

Application No: 16/0856N

Location: LAND TO REAR OF 144, AUDLEM ROAD, NANTWICH, CHESHIRE

Proposal: Outline application for residential development for up to 104 dwellings (Use Class C3) and land for expansion of Brine Leas School (Use Class D1) (Re-submission of 15/3868N)

Applicant: Wainhomes (North West) Ltd

Expiry Date: 20-May-2016

SUMMARY

The proposed development would be contrary to Policies NE.2 and RES.5 and the development would result in a loss of open countryside. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites then the presumption in favour of sustainable development applies unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits.

The development would provide benefits in terms of affordable housing provision, delivery of housing, the provision of land for Brine Leas High School and significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Nantwich.

The development would have a neutral impact upon the local highway network, education provision, protected species/ecology, drainage, trees, residential amenity/noise/air quality/contaminated land and landscaping could be secured at the reserved matters stage.

The adverse impacts of the development would be the loss of open countryside and the loss of agricultural land. The development would also be contrary to the daft Stapeley and Batherton Neighbourhood Plan which can only be given limited weight due to its early stage.

The benefits of approving this development (as listed above) would significantly and demonstrably outweigh the adverse impacts of the development. As such the application is recommended for approval.

RECOMMENDATION

APPROVE subject to the completion of a S106 Agreement and the imposition of conditions

PROPOSAL

The application site is to the southern edge of Nantwich and to the rear of existing housing along Audlem Road (the A529). The majority of the site is semi-improved grassland. Residential gardens of the dwellings which front Audlem Road lie to the east, while the grounds and extensive playing fields of Brine Leas High School and Weaver Vale Primary School lie to the north and west respectively. Elliotts Wood is located to the south of the site with Batherton Lane to the south-east corner of the site.

Other than the access proposed through No 144 Audlem Road, the site lies outside of the settlement boundary as defined in the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The proposal would involve the demolition of the dwelling at No 144 to allow for a new access to the site. The A529, reportedly an historic turnpike road between Chester and London, approaches Nantwich from the south. There is housing to both sides of Audlem Road, a small church and a public house, beyond which, traffic signals mark the junction with the A5301 and the road then leads, via the B5341, into the centre of Nantwich, which offers a range of facilities and transport options.

The application also includes a scheme of public realm highway improvements within the vicinity of the site access point onto Audlem Road.

Public footpaths No 1 and No 28, run to the west of the site and improvements are proposed to these footpaths as part of the scheme.

SITE DESCRIPTION

The proposal seeks outline planning permission and approval for access for 104 no. dwellings.

Access would be obtained via No 144 Audlem Road, for which permission has already been granted to demolish the existing dwelling and create a new access under outline application 13/1223N.

The proposal also seeks permission to change the use of the land in the northern portion of the site to use class D1, to become part of the Brine Leas school site.

RELEVANT HISTORY

15/3868N - Outline permission for residential development for up to 104 dwellings (Use Class C3) and land for expansion of Brine Leas School (Use Class D1) – Refused 23rd November 2015 – Appeal Lodged. Application refused for the following reason;

In the opinion of the Local Planning Authority, the proposed development would be unable to provide a safe and suitable access to and from the A529. This would result in a 'severe' and unacceptable impact in terms of road safety and would significantly and demonstrably outweigh the benefits of the scheme, notwithstanding the shortfall in housing land supply. The development is therefore contrary to Policy BE.3 of the Borough of Crewe and Nantwich

Replacement Local Plan 2011 and paragraph 32 of the National Planning Policy Framework, which states that decisions should take account of whether safe and suitable access to the site can be achieved for all people, respectively.

14/4588N - Reserved matters application for the erection of 33 dwellings with associated works to include landscaping following approved outline 13/1223N - Approved 2nd February 2015.

13/4603N - Outline application for up to 40 dwellings (resubmission of 13/1223N). Refused 20th March 2014.

13/1223N – Outline application for up to 40 dwellings - Appeal Allowed 4th August 2014.

NATIONAL & LOCAL POLICY

National Policy

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs:

14. Presumption in favour of sustainable development.

50. Wide choice of quality homes

56-68. Requiring good design

Stapeley Neighbourhood Plan

The Stapeley Neighbourhood Plan is now at Regulation 14 - Pre-submission Consultation stage. A draft plan has been produced. The following policies of the Draft Stapeley NP are relevant to this application:

H1 – Scale of Housing Development

H2 – Housing to Meet Local Housing Needs

H3 – Tenure Mix

H4 – Design

H5 – Phasing of Housing

H7 – Car Parking on New Development

H8 – Adapting to Climate Change

AWB1 – Accessible GP practices

AWB2 – Services for the elderly, disabled and for mental health

AWB3 – Provide for the sports needs of residents

AWB4 – Community facilities

AWB5 – Community infrastructure

AWB6 – Communications Infrastructure

T1 – General transport considerations

T2 – Walkable neighbourhoods

T3 – Pedestrian and cycle routes

T4 – Footpaths, cycleways and bridleways

T5 – Cycle Parking

T6 – Bus Services

T7 – Improving Air Quality

T8 – Identification of underground utility assets

GS1 – Open space within the Parish
GS2 – Green spaces
GS3 – Landscape Quality, Countryside and open views
GS4 – Important views and vistas
GS5 – Woodland, trees, hedgerows, walls and boundary treatment and paving
GS7 – Environmental sustainability of buildings
GS10 – Footpaths
GS11 – Biodiversity

It should be noted that there are some errors in the draft plan on the housing numbers which have been pointed out to the group and fed back in the Councils consultation response.

Development Plan

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site, under policy NE.2, as open countryside and as Green Gap under Policy NE.4.

The relevant Saved Policies are:

NE.2 (Open countryside)
NE.4 (Green Gaps)
NE.5 (Nature Conservation and Habitats)
NE.9: (Protected Species)
NE.20 (Flood Prevention)
BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
RES.5 (Housing in the Open Countryside)
RES.7 (Affordable Housing)
RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)
TRAN.3 (Pedestrians)
TRAN.5 (Cycling)

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

Cheshire East Local Plan Strategy – Submission Version (CELP)

The following are considered relevant material considerations as indications of the emerging strategy:

PG2 – Settlement Hierarchy
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SC4 – Residential Mix
SC5 – Affordable Homes
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE3 – Biodiversity and Geodiversity
SE5 – Trees, Hedgerows and Woodland

SE 1 - Design
SE 2 - Efficient Use of Land
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 3 - Biodiversity and Geodiversity
SE 13 - Flood Risk and Water Management
SE 6 – Green Infrastructure
IN1 – Infrastructure
IN2 – Developer Contributions

Supplementary Planning Documents:

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Interim Planning Statement Affordable Housing

CONSULTATIONS

Head of Strategic Infrastructure: No objection subject to the imposition of planning conditions.

