

Strategic Planning Board

Agenda

Date:	Wednesday, 27th May, 2009
Time:	2.00 pm
Venue:	Committee Suite 1,2 & 3, Westfields, Middlewich Road, Sandbach CW11 1HZ

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. **Apologies for Absence**

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have made a pre-determination in respect of any item on the agenda.

3. **Minutes of the Previous Meeting** (Pages 1 - 4)

To approve the minutes as a correct record.

4. **Public Speaking**

For any apologies or requests for further information, or to arrange to speak at the meeting

Contact: Rachel Graves
Tel: 01270 529742
E-Mail: Rachel.Graves@cheshireeast.gov.uk

A total period of 5 minutes is allocated for the planning application for Ward Councillors who were not Members of the Strategic Planning Board.

A period of 3 minutes is allocated for the planning application for the following individual/groups:

- Members who were not Members of the Strategic Planning Board and were not the Ward Member
- The relevant Town/Parish Council
- Local Representative Group/Civic Society
- Objectors
- Applicants/Supporters

5. **09/0259/FUL - Retention of Hardcore Area for the Storage of Waste Disposal Skips as an Extension to the Existing Skip Hire Business at Betchton Cottage Farm, Cappers Lane, Betchton.** (Pages 5 - 18)

To consider the planning application 09/0259/FUL

6. **7/2009/CCC/4 - New Post 16 Centre incorporating 3 Storey L-shaped Building with External Social Space and General Improvements to the Site including Parking and Floodlighting to Tennis Courts, Brine Leas High School, Audlem Road, Nantwich** (Pages 19 - 36)

To consider the planning application 7/2009/CCC/4

7. **Variation of S106 Agreement – Henbury High School, Macclesfield Redevelopment by Wimpey Homes** (Pages 37 - 46)

To consider the request of the developer of the former Henbury High School site to vary the phasing of delivery of various requirements attached to the Section 106 Agreement attached to that development, which has commenced

8. **List of Buildings of Local Interest** (Pages 47 - 54)

To consider the procedures for adding to and reviewing the List of Buildings of Local Interest in the new authority.

9. **Regents College, Nantwich** (Pages 55 - 60)

To consider Regent's College in Nantwich for immediate inclusion on the List of Buildings of Local Interest.

10. **Planning Obligations – Administrative and Procedural Issues and Options** (Pages 61 - 72)

To present a number of issues and options relating to the harmonisation of the procedural and administrative arrangements for planning obligations negotiated under section 106 of the Town and Country Planning Act 1990 (as amended)

11. **Appeal Summaries** (Pages 73 - 88)

To note the Appeal Summaries.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 6th May, 2009 at Committee Suite 1,2 & 3, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

Councillor H Gaddum (Chairman)
Councillor Rachel Bailey (Vice-Chairman)

Councillors P Edwards, J Hammond, D Hough, J Macrae, B Moran, C Thorley,
G M Walton, Wilkinson and J Wray

OFFICERS PRESENT

John Knight, Interim Head of Planning and Policy; Shelia Dillon, Senior
Solicitor; David Malcolm, Development Manager; Philippa Lowe,
Development Manager; David Snelston, Principal Planning Officer; Rachel
Graves, Democratic Services Officer

29 APOLOGIES FOR ABSENCE

Apologies were received from Councillors A Arnold, D Brown and
Mrs M Hollins.

30 CODE OF CONDUCT-DECLARATIONS OF INTEREST/PRE- DETERMINATION

Councillor P Edwards declared that he had predetermined application
08/1626/FUL by virtue of the fact that he had been a member of the
Congleton Borough Council's Planning Committee which had made the
decision to approve the application against the Officer's recommendation.
In accordance with the Code of Conduct he remained in the meeting but
took no part in the discussion or voting.

Councillor J Macrae declared a personal interest in respect of application
08/1626/FUL on the grounds that he had been appointed as a Cheshire
East Council representative on the Cheshire and Warrington Economic
Alliance (CWEA). In accordance with the Code of Conduct he remained
in the meeting during consideration of the item.

31 MINUTES OF THE PREVIOUS MEETING

That the minutes of the meeting held on 15 April 2009 be approved as a
correct record and signed by the Chairman.

32 PUBLIC SPEAKING

A total period of 5 minutes was allocated for the planning application for Ward Councillors who were not Members of the Strategic Planning Board.

A period of 3 minutes was allocated for the planning application for the following individual/groups:

- Members who were not Members of the Strategic Planning Board and were not the Ward Member
- The relevant Town/Parish Council
- Local Representative Group/Civic Society
- Objectors
- Applicants/Supporters

RESOLVED:

That the procedure for public speaking be noted.

33 08/1626/FUL - PROPOSED FOODSTORE DEVELOPMENT WITH ASSOCIATED PARKING SERVICING, LANDSCAPING AND NEW RETAIL BUILDING ON WHELOCK STREET FRONTAGE (DUAL ACCESS), PACE CENTRE, WHELOCK STREET, MIDDLEWICH FOR TESCO STORES LTD & BRIDEN INVESTMENTS LTD

(Councillor S McGrory, Ward Councillor; Councillor K Bagnall, Middlewich Town Council; Jonathan Williams, Chair of Middlewich Vision and Mr D Rogers, Briden Investments attended the meeting and spoke in respect of the application)

The Board considered a report regarding the above application.

RESOLVED:

That the application be REFUSED for the following reasons:

- (1) the proposed development by virtue of its size, siting and design, the design and appearance of the access and service yard and the associated loss of trees would have an unacceptable impact on the Middlewich Conservation Area of which the site forms a part. The proposal would neither preserve nor enhance the character or appearance of the Conservation Area. The development is therefore contrary to the RSS Policies DP7 & EM1 and Local Plan Policies GR1, GR2 & BH9.
- (2) the proposed development fails to achieve an adequate quality of design to justify approval of planning permission. In reaching this conclusion regard was given to the size, siting and design of the proposed foodstore, the design and appearance of the access and service yard and the general layout of the site. It is therefore concluded that the proposal would detract from the character and appearance of the area, within which the site is located and be contrary to development plan and national planning policies which seek to promote high quality and inclusive design. The

development is therefore contrary to RSS Policy DP7 and Local Plan Policies GR1 & GR2.

- (3) insufficient information has been submitted with the application to illustrate how the impact of development and matters of nature conservation can be adequately mitigated. In the absence of such mitigation the proposed development would be contrary to the interests of nature conservation since it would adversely affect the habitat of protected species (namely bats) without any satisfactory measures of mitigation. The development is therefore contrary to RSS Policy EM1 and Local Plan Policies NR2 & NR4.
- (4) insufficient information has been submitted with the application to illustrate how the impact of development and matters of landscape and trees of local amenity value can be adequately mitigated. In the absence of such mitigation the proposed development by virtue of its size and siting would result in the direct loss of existing trees which are of amenity value to the area as a whole. The development is therefore contrary to RSS Policy EM1 and Local Plan Policies NR1 & BH9.

34 APPEAL SUMMARIES

Consideration was given to the report as submitted.

RESOLVED:

That the Planning Appeals be noted.

35 UPDATE REPORT ON LIVE ENFORCEMENT NOTICES

Following a request at the meeting of the Strategic Planning Board on 4 March 2009, an update report was received which outlined the status of existing live enforcement notices for Cheshire East.

It was suggested that the format of future reports be amended to include the case reference number, relevant dates, location details and a numerical record of the workload. Discussion ensued on the high amount of legal and planning resources required in relation to planning applications and enforcement and if there were enough resources in place to deal with the workload.

It was agreed that updates would be brought back to the Board quarterly for the first year.

RESOLVED:

- (1) That the report be noted;
- (2) updates be brought back to the Board quarterly for the first year.

36 PROCEDURE NOTES FOR DECISION MAKING

A report was received which outlined procedures for adoption as best practice in respect of the Strategic Planning Board and the two Planning Committees in relation to:

- (1) the reference of matters to the Strategic Planning Board relating to a significant departure from policy which a Planning Committee is minded to approve and any other matters which have strategic implications by reason of their scale, nature and location
- (2) procedure if Members wished to make a decision contrary to an officers recommendation

There had been a variation in the practices between the four former authorities and it was therefore necessary to promote a consistent and transparent approach across the Strategic Planning Board and the Planning Committees.

RESOLVED:

That the procedures be adopted as best practice.

37 MEMBER TRAINING IN PLANNING

The Board considered a report on the progress on arrangements for further training sessions for members of the Board and the two Planning Committees.

The Board had previously agreed that a programme of half day sessions be arranged over the coming year at 5-6 week intervals. The first session would be on 11 May and would cover the Council's arrangements for making planning decisions together with an update on the Development Plan policy situation and material planning applications.

It was proposed that the second session on 22 June cover planning enforcement and decision making and policy for minerals and waste planning applications.

RESOLVED:

The proposals for the first two training session be approved.

The meeting commenced at 2.00 pm and concluded at 4.00 pm

Councillor H Gaddum (Chairman)

CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 27th May 2009
Report of: John Knight, Head of Planning and Policy
Title: Retention of Hardcore Area for the Storage of Waste Disposal Skips as an Extension to the Existing Skip Hire Business at Betchton Cottage Farm, Cappers Lane, Betchton for Mr. Thomas Gardiner.

1.0 Purpose of Report

- 1.1 To consider the planning application 09/0259/FUL

2.0 Decision Required

- 2.1 To grant or refuse planning permission.

3.0 Background

- 3.1 At the meeting on the 14th May 2009 the Southern Planning Committee resolved that they were minded to grant planning permission in respect of this application contrary to officer recommendation.
- 3.2 Under the adopted Terms of Reference, applications involving a significant departure from policy, which a Planning Committee is minded to approve, must be referred to Strategic Planning Board.
- 3.3 The proposal is considered to be a significant departure because it involves the expansion of a business into open countryside which is inappropriate within the rural area and has a detrimental effect on the character and appearance of the surrounding open countryside, contrary to policies DP1, DP4, DP7, RDF2 and W3 of the North West Regional Spatial Strategy, policies GR1, GR2, GR5 and E5 of the Congleton Borough Local Plan First Review and it involves the loss of Grade 2 Agricultural Land contrary to national planning policy guidance set out at paragraph 28 of PPS7.
- 3.4 Planning policy would be significantly undermined by the proposal because if permission was granted for the hardcore area, this would encourage applications for further development of the field and for other similar businesses elsewhere in the rural area, which might then prove difficult to resist, thereby resulting in a cumulative loss of agricultural land to the detriment of the character and appearance of the open countryside.

- 3.5 The full circumstances surrounding the case and reasoning behind the recommendation of the Head of Planning and Policy to refuse the application are set out in the attached planning report.

