

Application No: 10/0346M
Location: WOODSIDE POULTRY FARM, STOCKS LANE, OVER PEOVER, KNUTSFORD, WA16 8TN
Proposal: ERECTION OF 15 NO. AFFORDABLE HOUSES
For DEAN JOHNSON FARMS LTD/ DANE HOUSING

Registered 02-Mar-2010
Policy Item No
Grid Reference 378108 373981

Date Report Prepared: 6 September 2010

SUMMARY RECOMMENDATION	Approve subject to conditions & the prior completion of a S106 legal agreement
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MAIN ISSUES

- Whether the principle of affordable housing in this location is acceptable
- Whether the need for affordable housing has been proven
- Whether the proposal constitutes inappropriate development in the Green Belt and if so, whether there are any very special circumstances
- The design and appearance of the proposal and its impact on the character and appearance of the area
- The impact of the proposal on the amenity of nearby residents
- Whether access and parking arrangements are suitable
- The impact of the proposal on existing trees and landscaping
- The impact of the proposal on protected species

REASON FOR REPORT

This is a major application for 15 affordable dwellings in the Green Belt. It is considered that the application raises issues of strategic importance to the Council.

DESCRIPTION OF SITE AND CONTEXT

Woodside Poultry Farm is located within the village of Over Peover. The application site covers an area of 0.84 hectares and is located and accessed off Grotto Lane. Residential properties are located to the north of the site, a nursery is located to the west/south west, a glass house and open fields to the east and south. The site contains a number of buildings that were previously used in connection with the sites former use as a poultry farm. The site is partially covered by hardstanding.

DETAILS OF PROPOSAL

Planning permission is sought for the erection of 15 affordable dwellings, nine 2 bedroom dwellings and six 3 bedroom dwellings. One of the 2 bedroom dwellings is single storey with the rest being two storey. The dwellings are to be built and managed by Plus Dane

Housing, a local housing association and would comprise of 10 social rented dwellings with the remaining 5 to be intermediate housing, shared ownership, homebuy or rent to homebuy. The dwellings are proposed to be constructed from a mixture of Cheshire brick and render under slate roofs. All of the existing buildings on site would be demolished with the exception of one of the larger buildings located to the south of the site which is to be retained. It is stated that this is to be the subject of a further application. At the time of writing, no further application had been received by the Council. Vehicular access to the site is to be taken from Grotto Lane and 25 parking spaces are proposed to serve the dwellings. For the 2 bedroom dwellings these are to be provided in a parking area to the rear of the dwellings. For the 3 bedroom properties, parking spaces are to be provided to either the front or side of the dwellings.

The proposal has been amended during the course of the application and as originally submitted included the erection of a new building to provide a farm shop with offices above. This aspect of the proposal has been removed from the application. The proposed layout of the dwellings has also been amended in response to concerns raised by the Council's design officer.

There is an extant consent on the site for the part demolition and change of use buildings on the site to B1 offices. This consent was granted on appeal and expires on 28 July 2011.

RELEVANT HISTORY

02/2275P

Outline Planning

DEMOLITION OF EXISTING BUILDINGS; ERECTION OF 7 DWELLINGS (OUTLINE PERMISSION)

WOODSIDE POULTRY FARM STOCKS LANE PEOVER SUPERIOR CHESHIRE

refused 20021120

04/2630P

Full Planning

PART DEMOLITION AND CHANGE OF USE OF EXISTING BUILDINGS TO OFFICES (B1). CREATION OF 56 CAR PARK SPACES (RESUBMISSION 03/2630P).

WOODSIDE POULTRY FARM STOCKS LANE OVER PEOVER KNUTSFORD WA168TN

refused 20041215 APP/C0630/A/05/1178009 Allowed 20060728

POLICIES

Local Plan Policy

NE11 Nature Conservation

BE1 Design Guidance

GC1 New Buildings in the Green Belt

H1 Phasing Policy

H2 Environmental Quality in Housing Developments

H5 Windfall Housing Sites

H8 Provision of Affordable Housing

H9 Affordable Housing

H13 Protecting Residential Areas

T2 Integrated Transport Policy

DC1 New Build

DC3 Amenity

DC6 Circulation and Access
DC8 Landscaping
DC9 Tree Protection
DC35 Materials and Finishes
DC37 Landscaping
DC38 Space, Light and Privacy
DC40 Children's Play Provision and Amenity Space

Other Material Considerations

PPS1 Delivering Sustainable Development
PPG2 Green Belts
PPS3 Housing
PPS4 Planning for Sustainable Development
PPS7 Sustainable Development in Rural Areas
PPS9 Biodiversity and Geological Conservation
Over Peover SPD

CONSULTATIONS (External to Planning)

Highways: no objections subject to conditions regarding access and parking arrangements

Environmental Health (Public Protection & Health): no objection subject to a condition restricting the hours of construction.

Environmental Health (Contaminated Land): no objection subject to a condition requiring a Phase II contaminated land investigation.

