Areas of Conservation or proposed Ramsar sites; and (iii) sites identified, or required, as compensatory measures for adverse effects on European sites, candidate Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites, this policy conflicts with paragraph 118 of the NPPF. Paragraph 118 states that these wildlife sites should be given the same level of protection as European sites (as to which see the paragraph immediately above).

8.5. In respect of SSSIs, this policy conflicts with paragraph 118 of the NPPF. Paragraph 118 makes clear that a development likely to have an adverse effect on a SSSI may be permitted where the benefits of the development clearly outweigh the impacts.

8.6. In respect of the Peak District National Park, this policy conflicts with paragraph 116 of the NPPF. Paragraph 116 makes clear that even major developments could in exceptional circumstances be permitted where they are in the public interest.

8.7. In respect of National Nature Reserves, there is no specific policy in the NPPF. However paragraph 113 states that “Local planning authorities should set criteria based policies against which proposals for any development on or affecting wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status...”. Given that development may be permitted in certain circumstances notwithstanding adverse impacts in or near to sites which fall higher in the hierarchy than a National Nature Reserve (such as European sites), a policy which imposes an outright ban on development with adverse effects on a National Nature Reserve can be seen clearly to conflict with paragraph 113 NPPF.

8.8. Paragraph 3 of SE3 is also inconsistent with paragraph 113 NPPF. Paragraph 3 states: “Development proposals which are likely to have a significant adverse impact on a site with one or more of the following local or regional designations, habitats or species will not be permitted except in exceptional circumstances where the reasons for the proposed development clearly outweigh the value of the ecological feature adversely affected and there are no appropriate alternatives:

Local Nature Reserves

Sites of Biological Importance (SBI) or Local Wildlife Sites

Regionally Important Geological and Geomorphological Sites (RIGGS)

Designated Wildlife Corridors

Habitats and species within the Cheshire Biodiversity Action Plan

Priority habitats and species within the UK Biodiversity Action Plan

Habitats and species listed in respect of Section 41 of The Natural Environment and Rural Communities Act 2006

Legally protected species

Areas of Ancient and Semi-Natural Woodland

Nature Improvement Areas

8.9. Paragraph 3 is unacceptable as it prescribes a level of protection which is commensurate with biodiversity / geodiversity interests at the very top of the hierarchy (see the comments made in relation to paragraph 2 above) whereas the focus of paragraph 3 is on interests of mainly regional or local importance. Paragraph 3 is therefore inconsistent with paragraph 113 NPPF which prescribes that protection must be commensurate with the relevant status of the feature.

8.10. Paragraph 4 of SE3 is inconsistent with paragraph 118 of the NPPF. Paragraph 4 states: “All development (including conversions and that on brownfield and greenfield sites) must aim to positively contribute to the conservation and enhancement of biodiversity and geodiversity and should not negatively affect these interests. To ensure there are no residual

adverse impacts resulting from a proposed development, where in exceptional circumstances the reasons for the proposed development clearly outweigh the value of the ecological feature adversely affected and there are no appropriate alternatives, the adverse impacts of the development must be proportionately addressed in accordance with the hierarchy of: mitigation, compensation and finally offsetting. When appropriate, conditions will be put in place to make sure appropriate monitoring is undertaken and make sure mitigation, compensation and offsetting is effective”.

8.11. Paragraph 4 has the effect of making reliance on mitigation or compensatory / offsetting measures dependent first upon demonstrating (i) exceptional circumstances (the reasons for the proposed development must clearly outweigh the value of the ecological feature); and (ii) absence of alternatives. This is much stricter than is envisaged by paragraph 118 (first bullet point) which firstly imposes a significance threshold (notably absent from paragraph 4) and secondly (in contrast to paragraph 4) makes no requirement as to exceptional circumstances. The Habitats Regulations Assessment

8.12. Our position in relation to the “Strategy: Habitats Regulations Assessment Final Report February 2014” (“Habitat Regulations Assessment”) is fully reserved.

8.13. We note in particular that regulation 102(4) of the Conservation of Habitats and Species Regulations 2010 permits the plan-making authority to give effect to the land use plan (subject to regulation 103) following an appropriate assessment only after having ascertained that it will not adversely affect the integrity of the relevant European site(s).

8.14. Office of the Deputy Prime Minister (OPDM) Circular 06/2005 (which remains in force under the NPPF) states that:

“In the light of the conclusions of the assessment of the project’s effects on the site’s conservation objectives, the decision-taker must determine whether it can ascertain that the proposal will not adversely affect the integrity of the site(s). The integrity of a site is the coherence of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified. It is not for the decision-taker to show that the proposal would harm the site, in order to refuse the application or appeal. It is for the decision-taker to consider the likely and reasonably foreseeable effects and to ascertain that the proposal will not have an adverse effect on the integrity of the site before it may grant permission. If the proposal would adversely affect integrity, or the effects on integrity are uncertain but could be significant the decision-taker should not grant permission, subject to the provisions of regulations 49 and 53 as described below.

In the Waddenzee judgment (ECJ case C-127/02), the European Court of Justice ruled that a plan or project may be authorised only if a competent authority has made certain that the plan or project will not adversely affect the integrity of the site. “That is the case where no reasonable scientific doubt remains as to the absence of such effects”. Competent national authorities must be “convinced” that there will not be an adverse effect and where doubt remains as to the absence of adverse effects, the plan or project must not be authorised, subject to the procedure outlined in Article 6(4) of the EC Habitats Directive regarding imperative reasons of overriding public interest”.