4.0 Area Committee Observations

- 4.1 The Committee's reasons for recommending approval, contrary to Policy E5 and officer recommendation, were:-

- The application relates to an existing business which has operated for many years, without generating complaints from the local community.
- The hardstanding which has been formed on the site will have permanently degraded the quality of the agricultural land on which it has been laid. It cannot therefore be returned to agricultural production and its appearance will degenerate rather than improve.
- There is an absence of harm in terms of visual impact and highway safety. The site is well screened by existing hedges and is located alongside the existing skip hire site, commercial garage and caravan storage operation.

- 4.2 In the opinion of the Southern Planning Committee these are material planning considerations which should outweigh the policy presumption against this proposal.

5.0 Officer Response

- 5.0 The existing business may have been established for many years but this was within the adjacent yard area, a visually and physically separate planning unit, not on part of the larger field as now 'proposed'. It was also established largely as a result of unauthorised development which became immune from enforcement action rather than planning permissions being granted.

- 5.1 The agricultural land could be restored at this stage, as has been the case on other sites within the Borough where enforcement action has been taken. However, if permission was granted it would become more consolidated and this would make restoration more difficult and unlikely, which provides further justification to refuse this application.

- 5.2 The site may be screened to some extent by the hedge but nevertheless skips, skip lorries, the container and other items were more visible during the winter. Furthermore, the fact that an inappropriate development, within the open countryside, is not visible is insufficient justification, in itself for approval. The key issue in the consideration of this application is the acceptability in principle of a skip hire use in the open countryside.

- 5.3 The business attracted complaints from residents and Smallwood Parish Council when it was operating from a different site at

Beechcroft, Newcastle Road, Smallwood, and spread out across the adjacent field without planning permission, where activities included the storage of scrap vehicles. Although the applicant always denied that they were operating the business from the site correspondence and Parish Council Minutes within the public domain, evidence the levels of complaints that were generated.

- 5.4 Whilst the committee considered this business to be well run and tidy, there would be nothing to prevent its sale to another operator who may be less conscientious. Therefore these individual circumstances relating to the current operator, in line with advice in PPS1, should be afforded limited weight as a material consideration.

6.0 Options

- 6.1 To endorse the recommendation of the Head of Planning and Policy to refuse the application for the reasons set out in the Committee Report.
- 6.2 To endorse the recommendation of the Southern Planning Committee to approve the application for the reasons set out above.

6.0 Recommendation

- 6.1 The officer recommendation as set out in the planning report still stands.

7.0 Financial Implications

- 7.1 Potential for costs to be incurred in defending an Appeal against refusal.

8.0 Legal Implications

- 8.1 The applicant may appeal against a refusal and the likely outcome of that is discussed below.

9.0 Risk Assessment

- 8.1 Refusal of the application carries the risk of an Appeal against the decision by the applicant. However, in view of the strong policy presumption against this development, it is considered that the Appeal is unlikely to be successful.
- 8.2 Approval of the application would generate an undesirable precedent which would make future applications for the establishment and expansion of businesses which are inappropriate within the rural area difficult to resist.

For further information:

Portfolio Holder: Councillor Jamie Macrae
Officer: Ben Haywood – Principal Planning Officer

Tel No: 01270 537089
Email: ben.haywood@cheshireeast.gov.uk

Background Documents:

- *North West of England Plan: Regional Spatial Strategy to 2021*
- *Adopted Congleton Borough Local Plan First Review*
- *PPS7:Sustainable Development in Rural Areas*

Documents are available for inspection at:

- *Westfields, Sandbach*

Planning Reference No:	09/0259/FUL
Application Address:	Betchton Cottage Farm, Cappers Lane, Betchton
Proposal:	Retention of Hardcore Area for the storage of waste disposal skips as an extension to the existing skip hire business
Applicant:	Mr Thomas Gardiner
Application Type:	Full
Registered:	18 February 2009
Grid Reference:	37904 35863
Ward:	Sandbach East and Rode
Expiry Date:	15 th April 2009
Date Report Prepared:	6 th April 2009
Constraints:	Within Open Countryside as defined in the Congleton Borough Local Plan First Review. Within an area of Grade 2 Agricultural Land.

SUMMARY RECOMMENDATION

The development has a detrimental effect on the character and appearance of the surrounding open countryside contrary to policies DP1, DP4, DP7, RDF2 and W3 of the North West Regional Spatial Strategy, policies GR1, GR2, GR5 and E5 of the Congleton Borough Local Plan First Review and it involves the loss of Grade 2 Agricultural Land contrary to national planning policy guidance set out at paragraph 28 of PPS7.

MAIN ISSUES

- whether the visual effect on the character and appearance of the locality is acceptable
- whether the loss of Grade 2 Agricultural Land is justifiable

1. REASON FOR REPORT

The application is referred to Committee at the request of a Councillor under the Congleton Borough Council constitution prior to 1st April 2009. The Councillor considers that the application is worthy of support, the visual impact is mitigated to a significant degree by hedgerow screening, it relates to a business that performs a useful function within the local economy and if there are any conflicts with planning policies, consideration for the local economy would outweigh those conflicts.

The application was deferred for a site visit from the previous Southern Committee meeting.

2. DESCRIPTION OF SITE AND CONTEXT

Part of a field on the south west side of the A533 Cappers Lane from Sandbach to Rode Heath between the applicant's property, Betchton Cottage Farm, and Betchton Garage.

3. DETAILS OF PROPOSAL

The application seeks planning permission retrospectively for an area of hardcore measuring 45 metres by 25 metres on part of a field alongside Cappers Lane, Betchton. The hardcore was laid in September of last year and has subsequently been used for the parking of skip lorries, storage of skips and storage of a variety of other items including vintage agricultural machinery, vehicle parts, timber, building materials, etc.

4. RELEVANT HISTORY

On this site:

07/1220/FUL- Application for change of use from agriculture to storage of skips and skip wagons. Withdrawn 15th November 2007.

08/1563/AGR - Prior determination application for proposed new building for animal feed, hay, straw and farm machinery. Declared invalid due to insufficient evidence that the proposed building is 'reasonably necessary for the purposes of agriculture' 30th September 2008.

On the adjacent yard to the south east:

8/5465/3 - Change of use of shed from general farm store shed to haulage, merchenting and warehousing of agricultural produce in accordance with established use for which certificate is concurrently being applied for. Granted 4th October 1977.

8/5466/5 - Certificate of Established Use granted for haulage, merchenting and storage of agricultural produce. Issued 11th October 1977.

8/15652/3 - Garaging of vehicles and storage of waste disposal skips subject to a Legal Agreement surrendering (i) the immunity from enforcement action afforded by the 1977 EUC and (ii) the existing use rights conferred by the 1977 planning permission. Granted 5th December 1985.

08/2061/CPE - Certificate of Lawful Existing Use for use of land for parking of vehicles and storage of waste disposal skips in connection with skip hire business. Issued 17th February 2009.

5. POLICIES

Regional Spatial Strategy

DP1 – Spatial Principles

DP4 – Making the Best Use of Existing Resources and Infrastructure

DP7 – Promote Environmental Quality

RDF2 – Rural Areas

W3 – Supply of Employment Land

Local Plan Policy

GR1 – New Development

GR2 – Design

GR5 – Landscape Character

E5 – Employment Development in the Open Countryside

Other Material Considerations

PPS7 – paragraph 28 – Best and most versatile agricultural land

6. CONSULTATIONS (External to Planning)

Highways – no objection.

Environmental Health – no observations.

English Nature – no comment.

7. VIEWS OF THE PARISH / TOWN COUNCIL

Betchton Parish Council supports the application as it will provide 2 jobs, very welcome in the current climate. The hard standing will not be intrusive and although it is on farmland it is felt that the loss of the land will not be detrimental to the area. Also if the business ceases in the future the hard standing could be returned to farmland.

8. OTHER REPRESENTATIONS

One letter has been received from the occupier of a property on the outskirts of Sandbach 1½ miles from the site. The writer has no objection to the application, the site is well maintained and screened, it adjoins a garage business and large caravan storage site, it is a case of infill and it would be discrimination to turn this application down. It is good to see a business prospering in this time of recession and should be encouraged.

9. APPLICANT'S SUPPORTING INFORMATION

The applicant's agent has submitted a Planning Design and Access Statement with the application. The agent states that the business has been in existence at Betchton Cottage Farm for over 28 years. A certificate of lawful existing use or development was issued in February 2009 for the operation of the skip hire business, garaging of vehicles and storage of skips at the Farm.

Following Mr Beech's death in September 2006 the business was bought and operated by the applicant, Mr T Gardiner. For the last 2 years he has endeavoured to build up the business that had latterly been run down. It is now thriving and, with the demise of a local competitor Mr Gardiner is already experiencing an increase in trade. He anticipates that this will be maintained and increased as a result of which there is significant pressure on space for skips and vehicles in the existing yard. The applicant has a licence from VOSA to operate four 17 tonne skip lorries from the site but at present he operates two lorries together with one 7.5 tonne and one 3.5 tonne skip lorries. He intends to purchase two additional lorries and employ two additional drivers bringing the total numbers employed from 4 to 6 full time employees which will intensify the pressure on storage space within the existing yard. The business has approximately 120 skips one third of which are kept on site at any one time. Sufficient space must be kept within the existing yard for vehicles to load and unload skips, manoeuvre and use the existing garage building for maintenance. The storage of skips in the yard is difficult without the use of additional land and Mr Gardiner's expansion of the business cannot be met within the existing curtilage.

In terms of the principle of development, the agent refers to policy E5 of the Congleton Borough Local Plan First Review which covers employment development in the open countryside and states that the expansion of an existing business will be permitted subject to compliance with certain criteria, and policy RDF2 of the North West of England Plan Regional Spatial Strategy. The agent argues that as the business is already in existence in this location, the development is necessary to sustain that business and the development satisfies relevant criteria consequently it is acceptable in principle.

In terms of the effect on the environment, the agent refers to policies DP1 and DP7 of the North West of England Plan Regional Spatial Strategy and policies GR1, GR2 and GR5 of the CBLPFR. The agent explains that the site measures 45 metres in length by 25 metres in width, it is between the applicant's existing yard and Betchton Motors to the northwest, it is screened by hedgerows from the adjacent highway and on two other sides, these hedgerows could be supplemented if necessary, the site would be used only for storage of skips up to 2 metres in height, vehicles would be parked within the existing yard and hours of operation would be between 08.00 – 17.00 hours on Mondays to Fridays, 08.00 hours to 15.00 hours on Saturdays and only exceptionally on Sundays consequently there would be no adverse effect on the amenities of any residential properties.