Environment Agency: no objection subject to conditions regarding contamination.

Jodrell Bank: no objection subject to the incorporation of materials within the development that would help to reduce the level of electromagnetic interference.

Leisure Services: request a commuted sum payment of £45,000 to make additions, enhancements and improvements to the local Parish facility.

Housing Strategy and Needs Manager: no objections subject to a S106 legal agreement being entered into to secure the affordable housing tenure.

VIEWS OF THE PARISH / TOWN COUNCIL

Peover Superior Parish Council: recommend refusal of the application. Two letters have been received from the Parish Council, the latter in relation to amended plans received. The main points raised are summarised below.

- Support the development of an appropriate number of affordable houses on this site, but numbers should be limited to those necessary to meet a genuine, proven, local need
- In order to establish need a survey should be undertaken, involving the Parish Council, and the results of such survey should be validated on an objective basis

- The register of interest that was carried out without any consultation with the Parish Council and the Parish Council has not been allowed to see the full responses despite a request to do so
- Believe that a significant number of those who have registered an interest would not meet the criteria for affordable housing
- Concerned about the ability of any S106 agreement to adequately control occupancy
- Consider the revised plans to be a significant improvement, however still consider that some of the houses (namely number 10 and 11) are much too close to the boundaries of adjacent properties on Stocks Lane – Rowan Cottage, Woodside Cottage and Woodcroft

OTHER REPRESENTATIONS

A significant number of representations have been received in relation to the application. Copies of the representations can be viewed on the application file.

56 representations have been received objecting to the proposal, 17 of which were second representations from the same individuals/households in relation to the amended plans. A number of these representations state that there is no objection to the principle of affordable housing but that objections are raised to the particulars of this proposal. The main points of objection are summarised below.

- No proven need for 15 affordable dwellings in the village
- Question validity of the housing needs survey and register of interest
- Concern regarding ability of the Council to control the future occupancy of the dwellings, particularly given 'Choice Based Lettings' policy of the Council
- Concern that thousands of staff employed at Radbrooke Hall would qualify for affordable housing
- Design of dwellings would not fit in with the local area & revised plans have not overcome previous concerns
- Adverse impact on the amenity of nearby residents due to close proximity of the proposed dwellings and loss of privacy & light, overlooking & overbearing outlook
- Adverse impact on highway safety due to increased traffic and nature of local roads
- Site has poor access to services including public transport meaning that residents would be car dependent
- Local school is thriving and not in need of additional pupils
- Approval of this proposal would set a precedent for future developments
- Site Green Belt and Greenfield where affordable housing completely inappropriate
- Proposed layout encroaches on the openness of the Green Belt
- No very special circumstances put forward to develop this site
- Adverse impact on character and appearance of the countryside
- Proposed trees will not grow due to contamination on the site
- Concern about lack of parking for the proposed dwellings
- Would increase the number of residences in the village by 5% and this is too much
- Concern about future maintenance of the properties
- Existing buildings on site are in keeping with a rural and farming community

Additionally, a number of objectors commissioned a QC to comment on the proposal. The opinions offered by the QC are also available to view on the application file. The opinion concludes that "affordable housing on this Greenfield site within the Green Belt could only be considered acceptable in principle if there was a clear local i.e. Over Peover needs

case. Such a case would have to be demonstrated by robust and credible evidence which engages, at the very least, with the key elements of national best practice guidance. Such an assessment, of necessity, involves engaging with economic issues. Such an assessment has not taken place and evidence, such as it is, does not demonstrate any need much less need for 15 units.” The opinion goes on to state that even if need could be established, affordable housing should in most cases be sustainably located by reference to services/facilities. It is stated that even in rural areas, affordable provision should be targeted to service centres. The site is not sustainably located and no exceptional case has been made for putting housing on it. Previous objections to the design remain. The QC considers that to grant permission would be unlawful and could be subject to judicial review.

6 representations have been received in support of the proposal, 1 of which was a second representation from the same individual/household. The main reasons for supporting the application are summarised below.

- Affordable housing is a far more appropriate use for the land which lies at the centre of the village
- Affordable housing will allow younger people to stay in the village
- The local school would benefit from young families
- Local facilities would become more sustainable
- There is a short supply of affordable property in the Borough
- The village is ageing
- Most people born in the village cannot afford to stay

APPLICANT'S SUPPORTING INFORMATION

Numerous documents have been submitted in support of the application and include a Planning, Design & Access Statement, a Phase 1 & Phase 2 Site Investigations Report, a Bat Survey, a newt survey and an Affordable Housing Statement. Full copies of these documents are available to view on the application file. In summary the Planning, Design & Access Statement states:

- The proposed development makes efficient use of an existing former poultry farm, replacing it with much needed affordable housing for the area
- The proposed development of the site would contribute positively to the housing land supply which is currently showing significant shortfalls for housing generally and affordable housing in particular
- The dwellings have been designed to respect the character of the surrounding properties and would not appear out of keeping
- The development would meet all the interface guidelines for space between dwellings and would not harm the amenity of neighbouring properties
- The proposed redevelopment of the site would enhance the amenity of neighbouring properties when compared with the lawful use of the site and the extant planning permission
- The development has been designed to facilitate easy access of the site by pedestrians and vehicular traffic