8.15. We note that nowhere in the Habitat Regulations Assessment or in the LPS is it stated that the LPS will not adversely affect the integrity of the relevant European site(s). The conclusion of the Habitat Regulations Assessment (paragraph 6.5) states that the existing policies and provisions in the Cheshire East Council Local Plan Strategy and other plans or strategies should ensure that potential significant adverse effects on the integrity of all identified European sites are avoided. The certainty test as referred to above is not therefore met.

9. THE DUTY TO CO-OPERATE : SECTION 33A

Summary

9.1. The Council has not demonstrated that it has discharged the Duty to Cooperate (“DtC”) in relation to strategic planning for housing. The LPS cannot therefore lawfully be adopted.

Legal Framework

9.2. With effect from 15 November 2011, s110 of the Localism Act inserted S33A into the Planning and Compulsory Purchase Act 2004 a DtC in relation to planning of sustainable development.

9.3. S33A (1) states that “... each person who is: (a) a local planning authority, (b)...., or (c) ... , must co-operate with every other person who is within paragraph (a), (b) or (c) ... in maximising the effectiveness with which activities within subsection (3) are undertaken.”

9.4. Subsection (2) requires that “... the duty imposed on a person by subsection (1) requires the person – (a) to engage constructively, actively and on an ongoing basis in any process by means of which activities within subsection (3) are undertaken...”.

9.5. Subsection (3) indicates that the activities within this subsection include “(a) the preparation of development plan documents, and (e) activities that support activities within any of the paragraphs (a) to (c), so far as relating to a strategic matter.”

9.6. Subsection (4) defines “a strategic matter” for the purposes of subsection (3) as “(a) sustainable development or use of land that has or would have a significant impact on at least two planning areas, including (in particular) sustainable development or use of land for or in connection with infrastructure that is strategic and has or would have a significant impact on at least two planning areas, and.....”

9.7. The definition of “planning area” in Subsection (5) includes “(a) the area of – (i) a district council (including a metropolitan district council) ...”

9.8. Planning for housing in the LPS is plainly a “strategic matter” (see also para 156 of the NPPF).

9.9. Where the DtC has not been discharged, s20(7B) and (7C) of the 2004 Act prevents adoption of the plan. An inspector carrying out an independent examination has no power to recommend modifications to ‘save’ a plan in such circumstances.

What ‘cooperation’ does the law require?

9.10. The 2004 Act gives no definition of what constitutes “engagement”. However, as a starting point the Concise Oxford Dictionary definition of ‘co-operate’ includes “... work together.; concur in producing an effect...”.

9.11. Moreover, the NPPF includes, in relation to the DtC, phrases such as “...joint working on areas of common interest to be diligently undertaken for the mutual benefit of neighbouring authorities...” (para 178); “...work collaboratively with other bodies... work together to meet development requirements which cannot wholly be met within their own areas” (para 179). NPPF para 181 states that “Co-operation should be a continuous process of engagement from initial thinking through to implementation, resulting in a final position where plans are in place to provide the land and infrastructure necessary to support current and future levels of development.”

9.12. National PPG (website based) gives further guidance: “engage constructively, actively and on an ongoing basis”, “cooperation should produce effective and deliverable policies on strategic cross boundary matters”, “addressing issues that can only be addressed effectively by working with other local planning authorities beyond their own administrative boundaries”, “work together constructively from the outset of plan preparation ... at the plan scoping and evidence gathering stages ... to identify and assess the implications of any strategic cross boundary issues on which they need to work together”, “unlikely that this could be satisfied by consultation alone”, “this might involve joint research and evidence

gathering to define the scope of the Local Plan, assess policy impacts and assemble the necessary material to support policy choices”.

9.13. Neighbouring LPAs may be bringing forward local plans in/on different timescales. PPG advises: “it will be important for the respective LPA to enter into formal agreements, signed by their elected members, demonstrating their long term commitment to a jointly agreed strategy on cross boundary matters. ... A key element of the examination will be to ensure that there is sufficient certainty through the agreements to ensure that an effective strategy will be in place for strategic matters when the relevant plans are adopted.”

9.14. The DtC replaced ‘top down’ regional planning; however, the ‘larger than local issues’ resolved by the regional planning process still require to be addressed. The regional planning process provided both a forum for resolving, for example, issues as to where the total need for housing in a region or sub-region should be met. If LPAs could not agree, a Panel and then the Secretary of State acted as ‘arbitrator’. Thereafter housing numbers to meet assessed need were allocated to LPA. There is no formal forum or arbitration process with the demise of regional planning; instead the DtC is to operate to achieve the same result. The effectiveness of cooperation is thus to be judged, at least in part, by evidence of process and outcomes. So much is also clear from PPG.

9.15. It is also instructive to consider what falls short of co-operation. The Act and the NPPF use the term “co-operation” and not “consultation”. If the duty had been merely to consult, the Act and subsequent advice would have said so. It is a familiar term in planning practice. Consultation has been defined by the Court of Appeal in the following terms:

“Whether or not consultation of interested parties and the public is a legal requirement, if it is embarked upon it must be carried out properly. To be proper, consultation must be undertaken at a time when proposals are still at a formative stage; it must include sufficient reasons for particular proposals to allow those consulted to give intelligent consideration and an intelligent response; adequate time must be given for this purpose; and the product of consultation must be conscientiously taken into account when the ultimate decision is taken.” (R v North and East Devon HA ex p Coughlan [2001] QB 213).