In terms of the effect on agricultural land the agent accepts that the hardcore has been laid on Grade 2 Agricultural Land but argues that the area concerned is not significant being only 1125 square metres in size and being between two commercial enterprises. The larger area of agricultural land in the applicant's ownership to the southwest will be retained as grazing land. Although PPS7 is concerned about the loss of significant areas of agricultural land the agent argues that the loss of this small area will not compromise the overall availability and quality of Grade 2 agricultural Land in the locality. The benefits to the existing business outweigh the loss of such a modest area of grazing land.

10. OFFICER APPRAISAL

Principle of Development

The site is within the Open Countryside as defined in the Congleton Borough Local Plan First Review where policy E5 states that proposals for employment development will only be permitted *inter alia* for the expansion or redevelopment of an existing business and provided that the following criteria are satisfied:

- (A) the proposal is for a business enterprise appropriate to a rural area or is essential to the continuation of operations which are already on site and there are no suitable existing buildings which could be reused;
- (B) [not relevant]
- (C) [not relevant]
- (D) the proposal complies with policy GR1, and
- (E) the proposal accords with other relevant Local Plan policies.

Paragraph 6.31 of the explanatory text states that,

A prime objective of the Local Plan is to concentrate development within the urban areas and to avoid encroachment into land in the open countryside beyond that which has already been identified. It is however recognised that existing firms in rural locations should be allowed to

expand where such expansion can be accommodated satisfactorily and is environmentally acceptable.

Policy GR1 of the Local Plan states that all new development will be expected to be of a high standard to conserve or enhance the character of the surrounding area and not detract from its environmental quality and have regard to the principles of sustainable development.

Policy GR2 covers Design and states that,

Planning permission for development will only be granted where the proposal satisfies the following design criteria:

(l) the proposal is sympathetic to the character, appearance and form of the site and surrounding area in terms of *[inter alia]* the visual, physical and functional relationship of the proposal to neighbouring properties, the street scene and to the locality generally.

Policy GR5 refers to landscape character and states that,

Development will be permitted only where it respects or enhances the landscape character of the area. Development will not be permitted which, in the opinion of the Borough Council, would be likely to impact adversely on the landscape character of such areas, or would unacceptably obscure views or unacceptably lessen the visual impact of significant landmarks or landscape features when viewed from areas generally accessible to the public, as a result of the location, design or landscaping of the proposal.

Turning to the North West Regional Spatial Strategy, the underpinning principles set out at policy DP1 *inter alia* aim to

- make best use of existing resources and infrastructure and
- promote environmental quality.

Policy DP4 enlarges further on making the best use of existing resources and infrastructure, it advocates the prudent and efficient management of natural and man-made resources and it sets out a sequential approach to the development of land first using existing buildings and previously developed land within settlements, secondly using other suitable infill opportunities within settlements and thirdly using other land where this is well related to housing, jobs, other services and infrastructure.

Policy DP7 seeks to Promote Environmental Quality especially by understanding and respecting the character and distinctiveness of places and landscapes, maintaining and enhancing the tranquillity of open countryside and rural areas.

Policy RDF2 aims to enhance the value of the rural areas within the region, concentrating development in Key Service Centres and Local Service Centres. In the open countryside new development will be allowed exceptionally where it,

- has an essential requirement for a rural location, which cannot be accommodated elsewhere
- is needed to sustain existing businesses
- provides for exceptional needs for affordable housing
- is an extension of an existing building, or
- involves the appropriate change of use of an existing building.

Paragraph 5.11 of the RSS states that,

Proposals that seek to diversify and expand existing rural businesses in areas that are lagging economically should be regarded positively as long as they demonstrate the potential to help build and maintain sustainable communities and are sensitive towards the local environment.

Policy W3 refers to the supply of employment land. Paragraph 6.10 refers in particular to rural areas and states that 'agriculture will continue to play an important role in the rural economy, and is also important in relation to landscape management and ecological protection and enhancement but the need for agricultural diversification is pressing... Priority should be given to economic activity that has strong links with the area in question, for example food and drink processing, tourism and leisure; the conservation of natural, cultural and historic resources; and businesses that are ancillary to farming and forestry.'

Whilst the use of the hardcore surface within the adjacent field may represent the expansion of a business that has existed historically in this location for many years it is not accepted that this is 'appropriate to a rural area'. The competitor's business referred to by the applicant's agent that has recently ceased trading was located on an industrial estate within Sandbach. This represents a much more suitable location for such a business.

Furthermore, as the business involves the storage of skips and parking of skip lorries which are taller than many vehicles and often have a colourful livery, there is concern about the detrimental effect that it may have upon the character and appearance of the surrounding locality. The applicant's agent has suggested that only skips would be stored on the hardcore area up to a height of 2 metres however experience over that last 6 months whilst the business has been using this area without the benefit of planning permission indicates that the area would be used for parking of skip lorries, that skips would be 'stacked' and a wide variety of other items would be stored on the land including a curtain-side container full of vintage machinery, vehicle parts and building materials having no connection whatsoever with the business.

It is recognised that there is a reasonable hedgerow along the highway boundary and additional screen planting could be provided however dense planting belts can also appear alien in the open countryside.

Overall it is not considered that the development makes best use of resources (RSS policy DP4), promote environmental quality (RSS policy DP7), enhance the value of the rural environment (RSS policy RDF2) or represent diversification of the rural economy as envisaged by RSS policy W3. Furthermore the development does not accord with policies GR1, GR2, GR5 or E5 of the Local Plan.

Moreover, the site is within an area shown on the Agricultural Land Classification map as Grade 2 (extract enclosed). Paragraph 28 of Planning Policy Statement 7 states that the presence of best and most versatile agricultural land (grades 1, 2 and 3a) should be taken into account alongside other sustainability considerations when determining planning applications. Where significant development of agricultural land is unavoidable, local planning authorities should seek to use areas of poorer quality land (grades 3b, 4 and 5) in preference to that of a higher quality except where this would be inconsistent with other sustainability considerations.

It is not considered that the expansion of the business onto part of the adjacent field is 'essential' to its continued existence or that the creation of just 2 additional jobs is sufficient to justify the loss of good quality agricultural land involved.

It will be noted that in November 2007 the same applicant applied for planning permission for change of use of a considerably larger portion of the same field to storage of skips and skip wagons amounting to an area of 45 metres by 60 metres and including provision for a future building measuring 23 metres by 14 metres. Following discussions with Planning Officers, that application was withdrawn but (as explained above) the applicant subsequently went ahead, laid hardcore and began to use the land for storage of skips and skip wagons without planning permission.

In August of last year the same applicant submitted an agricultural notification application under the Town and Country Planning (General Permitted Development) Order for a new building measuring 22 metres by 13 metres on part of the field now occupied by the hardcore. The building was described as being for storage of hay/straw and agricultural machinery. The agent was advised that the application was invalid as there was insufficient evidence that the proposed building was 'reasonably required for the purposes of agriculture' within the agricultural holding which comprises in total only just over 6 hectares of land.

This does however suggest that if permission was granted for the hardcore area, this would encourage further application(s) for further development of the field that might then prove difficult to resist thereby resulting in a cumulative loss of agricultural land.

As such the application is also considered to be contrary to advice set out in paragraph 28 of PPS7 regarding the protection of best and most versatile agricultural land.

Highways

The Highway Engineer has raised no objection.

Amenity

It is not considered that there are any amenity issues.

11. CONCLUSIONS

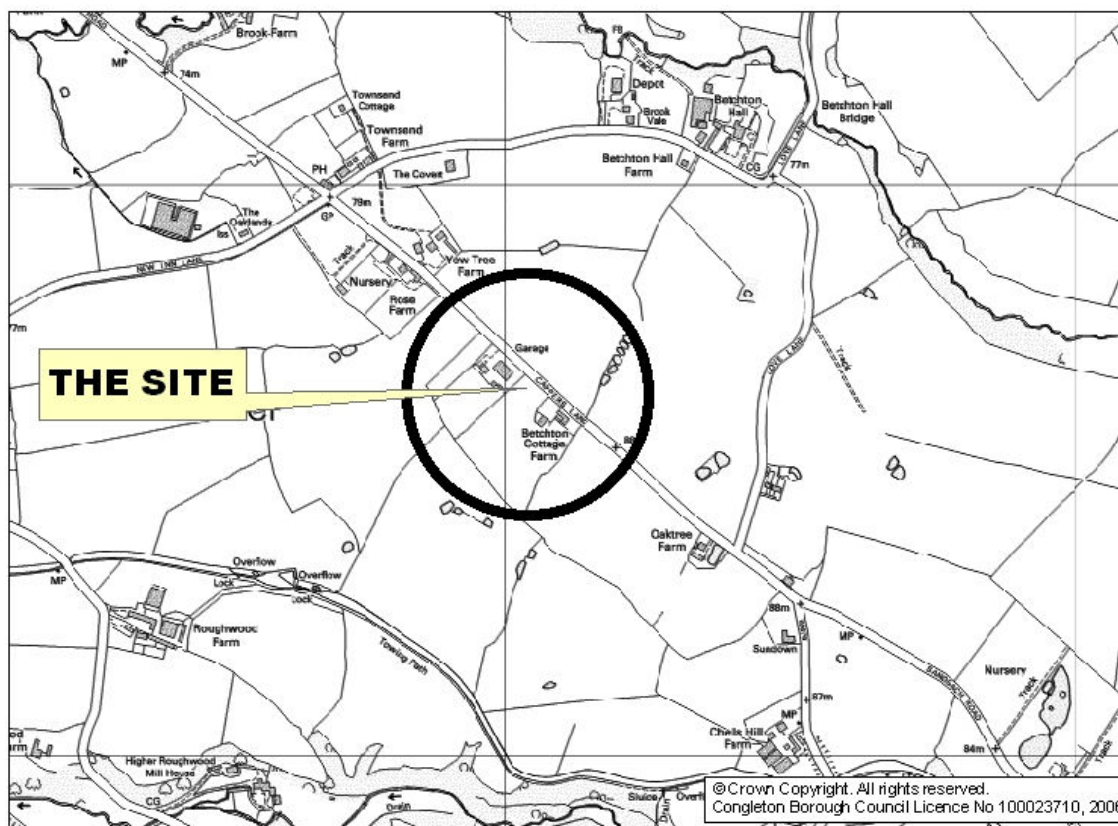
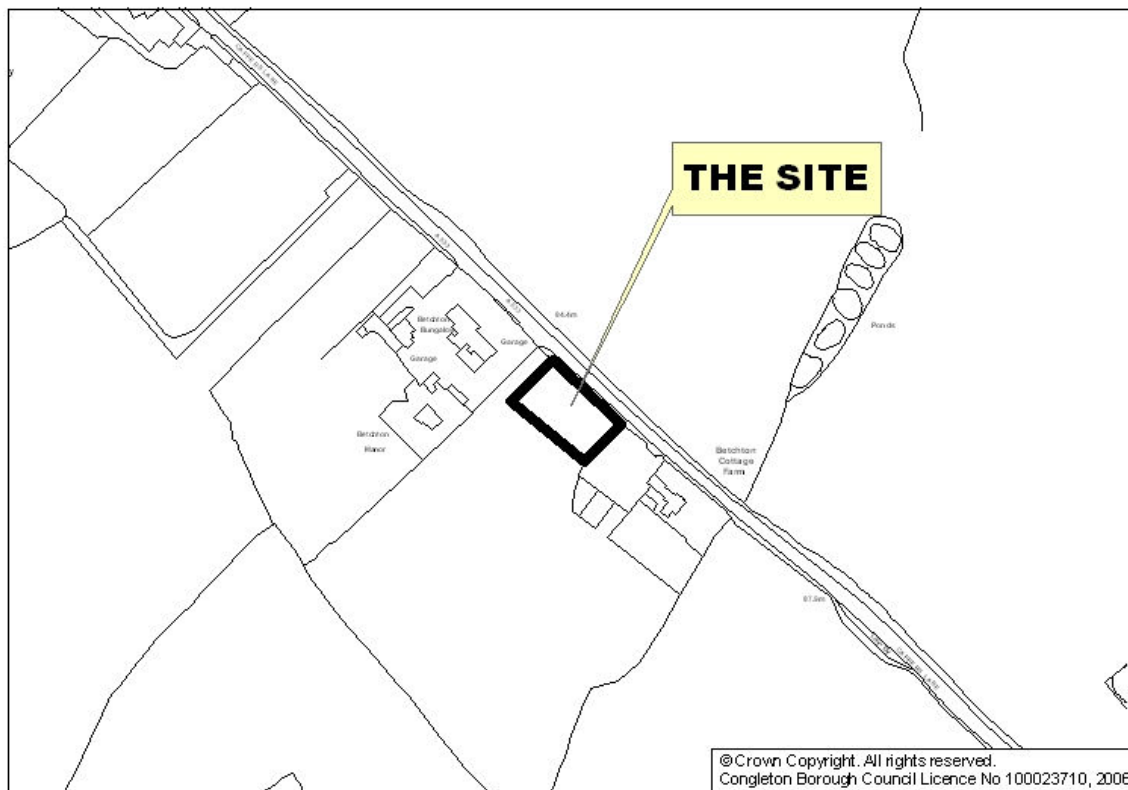
The development has a detrimental effect on the character and appearance of the surrounding open countryside contrary to policies DP1, DP4, DP7, RDF2 and W3 of the North West Regional Spatial Strategy, policies GR1, GR2, GR5 and E5 of the Congleton Borough Local Plan First Review and it involves the loss of Grade 2 Agricultural Land contrary to national planning policy guidance set out at paragraph 28 of PPS7.