CEC Environmental Health: No objection subject to the imposition of the following conditions; piling method statement, dust control, construction management plan, external lighting, travel plan, electric vehicle infrastructure and contaminated land.

Strategic Housing Manager: No objection based on the applicants confirmation that 30% affordable housing would be provided on site, 65% as affordable and 35% as intermediate tenure.

CEC Flood Risk Manager: No objection subject to the imposition of drainage conditions.

United Utilities: No objection subject to the imposition of a drainage condition.

CEC Education: To alleviate forecast pressures, the following contributions would be required:

Primary education - No contribution is required
Secondary education - $16 \times £17,959 \times 0.91 = £261,483.04$
SEN - $1 \times £50,000 \times 0.91 = £45,500$
Total education contribution = £306,983.04

CEC Public Rights of Way: No objection subject to conditions requiring the submission of a management plan, on-site improvements to Public Footpath No 1 Batherton. Off site improvements to Public Footpath No 28 Nantwich have previously been agreed under approved application 13/1223N and a contribution of £30,000 would be required as part of the S.106.

Ramblers Association: No comments received

Mid Cheshire Footpaths Society: No comments received

Ansa (Public Open Space): The development would provide sufficient POS provision. If a LEAP sized facility is provided then it should be in line with Fields In Trust standards, having a minimum number of six play experiences which may include balancing, rocking, climbing, sliding, swinging, jumping, crawling, rotating, imaginative and social play.

VIEWS OF THE TOWN/PARISH COUNCIL

Nantwich Town Council: Nantwich Town Council objects to the proposed development on the following grounds:

- The proposed access is unsuitable for a development of this size
- The site was not a preferred site in the Nantwich Town Strategy
- The access is too narrow and is taken off Audlem Road which is narrow at this point. Narrowing the carriageway on Audlem Road will affect the free flow of traffic and cause demonstrable harm to highways safety.

In terms of the proposed works to Audlem Road the Town Council have stated that;

- The proposed road works shown on the amended plan will do little to overcome the fundamental problems with this proposed access onto Audlem Road where it is not possible to achieve highway standards because of sightlines, parked vehicles and the width of Audlem Road. The changes proposed to the road surface in terms of level and materials are not appropriate for a main distributor road into Nantwich.

Stapeley Parish Council: Objects to the application on the following grounds;

- Although the access was previously approved, that was on the basis that there would be 40 dwellings only; the increase to 104 dwellings makes the access even more unsuitable than previously, notwithstanding that a Planning Inspector has approved it as acceptable.
- The application conflicts with the provisions of the emerging Neighbourhood Plan in a number of respects, including, but not limited to, Policies H7 - Car Parking on New Development, H6 - Housing Development, H2 - Housing to Meet Local Housing Needs, H1 - Scale of Development, T1 - General Transport Considerations.
- The development can be expected to generate at least 208 vehicles and will adversely impact the residents on Audlem Road.
- There will be a consequent increase in vehicle movements as a result of the increase in dwellings from 40 to 104 and the configuration of the road is such that home-owners on Audlem Road, who currently park on the road itself, will be compelled to use more complicated manoeuvres, dependent on which direction they are travelling.
- The development is expected to generate 19 primary-age children; 16 secondary-age children; and one special educational needs child. This will adversely impact on school places in the immediate locality.
- The spelling of 'Stapeley' is incorrect on the plan and is located 400 yards from the parish boundary. This concern relates to the projected primary school place provision from CEC showing that most of the primary schools local to the proposed development will be significantly above their PAN and cannot reasonably be expected to accommodate such excesses, which are contributed to by this proposed development. It can be viewed as unethical to compromise the education of children at Highfields, Millfields, Stapeley Broad Lane, and Willaston primary schools for the sake of this proposed development. Many of the local primary schools are Academies and therefore fall outside of CEC purview for funding arising from S106 or other financial contributions from developers.

REPRESENTATIONS

Letters of objection have been received from 14 local households raising the following points:

Principal of development

- The Strategic Planning Board has previously resolved to refuse this application.
- Loss of BMV agricultural land
- When the first appeal was allowed there was no mention of Brine Leas School acquiring any of this land
- Just because part of the site was allowed at appeal does not mean that this application should be approved
- The site is not a strategic site identified within the CEC Local Plan
- The application conflicts with the policies contained within the Stapeley and Batherton Neighbourhood Plan
- The types of dwelling proposed are not required in the Parish
- The site should be reserved for the expansion of Brine Leas School

Highways

- Audlem Road is a very busy main road used by cars, buses, HGV's and large farm vehicles. This development will add to the already high level of traffic especially at rush hour/school run times
- Parked cars along Audlem Road makes it difficult for vehicles to pass
- Pavements are narrow and overgrown. This is a dangerous route for pedestrians.
- Audlem Road is too narrow to serve this development
- The proposed access and narrowing of the A529 would contribute to a major safety issue
- The planning inspector raised concerns over the impact upon Audlem Road
- Health and safety of the school pupils
- Further traffic congestion
- The submitted TA does not demonstrate that the proposed access is fit for purpose
- The existing railway crossings cause traffic backlogs in Nantwich
- The development would be a danger to pedestrians and cyclists
- The proposed off-site highway works are not appropriate. The use of granite sets on a road which is heavily used by large vehicles will create noise
- The proposed car-parking lay-by will not be large enough to accommodate all of the cars currently parked along Audlem Road
- Narrowing Audlem Road will make the existing travel problems worse and two vehicles will not be able to pass
- The 20mph will not stop people speeding
- The proposed works to Audlem Road will cause traffic problems during the construction phase
- The visibility splays at the site entrance do not comply with Manual for Streets 2

Amenity Issues

- Loss of privacy

APPRAISAL

Principle of Development

The site lies largely in the Open Countryside as designated by the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policy NE.2 states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

Stapeley and Batherton Neighbourhood Plan

Part of the application site is located within Nantwich and part is located within the Stapeley and Batherton Neighbourhood Plan Area.

The NP is now at Regulation 14 - Pre-submission Consultation stage. A draft plan has been produced and has not yet been the subject of any consultation.

The NP identifies that the housing need will be met by current housing construction in the Parish and by sites with full and outline planning permission. This site is not identified as a housing site within the draft NP.

New housing in the NP area is limited under Policy H1 to infill development, rural exception sites (sites of up to 5 houses), the redevelopment of brownfield sites, the re-use and conversion of redundant buildings and greenfield development to a maximum of 5 dwellings to meet the Objectively Assessed Housing Need.