9.16. It is reasonable to conclude that engagement as part of co-operation is more than a process of consultation and, as required by the Act, co-operation should be constructive and have active engagement which is ongoing.

9.17. The key issue for the LPS is whether or not there has been active and ongoing engagement with all the relevant local planning authorities.

Lessons from previous LP examinations

9.18. There is now a substantial body of inspector conclusions on the DtC from previous examinations. The following themes emerge:

9.18.1. Cooperation requires more than (mere) consultation (Aylesbury Vale, Kirklees).

9.18.2. Cooperation is more than evidence gathering (North London Waste Plan) although joint strategic level evidence gathering (particularly SHMA) is important (Coventry, Aylesbury Vale)

9.18.3. What is required is ‘active engagement’; examples include:

9.18.3.1. Submission of progress reports to and discussion at regional board level (North London Waste Plan).

9.18.3.2. Meetings / dialogue with key stakeholders (North London Waste Plan).

9.18.3.3. Meetings at which clear conclusions are drawn and then acted upon (West Dorset).

9.18.4. Evidence and transparency is important (West Dorset).

9.18.5. Active engagement from the start of the plan-making process, including setting the scope for evidence gathering, is important (Aylesbury Vale, West Dorset, Hart, Kirklees).

9.18.6. The publication of the NPPF should have spurred-on joint working (Coventry, West Dorset, Hart).

- 9.18.7. The process needs to be constructive and effective (Coventry) particularly where HMA cross administrative boundaries (Aylesbury Vale) and where LPA, particularly a key centre for growth, may not be able to accommodate needs within their own area (Aylesbury Vale).
- 9.18.8. The purpose is to maximise the effectiveness of the plan (Aylesbury Vale).
- 9.18.9. Evidence should show that the cooperative process has influenced the content of local plans (North London Waste Plan, Aylesbury Vale, West Dorset).
- 9.18.10. New evidence arising even at a late stage but prior to submission must be taken on board and any decision to submit a plan reconsidered (Aylesbury Vale).
- 9.18.11. The scale of potential unmet need needs to be identified (Hart).
- 9.18.12. ‘Outcomes’ are as important as ‘process’ (Rushcliffe, West Dorset, Kirklees)
- 9.18.12.1. There is no requirement to agree (Aylesbury Vale); but where there is agreement as to the apportionment of housing within an HMA this is a sign of effective cooperation (Cambridgeshire & Peterborough).
- 9.18.12.2. The fact of and terms of agreements are important (Rushcliffe); ‘agreeing to agree’ is not sufficient (West Dorset).
- 9.18.12.3. Strategic issues must be resolved (Aylesbury Vale, West Dorset); where they are not resolved this can be an indication of a failure to cooperate effectively (North West Leicestershire).
- 9.18.12.4. How and where unmet need it to be met is important (Hart).
- 9.18.12.5. Leaving such matters to an ‘early review’ is not sufficient (Aylesbury Vale, West Dorset).
- 9.18.12.6. Any ‘mechanisms’ for addressing cross boundary matters need to be agreed before submission (West Dorset).
- 9.18.13. Contingency planning indicates a need for coordination of evidence gathering and plan preparation (Aylesbury Vale).

Strategic planning in the Cheshire East Local Plan Strategy

9.19. The LPS covers the period to 2030. The introduction to the CELPS explains that preparation started in 2009. The DtC arose in November 2011; at this time CEC was embarked upon its “Place Shaping Consultation” (Summer / Autumn 2011) which “entailed working with local communities, businesses and stakeholders to understand the future challenges we face, town by town, village by village. Three sets of Town Strategy consultations followed for each of the eleven Principal Towns / Key Service Centres.” It is therefore clear that at the time the DtC arose, CEC’s focus was essentially ‘inward looking’.

9.20. CEC’s document “Local Plan Strategy Duty to Co-operate Statement of Compliance Further Draft – March 2014” (“the DtCSoc”) confirms / avers:

9.20.1. At page 5 and Figure 2 that the “greatest cross-boundary inter-relationships exist between the Borough and the two [Greater Manchester and Potteries] conurbations.”

9.20.2. (p6) That the fully objectively assessed housing need is assessed as being 27,000 additional dwellings in the plan period plus a 500 dwelling contribution to housing need arising in High Peak Borough.

9.20.3. (p6) That population and household projections used to determine the housing requirement of Cheshire East “take full account of the envisaged migration flows in and out of the Borough. The main cross boundary movements of people are between Cheshire East and the south Manchester authority areas of Stockport, City of Manchester and Trafford as well as between the Borough and the Potteries (Stoke-on-Trent and Newcastle-under-Lyme).”

What does CEC rely on to demonstrate discharge of the DtC?

9.21. At p16 of the DtCSoc CEC lists the Neighbouring Authorities (“NA”) with which it states it has “engaged”. In respect of the south Manchester authority areas of Stockport, City

of Manchester and Trafford as well as the Potteries areas of Stoke-on-Trent and Newcastle-under-Lyme Table 2 states the nature of the engagement has been “informal contacts, regular meetings, consultation on preparation of Plan, exchanges of information”.