12. RECOMMENDATION

REFUSE for the following reasons:

1. The development has a detrimental effect on the character and appearance of the surrounding open countryside contrary to policies DP1, DP4, DP7, RDF2 and W3 of the North West Regional Spatial Strategy, policies GR1, GR2, GR5 and E5 of the Congleton Borough Local Plan First Review and it involves the loss of Grade 2 Agricultural Land contrary to national planning policy guidance set out at paragraph 28 of PPS7.

LOCATION PLAN:



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Strategic Planning Board Report

Planning Reference No:	7/2009/CCC/4
Application Address:	Brine Leas High School, Audlem Road, Nantwich,
Proposal:	New Post 16 Centre incorporating 3 storey L-shaped building with external social space and general improvements to the site including parking and floodlighting to tennis courts
Applicant:	Cheshire East Borough Council
Application Type:	Full Planning Application
Grid Reference:	656 512
Ward:	Nantwich
Earliest Determination Date:	27 th May 2009
Expiry Date:	9 th June 2009
Date of Officer's Site Visit:	20 th April 2009
Date Report Prepared:	15 th May 2009
Constraints:	Playing Fields, RT1

SUMMARY RECOMMENDATION:

Authority be delegated to the Head of Planning and Policy to consider any further representations and consultation responses resulting from the amended plans and subject to no objections from consultees, approve with conditions

MAIN ISSUES:

The impact of the development on:

- The character and appearance of the area
- The loss of an area of playing fields and redevelopment for tennis courts,
- Neighbouring Residential amenity due to the impact of the building, lighting, noise and security
- Highways due to an increase in student and staff numbers
- Protected species due to the proximity of the development to a pond
- Floodlighting to car park, tennis courts and the building.

1. REASON FOR REFERRAL

The application has been referred to the Strategic Planning Board as the application site is 3.65 hectares

1. DESCRIPTION OF SITE AND CONTEXT

The application site is an existing school known as Brine Leas High School and is located within the settlement boundary of Nantwich. The site is situated to the South of Nantwich Town Centre, and is encompassed by residential properties to the North, East and West, with agricultural land to the South. The school playing fields are located to the South and South West of the school complex, and are allocated as RT1 land in the Borough of Crewe and Nantwich Replacement Local Plan which refers to open spaces with recreational or amenity value.

The topography of the site is relatively flat with the school buildings set back from the frontage along Audlem Road. To the North East and East, the site also benefits from the presence of well established trees which assist in screening the school, some of which are within the application site whereas others are in private ownership offsite.

Weaver Primary School neighbours the application site to the West where a pond is located within the school grounds. The pond is known to contain a medium population of Great Crested Newts and is within close proximity to the proposed works. The two schools are separated by a footpath which is lined with a continuous length of hedgerow.

The application has been made by Cheshire East Borough Council to seek planning permission for a Post 16 centre (and other improvements) at Brine Leas High School which will accommodate an additional 300 students aged 16-19 for Applied Learning.

2. DETAILS OF PROPOSAL

The proposed development includes the provision of a Post 16 centre to be located on an existing hard-standing play area to the East of the existing three storey main school building. The L-shaped design of the proposed building lends to the development of a courtyard which will be used as social / work space for the sixth form students, and will incorporate three distinctive areas providing a choice of active or passive uses. A new parking area to the East of the site is proposed which will replace the existing tennis courts which will be relocated to the Western boundary of the site where other existing sports facilities are located. The existing school car park will be turned into a playground and the majority of parking spaces will be provided in the new parking area to the east. The proposed car park will accommodate 103 parking spaces with an additional 35 spaces provided off the new access road and 10 spaces to the front of the school. This includes provision for 8 visitor spaces, 7 disabled spaces and 8 motorcycle spaces. The proposal also includes 36 additional cycle spaces and 4 spaces for buses / coaches.

The proposal will incorporate a lighting scheme for the proposed building, main car park, new access road and floodlighting to the tennis courts. CCTV will operate on the main car park.

3. RELEVANT HISTORY

7/2006/CCC/18 – Provision of new lift in new 3 storey external tower (delegated approval with conditions)

7/P05/1539 – Refurbishment of existing sports hall, including provision of new store, new entrance and external painting (delegated approval with conditions)

7/P00/0469 - Mobile classroom, double unit and single units and extension to an existing playground in tarmacadam (delegated approval with conditions)

7/P99/1007 – Proposed new Art block and proposed new changing accommodation to existing sports centre (delegated approval with conditions)

7/P99/0936 – Single storey food technology room extension to existing block (delegated approval with conditions)

7/P92/0462 – Extension on dining room (delegated approval with conditions)

4. POLICIES

Regional Spatial Strategy

Policy DP1 Spatial Principles

Policy DP2 Promote Sustainable Communities

Borough of Crewe & Nantwich Replacement Local Plan Policy

TRAN 3 Pedestrians

TRAN 5 Provision for Cyclists

TRAN6 Cycle Routes

TRAN9 Car Parking Standards

NE9 Protected Species

BE1 Amenity

BE2 Design Standards

BE3 Access and Parking

BE4 Drainage Utilities and Resources

BE5 Infrastructure

RT1 Protection of Open Space with Recreational or Amenity Value

RT17 Increasing Opportunities for Sport

CF2 Community Facilities

Other Material Considerations

PPS 1 Delivering Sustainable Development

PPS 9 Biodiversity and Geological Conservation

PPG 13 Transport

PPG 17 Planning for Open Space, Sport and Recreation

5. CONSULTATIONS (External to Planning)

Highways: Highways have requested a financial contribution to the following improvements:

1) New bus stops outside / opposite the school main entrance, including a pedestrian crossing and one bus shelter.

Reason – It is anticipated that after school activities for both the school and users of the school will require a local bus service and that service should be accessible near to the school. The nearest official bus stop to Brine Leas is currently opposite St Anne's Primary School which is too far away and on the wrong side of Park Road.

2) Improved cycling facilities between Brine Leas and Shrewbridge Road

Reason – the existing pedestrian route between Brine Leas and Shrewbridge Road and the Town Centre has been highlighted as a direct route suitable for cyclists and pedestrians, linking Brine Leas to Nantwich Town Centre. The development would increase cycle movements, but without a safer route in place there will be an increased risk of collisions and accidents. A footway / cycleway with dropped crossings, associated signage and a controlled crossing facility at or near to Park road will be required.

3) Toucan crossing at the junction with Audlem Road, Wellington Road / Park Road

Reason – As this forms part of a safe route to school, it automatically qualifies for a crossing

4) Extension of existing school keep-clear markings during the construction phase to prevent on street parking at the pedestrian entrance / exit

5) Construction vehicles to operate under restricted hours of working, to use the same entrance as the school with their route in and out of the site segregated from other school traffic and users at all times

6) No queuing of construction vehicles to be near the school

7) For a set route for construction traffic to be agreed with the highways authority prior to construction.

Environmental Protection: No objections to the amended proposals subject to appropriate conditions in relation to a review after completion concerning lighting, noise and security with regards to nearby residencies. More detailed comments to be provided by update.

Landscape Officer (Backford Hall): No objection

Landscape Officer (Crewe): Views awaited at time of writing report

Ecology: No objections subject to an appropriate condition to ensure that the development proceeds in accordance with the submitted amphibian mitigation strategy (May 2009).

No tree, scrub or hedgerow felling, management and/or cutting operations should take place during the period 1st March to 31st August inclusive to protect breeding birds, unless otherwise agreed in writing with the Local Planning Authority.

In order to improve the contribution of the proposed development to biodiversity in line with the requirements of PPS9, it is advised that bird nesting boxes and bat boxes are erected on those mature trees which are to be retained on site. Advice on the correct number and siting of the boxes should be sought from an experienced ecologist.

Public Rights Of Way: No objection

Safer Routes to Schools: Safer Routes to Schools have commented that the travel plan is currently in the process of being assessed by the school travel team, however an initial examination suggests that the travel plan is a robust plan and is likely to meet criteria with only minor amendments.