Policy H6 provides guidance on the number of houses that will be granted planning permission in the plan period from 2010 to 2030. However as stated above this is an error within the draft plan which will need to be corrected.

It should be noted that the earlier application on this site will be heard at a Public Inquiry in September 2016. The draft NP plan is not likely to proceed to examination until October 2016 with referendum estimated in January 2017 with adoption in February 2017.

In this case it can be concluded that the NP is at an early stage as it has not been subject to public consultation and contains errors in terms of the housing numbers over the plan period. As such the weight that can be afforded to the NP is limited but will need to be considered as part of the planning balance.

Housing Land Supply

Following the receipt of the Further Interim Views in December 2015, the Council has now prepared proposed changes to the Local Plan Strategy (LPS), alongside new and amended strategic site allocations, with all the necessary supporting evidence. The proposed changes have been approved at a Full Council meeting held on the 26 February 2016 for a period of 6 weeks public consultation which commenced on Friday 4 March 2016.

The information presented to Full Council as part of the LPS proposed changes included the Council's 'Housing Supply and Delivery Topic Paper' (CD 9.7) of February 2016. This topic paper sets out various methodologies and the preferred approach with regard to the calculation of the Council's five year housing land supply.

From this document the Council's latest position indicates that during the plan period at least 36,000 homes are required. In order to account for the historic under-delivery of housing, the Council have applied a 20% buffer as recommended by the Local Plan Inspector. The topic paper explored two main methodologies in calculating supply and delivery of housing. These included the Liverpool and Sedgfield approaches.

The paper concludes that going forward the preferred methodology would be the 'Sedgepool' approach. This relies on an 8 year + 20% buffer approach which requires an annualised delivery rate of 2923 dwellings.

The 5 year supply requirement has been calculated at 14617, this total would exceed the total deliverable supply that the Council is currently able to identify. The Council currently has a total shortfall of 5,089 dwellings (as at 30 September 2015). Given the current supply set out in the Housing Topic Paper as being at 11,189 dwellings (based on those commitments as at 30 September 2015) the Council remains unable to demonstrate a 5 year supply of housing land. However, the Council through the Housing Supply and Delivery Topic paper has proposed a mechanism to achieve a five year supply through the Development Plan process.

National Planning Policy Guidance (NPPG) indicates at 3-031 that deliverable sites for housing can include those that are allocated for housing in the development plan (unless there is clear evidence that schemes will not be implemented within five years).

Accordingly the Local Plan provides a means of delivering the 5 year supply with a spread of sites that better reflect the pattern of housing need however at the current time, the Council cannot demonstrate a 5 year supply of housing.

SOCIAL SUSTAINABILITY

Affordable Housing

The applicant has stated in their accompanying Planning Statement that 30% of the dwellings will be affordable this equates to 31 units. These should be provided in line with the tenure split identified in the Interim Planning Statement (IPS), equating to 20 rented and 11 intermediate tenure units.

Neither the Application Form nor the Planning Statement shows the proposed breakdown of property types and sizes. Whilst the submitted Sketch Layout does include the developer's

standard house types for market and affordable units there are no details of these standard house types and whether they meet the identified housing need.

The site falls partly within the Nantwich sub-area and partly in the Wybunbury and Shavington sub-area for the purposes of the Strategic Housing Market (SHMA) Update 2013.

For Nantwich the SHMA identifies a need for 78 affordable homes per annum for the period 2013/14 – 2017/18. This is a requirement for 40 x 1 bed, 15 x 3 bed, 35 x 4+ bed general needs units and 16 x 1 bed older persons accommodation. On Cheshire Homechoice there are 159 people asking for one bedroom accommodation, 176 people asking for 2 bed accommodation, 79 asking for three bed and 12 asking for four or more bed.

For Wybunbury and Shavington the SHMA identifies a need for 54 affordable homes per annum for the period 2013/14 – 2017/18. This is a requirement for 8 x 1 bed, 20 x 2 bed, 7 x 3 bed, 12 x 4+ bed general needs units and 1 x 1 bed older persons accommodation & 8 x 2 bed older persons accommodation.

The exact details of the affordable housing will be provided at reserved matters stage. This will be secured as part of a S106 Agreement.

Public Open Space

Policy RT.3 states that where a development exceeds 20 dwellings the Local Planning Authority will seek POS on site.

In this case the level required would be 3,640sq.m. The submitted Design and Access Statement states that the level of public open space provided by the development would amount to 0.36 hectares (3,600sq.m). In addition to this there would be the provision of an area of land which would be transferred to Brine Leas School which would be used for new sports pitch provision.

In terms of children's play space this would be provided on site and the applicant has indicated in the Planning Statement that they are willing to provide a LEAP. This is considered would be an acceptable level given the number of dwellings on the site and would comply with Policy RT.3.

The provision of the POS and LEAP on the site would be secured as part of a S106 Agreement.

Education

A development of 104 dwellings is expected to generate 19 primary aged children and 16 secondary aged children and 1 SEN child.

In terms of primary school education, the proposed development would be served by the following primary schools; Highfields, Millfields, St Anne's, Stapeley Broad Lane, Weaver, Wyche, Pear Tree and Willaston. The Education Department have confirmed that there is capacity to accommodate the children generated by this development and there is no requirement for a primary school contribution. This can be seen in the school places projections below where there are 84 vacant spaces in 2015 dropping to 40 vacant spaces in 2019.

	PAN Sep 15	PAN Sep 16	NET CAP May-15	NET CAP 2016	PUPIL FORECASTS based on October 2014 School Census					
					2015	2016	2017	2018	2019	
Primary Schools										
Highfields	30	30	210	210	214	219	216	216	216	
millfields	30	30	210	210	210	215	213	214	214	
st Anne's	30	30	210	210	204	203	198	195	191	
Stapeley Broad Lane	30	30	204	204	215	220	225	229	228	
weaver	30	30	210	210	214	212	209	205	201	
wyche	28	28	196	196	170	175	177	179	181	
Pear Tree	30	30	210	210	213	209	207	204	200	
willaston	30	30	210	210	216	224	235	242	246	
				80						
Developments with S106 funded and pupil yield included in the forecasts										
Developments pupil yield not included in the forecasts									3	
Children expected from this development									20	
OVERALL TOTAL	238	238	1,660	1,740	1,656	1,677	1,680	1,684	1,700	
OVERALL SURPLUS PLACES PROJECTIONS based on Revised NET CAP					84	63	60	56	40	

In terms of secondary schools, there are two which would serve the proposed development (Brine Leas and Malbank). The table below shows that there are capacity issues at these schools and there would be a shortage of 28 spaces in 2020 rising to a shortage of 137 spaces by 2021.