9.22. At p18 CEC lists “a series of joint evidence studies”. No Strategic Housing Market Area Assessment in respect of the south Manchester authority areas of Stockport, City of Manchester and Trafford and the Potteries areas of Stoke-on-Trent and Newcastle-under-Lyme is listed.

9.23. At pp18-26 in Table 3 CEC lists “cross boundary strategic issues that have arisen during the preparation of the Local Plan Strategy”. At no stage is it indicated that a south Manchester and Potteries SHMAA /housing study has been carried out. The notes / minutes of meetings in the appendices similarly given no such indication.

Is there evidence to show that CEC has discharged the DtC?

9.24. CEC has not produced evidence to show it has engaged constructively, actively and on an ongoing basis with NA during the preparation of the CELPS in relation to planning for housing. CEC appears to have based its housing requirement on:

9.24.1. Inter alia, population and household projections which take account of envisaged migration flows in and out of the Borough based on historic patterns.

9.24.2. An express request from High Peak to ‘take’ an additional 500 houses.

9.25. There is no sufficient evidence that CEC has actively and constructively engaged with the NA in the south Manchester and Potteries HMA to establish what the ‘need’ is in this area and where that need can/should be met.

9.26. There is no evidence, for example, that during the plan period to 2030, need in the south Manchester / Potteries HMA will not require additional housing in Cheshire East because a sub-regional evidence base is not in place. In the past this would have been considered in the preparation of the Regional Strategy (or a sub-regional chapter); there is no evidence to date that this necessary work-stream has been replicated in the context of the DtC. Without such evidence, the reliability of the assumptions of the population and household projections so far as the plan period is concerned cannot be assumed; for example, a shortage of housing land in the conurbations or other increases in population may result in greater than predicted cross boundary migration or alternatively the need for CEC to help meet housing need arising in the conurbations.

9.27. In so far as CEC has ‘consulted’ NA in south Manchester and/or the Potteries, this falls short of the requirements of the DtC.

10. THE INADEQUACY OF THE STRATEGIC ENVIRONMENTAL ASSESSMENT AS A BASIS FOR CLASSIFYING THE GORSTYHILL LANDS AS “NON PREFERRED”: REFUSAL OF CEC TO RE- VISIT THE SUSTAINABILITY APPRAISAL WITH AN OPEN MIND

The Legal Framework

10.1. 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.

10.2. The legislative framework is to be found at paragraphs 56 to 74 in Cogent Land LLP v Rochford DC [2013] 1 P&CR 2; [2012] EWHC 2542 (Admin) in particular at paragraphs 56 to 74.

10.3. Applying the approach derived from Cogent Land, SA/SEA thus has to enable the reader (numbers in [square brackets] are references to paragraph numbers in the judgment):

10.3.1. To understand the reasons for preferring the alternatives selected [89].

10.3.2. This requires an equal examination of the alternatives which it is reasonable to select for examination alongside whatever, even at the outset, may be the preferred option. It is part of the purpose of this process to test whether what may start out as preferred should still end up as preferred after a fair and public analysis of what the authority regards as reasonable alternatives [88].

10.3.3. SA/SEA must not be a mere ex post facto justification [95]-[100]. In order to examine whether a particular SA is an ex post facto justification, it is relevant to enquire:

10.3.3.1. Was it carried out by independent consultants? Were they instructed to, or did they undertake it as an exercise to justify a pre-determined strategy?

10.3.3.2. Is there a compelling reason to question its integrity?

10.3.3.3. Is there compelling evidence to dispute its conclusions?

10.3.4. SA/SEA must be carried out on a comparable basis [87-88] & [103]. In order to determine whether or not a SA has been carried out on a comparable basis it is relevant to enquire:

10.3.4.1. Is it a comparative appraisal?

10.3.4.2. Does it compare alternatives on a like basis?

10.3.4.3. Does it clearly explain why options were not considered suitable and other options preferred?

10.4. SA/SEA is a process required to be carried out and taken into account during the preparation of the plan before the plan's adoption. The Directive and Regulations clearly envisage a parallel process. Where the outcome plan becomes largely settled before the SA/SEA is complete that process may be placed in jeopardy. But there is no absolute rule that SA/SEA must commence at any stage other than at / just prior to adoption. What is important is the final SA/SEA. Alleged defects can be cured, in effect, by halting an EiP and requiring an addendum SA/SEA. The contents of a plan can be justified by an (proper) EA/SEA that comes at a late stage of the process

10.5. The Planning Advisory Service advises:

“It is also important to show how the SA findings have been taken into account. One means to ensure this is to request that those undertaking the appraisal provide formal recommendations to which the plan-makers can respond. This response can be recorded together with any subsequent amendments to the emerging plan and form part of the audit trail which will help to tell the story of why the proposed plan is the best solution to the needs and demands of the locality.” (PAS Principles of Plan Making, Ch 6 – The Role of Sustainability Appraisal <http://www.pas.gov.uk/pas/aio/3550449>)

10.6. The NPPG advises:

10.6.1. Reasonable alternatives should be identified and considered at an early stage in the plan making process, as the assessment of these should inform the local planning authority in choosing its preferred approach (¶017).