The Affordable Housing Statement concludes that:

- National and regional guidance require that local authorities have regard to robust and credible, up to date, evidence when preparing development plan affordable housing policy
- The application site represents an opportunity to secure a high level of affordable housing provision in a rural area with considerable affordability pressures where alternative suitable sites may not be available
- The number of dwellings proposed has been considered in respect of the available evidence base derived from studies extending in scope from detailed parish level through to regional and local planning area examinations and it is concluded that the proposals are likely to represent a minimum requirement to address specific housing needs arising in Over Peover
- PPS3 does not state the methodology which should be applied to assess local housing need in support of proposals for a 'rural exception' site. It is evident that the scope of a Strategic Housing Market Assessment is too broad to provide detail at the very local level therefore some form of supplemental local study is envisaged. The statement has examined the evidence in terms of the Rural Housing Needs Study Assessment in identifying 18 households who are likely to require affordable housing in Peover Superior over the next 5 years and concluded that this is likely to be a conservative estimate, and that in the order of 20 to 30 dwellings may represent a more realistic requirement.
- The application site is able to address a significant proportion of existing and future identified housing need within Peover Superior and offers the opportunity to provide a mix of dwelling types and tenures to ensure the creation of a truly mixed and sustainable community
- The provision of 100% affordable housing in accordance with the definitions in Annex B PPS3 provides an exceptional benefit to the local community that would warrant a departure from the development plan.

OFFICER APPRAISAL

Principle of Affordable Housing in this location

The site lies in the Green Belt. Paragraph 3.4 of PPG2 states that the construction of new buildings inside a Green Belt is inappropriate unless it is for one of the five purposes listed within the paragraph. This includes "limited affordable housing for local community needs under development plan policies according to PPG3". Local Plan policy GC1 repeats this advice and states that within the Green Belt approval will not be given for the construction of new buildings unless it is for a limited number of purposes including "limited affordable housing for local community needs in accordance with policies H8 – H10". Policy H10 specifically referred to affordable housing in rural areas and included a list of 4 criteria to be met before permission would be granted for affordable housing in rural areas. However, policy H10 is not a saved policy and cannot therefore be referred to in the determination of applications for rural affordable housing. The reason why the policy wasn't saved is because it was considered that it was similar to paragraph 30 of PPS3 and that the issue may be covered by new core policy on affordable housing. Paragraph 30 of PPS3 states

"In providing for affordable housing in rural communities, where opportunities for delivering affordable housing tend to be more limited, the aim should be to deliver high quality housing that contributes to the creation and maintenance of sustainable rural communities in market towns and villages. This requires planning at local and regional level adopting a positive and pro-active approach which is informed by evidence, with clear targets for the delivery of rural affordable housing. Where viable and practical, Local Planning Authorities

should consider allocating and releasing sites solely for affordable housing, including using a Rural Exception Site Policy. This enables small sites to be used, specifically for affordable housing in small rural communities that would not normally be used for housing because, for example, they are subject to policies of restraint. Rural exception sites should only be used for affordable housing in perpetuity. A Rural Exception Site Policy should seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection, whilst also ensuring that rural areas continue to develop as sustainable, mixed, inclusive communities.”

In this case, as stated, the Council does not have a rural exception site policy for this part of the Borough. However, even in the absence of this, it is clear that national policy offers general support for the principle of limited rural affordable housing on small sites provided that it is to meet a local community need in perpetuity.

However, national and local policy in the form of PPS1, PPS3, PPS4, PPS7 and policies H5 and T2 seek to ensure that new developments, including housing, are generally located in areas that are accessible by a variety of means of transport and areas that have access to jobs, shops and services. This site has been assessed against these policies with the use of the accessibility criteria specified within the North West Sustainability Checklist. The location criteria within the assessment are considered best practice in terms of accessibility to key services. The assessment concludes that the site is deemed to be unsustainable as essential facilities are not readily accessible. However, given that this is a scheme for rural housing for people with a connection with the parish of Over Peover, it is considered that the sustainability of the site in terms of location and access to services should be given less weight as this is dictated by the location and access to services within the wider village. Additionally whilst Peover does not score highly when assessed against the checklist, it does nevertheless have a number of facilities available to residents including a primary school, a village hall, pubs, churches, a playground, sports facilities, social groups and employment opportunities. Whilst this may not be as much as larger villages such as Chelford, it is more than some rural parishes/villages. It is considered that the provision of affordable housing on the scale proposed by this application would help to sustain the existing rural community of Peover as it would provide additional affordable housing for those with a connection with the village enabling them to remain within/return to the village to contribute to and to help sustain the community. In this case, this is considered to outweigh any disadvantages of the site in terms of location and access to service/facilities.