	PAN Sep-15	PAN Sep-16	NET CAP May-15	NET CAP 2016	PUPIL FORECASTS based on October 2014 School Census						
					2015	2016	2017	2018	2019	2020	2021
Secondary Schools											
brine Leas	215	215	1050	1,050	1117	1142	1180	1192	1203	1204	1203
malbank	210	210	1050	1,050	877	905	973	1018	1065	1107	1137
Shavington	170	170	850	850	542	597	645	670	713	739	755
Please Note; All figures quoted exclude any allowance for 6th Form Pupils											
Developments with S106 funded and pupil yield included in the forecasts				72							
Developments pupil yield not included in the forecasts											48
Children expected from this development											16
OVERALL TOTAL	595	595	2,950	3,022	2,536	2,644	2,798	2,880	2,981	3,050	3,159
OVERALL SURPLUS PLACES PROJECTIONS					486	378	224	142	41	-28	-137

As there are capacity issues at these local schools the education department has requested a contribution of £261,483.04. This will be secured via a S106 Agreement should the application be approved.

In this case the applicants have questioned whether a contribution is required when they will be transferring land to Brine Leas School. The Education Department have requested the financial sum to expand a local secondary school in the usual process, this sum could be spent at any of the schools within 3 miles (the service has to satisfy a number of differing criterion before identifying where to expand such as playing field areas etc). It is accepted that Brine Leas School (an academy) as an oversubscribed popular and successful school objected to the approved application on the basis that the school do not have the grounds to expand and following discussions between the school and the developer an offer of land was made.

The Education Department at this stage would be unable to commit to which school the funding would be spent at because it would be pre-empting any process. On this basis the Education Department is requesting the financial contribution to build any expansion and the land required to expand Brine Leas School (without which it would restrict any expansion of the school).

The development is expected to impact upon SEN places. Special Education provision within Cheshire East Council currently has a shortage of places available with at present over 47% of pupils educated outside of the Borough. The Education Department acknowledges that this is an

existing concern. However the 1 child expected from this application will exasperate the shortfall (the 1 SEN child who is thought to be of mainstream education age, has been removed from the calculations above to avoid double counting). On this basis a contribution towards SEN education will be required and this has been calculated at £45,500. This will be secured as part of a S106 Agreement.

Impact upon Brine Leas High School

This application includes land for the expansion of Brine Leas School (the indicative plan which has been submitted in support of this application shows that the area of land could be laid out as an additional sports pitch).

Brine Leas is one of two secondary schools in Nantwich and the school has seen a number of recent developments/improvements such as improvements to the sports facilities, a new ICT language room and other redecoration/upgrading of other areas of the school.

As part of the appendices to the submitted Planning and Design and Access Statement a letter from the school is included in support of the application and this is summarised as follows;

- The school has grown rapidly over the last 10 years and Pupil Admission Numbers (PAN) have increased. There is now an average of 217 students in each year group (this is over capacity by 35)
- Additional classrooms have been built to replace the temporary accommodation. However there are still 3 mobile classrooms and a shortage of specialist facilities such as science laboratories
- For 2015 the school has gone over its PAN due to the large number of siblings. This cannot be sustained without further expansion
- Successful exam results over a long period of time mean that the school is popular
- The school opened a sixth form in 2010 and adjustments were made to the sporting facilities on site. However the existing playing field is extensively used and has been reduced in size. This is noticeably detrimental to the children
- The school have put in a bid to demolish the existing technology rooms and to construct a new building with an additional storey. This would allow the school to take an additional form of entry
- Given the additional land it is likely that the school could provide better value for money and they would be able to build on part of the existing school playing field. The school hope to provide an additional all weather facility which would be available for community use.

It is accepted that Brine Leas School is currently constrained by development on all sides especially with the consented development on this site which was allowed under the appeal decision for application 13/1223N (Phase 1). This current application has been prepared so that it includes an area of land for the school to expand and this land would be transferred to Brine Leas School for their future expansion with the land to the south being developed for new open market and affordable homes.

As it currently stands it is open for the applicant to implement the extant Phase 1 approval and then to pursue Phase 2 under a separate application without the transfer of land to Brine Leas School. This application provides the opportunity to secure an area of land for Brine Leas School to expand and would provide an important planning benefit which needs to be considered as part

of this application. A refusal of this application would mean that the developer could build out Phase 1 and the potential benefits for the school would be lost.

Health

A search of the NHS Choices website shows that there are 4 GP practices within 3 miles of the application site and all are accepting patients indicating that there is capacity to serve this development.

Location of the site

To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

Category	Facility	AUDLEM ROAD
Open Space:	Amenity Open Space (500m)	0m
	Children's Play Space (500m)	0m
	Outdoor Sports Facility (500m)	1100m
Local Amenities:	Convenience Store (500m)	1000m
	Supermarket* (1000m)	1400m
	Post box (500m)	31m
	Playground / amenity area (500m)	1300m
	Post office (1000m)	1800m
	Bank or cash machine (1000m)	1000m
	Pharmacy (1000m)	1400m
	Primary school (1000m)	750m
	Secondary School* (1000m)	400m
	Medical Centre (1000m)	2200m
	Leisure facilities (leisure centre or library) (1000m)	2100m
	Local meeting place / community centre (1000m)	26m
	Public house (1000m)	170m
	Public park or village green (larger, publicly accessible open space) (1000m)	1100m
	Child care facility (nursery or creche) (1000m)	2000m
Transport Facilities:	Bus stop (500m)	23m
	Railway station (2000m where geographically possible)	1300m
	Public Right of Way (500m)	0m
	Any transport node (300m in town centre / 400m in urban area)	1300m
<i>Disclaimers:</i>		
<i>The accessibility of the site other than where stated, is based on current conditions, any on-site provision of services/facilities or alterations to service/facility provision resulting from the development have not been taken into account.</i>		
<i>* Additional parameter to the North West Sustainability Checklist</i>		
<i>Measurements are taken from the centre of the site</i>		

Rating	Description
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	Meets minimum standard
	Fails to meet minimum standard (Less than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m).
	Significant failure to meet minimum standard (Greater than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m).

The site fails against 11 criteria in the North West Sustainability checklist, 8 of which are 'significant' failures. However, these facilities are within the town, albeit only just outside minimum distance and Nantwich is a key service centre in the emerging Core Strategy where development can be expected on the periphery. Development on the edge of a town will always be further from facilities in town centre than existing dwellings but, if there are insufficient development sites in the Town Centre to meet the 5 year supply, it must be accepted that development in slightly less sustainable locations on the periphery must occur. Nevertheless, this is not untypical for suburban dwellings and the proposal would lie to the side of the established linear form of development along Audlem Road of which lie within Nantwich Settlement Boundary.