10.6.2. The SA needs to compare all reasonable alternatives including the preferred approach (¶018).

10.6.3. The SA should outline the reasons the alternatives were selected, the reasons the rejected options were not taken forward and the reasons for selecting the preferred approach in the light of the alternatives (¶018).

10.6.4. The development and appraisal of proposals should be an iterative process, with the proposals being revised to take account of the appraisal findings (¶018).

10.6.5. The SA should help to integrate different areas of evidence and to demonstrate why the proposals in the Local Plan are the most appropriate (¶022)

Consideration of the SA as part of the examination process

10.7. A local plan must be subject to SA. If the SA is not legally compliant, then the local plan cannot be legally compliant. For this reason it is essential that the examining inspector reaches conclusions as to whether the SA is legally compliant.

10.8. The SA is also a crucial part of the evidence base in determining whether the local plan is sound.

The issues

10.9. In our representations in respect of the emerging plan as it was promulgated in November 2013, we noted 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.

10.10. We had suggested in those representations that that summary established the appraisal of sustainability to have been flawed in certain respects. In its Pre-submission Core Strategy Sustainability Appraisal Report 2013 (“the PSCSSA Report 2013”) CEC has purported to address those comments. In our respectful view however those responses have not addressed the substance of HPDL’s concerns and each is re-visited below for ease of review.

The ‘Greenfield’ Issue

HPDL’s December 2013 Representations

10.11. In its Sustainability Appraisal, CEC classified the Gorstyhill Lands as “Greenfield” – they are in fact (and for the planning purposes of the NPPF) previously-developed land however.

CEC’s Response

10.12. In the PSCSSA Report 2013 CEC rejects that. It quotes the NPPF glossary as follows (our emphasis added) : “This definition [i.e. that of ‘previously developed land’] excludes : “land in built up areas such as private residential gardens, parks, recreation grounds and allotments”. CEC then asserts that because the redundant golf course was “...a recreational area...adjacent to a built up area...” (our emphasis added) the exclusion applies to the Gorstyhill Lands.

HPDL’s Rebuttal of CEC’s Response

10.13. CEC’s response is wrong and inadequate as an approach towards rigorous assessment of strategic environmental effects because :

10.13.1. The exclusion clearly applies to land in built up areas whereas the Gorstyhill Lands are not and CEC itself acknowledges that to be so, since it states them to be no more than “adjacent” ;

10.13.2. The four examples of land use given in the exclusion do not apply to the Gorstyhill Lands – the implication of CEC’s approach is that developing the Gorstyhill Lands would be strategically equivalent to “garden-grabbing” or concreting over an urban municipal park – - with all due respect to the authority, that is patent nonsense.

The potential number of housing units at the Gorstyhill Lands

HPDL’s December 2013 Representations

10.14. HPDL pointed out that CEC had mis-stated the envisaged potential number of housing units by over 10 % - circa 900 units are contemplated by HPDL not 1000.

CEC’s Response

10.15. In the PSCSSA Report 2013, CEC rejects that. It states that: “The figure of 1,000 was taken from the Possible Additional Sites Proposed by Developer and Land Interests Consultation Document where Gorstyhill was included as site J...” (our emphasis added).

HPDL’s Rebuttal of CEC’s Response

10.16. The sole reason for rejecting what the Developer is now stating to be the headline housing figure appears to be that it is not what the Developer had said at an earlier stage. Yet if the Developer’s own reasonable assessment of site capacity was reliable as the initial guide

to the figure why would a plan-making authority reject the revised and latest figures provided by that same source?

10.17. CEC's approach appears unintelligible and incompatible with the requirement for a robust evidence base to underpin a sound plan.

Climate Change Mitigation through Co-location of Land Uses & New Sustainable Transport
HPDL's December 2013 Representations

10.18. HPDL pointed out that CEC purported 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.

CEC's Response

10.19. In the PSCSSA Report 2013, CEC rejects that. It states that in the Pre-Submission Core Strategy Sustainability Integrated Appraisal both negative and positive effects – in the context of climate change – were noted, and that amongst other things "Mixed Use development including employment areas could mitigate [increases in vehicle emissions resulting from development]".

HPDL's Rebuttal of CEC's Response

10.20. If CEC's response is right, the site-specific application of those points to the Gorstyhill Lands should result in their "scoring" at least a limited positive value. Not only can employment proximity by co-location be achieved in respect of the new housing proposed, but an "employment area" at the Gorstyhill Lands could also lessen the degree of commuting to Crewe from existing nearby settlements at Wychwood Village itself. In addition, the introduction of new public transport measures funded from the development of the Gorstyhill Lands could also mitigate the existing 'sustainability deficit' of those settlements in these terms.

10.21. CEC cannot at one and the same time acknowledge these positive principles but deny their application to the Gorstyhill Lands. That would not be rational nor could a sustainability appraisal distorted in that way, be lawful.

Polluting Land Uses

HPDL's December 2013 Representations

10.22. HPDL pointed out to CEC, that CEC had purported to have identified "negative effects" in terms of "pollution", whereas 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.

CEC's Response

10.23. In the PSCSSA Report 2013 CEC rejects that. It states that in the Pre-Submission Core Strategy Sustainability Integrated Appraisal, potential pollution which "...can result from construction activities and operational activities for example increased vehicle emissions...".