Whilst the site does contain existing buildings and areas of hardstanding, it is not considered to be previously developed land (brownfield) as the sites lawful use is for agriculture. The site is therefore considered to be greenfield. Whilst national and local policy seeks to ensure that the majority of new development is located on brownfield land, there is no formal requirement for a sequential approach to this to be taken by developers. Therefore the fact that the site is technically greenfield is not considered to be a sufficient reason to reject the application site as a site for rural affordable housing. Additionally whilst it is technically greenfield, unlike other greenfield sites, it does contain a large number of buildings and areas of hardstanding that would be removed as a result of the development. Additionally any existing contamination on the site would be remediated as a result of the proposal.

Assessment of Need

As stated, a Planning Statement and Affordable Housing Statement have been submitted with the application, both of which deal with the issue of need.

A Strategic Housing Market Assessment (SHMA) was carried out on behalf of Macclesfield Borough Council in April 2008. This stated that there is a requirement for 200 affordable dwellings per year within the former Macclesfield Borough Council area. A more up to date SHMA is currently being carried out on behalf of the Council but the findings have yet to be published. However, early indications are that it will show an ongoing need for affordable housing in this part of the Borough.

In February 2008 Macclesfield Borough Council undertook a rural housing needs survey of all residential households in the Plumley ward which includes the Parish of Over Peover. There was an average response rate of 33.4%, with a response rate of 27.5% in Over Peover. The survey revealed that at the time of the survey there were 18 hidden households within Over Peover (this is where there is at least one adult in the household who wishes to form a separate household). The survey also revealed that there were 19 people who had moved out of the Parish in the last 5 years, 16 of which who wish to return. This gives a combined total of 34 people responding to the survey with a demand for housing within Over Peover. The 2008 survey did provide some information on the income of hidden households and revealed that of those who responded to this question, 3 had an annual income of less than £15,000, 4 of £15,000 to £20,000, 3 of £20,000 to £25,000, 2 of £25,000 to £30,000 and 1 of above £30,000. No data was published on the annual income of those wishing to return, though it did ask whether households had moved out in the last 5 years because there was a lack of affordable housing. 2 people responded to say that this was the case.

A register of interest was produced following the public consultation event held for the proposed scheme on 17 February 2010. This contained the details of 43 people who expressed an interest in the scheme. This list was reviewed by the Council's Housing Options Team who has advised that of the 43 individuals who expressed an interest in the scheme, 40 would qualify under the Cheshire Home Choice community connection criteria for Over Peover. The remaining 3 have a community connection to the neighbouring Parish of Snelson.

At the present time there is no specific guidance as to what evidence is required to adequately demonstrate a need for rural affordable housing, or as to what constitutes "limited" affordable housing. In the absence of such guidance it therefore remains for each local authority to assess each case on its merits. In this case officers are satisfied that the combination of the 2008 SHMA, the housing needs survey, the register of interest and the affordable housing statement submitted by the applicants adequately demonstrate that a need does exist for 15 affordable dwellings in the parish of Over Peover. The views of third parties, including those of the QC, have been noted. However whilst it is considered that a greater involvement of the Parish Council in the identification of the need for affordable housing would have been preferable, there is no formal requirement for this to be the case. Similarly, whilst the housing needs survey was not carried out following SHMA methodology, it is not considered that this means that its findings should be disregarded. Whilst the findings may not be given the same weight as a SHMA, they do nevertheless, together with other evidence, help to demonstrate a need for the development. With regard to income data and an assessment of economic need, as stated some economic data was collected as part of the 2008 survey. Additionally, when allocating rural affordable dwellings, the Cheshire Homechoice system will rank applicants having regard to both their level of need (which will be partially based on income) and their local connection.

Green Belt

As stated, the provision of affordable housing to meet local needs need not be inappropriate provided that the need has been demonstrated. In this case, as outlined above, it is considered that a need has been demonstrated for 15 affordable dwellings in Over Peover and it is not considered that a residential development of that number would be out of scale with the village. The principle of the proposal is therefore considered acceptable in the Green Belt and compliant with Local Plan policy GC1. However, it is still necessary to consider whether there is any other harm to the Green Belt arising from the proposal, including harm to openness.

As previously stated, the site contains a number of existing buildings, some of which are relatively large and prominent when viewed from Grotto Lane and Stocks Lane. All but one of these buildings would be removed as a result of this proposal. The proposed dwellings would be sited towards the side (north) and rear (east) of the site, in proximity to existing dwellings fronting Stocks Lane. The majority of the dwellings would be sited over the footprint of existing buildings with the exception of dwellings 7-9, 10 & 11 and 15. The proposed dwellings at 7.85m high would be approximately 0.7m higher than the height of the three large sheds currently on site. The width of the houses would however, be narrower than the sheds.