Additional comments include that the number of parking spaces is excessive and that parent's cars should be prevented from entering the grounds in order to discourage driving to school and also to improve on-site safety for pedestrians and cyclists.

Safer Routes to Schools have also made suggestions to highways regarding highway improvements.

Environment Agency: No objection to the proposed development. Initial consultation with the Environment Agency at pre-app stage recommended that the proposal would not require a flood risk assessment.

Sport England: Sport England originally objected to the proposal on the grounds that the development would lead to the permanent loss of part of the existing playing field; and that the application does not provide any justification for this in terms of meeting one of the five exceptions of Sport England's Playing Fields Policy.

In order to meet exception five of the above policy, Sport England have requested a number of qualitative improvements to the site which would allow them to withdraw their objection. These improvements include the following: (i) the replacement tennis courts to be finished with a polymeric surface and pitch markings for additional sports (ii) floodlighting to be provided to allow for evening use (iii) rebound fencing (iv) replacement cricket wicket on adjacent playing field (v) drainage improvements to 3 football pitches on adjacent playing field (vi) existing community use of sports facilities to be formalised through a Community Use Agreement.

Sport England have requested that the floodlighting scheme should be submitted upfront, to the satisfaction of Sport England whereas the other details can be addressed by condition. The applicant has submitted revised details in light of the above comments and if Sport England are satisfied with the amended proposals, they will withdraw their objection.

Views of Sport England in relation to the amended details are awaited at the time of writing this report and will be reported verbally.

6. VIEWS OF THE PARISH / TOWN COUNCIL:

Views of Nantwich Town Council awaited at the time of writing this report

7. OTHER REPRESENTATIONS:

Representations have been received from residents at 1 and 4 The Coppice, Audlem Road; 46 Audlem Road and 106 Audlem Road. The planning grounds of objection can be summarised as follows:-

- Loss of light due to the height of the building and proximity
- Amount of noise from students and vehicles
- Increased volume of traffic and level of CO2 emissions
- Overlooking of properties known as The Coppice
- Object to the change of use of existing tennis courts to parking area
- Privacy – it will take time for proposed planting to mature and users of the car park will be able to see directly into the gardens of properties along the eastern boundary
- Noise and pollution associated with the car park

Comment - A better location for the proposed building could be found on site

Any further representations made as a result of the re-consultation process due to amendments to the application will be reported verbally.

8. APPLICANT'S SUPPORTING INFORMATION:

Design and Access Statement (Prepared by Aedas 2/3/09)

The main points are:

- The 3 storey building will minimise the impact on amenity spaces and servicing areas
- Staff, pupil and parent input was sought, including open day events and leaflet drops
- The building is an L-shaped design, three storeys high, with a total area of 1969m²
- The building was designed to have a strong presence on site to ensure that it is visible from the main entrance on Audlem Road
- Other improvements to the site include entrance remodelling, school bus parking provision, new vehicular access route, car parking with turning area, existing car park to be converted to a playground to compensate for the loss of hard standing play area by the new building, relocation of tennis courts, courtyard area to provide social space
- Materials have been selected so that the palette is limited to a small number of different products which include a through colour render system, fibre cement panels, timber boarding, aluminium windows / curtain walling and single ply roof membrane

- 18 - Finish of materials are arranged to give solid corners to the building to create an aesthetic link with the existing school buildings. These will be broken by full height glazed curtain walling to the triple height lightwells
- The building is elongated by linear cladding, render and ribbon windows to reflect the scale of the existing school building
 - The large canopy to the south and east elevations face onto the social space courtyard and will provide solar shading

Landscape Statement (Prepared by Aedas 2/3/09)

- The proposed building wraps around a large south facing courtyard which has been divided into clearly defined zones with different characters and potential uses
- Pale coloured paving will be used
- There will be three zones providing a choice of passive or active uses. These include: (i) Sunny seating area adjacent to the dining hall (ii) Passive social area with casual seating (iii) Active area incorporating basket ball hoop, table tennis tables and spectator seating
- The zones will be connected visually by common elements such as treatment of materials and floorscape
- Tree planting along the southern boundary of the courtyard to screen the area from the existing school building to the south

Sustainability Statement (Prepared by Aedas 2/3/09)

- Brine Leas High School Post 16 Centre has been designed to meet a high standard for an educational facility but with as small environmental footprint as possible
- Striving to achieve a 'very good' BREEAM rating at the design and procurement stage – an early assessment has shown that this target will be achievable
- Most of the sustainability features have been intended to be used for raising awareness and educational purposes for pupils, staff and the wider community on environmental sustainability
- The building has been orientated to benefit from passive heating in winter but without excessive heat gain in summer
- The south facing canopy is designed to stop high angled sun in summer but allowing low angled sun in winter
- The L-shape was derived from careful consideration of daylight, natural ventilation, views out and ease of movement
- Environmentally responsible and durable materials have been chosen
- Increased insulation and thermal mass will prevent unwanted heat losses and gains, and create a stable, comfortable indoor temperature throughout the year. This will ensure that heating energy will be reduced and the cooling load will be diminished to discourage the use of air conditioning
- The school has a combined waste and recycling scheme in operation
- The school has prepared a school travel plan to encourage sustainable modes of transport
- The school landscape plays an important role in pupils educational and recreational needs and can reduce the school's environmental footprint

- 18 - The sustainable landscape strategy retains as many existing natural features as possible with additional planting to provide more habitats for wildlife
- The proposal for a post 16 centre at Brine Leas will give added benefits to the community well-being and educational needs

Amphibian Mitigation Strategy: (Prepared by TEP 14/5/09)

- An assessment of the site identified two ponds. Pond 1 is approximately 20m west of the boundary (in grounds of Weaver Primary School) and Pond 2 is 300m to the south of the site.
- A medium population of Great Crested Newts were found in Pond 1
- No Great Crested Newts were found in Pond 2 and during the survey period the pond became dry
- Although not directly linked to other water-bodies, the ponds lie adjacent to a dense hedge that could provide an amphibian dispersal / migration route to the wider area
- The conservation status of the Great Crested Newt population in Pond 1 is considered to be vulnerable to disturbance from site development activities
- The development has the potential to impact upon the Great Crested Newt population and therefore a robust mitigation strategy is proposed
- Mitigation will include the following:
 - (i) Maintain the site in its current condition, keeping amenity grassland areas shortly mown
 - (ii) Use the survey information to inform an application to Natural England for development in respect of Great Crested Newts
 - (iii) Install a one-way amphibian fence as a deflection barrier along the hedge at the edge of the development near the pond and/or ring-fence and trap out the tennis court development
 - (iv) Translocate any recovered amphibians to the pond area
 - (v) Provide terrestrial habitat enhancement to ensure no net loss of core foraging habitats
- Through the construction of the tennis courts there is likely to be no loss of breeding, hibernation or sheltering habitats, but some loss of ranging and foraging habitat. No long term impacts on the Great Crested Newt population and no wider impacts predicted of fragmentation of habitats. The hedgerow will remain intact providing connectivity to the wider area

9. OFFICER APPRAISAL

Principle of Development

The site is located within the Nantwich settlement boundary and is an existing established school and is therefore compliant with Policy CF2 of the Borough of Crewe and Nantwich Replacement Local Plan

Design

The proposed building is an L-shaped three storey design which is located adjacent to the existing three storey main school building. The shape of the

building was derived from careful consideration of daylight, natural ventilation and views from the building. The positioning of the building creates a strong presence on site, especially from the main entrance on Audlem Road where the full length of the building is visible. The entrance to the building is clearly defined by the overhang canopy and use of the full height glazed curtain walling.

The layout of the building creates a 'courtyard' area which will provide an outdoor social/work space for users of the facility. This area will be landscaped to create three distinct zones which will allow for passive / active uses which are currently lacking on the site.

The scale of the proposed building is appropriate in the context of the site and in particular the existing main school building which is of a similar height and scale. The new building is reflective of the existing building style with the use of glazing and solid corners, but utilises more modern materials and design features making the building distinct from the rest of the school. The palette of materials and use of full height curtain walling in sections of the building creates a modern design which is relevant to its function as a post 16 educational facility. The appearance of the building is such that it would not have an adverse impact on the character of the locality, and should permission be granted a condition would be attached requiring the submission and approval of materials.

Drainage

Drainage details have been submitted with the application and the Environment Agency has raised no objection.

Lighting

The lighting scheme for the site includes lighting to the proposed building, new access road, parking area and tennis courts. Floodlighting to the tennis courts is an amendment to the application which has been added more recently in light of comments from Sport England. Due to this the application has been sent out to re-consultation for 14 days which is currently on-going.

A revised lighting scheme which incorporates a reduction in the amount of lighting proposed on the building and in the car park has been submitted, and now meets the satisfaction of the Environmental Protection Officer, subject to review and appropriate conditions. Lighting to the main parking area to the east of the site was also amended as a result of changes to the parking layout and a reduction in parking provision.

The main car park lighting scheme will now incorporate twelve 6 metre high lighting columns in addition to two columns around the turning circle and three columns where parking is provided off the new access road. Two 6 metre high CCTV columns will also be provided to the main car park for security purposes.

The new building will be illuminated on all elevations, with 'boxed style' lighting to the front and sides mounted at 5 metres, and more general lighting to the rear of the building mounted beneath the canopy.

Floodlighting is now proposed on the tennis courts which will be relocated to the west of the site. The lighting scheme will incorporate fourteen 12 metre high lighting columns, six of which will have double light fittings. Detailed information regarding lighting levels and spillage has been provided which shows that the level of illuminance to Weaver Primary School and immediately adjacent properties will be relatively low. Furthermore, when the tennis courts are in use during the evenings, the lighting will be switched off at 10.30pm at the latest but could be further controlled by condition to be switched off at an earlier time. This detail will be reported to the Strategic Planning Board by the additional information update report

The proposed floodlighting to the tennis courts would increase the number of hours sports can be played and maximise the use of the facility for Brine Leas, sports clubs and the local community. Policy RT17 (Increasing Opportunities for Sport) of the local plan is supportive of floodlighting where they would increase the use and availability of outdoor sports and recreation provision provided that they will not result in an adverse impact upon the adjacent land uses. The lighting is considered to be acceptable subject to appropriate conditions requiring additional screening and review once the development is operational in order to ensure that any impacts on the amenity of adjacent properties have been adequately mitigated.

Lighting on site will be controlled by means of time clock and photocell with remote override facility. When the light level decreases to a set level where the lighting is required, the lighting will be turned on via the photocell. All floodlighting will be switched off at 10.30pm using the time clock, in line with the hours of use of the facilities provided on site. The hours of use of the lighting on the building and parking area are considered to be acceptable given the use of the site by the local community and sports groups during the evenings.