HPDL's Rebuttal of CEC's Response

10.24. The identification of "construction activities" as a source of pollution from development would apply equally to all operational development, or at least that which involves building operations. If it were right to ascribe "negative effects" to a particular development in appraising its sustainability for SEA purposes on this basis, one could only conclude that such "negative effects" would be entirely useless as a factor for comparing any new build development against any other. They would all be "polluting" in this minimal sense.

10.25. This assumes however that construction activity, regardless of whether it is:

10.25.1. carried out in accordance with all planning conditions and any relevant terms of any section 106 planning obligation; or

10.25.2. the local authority and the Environment Agency take normal steps to enforce against polluting activity, if any were to occur, using non-planning powers would actually cause “pollution” in the sense in which an SEA might reasonably engage with it.

10.26. CEC’s response therefore fails to identify any site-specific fact or circumstance justifying this judgment of the Gorstyhill Lands in the context of an assessment of their relative merits against other sites.

Bio-diversity and Geo-diversity

HPDL’s December 2013 Representations

10.27. CEC purported to have identified “negative effects” on “bio-diversity and geo-diversity”. Since however they do not include any land within an SPA, SAC, nor in an AONB, nor do the Gorstyhill Lands contain any SSSI – nor are even in fact a Greenfield site - this is unjustifiable.

CEC’s Response

10.28. In the PSCSSA Report 2013 CEC rejects that. It states that in the Pre-Submission Core Strategy Sustainability Integrated Appraisal that the Gorstyhill Lands are “...within 240 m of an SBI and that ‘the site may contain designated fauna and ponds which may provide habitats for certain flora and fauna ...”.

HPDL’s Rebuttal of CEC’s Response

10.29. CEC’s response contains no information as to any impact pathway between the Gorstyhill Lands and any receptor at the SBI stated by CEC to be 240m away, presumably Mere Gutter with Basford Brook SBI (west of the Gorstyhill Lands). Indeed since both the A531 and the intensively managed Wychwood Park Golf Club provide significant physical / ecological barriers as between the Gorstyhill Lands and Mere Gutter with Basford Brook SBI there is no aquatic pathway and a difficult terrestrial pathway. Development at the Gorstyhill Lands is therefore unlikely to impact on the aquatic interests of the Mere Gutter with Basford Brook SBI.

10.30. Furthermore, since SBI impacts are clearly seen by CEC to be a relevant factor, it is noted that (by contrast to the Gorstyhills Land) development at both the Crewe Hall Site and at the Basford East site is likely to have an adverse impact on a SBI. The Crewe Hall Site lies only 200m to the west of the Henbury Lee Meadows SBI and there are no significant physical / ecological barriers between the two. The terrestrial interests of the Henbury Lee Meadows SBI are likely to be impacted. The Basford East site falls around the Mere Gutter with Basford Brook SBI (this SBI contains Basford Brook which runs directly across the Basford East site) and development is likely to impact the aquatic interests of the SBI. Therefore as regards potential development impacts on SBIs, development at both the Crewe Hall Site and the Basford East site are at a disadvantage as compared with development at the Gorstyhill Lands.

10.31. In addition CEC states that the Gorstyhill Lands may contain designated fauna and ponds which may provide habitats for certain flora and fauna. Speculation about the flora and fauna is by definition incapable of functioning as an evidence base capable of lawful appraisal for SEA purposes. In any event the Crewe Hall Site also contains ponds and therefore the same statement can be made in relation to that site. This point therefore provides no basis for discounting the Gorstyhill Lands.

Heritage, Landscapes & Townscapes

HPDL’s December 2013 Representations

10.32. CEC had purported to have identified “negative effects” on “heritage, landscapes and townscapes”. HPDL pointed out however that there are no listed buildings or conservation

areas, or the settings for either of the same, on or in proximity to the Gorstyhill Lands, so this judgment was inexplicable as far as heritage is concerned. HPDL also pointed out that 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 Gorstyhill so the alleged ‘townscape’ impact is entirely imaginary also.

CEC’s Response

10.33. In the PSCSSA Report 2013 CEC rejects that. It states that in the Pre-Submission Core Strategy Sustainability Integrated Appraisal it was “...identified that development could result in the loss of open countryside and a golf course and land within the Lower Farms and Woods landscape Character Type and could also result in the loss of historic Landscape Character types (Ancient Field Systems and 20th Century Field Systems), leading to negative effects. It was noted that the site “...does not contain and is not close to any heritage assets...” (emphasis added).

HPDL’s Rebuttal of CEC’s Response

10.34. First, it is noted that CEC has conceded that the Gorstyhill Lands do “...not contain...” and are “...not close to any heritage assets...”. It is therefore now common ground that the Gorstyhill Lands are in this sense entirely free of the strategic constraint which hobbles the Crewe Hall Site.

10.35. Second, it is noted that all reference to “townscape” has been dropped in CEC’s response.

10.36. Third, it is noted that there is no specific “historic landscape” character type identified in respect of the Gorstyhill Lands in CEC’s response. Instead all that remains are generalisations about landscape character types, and the self-evident proposition that the re-development of the Gorstyhill Lands would result in the “loss of a golf course”, even though the golf course in itself was not and is not exemplary of “Lower Farms and Woods” landscape character, in simple terms.