Overall, the footprint of buildings on the site would be reduced by 700m² (1368m² to 667.9m²). Whilst in some areas the new housing would be on parts of the site not currently covered by buildings, it is considered that the proposal would result in an overall improvement in openness and would significantly improve the visual amenity of the Green Belt. With regard to dwellings 10, 11 and 15, whilst these would not be on the footprint of existing buildings, in the case of 10 & 11, they would be closely related to existing development on Stocks Lane and existing extensive screening to the rear of the site means that the visual impact of the dwellings on the wider countryside would be limited. As such the proposal is not considered to be inappropriate in the Green Belt.

Design & Visual Impact

Local Plan policies BE1, H2, H13, DC1 and DC35 address matters of design and appearance. Policy BE1 states that the Council will promote high standards of design and new development should reflect local character, use appropriate materials and respect form, layout, siting, scale and design of surrounding buildings and their setting. Policy H2 requires new residential development to create an attractive, high quality living environment. Policy DC1 states that the overall scale, density, height, mass and materials of new development must normally be sympathetic to the character of the local environment, street scene, adjoining buildings and the site itself.

The design of the scheme has been amended during the course of the application in an attempt to address concerns raised by local residents and by the Council's design officer. The revised scheme provides 15 dwellings in one block of 4 x 2 bed dwellings, one of which is single storey, one block of 5 x 2 bed dwellings and 3 pairs of 3 bed semi detached dwellings. Parking for the 2 bed dwellings is to be provided at the rear of the dwellings with access to the parking area gained between the two blocks. Parking for the 3 bed dwellings is to be provided to either the side or front of the dwellings. The dwellings are traditional in appearance and are to be constructed from traditional materials. Existing dwellings in the immediate vicinity comprise a mixture of type, designs and styles with a combination of traditional and more modern detached, semi-detached and terraced properties.

The Council's design officer has considered the amended proposal and notes that the scheme is now much improved. The revised scheme provides gaps between dwellings to the open countryside and is now more respectful of the varied character of the area. No objections are therefore raised to the scheme on design grounds subject to the imposition of appropriate conditions covering matters such as materials, rainwater goods and fenestration.

Amenity

Local Plan policies H13, DC3 and DC38 seek to protect the amenity of residential occupiers. Policy DC3 states that development should not significantly injure the amenities of adjoining or nearby residential property due to matters such as loss of privacy, overbearing effect, loss of sunlight and daylight and traffic generation and car parking. Policy DC38 sets out guidelines for space between buildings.

A number of residential properties are located adjacent to the site. These properties front onto Stocks Lane and have their rear elevations and rear gardens facing the site.

Generally speaking, the proposed dwellings would be located further away from existing dwellings on Stocks Lane, with the exception of dwellings 10 & 11 which would be nearer. Extensive boundary screening exists to the rear of Woodside Farmhouse and Delamere Cottage and this together with the distances between the rear elevations of the new dwellings and these properties means that there would not be any significant overlooking or loss of privacy. Additionally, whilst the shared parking area would be located adjacent to the rear boundaries of these properties, given the limited scale of this (13 spaces) and extensive boundary screening it is not considered that this would result in undue noise and disturbance.

With regard to the impact on Woodcroft and Woodside Cottage, the existing boundary screening between the site and these properties is much more limited. However, notwithstanding this, the privacy distances that would result from the proposal well exceed those specified within Local Plan policy DC38. DC38 requires a distance of 25m back to back between habitable room windows and 14m between habitable room windows and blank gables. The relationship between Woodcroft and the rear elevation of the new dwellings is not a directly facing one and the distance is approximately 35m. The distance between the blank gable of dwelling 10 and Woodside Cottage is 26m, 12m more than that required by DC38.

In terms of the impact on Rowan Cottage, the rear elevations of dwellings 10 to 13 face towards this dwelling and its garden. However, due to the distances involved, the orientation of the dwellings and extensive screening along the rear boundary of the site, it is not considered that the proposal would result in a significant adverse impact on the amenity of this property.

As stated above, whilst concerns have been expressed by neighbours in relation to the impact of the proposal on their amenity, for the reasons outlined above, it is not considered that the proposal would significantly impact on the amenity of nearby residential properties. Additionally, if implemented, the proposal would result in the cessation of the use of the site as a poultry farm.

With regard to the amenity of future occupiers of the proposed dwellings, in the absence of an approved proposal for the retained building, it is considered necessary to attach a

condition to any consent granted requiring the building that is proposed to be retained to be demolished prior to the occupation of the dwellings.

Highways

Vehicular access to the dwellings is to be from Grotto Lane, this is consistent with the current access to the site. Parking spaces for 25 vehicles are proposed.

The Council's Strategic Highways Manager has been consulted on the application and is satisfied with the access and parking arrangements proposed are acceptable subject to conditions regarding the access and parking arrangements.

The Strategic Highways Manager notes that the site is located in an unsustainable location with poor access to services and with poor bus service provision. However, noting the extant consent for an office development on the site, the Strategic Highways Manager does not consider that a highway objection can be raised on the basis of sustainability.