Parking

The proposed development includes the provision of a car park to the rear of the site along the eastern boundary. The location of the car park will replace the existing tennis courts which will be relocated to the west of the site where the majority of the school's sports facilities are located. The application originally proposed 175 parking spaces in total, 138 of which would be provided within the new parking area. The number of spaces to be provided was based on the maximum car parking standards for 'schools and other educational establishments' as set out in the Borough of Crewe and Nantwich Local Plan (appendix 8.1). These standards however, refer to maximum standards and it was considered that the number of spaces provided was excessive for the site and was not in line with the aims of the school travel plan or guidance contained in PPG 13 'Transport'. Additionally, the original size of the car park meant that the development encroached on to the school playing field which is protected under policy RT1 (Protection of open spaces with recreational or amenity value) of the Borough of Crewe and Nantwich

Replacement Local Plan. The revised plans have now shown a reduction in the number of parking spaces and also an amendment to the parking layout, avoiding encroachment on to the playing field. Parking provision has now been reduced to 150 across the site, with 103 provided within the main car park. This provision also includes 7 disabled parking spaces and 8 motorcycle spaces. 36 additional cycle parking spaces will be provided, bringing the total of cycle provision to 106. Due to changes in the parking layout it was felt that additional consultation was necessary so that any additional representations relevant to planning can be raised and taken into consideration.

The location of the car park to the east of the site segregates vehicles from pedestrian areas, meaning that the majority of parking and vehicle movements will be confined to one main part of the site. This will improve safety on site and reduce the potential for vehicle / pedestrian conflict. The location of the car park is also dictated by site constraints, particularly as most of the land to the rear of the school is protected under policy RT1. Furthermore PPG 17 'Planning for open space, sport and recreation' and Sport England's Playing Fields policy is also relevant. The revised layout of the car park no longer raises any concerns with regards to policy RT1.

Amenity

Concern has been raised by local residents about the issues of privacy, noise and security associated with the replacement of the tennis courts with parking area. Screening will be provided in the form of landscaping and planting, in addition to a solid fence along the eastern boundary between the school and properties along Audlem Road. Given the existing boundary treatment in this area and the recognition that the planting proposed in the landscaping scheme will take time to mature, the provision of a solid fence would instantly overcome the issue of privacy and light pollution from car headlights arising from the car park. Once the planting has matured this would provide further screening and 'greening' to this area and would be sufficient to mitigate against the adverse impacts of the development on residential amenity.

The school is an established site and it is not considered that the proposed development would lead to significantly higher levels of noise or pollution from vehicles using the car park. Although the location of the car park would intensify this use to the east of the site, the new car park will regularise existing indiscriminate parking which currently occurs across the site, and will provide a more legible and practical site layout. Taking into account the number of existing 'official' and 'unofficial' parking spaces, the additional parking provision is not significant enough to generate excessive noise and pollution to warrant refusal on these grounds. Furthermore, an objective of the school travel plan is to discourage use of the car and to encourage more sustainable modes of transport, such as walking, cycling and public transport.

The proposed car park is unlikely to worsen issues of security expressed by a local resident. The car park will be illuminated until 10.30pm in line with the hours of use of the facilities on site and will also be monitored by a CCTV system.

The proposed location of the building has also been raised as a comment from a local resident. This was considered at the design stage and due to limitations of the site which is bound by residential properties to the west, north and east, and school playing fields to the south, the proposed location was considered to be the most appropriate. Various options were also explored in relation to the size of the building and its layout, and the three storey L-shaped proposal was found to be the most feasible in order to meet the school's requirements and maintain valuable amenity space on site.

The issue of the height of the building and potential overlooking and loss of light to properties known as 'The Coppice' has been considered. These properties are located in a corner plot to the north east of the site, along Audlem Road. The nearest of these properties is situated 15 metres from the proposed building, set at an angle. Most of the properties which bound the application site to the north east are screened from the school by existing well established trees and vegetation, however in relation to property number 4 The Coppice, screening is poor here due to a gap in the existing planting scheme. The location of the building however, is offset at an angle to this property and will not be directly in front of the dwelling. Planting is also proposed to fill in the current vegetation 'gap' which will provide screening to this property. Although the proposed building will extend the built form of the site, bringing it closer to properties along the north east / eastern boundary, the combination of existing boundary treatment and proposed landscaping will provide sufficient screening to minimise the effects of the building in relation to overlooking.

The impact of the proposed development on the amenity of residential properties is not considered to be of a level of significance that would warrant refusal of the application, and any impacts can be mitigated by condition. Overall, it is considered that the issues raised by letters of representation have been adequately addressed and/or would be mitigated to an acceptable level.

Ecology

The Amphibian Mitigation Strategy which was submitted by the applicant contains survey information which identified a medium population of Great Crested Newts in the pond located in the grounds of Weaver Primary School, to the west of the site. The second pond which is located in an agricultural field 300m to the south of the site was not found to contain any Great Crested Newts, and had dried up during the survey period.

The development of the relocated tennis courts to the west of the site will bring the developable area in relatively close proximity to the breeding pond. However, the Amphibian Mitigation Strategy proposes robust mitigation measures to protect Great Crested newts and to ensure that there is no long-term loss to important habitat for amphibians. The strategy also recommends the planting of species-rich grassland between the existing boundary hedge and new tennis courts which would increase the habitat value of the site for Great Crested Newt foraging and refuge.

It is considered that as long as the development proceeds in accordance with the mitigation strategy, there will be no adverse impacts on the Great Crested Newt population as a result of the development.

Highways

The Highways Officer has requested a number of highways improvements due to the poor accessibility of Brine Leas to Nantwich Town Centre as well as the safety implications of school users during the construction phase. The highways officer considers that if these improvements were not undertaken, the development would be unacceptable in highways terms and would therefore recommend refusal.

The Highways Officer has requested a financial contribution to a number of highways improvements in relation to the development which will significantly increase the number of students and staff attending the site. The school is required to contribute to off-site works which are fairly and reasonably related in scale and kind to the development to be permitted. It is considered that the highways improvements are directly related to the development and therefore a financial contribution will be required and will be proportionate to the increase in numbers, for example an additional 300 students and 36 members of staff.

(1) New bus stops outside / opposite the school main entrance

Highways require a financial contribution to two new bus stops outside the school, linked by a pedestrian crossing facility and a shelter at one of them. The financial contribution arising from the development needs to be related in scale to the development for which planning permission is sought. This should be included in the form of a Memorandum of Understanding which will require a financial contribution to be made for a number of works.

The requirement of a bus stop / bus stops should also be incorporated into the school's travel plan. The travel plan which has been submitted with the application contains the results of a survey with four aims / targets. These aims include increasing the number of students cycling to school, decreasing the number of students arriving by car and also discouraging car use by staff, and also to continue monitoring the number of students and staff who use buses to travel to and from school. This will need to be updated regularly as student numbers increase.

(2 & 3) Improved cycling facilities between Brine Leas and Shrewbridge Road & Toucan crossing at the junction with Audlem Road, Wellington Road / Park Road

A financial contribution to the provision of improved pedestrian / cycle crossing facilities between Brine Leas School and the pedestrian / cycle links on Shrewbridge Road is required. A survey completed this year has shown that pupils from Brine Leas use this route to and from school and this provides a safer route to the town centre than along Wellington road. Therefore a financial contribution to improve this link to promote greater use for cycling should be required. This is supported by Policy TRAN 3 (for pedestrians) and TRAN 5 (for cyclists) of the Borough of Crewe and Nantwich Local Plan.

Improvements to this link would fit in well with the School Travel plan and should also be included within the plan to demonstrate commitment to these provision (in conjunction with Cheshire East Council) and to monitoring the use of cycling as a means of transport to and from school for students and also staff.

(4) Extension of existing school keep clear markings during the construction phase to prevent on street parking at the pedestrian entrance / exit

Due to the location of the site there is no feasible option for adding a separate access for construction vehicles. Highways have raised concern about how students will arrive and depart from school safely during the construction period. A number of measures are required including the extension of keep clear markings on the school road frontage on Audlem Road in order to achieve safe access for students during construction. Since Policy TRAN 3 includes reference to safe routes to schools, it is considered that a contribution to the cost of the Traffic Regulation Order to provide these markings should also be including in the Memorandum of Understanding.

(5 and 6) Construction vehicles to operate under restricted hours of working, to use the same entrance as the school with their route in and out of the site segregated from other school traffic and users at all times and no queuing of construction vehicles to be near the school

The Highways Officer is of the view that construction vehicles should only arrive and depart at certain times so as to avoid conflict with the peak times for pupils and staff arriving and departing, and that there should be segregation between construction traffic and school traffic. In addition there should be no queuing of construction vehicles outside the school. In view of the fact that Policy TRAN 3 supports safe routes to school, and the reason for these requirements is to achieve safety for pupils and staff arriving and departing at the school, it is considered that these matters should be in a Construction Management Plan. The Construction Management Plan will be subject to condition for submission and approval.

(7) For a set route for construction traffic to be agreed with Cheshire East Council (highways) prior to construction.

Highways also require a set route to be agreed for construction vehicles prior to the commencement of development. However, Circular 11/95 entitled 'The Use of Conditions on Planning Permissions' indicates that this should not be a matter for condition on a planning permission since this can be controlled through the Road Traffic Regulation Act 1984.

To summarise, a condition will be attached to any permission for an updated School Travel Plan to be submitted and approved before the new development is first occupied. The Travel Plan should also include measures for the provision of items 1, 2 and 3 above, including the monitoring of the staff and pupils who walk, cycle and use the bus to travel to and from school, in addition to incentives to increase these modes of travel and to reduce the number of car journeys to and from the site.

¹⁸ A separate condition will also be attached requiring a Construction Management Plan to be submitted and approved prior to the commencement of development, in relation to the segregation of school traffic and construction traffic, hours of construction deliveries to the site, and also measure to avoid construction traffic queuing on the highway including the extension of the keep clear markings on the Audlem Road frontage.

Playing Fields

The school playing field to the south of the site is protected under policy RT1 of the local plan. The policy states that 'development will not be permitted which would result in the loss of open space (which includes playing fields) shown on the proposals map, which has recreational or amenity value'. This policy also contains five exceptions.

In relocating the tennis courts to the west of the site this would involve development on the school playing field. The parcel of land where the courts are proposed is underutilised and does not form part of the playing pitch. As the tennis courts are a sporting / recreational facility it is considered that the second exception of policy RT1 can be demonstrated in order to justify development in the playing field. That is to say that the 'proposed development is ancillary to the principal use of the site as a playing field or open space and does not affect the quantity and quality of pitches or adversely affect their use'.