10.37. It therefore appears indefensible for CEC to conclude that there should be “No Change”, even in respect of these issues, when even on its own admission it has materially re-appraised the Gorstyhill Lands so as to recognise the absence of any heritage constraint for SEA or planning purposes.

Sustainable Access to Jobs, Services and Facilities

HPDL’s December 2013 Representations

10.38. CEC had purported to identify “overall very negative impacts on sustainable access to jobs services and facilities”, as far as the development potential of the Gorstyhill Lands was concerned.

10.39. However HPDL pointed out that 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.

10.40. This 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.

10.41. The negative conclusion on CEC’s part was 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 - HPDL explained that the expression “overall very negative” represents severe over-statement and is wrong.

CEC’s Response

10.42. In the PSCSSA Report 2013, CEC rejects that. It states that the Pre-Submission Core Strategy Sustainability Integrated Appraisal has: “presented potential opportunities and mitigation to prevent certain effects” and that it was found that “the site significantly fails to meet accessibility standards for existing services, facilities and jobs, potentially conflicting with emerging policy CS9”.

HPDL’s Rebuttal of CEC’s Response

10.43. Even if it were right to assess the Gorstyhill Lands as “significantly failing to meet...standards for existing services...”, that language appears considerably more circumspect than the sweeping finding of “...overall very negative effects...”, which HPDL had criticised in December 2013.

10.44. Moreover and in any case, CEC’s response fails to grapple with the thrust of HPDL’s 2013 representations insofar as it fails to acknowledge that the capacity of new development to integrate a “sustainable” mix of land uses bringing services, facilities and jobs close to new housing, can entirely mitigate locational concerns about proximity to existing services, facilities and jobs.

10.45. Since the Gorstyhill Lands have the capacity to accommodate new development which is sustainable in these terms, the finding in relation to existing services, facilities and jobs is misleading. CEC’s determination to make “No Change” in its approach is unjustified accordingly.

Overall Approach

HPDL’s December 2013 Representations

10.46. In December 2013, HPDL had also pointed out that CEC’s summary appeared incoherent. 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 :

- 10.46.1. Equality and social inclusion;
- 10.46.2. Healthy and active lifestyles;
- 10.46.3. Safety and the discouragement of crime;
- 10.46.4. Infrastructure, services and facilities;
- 10.46.5. Energy efficiency and use of renewables;
- 10.46.6. A sustainable, competitive, low carbon economy;
- 10.46.7. Vital, vibrant and diverse town and village centres; and
- 10.46.8. Education training jobs and employment opportunities

HPDL suggested that the sustainability appraisal simply could not 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.

CEC’s Response

10.47. CEC has helpfully re-acknowledged that the development of the Gorstyhill Lands “...has the potential for positive effects on a number of SA Objectives...” but “...there is the potential for negative effects against SA Objective 2 (Sustainable Access to Jobs, Services and Facilities as the site significantly fails to meet accessibility standards for existing services, facilities and jobs...”.

10.48. The problem with that response is that it does not explain how CEC has arrived at its own overall conclusion vis-a-vis the Gorstyhill Lands. The “overall very negative” conclusion appears inconsistent with the recognition that the Gorstyhill Lands score positively against “a number of the SA objectives”, when all that appears to weigh against

that positive conclusion in CEC's mind, is the "potential" for negative effects in relation to proximity to "existing" services - services, facilities and jobs which can in any event be brought as close as they reasonably should be to achieve a sustainable mixed use layout within the Gorstyhill lands themselves.

10.49. CEC has acknowledged certain aspects of its relevant legal obligations in this respect. As to the regulations, regulation 8 prohibits a plan being adopted until regulation 12 , amongst others, has been complied with.

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

10.51. 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).

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

10.53. It is disquieting to say the least that in the column for "Changes" on the PSCSSA Report 2013 there is "No change" in respect of any of the adverse conclusions CEC purports to have reached about the Gorstyhill Lands for SA purposes, even in respect of those issues as to which its "response" indicates that it has in fact changed its position as analysed above.

10.54. No robust and legally compliant appraisal has in our respectful view 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. CEC's responses in the PSCSSA Report 2013 do nothing to reassure HPDL in this respect; on the contrary, they appear consistent with a pre-determined negative view having been formed about the Gorstyhill Lands for non-planning reasons as the CEC's Leader Letter shows, and inflexible adherence to the negative stance first adopted, whatever the evidence.

10.55. CEC has still 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.

10.56. A claim that the SA justifies the view that the south Cheshire growth village should be located at the Crewe Hall Site - rather than on the Gorstyhill Lands - 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 these representations.

10.57. HPDL's interests have been prejudiced accordingly.

Conclusion

10.58. In considering the matter against the lawful approach set out in Cogent Land (see above) it is now clear that:

10.58.1. The SA does not enable the reader to understand the reasons for preferring the South Cheshire Growth Village alternative now selected.

10.58.2. There has been no equal examination of the alternatives.

10.58.3. There are compelling reasons (including in particular the 'Leader's Letter') to question the integrity and conclusions of the SA that lead to the conclusion that the SA is an ex post facto justification. Further, the SA has been carried out 'in-house'.

10.58.4. Alternatives are not compared on a like basis.

11. CONCLUSION

11.1. 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.

11.2. Since the Gorstyhill Lands clearly offer the best available opportunity for this, HPDL invites CEC to re-appraise its approach towards designating 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.