Trees/Landscaping

An Arboricultural Statement has been submitted with the application. This concludes that the proposal could be implemented with only the removal of several low and moderate value trees, the collective loss of which would have a moderate impact on amenity.

The Council's Forestry Officer has been consulted on the proposal and raises no objections to the proposal subject to a number of conditions. Additionally the Council's Landscape Officer has been consulted and finds the scheme layout to have an acceptable impact in landscape terms, with a reasonable density of open space and built development. It is recommended that the scheme be subject to full conditions for all boundary treatments, all soft landscape and surfaces.

Ecology

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, if there is:

- no satisfactory alternative
- no detriment to the maintenance of the species population at favourable conservation status in their natural range
- a specified reason such as imperative, overriding public interest.

The UK implemented the EC Directive in The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection:

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

Circular 6/2005 advises LPAs to give due weight to the presence of a European protected species on a development site to reflect.. [EC] ...requirements ... and this may potentially justify a refusal of planning permission."

In PPS9 (2005) the Government explains that LPAs “should adhere to the following key principles to ensure that the potential impacts of planning decisions on biodiversity are fully considered..... In taking decisions, [LPAs] should ensure that appropriate weight is attached to protected species... ... Where granting planning permission would result in significant harm [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm..... If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.”

With particular regard to protected species, PPS9 encourages the use of planning conditions or obligations where appropriate and advises, “[LPAs] should refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm.”

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

In this case protected species surveys have been undertaken and a number of protected species identified including Great Crested Newts, Bats and Barn Owls. Great Crested Newts are present in garden ponds adjacent to the application site. Mitigation measures have been put forward in the form of amphibian fencing and pitfall trapping in accordance with Natural England guidelines. This is a standard best practice approach and is considered acceptable by the Council’s Nature Conservation Officer. In addition, to compensate for the loss of terrestrial habitat a substantial hibernacula and native species hedgerow is proposed for the north/east boundary of the site and three new ponds are proposed for an area of plantation woodland located off-site but within 250m of the proposed development. The off site works would need to be secured by a S106 legal agreement. The Councils Nature Conservation Officer also notes that the applicants state that the remainder of the plantation could be enhanced through native species planting and advises that to provide an acceptable area of replacement terrestrial habitat to compensate for the loss of habitat to the development the plantation must be managed to increase its value for amphibians and general biodiversity. This matter could be controlled by condition.

In terms of bats, there was evidence of limited bat activity in the form of a feeding perch or temporary roost within one of the buildings on site. The loss of this roost, in the absence of mitigation, is likely to result in a minor impact upon a very small number of individual bats and a negligible impact upon the conservation status of the species as a whole. The submitted report recommends the construction of a replacement bat loft above one of the proposed buildings to mitigate for the loss of the roost and details the supervision and timing of the demolition to reduce the risk of killing or injuring any bats that may be present. The Council’s Nature Conservation Officer considers that the proposed mitigation/compensation is acceptable and is likely to reduce the potential adverse impacts of the development to a negligible level.

Whilst there is evidence of owls having been on the site, the Council’s Nature Conservation Officer considers that there is no evidence of breeding having occurred therefore it is unlikely that the proposed development will have a significant impact on barn owls (if they were present) provided suitable alternative roosting sites are provided as part of the development.

In this case it is considered that the tests of the EC Habitats Directive are met in that there is no suitable alternative to the proposal and it is of overriding public interest. The proposal involves the development of a disused poultry farm in a rural location. It would enable the site to be redeveloped to provide rural affordable housing which would meet local and national housing objectives and would help to compensate for the current shortfall within the Borough. Additionally the scheme would improve the visual amenity of the area. Mitigation measures put forward by the applicants are considered acceptable and will serve to adequately mitigate any harm caused.

A condition is also suggested by the Nature Conservation Officer to ensure that breeding birds are not disturbed during the construction phase and also to ensure that provision is made for breeding birds as part of the development.

Leisure Provision

In accordance with the former Macclesfield Borough Council's SPG on Planning Obligations which remains in place in this part of the Borough, a commuted sum of £45,000 is required to be paid to the Council for the provision of Public Open Space provision. The closest facility to the site is one provided by the Parish Council and consists of a play area, amenity areas and football pitch. The Council carries out regular assessments of the facility and advise the Parish Council of required works. The play area is well maintained but contains some of the oldest equipment in the Borough and is much in need of updating and enhancement. Improvements and additions to the amenity areas and pitch are also required. The commuted sum would be used to make additions, enhancements and improvements to the Local Parish Facility.

The applicants have agreed to pay the amount requested.

Other Matters

Another material consideration to be taken into account is the Over Peover Parish Plan and the findings of the Over Peover SPD, though the latter is still in draft form and has yet to be adopted. The Parish Plan states that the majority of respondents to the consultation accepted that some redevelopment and additional development would be inevitable and there was some support for affordable housing to be developed for local families and for first time home owners. The Parish Plan recommendation was that a SPD should be developed to incorporate these views. As stated, this is currently in the process of being prepared. It is not considered that there is anything within either the Parish Plan or the draft SPD that would preclude the principle of the proposed development.