The tennis courts will be marked out in accordance with Sport England's guidance on multi use games areas (MUGAs) which means that the tennis courts can be used for a variety of sports. Indeed it is considered that the development will enhance the recreational value of this part of the playing field by making it a more usable and functional space for the purposes of sport and recreation, for the school and the wider community. Therefore it is considered that the loss of part of the playing field would be outweighed by the benefits associated with the development, and in view of the second exception of policy RT1 the tennis courts can be reasonably justified in accordance with this policy of the Local Plan.

Sport England has raised an initial objection to the application on the grounds that the development would lead to the permanent loss of part of the playing field and that justification in accordance with one of their five exceptions has not been provided. During the planning application process the applicant has liaised in detail with Sport England and have demonstrated that the proposal is able to meet exception five of Sport England's Playing Fields Policy. Meeting the exception is subject to the provision of floodlighting on the tennis courts of which a scheme has been submitted and other improvements to the site which can be secured by condition. Where exception five is met, this provides justification for the development as the policy entails that 'the proposed development is for an indoor or outdoor sports facility, the provision of which would be of sufficient benefit to the development of sport so as to outweigh the detriment caused by the loss of the playing field'.

In relation to Sport England Playing Fields Policy it is considered that the proposal for tennis courts on part of the playing field provides more

opportunities and benefits for sports participation than if the land were to remain undeveloped and continue in use as an underutilised part of the playing field.

In light of the provision of floodlighting on the tennis courts, further views of Sport England are awaited at the time of writing this report and will be reported in the additional information report.

10. CONCLUSIONS

The proposed development comprises of a new Post 16 centre at Brine Leas High School with other site works including the provision of a car park and relocation of tennis courts incorporating floodlighting. The new building is necessary for the school to deliver the post 16 curriculum as the existing school complex does not have the capacity to accommodate an additional 300 students. The scheme will mean that the site as a whole will benefit from improved facilities in addition to contributing to the educational needs of the wider area.

The tennis courts will involve development on the school playing field, which has been discussed in detail above in consideration of local plan policy and Sport England's Playing Fields Policy. The design and location of the proposed building and ancillary works such as parking, are considered to be acceptable and in accordance with policies BE1 (Amenity) and BE2 (Design Standards) of the local plan. It is considered that any impacts arising as a result of the development can be mitigated to an appropriate level through the use of conditions, therefore making the proposal acceptable.

The site is currently accessible by a wide range of sustainable modes of transport, however the development will help to deliver important highways improvements which will further improve opportunities for green travel. The school is required to make a financial contribution for these improvements which have been identified as a direct result of the development and will have a positive impact on encouraging students and staff to engage sustainable transport, contributing to the success of the school travel plan which will be required to be continually updated and monitored.

Amendments have been made to the application in order to address the issues raised by consultees and in order to comply with specific policies of the Local Plan, particularly policy RT1 and also Sport England's Playing Fields Policy which reflects national guidance contained in PPG 17 'Planning for Open Space, Sport and Recreation'. Amendments to the scheme have been considered in this report and it is regarded that the amendments to the car park, the lighting scheme, and provision of floodlighting are acceptable in principle and that any adverse impact on residential amenity as a result of the development and amendments to the scheme can be mitigated to an acceptable level. However, the amendments are also seen to be of such significance that the application has undergone an additional period of consultation so that any further issues can be identified and taken into consideration. The re-consultation period began on the 15th May and will continue for the duration of 14 days. This will provide sufficient time for consultees to make any representations in light of the changes to the

¹⁸ proposal. In order to allow for this appropriate consultation, the Committee is invited to resolve that Authority be delegated to the Head of Planning And Policy to approve the application with conditions subject to (i) no objections being raised in the consultation response from Sport England and (ii) consideration of any new material planning matters raised in representations as a result of the amended plans.

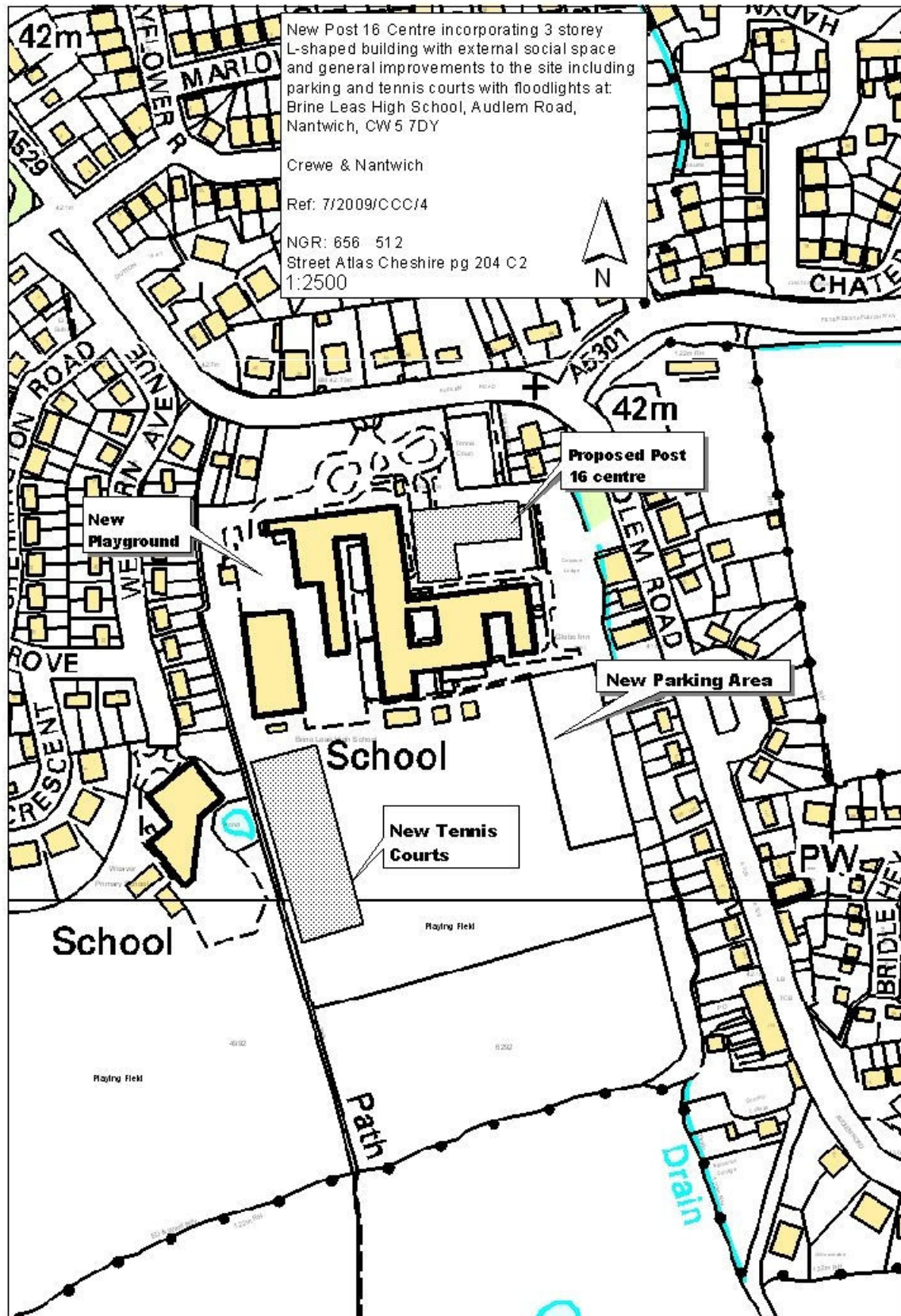
11. RECOMMENDATIONS

The Committee is invited to resolve that Authority be delegated to the Head of Planning and Policy to approve the application with conditions subject to (i) no objections being raised in the consultation response from Sport England and (ii) consideration of any new material planning matters raised in representations as a result of the amended plans

APPROVE subject to the following conditions:-

1. Standard timescale
2. In accordance with approved drawings
3. Materials
4. Submission of a revised landscaping scheme to account for the revised parking layout and floodlighting to tennis courts
5. Implementation and maintenance of landscaping
6. Construction Management Plan
7. Review of lighting when operational
8. Hours of Working
9. Update, implementation and monitoring of School Travel Plan
10. To comply with Amphibian Mitigation Strategy
11. To Comply with Tree Survey
12. Provision of bird / bat boxes
13. Provision of car parking
14. Provision of Cycle parking
15. Details of covered and secure cycle parking to be submitted and implemented
16. Provision of motorcycle parking
17. Provision of tennis courts / MUGA facility
18. Drainage works to be implemented
19. Provision of Highway Improvement works

LOCATION PLAN:



CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of Meeting: 27 May 2009
Report of: John Knight - Head of Planning and Policy
Title: Variation of S106 Agreement – Henbury High School,
Macclesfield Redevelopment by Wimpey Homes

1.0 Purpose of Report

- 1.1 To consider the request of the developer of the former Henbury High School site to vary the phasing of delivery of various requirements attached to the Section 106 Agreement attached to that development, which has commenced.

2.0 Decision Required

- 2.1 To delegate the authority to the Head of Planning and Policy to negotiate upon and secure amendments to the wording of the S106 Agreement to allow for alterations to the phasing of delivery of monies required prior to commencement of development for highways contributions and other items such as the provision of playing pitches and sporting facilities.

3.0 Financial Implications

- 3.1 Costs are likely to increase marginally in terms of additional officer time

4.0 Legal Implications

- 4.1 There are no legal implications in respect of this matter.

5.0 Risk Assessment

- 5.1 The risks associated with this are considered below.

6.0 Background

- 6.1 The site has permission, subject to S106 Agreement, for its residential redevelopment for 123 dwellings, public open space comprising a single storey pavilion, children's play area, 2 multi use games areas (MUGA's), associated dedicated car parking for the playing pitches and 2 separate accesses off Whirley Road, Macclesfield.

- 6.2 The Section 106 agreement was completed in February 2006 and related to the following matters:-
- Timing of the removal of the existing synthetic pitch and construction of recreational facilities.
 - All revenue raised by the sale of the site shall be spent on development connected with the Learning Zone.
 - 25% of the housing shall be affordable in accordance with the Council's policies and guidelines.
 - Specified highway works shall be carried out.
 - A financial contribution shall be made for off-site highway works to be determined by the Highway Authority.
 - The recreational facilities/open space shall be provided to a specified standard.
 - The open space shall be transferred to the Borough Council for recreational purposes and maintained to a suitable standard prior to transfer.
 - A commuted sum shall be paid to the Council for ongoing repair and maintenance of the recreational facilities.
- 6.3 The majority of these issues have been resolved and the capital raised from the development has been used by the former Cheshire County Council to help fund the development of the Learning Zone in Macclesfield and the relocation of the synthetic turf pitch to Fallibroome High School in Macclesfield.