Similar distances exist between the town centre and the approved development site (subject to the completion of the S.106 Agreement) at Kingsley Fields and, although the development at Kingsley Fields would probably be large enough to have its own facilities, not all the requirements of the checklist would be met on site.

Accordingly, it is considered that the site is locationally sustainable.

ENVIRONMENTAL SUSTAINABILITY

Residential Amenity

Due to the separation distances involved to existing properties along Batherton Lane and Audlem Road and the intervening boundary treatments, there is not considered to be a significant impact to the surrounding dwellings.

Detailed measures to achieve appropriate levels of existing and proposed residential amenity between properties would be secured at reserved matter stage.

The Environmental Health Officer has requested conditions in relation to a piling method statement, external lighting, and an environment management plan.

Air Quality

The applicant has submitted an Air Quality Assessment in support of this application.

There is one Air Quality Management Area (AQMA) within the vicinity of the site which was declared as a result of breaches of the European Standard for nitrogen dioxide (NO₂). By virtue of the development location, there is the potential for vehicles travelling to and from the development to increase pollution levels in this sensitive area.

There is also concern that the cumulative impacts of development in Nantwich will lead to successive increases in pollution levels and thereby increased exposure to airborne pollutants.

The submitted assessment concludes that there will be a small impact within the Hospital Street AQMA. The assessment has ignored an underestimate at one of the receptors and therefore it is likely to have significantly underestimated the potential impact at this specific residential property within the AQMA. It is the view of the Environmental Health Officer that any increase in concentrations within an AQMA is significant as it is directly converse to local air quality management objectives and the Council's Air Quality Action Plan (AQAP). The NPPF requires that development be in accordance with the Council's AQAP.

In order to mitigate the impact upon the AQMA the Environmental Health officer has suggested conditions in relation to the submission of a Travel Plan, electrical vehicle infrastructure and dust control.

Contaminated Land

The application site has a history of agricultural use and therefore the land may be contaminated. The application is for new residential properties which are a sensitive end use and could be affected by any contamination present or brought onto the site. A Phase I Preliminary Risk Assessment for contaminated land has been submitted in support of the application. The report does not address the whole application area, and therefore it requires updating to include the north of the site as well.

As such, the Councils Environmental Health Officer recommends that a standard contaminated land condition is attached to any approval.

Public Rights of Way

The development would affect Public Footpaths No. 28 Nantwich and No. 1 Batherton.

The Councils PROW Officer raises no objections to the development subject to a condition to secure a Public Rights of Way scheme of management to be submitted to and approved in writing by the Local Planning Authority.

The proposed on-site improvements to Public Footpath No. 1 Batherton which runs along and within the western boundary of the site, would involve the provision of an all-weather route between the site and the facilities of the school and town centre. Public Rights of Way have confirmed that the specification of the route improvement has been agreed and confirmed with the applicant and this would be added as a condition to any grant of consent.

Public Footpath No. 28 Nantwich runs from the north-western boundary of the site northwards and provides a sustainable, traffic-free route between the site and the facilities of the schools and town centre.

The provision of off-site improvements to this route, to the sum of £30,000 has previously been established and agreed with the applicant under approved outline application 13/1223N. This sum would also be required for this application and would be secured in the S.106 Agreement.

Highways

The previous application (15/3868N) for 104 dwellings on this site was refused due to a reason for refusal relating to the safety of the point of access only. The reason for refusal does not refer to any impact upon the capacity of the surrounding highways network.

Access

It is proposed to locate the access off Audlem Road via a simple priority controlled junction (as per the approved application 13/1223N). The access would provide a carriageway width of 5.5m with 2m footways either side linking into a proposed 1.9m wide footway onto Audlem Road. The width of Audlem Road would be narrowed to 6.1m (from approximately 7.2m) for a short stretch to the north and south of the proposed access. The access would also include the provision of a parking bay large enough to accommodate a minimum of 6 cars.

To the north of the application site the applicant has also indicated that they propose to provide a zebra crossing (although the exact location is yet to be confirmed).

Following discussions with the applicant's agent an amended plan has been received which shows a scheme of public realm works along Audlem Road. This scheme complements the previously consented access arrangements to serve application no. (13/1223N) enhancing the environment of the Audlem Road corridor by controlling vehicle speeds and improving the pedestrian environment.

This has been achieved by the introduction of the following:

- The use of high quality materials in the form of Yorkstone paving, sets at junctions, conservation kerbing and coloured road surfacing
- Gateway features incorporating advisory 20 mph signage.
- Increasing the width of Audlem Road carriageway to 6.1m.
- Provision of informal crossing points at the access road with the option of incorporating vertical deflection to provide improved pedestrian connectivity from the development to the surrounding area.
- In addition these access arrangements will be subject to a post construction safety audit where issues arising post implementation can be raised and if required addressed.

It is recommended that this scheme is implemented via a S278 agreement and completed prior to first occupation of the 1st dwelling.

Access Safety

The visibility splays indicated are 2.4m x 34m to the north (to edge of carriageway) and 2.4m x 32m to the south (0.17m into the carriageway). The TA assumes that because the access was accepted as suitable by the Inspector at Inquiry for 40 dwellings that it remains acceptable for 104 dwellings. As the Inspector accepted that the access will be a safe one, and it is accepted that there will be no capacity issues at the site access itself for the 104 dwelling development, it is accepted that the access is safe and suitable for the currently proposed level of development.

In terms of the proposed visibility splays the Inspector found that;

'the proposed visibility splays would be acceptable'

In terms of the works to reduce the width of Audlem Road the Inspector as part of the previous appeal stated that;

The proposal would result in an extended stretch being reduced to a width of 5.5 metres, similar to that alongside the Toll House to the south. 5.5 metres is a relatively typical road width for urban residential situations and would allow for cars to pass comfortably, although, notwithstanding the widths set out in Figure 7.1 of MfS1, HGVs and other larger vehicles would, in my judgement, be restricted and may wait or pass with care.

And that;

'The road width along this stretch would be likely therefore to be 5.5 metres with some lengths reduced to approximately 3.5 metres and insufficient for cars to pass each other. This proposal therefore represents a significant change to the nature of the road here, altering it from one where traffic, for the most part, passes as a two-way flow, to one where single flow traffic will occur at points.

I accept that this may represent inconvenience to regular users when they would have to wait for another vehicle before passing any parked cars. However, the test before me is whether there are any material safety implications or alterations to traffic flow or congestion such that the residual cumulative impacts would be severe.