The sites former use as a poultry farm means that the land may be contaminated. Reports submitted in support of the application recommend that an intrusive investigation is required to identify any potential contamination that may be present. No objections are raised by the Council's Contaminated Land Officer subject to a condition being imposed on any consent granted requiring the submission of further contaminated land reports and remediation works where these are required.

With regard to other matters raised in representation that have not already been covered in the report, these appear to be limited to concerns regarding the Council's ability to control the occupation of the dwellings and the impact of the Council's Choice Based Lettings Policy; concern that approval of this application could set a precedent for other similar developments; concern that trees won't grow on the site as it is contaminated;

concern about future maintenance of the dwellings and the view that approval of the proposal could be the subject of judicial review.

In terms of the mechanism to control the future occupation of the dwellings, this would be ensured by the use of a S106 legal agreement which would set out the occupancy restrictions on the dwellings. The occupation of the dwellings would initially be restricted to those meeting the local connection with Over Peover and if no-one came forward who met that criteria, then the search would be cascaded to adjoining parishes within the Borough and beyond until the dwellings were occupied. Whilst Cheshire Home Choice enables people to apply for any housing within the Borough, the policy would not override the S106 agreement which would take precedence in the assessment of potential occupiers.

The approval of this application would not set a precedent for other similar developments in Over Peover as each proposal would need to be assessed on its own merits having regard to relevant policy and guidance. In the case of proposals for additional housing, this would need to be justified by an up to date assessment of need, having regard to the fact that if approved and implemented, this proposal would provide additional affordable housing provision within the locality. Any existing contamination on the site would be remediated as part of this proposal meaning that it would not affect the ability of any future landscaping scheme to succeed. Any future maintenance of the properties would be carried out by the Housing Association in conjunction with occupiers. This is similar to any other housing development.

The statement of the QC that if approved the permission would be unlawful and could be the subject of judicial review is noted. This view appears to be based on the opinion that the proposal represents a prima facie breach of a series of planning aims and objectives which could only be justified on the basis of a very clear and powerful needs case, a need which he considers has not been demonstrated at any level. As stated within this report, officers do not concur with that view. It is considered that there is enough evidence that a need exists for 15 houses in the parish and that whilst the location may not provide the best access to services and facilities, this is not a determining factor. Reference has been made to fact that planning applications have recently been submitted for new housing in Chelford and that as submitted, these proposals would provide affordable dwellings which could meet the needs of Over Peover and other rural parishes. Whilst an application has been submitted on the Stobart site and whilst this is proposing 15 affordable houses as part of a larger scheme for up to 60 dwellings, it is not considered that this negates the need for housing in Peover as if approved any affordable housing in Chelford would initially be offered to those with a local connection to Chelford before being cascaded to other parishes. Additionally the Rural Housing Needs Survey 2008 identified a total of 56 people responding to the survey with a demand for housing within Chelford meaning that even if approved and built, it is likely that need would still exist for further housing in Chelford to serve the needs of that parish.

Heads of Terms

Should the Council be minded to approve the application, then a S106 legal agreement would be required to include the following matters:

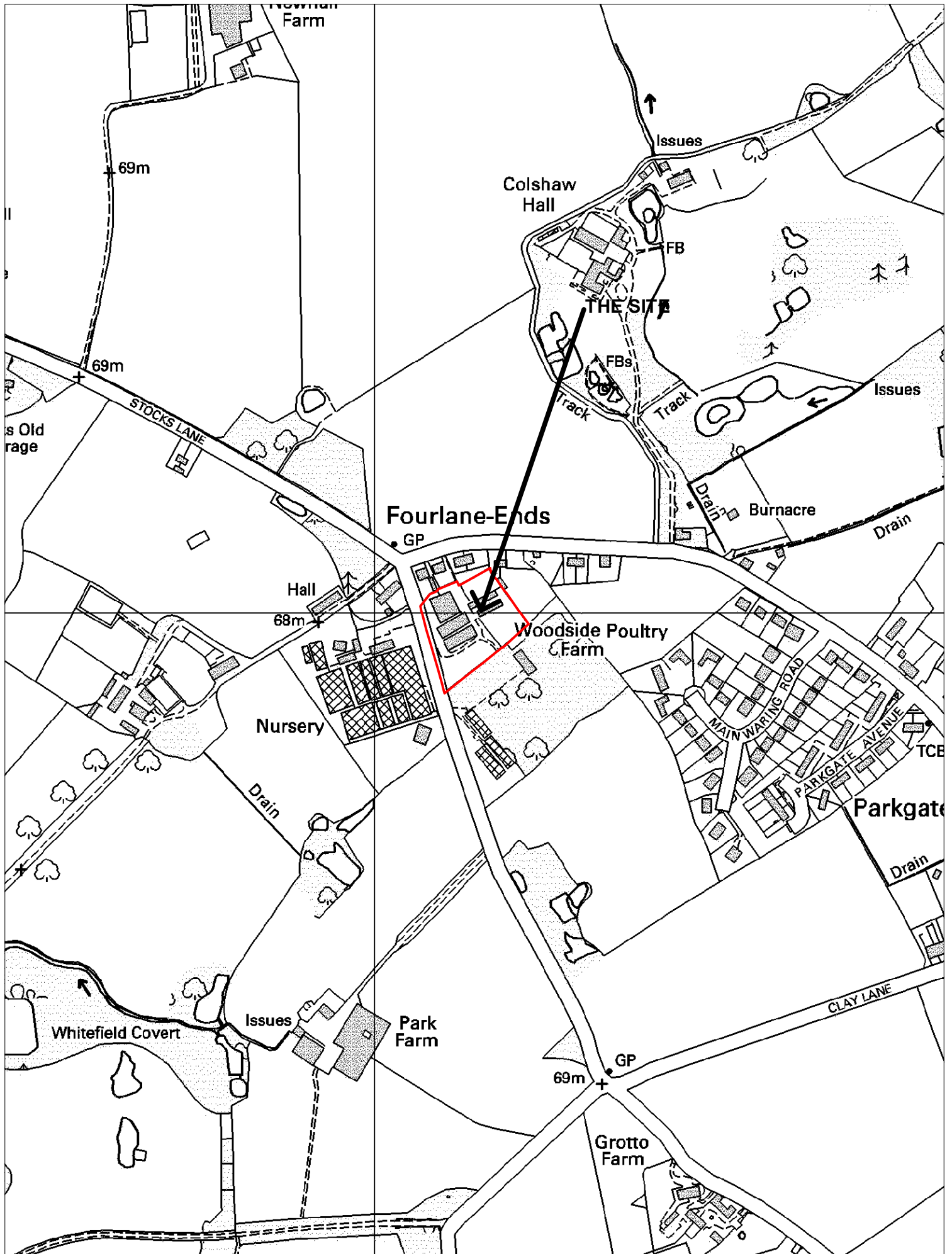
- dwellings will be retained as affordable housing in perpetuity and that occupation is restricted to those in genuine need who are employed locally or have local connection to the parish of Over Peover and then cascaded initially to adjoining parishes before being offered to residents of other areas of the Borough (it is likely that this would

initially be Bucklow Ward, then former MBC, then wider CEC though the final details of this is to be agreed in consultation with Plus Dane Housing and the Parish Council).

- provision of off site ecological works and habitat management plan
- commuted sum of £45,000 to be paid to the Council to make additions, enhancements and improvements to the Local Parish play facility in Over Peover

CONCLUSIONS AND REASON(S) FOR THE DECISION

It is considered that the principle of rural affordable housing in this location is acceptable and is supported by local and national policies. The specific proposal for 15 dwellings in Over Peover on the site of a former poultry farm is acceptable and it is considered that there is sufficient evidence to demonstrate that a need exists in this location for at least 15 dwellings. The siting, layout and design of the scheme is considered acceptable as are the access and parking arrangements. It is not considered that the proposal would result in any significant adverse impact on the amenity of nearby residents, on existing trees on the site or on protected species. There are no other material planning considerations that would warrant the refusal of the application which for the reasons outlined within the report, is considered acceptable subject to conditions and the prior completion of a S106 legal agreement.



WOODSIDE POULTRY FARM, STOCKS LANE, OVER PEOVER, KN1

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Scale 1:10000

Application for **Full Planning**

RECOMMENDATION : Approve subject to following conditions

1. A03FP - Commencement of development (3 years)
2. A01AP - Development in accord with approved plans
3. A05EX - Details of materials to be submitted
4. A10EX - Rainwater goods
5. A12EX - Fenestration to be set behind reveals
6. A20EX - Submission of details of windows/doors including materials and finish
7. A01GR - Removal of permitted development rights
8. A07GR - No windows to be inserted
9. A22GR - Protection from noise during construction (hours of construction)
10. A12HA - Closure of access
11. A07HA - No gates - new access
12. A01HP - Provision of car parking
13. A30HA - Protection of highway from mud and debris
14. A01LS - Landscaping - submission of details
15. A04LS - Landscaping (implementation)
16. A12LS - Landscaping to include details of boundary treatment
17. A04MC - Electromagnetic protection (Jodrell Bank)
18. A08MC - Lighting details to be approved
19. A17MC - Decontamination of land (Phase II Report required)
20. A19MC - Refuse storage facilities to be approved
21. A06NC - Protection for breeding birds
22. A01TR - Tree retention
23. A02TR - Tree protection
24. A05TR - Arboricultural method statement
25. Construction of new junction prior to construction of any other part of the development
26. Construction of highways (manual for streets layout)
27. Provision of Bat Loft
28. Provision of Barn Owl Nesting Boxes
29. Provision of facilities for breeding birds
30. Prior to the occupation of the dwellings, in the absence of a scheme for redevelopment, Building A shall be demolished