11.3. 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 and heavily constrained by heritage assets including Hollyhedge Farm (Grade II*) and Crewe Hall (Grade I) – when there is instead a redundant golf course, wrapped around a pre-existing residential village core, unconstrained by any such considerations only a few kilometres away ?

11.4. There is no significant pre-existing residential development at the Crewe Hall Site – how can it be designated as a “growth” village when there is no “village” there to grow? The selection of that site is fundamentally flawed in any event.

11.5. CEC’s approach towards favouring the Crewe Hall Site is all the more inexplicable now that it has reduced that site in area to the land shown in the LPS in respect of site CS37. The ability of master-planners to arrive at optimally sustainable layouts and land budgets is at the least significantly constrained by:

11.5.1. The railway line itself running west/east across the site;

11.5.2. The “corridor” of undevelopable land in the immediate proximity of the railway line;

11.5.3. The two road bridges across the railway line;

11.5.4. The need to protect the setting of the historic parkland for Crewe Hall (when all that appears to have occurred at this point is that the parkland itself has been excluded from red line boundary of site CS37);

11.5.5. The need to protect Hollyhedge Farm and its setting;

11.5.6. The need to protect the Crewe Hall complex and its setting; and

11.5.7. The existing local highway network

and these obvious constraints alone may prove so severe that the Crewe Hall Site is not sensibly developable at the proposed scale.

11.6. The approach towards identifying a preferred site for the growth village has therefore been seriously flawed in HPDL’s respectful view. 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).

11.7. 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.

11.8. 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.

11.9. 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.

11.10. Wychwood Village and adjacent country park land are deserving of serious consideration as the core for a “growth village south east of Crewe”. The growth can be readily accommodated on the Gorstyhill Lands, comprising as they do a redundant golf course and additional parcels of land.

11.11. With strong design and master-planning the Gorstyhill Lands can provide major housing within a necklace of clusters around the existing Wychwood Village core, in a landscaped woodland setting in which expanded country park space is integrated with new employment and services to complement the housing growth.

11.12. For the purposes of sound “plan-making” compliant with the NPPF, there is every reason to designate the Gorstyhill Lands as the “growth village south east of Crewe” for which CEC has identified a strategic requirement, and to provide within the LPS design principles which give effect to the NPPF’s support for “garden villages”, and which guide its outline and detailed planning for the benefit of all.

JOHN CHURCH PLANNING CONSULTANCY LIMITED /
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Please set out what modification(s) you consider necessary to make the Local Plan Strategy legally compliant or sound, having regard to the test you have identified in the question above where this relates to soundness. (NB please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You need to say why this modification will make the Local Plan Strategy legally compliant or sound. It would be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Please refer to the full representations (and executive summary thereof) made on HPDL’s behalf in respect of the local plan strategy. Without prejudice to those representations the modifications of the plan necessary to increase its compliance and soundness include ; (i) deletion of Site CS 37 (Crewe Hall); and addition of a new policy designating the Gorstyhill Lands as a new local plan strategy site. The new policy would identify the Gorstyhill Lands as the ‘South Cheshire Growth Village’, being a new sustainable settlement forming a ‘garden village’ which would deliver around 900 new homes, country park enhancement and expansion /open space/playing pitches/green infrastructure, employment/commercial uses, retail, education, community and other complementary land uses over the Local Plan Strategy Period. Its site specific principles of development would include a number of housing clusters each comprising a mix of affordable housing and market housing ,the expansion/enhancement of the country park space, the enhancement of public transport links with Crewe (Railway Station/Centre) to benefit the garden village itself and pre-existing settlement(s), respect for amenity of pre-existing village core, and high quality landscape design. The comprehensive master-planning would be required to address amongst other matters the requisite layout/design principles (built and landscape) , distribution of land uses (to maximise sustainability of development and address sustainability deficit of nearby settlement(s)), pedestrian, cycling and vehicular routes, and selection of community uses. (NB : certain of the list of site-specific principles set out for the growth village in the current draft policy for Site CS 37 need not be repeated in a policy for the Gorstyhill Lands because they address the constraints on the Crewe Hall Site which do not apply to the Gorstyhill Lands).

If your representation is seeking a modification, do you consider it necessary to participate at the oral part of the examination (in relation to this representation)?

Yes

If you wish to participate at the oral part of the examination, please outline why you consider this to be necessary. Please note: the Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

It is essential that the promoters of the Gorstyhill Lands are afforded the opportunity to participate at the oral part of the examination.

The full representations and the executive summary set out coherent and detailed grounds for considering the emerging local plan to be unsound and unlawful unless the relevant concerns are addressed. Without prejudice to those representations, HPDL has substantial grounds for concern that its previous representations have not been conscientiously considered by the local planning as summarised in the Executive Summary – it is necessary as a matter of procedural fairness that the merits are heard by the Inspector .

It is necessary that the Inspector should have the benefit of informed debate and direct discussion with HPDL in order to consider amongst other things the relative merits of the Gorstyhill Lands and the Crewe Hall Site as locations for the proposed South Cheshire Growth Village.

It is necessary that the Inspector should have the opportunity to ask questions of HPDL in respect of the merits of the Gorstyhill Lands as a large-scale sustainable housing + mixed use site capable of making a significant contribution towards meeting the planning policy needs set out elsewhere in the Local Plan Strategy throughout the Plan period.