I carefully considered the road situation during my unaccompanied site visits, and was able to consider the proposed junction and potential visibility splays during the accompanied visit, when road widths were confirmed through measurement. In circumstances where there are parked cars, I consider that the narrowing of the road would provide some measure of traffic calming, speeds would be reduced and the proposed visibility splays would be acceptable'

The issue of the on-street parking along Audlem Road was considered by the Inspector who noted that on-street parking would not be continuous along this stretch of road due to the number of existing driveways (the Inspector witnessed that there were at least 4 parked cars during his site visits, with 8 in the evening).

In terms of the current on-street parking situation the Inspector found that;

'Currently, the road operates with a level of parking predominantly to its eastern side. Thus the road width remaining is approximately 5.2 metres and sufficient for cars to pass each other. I observed that to be the case, although larger vehicles would often wait before or between the parked cars for other vehicles to pass.'

In terms of the proposed development and on street parking the Inspector found that;

'Their presence may bring traffic across the centre line closer to the new junction, but even were the road to be reduced to 3.5 metres adjacent to a parked car, this would not prevent the oncoming driver, who would have excellent forward visibility, responding to a car edging out'

As can be seen from the comments from the previous appeal decision it can be concluded that under the existing layout, even with parking present, cars can pass each other with care allowing two-way vehicle flow but a car and larger vehicle cannot pass each other with the parking present.

Larger vehicles form some 5% of overall traffic flows on Audlem Road. The narrowing of the carriageway with parking present, will form a barrier to two-way traffic flow unless parking on Audlem Road relocates. The applicant is proposing six unallocated parking bays alongside the access road to their development.

The proposal is for an additional 64 dwellings (beyond that originally tested). As such the level of additional development to generate 35 to 45 peak hour vehicle trips. This authority made a case for severe traffic impact related to the proposed 40 dwellings. Given the views expressed in the Inspector's decision that such impact was not severe a Highways reason for refusal for an additional traffic impact of less than one vehicle per minute in peak hours could be sustained, even with the increased delay associated with the road narrowing.

Furthermore the applicant is proposing a scheme of public realm improvements along this stretch of Audlem Road as discussed above.

Traffic impact

A Transport Assessment has been submitted in support of the application. The level of committed development traffic assessed in the TA is deemed sufficient for the purposes of assessment of the development proposal and although traffic data was collected in 2013 it is also considered to be suitable for the assessment of the impacts of this development proposal.

This site has planning permission for a proposed development of up to 40 dwellings. This proposal is for an additional 64 dwellings (beyond that originally tested). It is realistic to expect such a level of additional development to generate 35 to 45 peak hour vehicle trips. This is consistent with the submitted Transport Assessment which identifies the following traffic generation from the proposed development:

Peak Hour	AM Peak			PM Peak		
	Arrivals	Departures	Total	Arrivals	Departures	Total
Permitted (40 units)	7	16	23	14	9	23
Proposed (104 units)	18	41	59	37	24	61
Net Impact	11	25	36	23	15	38

Cheshire East made a case for severe traffic impact related to the proposed 40 dwellings. Given the views expressed in the Inspector's decision that such impact was not severe it seems unlikely that a Highways reason for refusal for an additional traffic impact of less than one vehicle per minute in peak hours could be sustained.

Furthermore it should be noted that the submitted Transport Assessment includes an assessment of two junctions within the vicinity of the site; the proposed access onto Audlem Road and the junction of Audlem Road/Peter Destapleigh Way.

In terms of the site access/Audlem Road the Transport Assessment that this junction will operate with significant spare capacity during the peak hours in the assessment year of 2020

In terms of the junction of Audlem Road/Peter Destapleigh Way the submitted Transport Assessment shows that the signal controlled junction of Audlem Road and Peter Destapleigh Way will operate with spare capacity during the peak hours in the assessment year of 2020.

The introduction of proposed development flows is forecast to have a negligible impact on the operation of both junctions.

Pedestrian Accessibility

The applicant is proposing upgrades to existing footpaths and the provision of a footway to the south of the site access onto Audlem Road. The upgraded footpaths will assist mainly those at the site and the footway on Audlem Road will assist those in dwellings immediately to the south of the site access; with its primary purpose being to increase visibility from the site access at the expense of carriageway width and potential increased delays to main road traffic with parking in place.

The issue of pedestrian safety was considered by the Inspector as part of the previous appeal decision and the Inspector found that;

'the proposal would provide a footway for pedestrian use along the western side of the carriageway. This would not only improve pedestrian access but would provide an additional element of space and visibility for cars exiting driveways on this side. I note the Council's concern that there would be issues with pedestrian visibilities for these driveways, but overall this would represent considerably enhanced provision for the existing properties along this part of the road. Overall, I consider that there would be no significant harm to highway safety'

The applicants TA includes plans with what they call 3km and 5km cycling isochrones. They are in fact, 3km and 5km crow-flow radii measured from the centre of the site. Nevertheless, cycling is a realistic option than walking for accessing local facilities under ideal weather conditions and where heavy loads are not to be carried.

The TA indicates that there are four bus services in reasonable proximity to the site, one of which provides only a single service on a Wednesday. The other three services are indicated to serve Nantwich, Crewe, Shavington, Leighton Hospital, Whitchurch and Audlem between them. The services only run at an hourly frequency. Service 51 is a local service that runs hourly between 1015 and 1615 and so is of no value for employment trips. Service 73/75 is Nantwich – Audlem – Whitchurch and runs between about 08:00 and 20:15 but only a few services go beyond Audlem. Service number 6 referred to by the applicant does not appear to serve Nantwich let alone the development site. Service 39 does pass Brine Leas School and it offers a two-hourly service. The overall level of bus provision at the site is therefore only poor to moderate.

Highways Conclusion

The Inspector's decision in relation to a previous application on part of the site indicates that he felt that access was safe and suitable, and that the proposals would not result in a severe impact in terms of safety or delay on Audlem Road. It is realistic to expect such a level of additional development to generate 35 to 45 peak hour vehicle trips. This level of traffic generation would not result in a severe highways impact in terms of road safety and as such a reason for refusal on these grounds could not be sustained.

Trees/Hedgerows

The submitted tree report identifies 25 individual trees, 7 groups and one boundary hedgerow located within and immediately adjacent to the application site. Ten individual trees have been identified as High (Category A) trees; 4 individual and 4 groups as Moderate (Category B) trees and 11 individual trees as Low (Category C) trees. One tree, a Hawthorn located within the rear garden of 144 Audlem Road, is in terminal decline and will require removal by virtue of its condition.

In terms of impact on trees, access from 144 Audlem Road is as per the extant consent and will necessitate the removal of two low category groups (G1, G2) and the declining Hawthorn referred to above.

The proposed footpath and emergency access link to the southern part of the site will require the removal of trees (mostly Hawthorn and Elm) within a moderate category group (G3). It is acknowledged however that the impact is not considered significant in terms of the wider amenity.

The submitted sketch plan seeks to demonstrate how up to 104 dwellings could be accommodated on the site. Whilst this shows how dwellings are to be located around internal access roads, it does not show best design in terms of the retention of those A and B category tree constraints identified in the submitted Tree Report. The positions of existing trees, in particular those located on the Batherton Lane frontage are not shown accurately on the sketch plan and it would appear that number of mature trees along the Batherton Lane frontage would potentially be located within the rear gardens of properties. As part of the design process required by BS5837 there is a requirement to ensure due allowance for space around retained trees, particularly in terms of their relationship and social proximity to new buildings. If mature trees are to be located within rear gardens, then additional space may be required in order to ensure the trees long term retention which could impact upon the overall layout design in terms of plot numbers.

No reference is made in the submitted Tree Report to Elliotts Wood to the south of the site. In this regard an assessment will need to be carried out as part of an Arboricultural Impact Assessment as to the impact in terms of the future growth of woodland edge trees and the shading of buildings and gardens.

Existing trees to the west (adjacent to FP1 Batherton) are shown located within proposed open space although there is some interface with buildings.

There are some reservations over the proposed design and the proposed number of dwellings given existing tree constraints. A condition to secure an updated Arboricultural Impact Assessment as part of the reserved matters application will be imposed to any approval.

Design

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations.

Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

In this case an indicative layout has been provided in support of this application and this shows that an acceptable layout can be achieved and that the areas of open space and all highways would be well overlooked.

The proposal would have a low density of 20.8 dwellings per hectare, which is considered to be appropriate. It is considered that an acceptable design/layout that would comply with Policy BE.2 (Design Standards) and the NPPF could be negotiated at the reserved matters stage.

Landscape

This is an outline application for the development of up to 104 dwellings on land to the rear of 144 Audlem Road, Nantwich. The application also includes an area for the expansion of Brine Leas School. The application site is located on the southern edge of Nantwich, to the west of Audlem Road. The properties located along the western side of Audlem Road form the eastern boundary, Footpath 28 Nantwich and Footpath 1 Batherton form the western boundary, Brine Leas School and the associated playing fields form the northern boundary and Elliot's Wood forms the southern boundary of the application site.

As part of the Landscape and Visual Impact Assessment the baseline landscape character is identified at both the national and regional level. The application site lies within the National NCA 61 Shropshire, Cheshire and Staffordshire Plain. At the regional level the application site is located the area identified in the Cheshire Landscape Character Assessment (2009) as Landscape Character Type 7: East Lowland Plain, specifically ELP1 Ravensmoor Character Area.

The Councils Landscape Architect would broadly agree with the Landscape and Visual Impact Appraisal that has been submitted with the application which includes an Indicative Sketch Layout. The Councils Landscape Architect feels that any potential landscape and visual impacts can be mitigated with appropriate design details and landscape proposals. This could be ensured through the reserved matters application and appropriate conditions.

Ecology

Great Crested Newts

Great Crested Newts have been recorded at a pond located within the centre of the proposed housing development and also at numerous ponds surrounding the development.

The proposed development will result in the loss of one pond used by Great Crested Newts and also a significant area of relatively low value terrestrial habitat. The proposed development would also pose the risk of killing or injuring any newts present on site when the development was undertaken.

In order to address the potential impacts of the proposed development the applicant is proposing to remove and exclude newts from the footprint of the proposed development using standard best practice measures under the terms of a Natural England license. The loss of the pond would be

compensated for through the enhancement of an existing pond and the construction of new ponds.

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

- in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment and provided that there is:
- no satisfactory alternative
- no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implements the Directive in the Conservation of Habitats & Species Regulations 2010 which contain two layers of protection

- a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and
- a licensing system administered by Natural England.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements.

The NPPF advises that LPA's should contribute 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'.

The NPPF also states that the planning system should contribute to and enhance the natural and local environment by 'minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures'.

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

In terms of the 3 tests, it is considered that:

- There are no satisfactory alternatives as the proposed development would provide an extension to Brine Leas School as well as much needed open market and affordable housing
- The derogation is not detrimental to the maintenance of GCN as a scheme of mitigation would be provided as part of the development.
- There are imperative social reasons of overriding public interest as the development would provide an extension to Brine Leas School as well as much needed open market and affordable housing

The Councils Ecologist advises that the proposals to mitigate the risk of GCN being killed or injured during the construction phase are acceptable. The Councils Ecologist was previously

concerned that the proposed mitigation strategy would lead to a fragmentation of the existing ponds due to the distances between them. The provision of a further additional pond as per the latest version of the master plan would reduce these impacts. The Councils Ecologist therefore advises that the proposed mitigation and compensation is adequate to maintain the favourable conservation status of Great Crested Newts.

Roosting Bats and Trees

A number of trees have been identified as having potential to support roosting bats. Based upon the submitted masterplan it appears feasible for these trees to be retained as part of the proposed development. Further surveys may be required at the reserved matters stage if any of these trees are to be lost.

Hedgerows

Hedgerows are a priority habitat and hence a material consideration. It appears likely that the proposed development would result in the loss of a section of hedgerow to facilitate the site access. It must be ensured that any losses of hedgerow are compensated for by means of appropriate native species hedgerow creation at the detailed design stage of the development.

Hedgehog

Hedgehogs are a biodiversity action plan priority species and hence a material consideration. There are records of hedgehogs in the broad locality of the proposed development and so the species may occur on the site of the proposed development. If planning consent is granted a condition will be attached to mitigate the impact upon Hedgehogs.

Flood Risk

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. Flood Zone 1 defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. As the application site is more than 1 hectare, a Flood Risk Assessment (FRA) has been submitted in support of the application.

The Councils Flood Risk Manager and United Utilities have been consulted as part of this application and have both raised no objection to the proposed development subject to the imposition of planning conditions. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

ECONOMIC SUSTAINABILITY

With regard to the economic role of sustainable development, the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to Nantwich including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

Agricultural Land Quality

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (Grades 1, 2 and 3A) will not be permitted unless:

- The need for the development is supported by the Local Plan
- It can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non-agricultural land
- Other sustainability considerations suggest that the use of higher quality land is preferable

The National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

The previous outline application under 13/1223N included the submission of an agricultural land survey which indicated that the northern portion of the site is grade 3a agricultural land. The applicant has not submitted a survey to accompany this application, however, given the application site is only separated to the northern portion of the site by a hedgerow, it is assumed that the application site would also be classed as grade 3a agricultural land.

Previous Appeal decisions make it clear that in situations where authorities have been unable to demonstrate a 5 year supply of housing, the need for housing land outweighs the loss of agricultural land.

The Council accepted in the Statement of Common Ground relating to application 13/1223N, that the loss of BMV land would not be a reason to refuse the application in the absence of a five year housing land supply. In his decision, the Inspector concluded that given the scale of land in the district available for agriculture, the loss of BMV land in this instance represented only a limited weight against the proposal.

It is acknowledged that the size of the application site is larger than the previously approved outline application. However, the Inspector also concluded in his decision under 13/1223N that the proposed development would significantly contribute to the Council's shortfall in housing land supply as well as result in an increase in affordable housing in the area, to which afforded greater weight than the impact of the development on the character and appearance of the open countryside and loss of agricultural land.

Accordingly, this would be weighed in the overall planning balance.

CIL Regulations

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

As explained within the main report, POS and children's play space is a requirement of the Local Plan Policy RT.3. It is necessary to secure these works and a scheme of management for the

open space and children's play space. This is directly related to the development and is fair and reasonable.

The development would result in increased demand for secondary school places in Nantwich and SEN provision within the Borough where there is very limited spare capacity. In order to increase capacity of the school(s) which would support the proposed development, a contribution towards secondary school education and SEN is required. This is considered to be necessary and fair and reasonable in relation to the development.

The development would result in increased use of Public Footpath No 28 Nantwich, which is presently unsurfaced and considered to be unsuitable for year round use. The route is considered to be an important sustainable transport route to and from the proposed development and a contribution to improve the route is considered to be necessary and reasonable. The contribution sum of £30,000 has already been established under approved outline application 13/1223N.

On this basis the S106 recommendation is compliant with the CIL Regulations 2010.

PLANNING BALANCE

The proposed development would be contrary to Policy NE.2 and RES.5 and the development would result in a loss of open countryside. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites then the presumption in favour of sustainable development applies and LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework..

In this case the proposal would be contrary to the Stapeley and Batherton NP. However given its early stage the NP can only be given limited weight in the determination of this application. Furthermore, it should also be noted that in this particular case the NP will not be made by the time of the appeal scheduled for this site in September.

The benefits in this case are:

- The development would provide benefits in terms of much needed affordable housing provision and would help in the Councils delivery of 5 year housing land supply.
- In terms of the POS provision and the proposed LEAP this is considered to be acceptable. The provision of a LEAP would provide a facility for future residents and other residents in this location
- The proposal provides an important opportunity to provide land for Brine Leas High School to expand which is currently suffering from capacity issues and is constrained on all sides by existing development and the consented scheme (13/1223N). The refusal of this application could result in this benefit for Nantwich being lost as the developer has the option to implement the existing planning permission.
- The development would provide significant economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in Nantwich.
- The public realm works are considered to be a benefit to the area given the context of the site and circumstances.

The development would have a neutral impact upon the following subject to mitigation:

- The impact upon education infrastructure would be neutral as the impact would be mitigated through the provision of a contribution.
- The impact upon protected species/ecology is considered to be neutral subject to the imposition of conditions to secure mitigation.
- There is not considered to be any drainage implications raised by this development.
- The impact upon trees is considered to be neutral at this stage and further details would be provided at the reserved matters stage.
- The impact upon residential amenity/noise/air quality and contaminated land could be mitigated through the imposition of planning conditions.
- Although there would be a change in the appearance of the site. The landscape impact is considered to be neutral subject to mitigation
- The highway implications from this development are considered to be neutral subject to conditions and mitigation.

The adverse impacts of the development would be:

- The loss of open countryside.
- The loss of agricultural land.
- The development would be contrary to the Stapeley and Batherton NP. However this is at an early stage and has not been subject to any consultation. As a result this can only be given limited weight in the determination of this application.

The benefits of approving this development (as listed above) would significantly and demonstrably outweigh the adverse impacts of the development. As such the application is recommended for approval.

RECOMMENDATION:

APPROVE subject to a S106 Agreement to secure the following Heads of Terms:

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:

- **The numbers, type, tenure and location on the site of the affordable housing provision**
- **The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
- **The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**
- **The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
- **The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**

2. Provision of Public Open Space and a LEAP to be maintained by a private management company

3. SEN Contribution of £45,500

4. Secondary School Education Contribution of £261,483.04

5. The transfer of the land shown on the submitted plans to Brine Leas School

6. PROW contribution of £30,000

And the following conditions:

- 1. Standard outline 1**
- 2. Standard outline 2**
- 3. Standard outline 3**
- 4. Approved Plans**
- 5. Travel Plan**
- 6. Prior to the commencement of development details of the upgrade of 2 local bus stops and the provision of a zebra crossing on Audlem Road to be submitted and approved. The approved measures to be implemented prior to the occupation of the 41st dwelling**
- 7. Construction method statement to be submitted and approved**
- 8. Provision of Electric Vehicle Infrastructure to be submitted and approved**
- 9. Submission / Approval of Information regarding Contaminated Land**
- 10. Any reserved matters application shall be supported by an Arboricultural Impact Assessment (AIA) in accordance with Section 5.4 of *BS5837:2012 Trees in Relation to Design, Demolition and Construction (Recommendations)* which shall evaluate the direct and indirect impact effect of the proposed design on existing trees.**
- 11. Details of surface water drainage to be submitted and approved**
- 12. Any future reserved matters application to be supported by a detailed great crested newt mitigation strategy. The strategy to include the provision of additional ponds as shown on the indicative layout plan (1257WHD/AREx-SK01 rev. J)**
- 13. Any future reserved matters application to be supported by proposals for the incorporation of gaps for hedgehogs to be incorporate into any garden or boundary fencing proposed. The gaps to be 10cm by 15cm and located at least every 5m.**
- 14. Submission and approval of a management plan and on-site improvements to Public Footpath No 1 Batherton**
- 15. The off-site highway works are completed prior to first occupation of the 1st dwelling**

In order to give proper effect to the Board`s/Committee`s intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation), in consultation with the Chair (or in his absence the Vice Chair) of Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

Should the application be subject to an appeal, the following Heads of Terms should be secured as part of any S106 Agreement:

- 1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:**
 - The numbers, type, tenure and location on the site of the affordable housing provision**
 - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
 - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**
 - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
 - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**

- 2. Provision of Public Open Space and a LEAP to be maintained by a private management company**
- 3. SEN Contribution of £45,500**
- 4. Secondary School Education Contribution of £261,483.04**
- 5. The transfer of the land shown on the submitted plans to Brine Leas School**
- 6. PROW contribution of £30,000**