7.0 Current Position

- 7.1 The Applicant, like many housebuilders, is finding the current economic climate very challenging. In order for the Applicant to be able to continue with the development in a viable manner they are unable to outlay the level of expenditure currently required by the S106 in advance of the commencement /occupation of the residential units. The only way that the development can proceed is subject to committed sales, without this Wimpey will not progress the site. This potentially could leave this site blighted and result in the local Broken Cross Juniors football team not being able to return to the site by this autumn.
- 7.2 The Applicant is still committed to the delivery of the development but is seeking to allow for greater flexibility in the phasing of the provision of commuted sum payments for highways works and the phasing of replacement playing pitches and the enhanced pavilion building and play equipment.
- 7.3 The requirements of the S106 Agreement as originally signed and as the Developer is now seeking to negotiate amendments upon are best summed up by the following table:

Heads of Terms of S106 Agreement as originally drafted		Revised Heads of Terms as now proposed
Clause 4.6	Wimpey Homes shall pay the County Council £100,000 for the delivery of highway improvements prior to the commencement of development.	Wimpey Homes shall pay the Highways department £25,000 on the commencement of the development, thereafter £50,000 upon completion of the 50 th open market unit (subject to agreed construction plan) and £25,000 upon commencement of the 100th residential unit, all payments are to be index linked.
Clause 8.2	There shall be 2 junior grass pitches with new drainage systems and pumping station to lift surface water into a public drain.	There shall be 2 new grass pitches with new drainage systems. A new pumping station will be provided, future responsibility for which requires further investigation.
Clause 8.3.2	The reseeding and drainage improvements of the pitches shall be undertaken from April 2009 over the Summer of 2009 and be ready for Autumn 2009.	Phase 1 – Autumn 2009 : Sports pitch no. 1 to have remedial drainage treatment and ground preparation to make it playable for the 2009/10 season. Temporary changing and toilet facilities and access/parking surfacing (Area outlined in pink on attached plan)
Clause 8.3.3	The pavilion shall be made available at the same time as the pitches in Autumn 2009.	The pavilion is to be completed in two phases: Phase 2: Sports element (ie permanent changing facilities) of the pavilion to be completed in Autumn 2010. Phase 4: Community facilities element of pavilion building to be completed upon sale of

		all residential units or 2012 whichever is soonest.
Clause 8.11.1	A construction, provision works, equipment phasing plan and programme for the MUGA, LEAP, remainder of the open space, landscaping arrangements, car park, pavilion and access shall be agreed in writing prior to the commencement of development.	Construction programme to be agreed in writing in accordance with enclosed Phasing Plan.
Clause 8.11.2	The open spaces, including the MUGA and LEAP, pavilion and pitches must be provided prior to first occupation of any residential units abutting to or in the vicinity of the these facilities.	Delete clause relating to occupation of units adjacent to the POS as delivery will be based on agreed Phasing Plan at Clause 8.11.1.
Clause 8.15	The STP and grass pitches shall remain available for community use throughout the football season 2006/07. Drainage works are to be carried out during the closed or the summer season. This should continue until alternative facilities are provided off or on site.	Phase 1: as set above. Phase 2: Sports pitch 2 to have remedial drainage treatment and ground preparation to make it playable for 2010 – 2011.

- 7.4 National Guidance in PPG17 emphasises the importance of protecting open space, sports and recreational facilities in local plans. However, it also recognises that the development of such land may provide an opportunity for local authorities to remedy deficiencies, “wherever possible, the aim should be to achieve qualitative improvements to open space, sports and recreational facilities”, and these should be secured through conditions and planning obligations. The proposed facilities are to be owned and managed by the Borough Council and provide for a mixture of formal and informal recreational uses to maximise use by different members of the local community. They help to remedy deficiencies in the area as identified by the Council’s Audit.
- 7.5 Overall, it the Governments advice to Local Planning Authorities to be as flexible as possible in the current economic climate when considering requests by Developers for flexibility. It is reassuring to note that the Developer is not seeking to renege on the Agreement to provide the playing fields, pavilion building and associated car parking. Rather they are seeking to utilise the revenue from housing

commitments from purchasers to fund their other legal responsibilities for the sporting and recreational facilities.

- 7.6 The Leisure Services Manager recognises that this is a challenging time for house builders and is happy to negotiate further on the detail of the pavilion building, the design of which in terms of the approved plans is cumbersome and architecturally complicated and therefore expensive to build, however, she has stated in meetings with the Developer that she will not accept a lesser level of overall provision particularly with regard to the LEAP and MUGA. The Leisure Services also wishes to ensure that drainage is adequate, without taking on future responsibility for maintenance of a drainage system that may comprise drainage from the residential parts of the site. In this regard the developer proposes a pumping station, which requires further investigation and negotiation.
- 7.7 The Highways Engineer recognises that these are challenging times and is willing to be more flexible in terms of the funding of off site highways improvements.
- 7.8 Overall, given that the Applicant has assured the Council that they are not seeking to renege on the quality of play and replacement sporting provision that was anticipated by the former Macclesfield Borough Council in respect of the sporting provision, it is considered that the Council can be more flexible in this particular case however, the S106 Agreement would still require careful redrafting to ensure that there is no reduction in provision of replacement facilities overall and that all necessary infrastructure is provided.

8.0 Recommendation

- 8.1 Delegate to the Head of Planning and Policy the authority to renegotiate the terms of the S106 in accordance with the suggested phasing of delivery as detailed in the table within Section 5 of this report and the phasing plan submitted in support of Section 5 or as further amended by negotiation between the developer and Officers.

9.0 Background documents

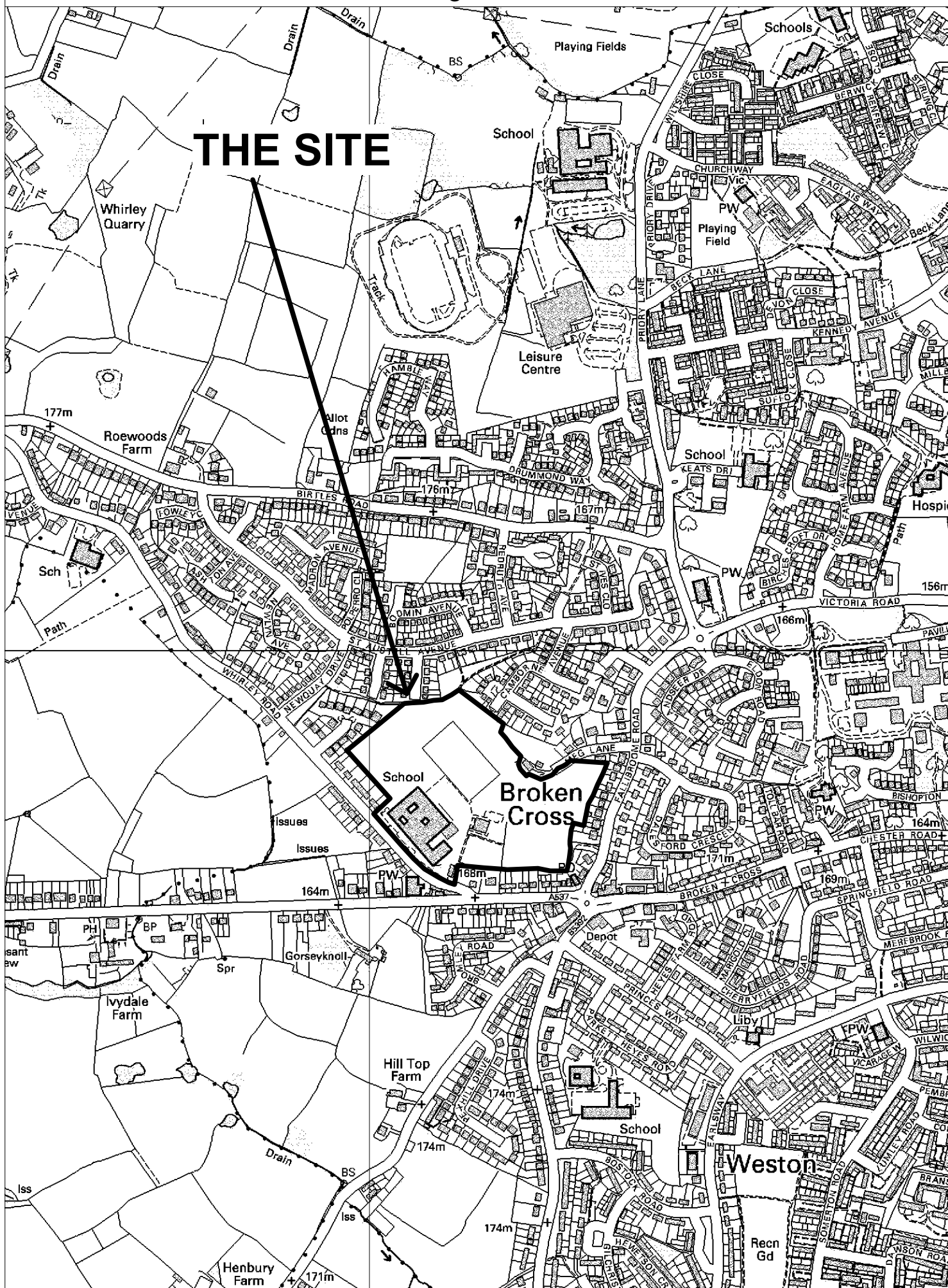
- a. Location plan
- b. letter from Turley Associates dated 12 May 2009
- c. POS phasing plan

For further information:

Portfolio holder: Jamie Macrae

Officer: Susan Orrell

Tel No: 01625 504678



THE SITE

Broken Cross

Weston

05/1184P HENBURY HIGH SCHOOL, WHIRLEY ROAD, MACCLESFIELD

NGR: 389,160 - 373,787

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Scale 1:7500



12 May 2009

Delivered by Post & Email

Susan Orrell
Macclesfield Borough Council
PO Box 40
Town Hall
Macclesfield
SK10 1DP

Our ref: DS/JW/WIMM1050
Your ref: 05/1184P
E: dsmith@turleyassociates.co.uk

Dear Susan

FORMER HENBURY HIGH SCHOOL, WHIRLEY ROAD

I write further to your meeting with my client on the 8th May 2009 regarding the discharge of conditions and proposed variations to the agreed S106.

As agreed I write to provide you with a summary of the variations to the S106 which were discussed at the meeting. In order for George Wimpey to be able to continue with the development in a viable manner they are unable to outlay the level of expenditure currently required by the S106 in advance of commencement/occupation of the residential units. The only way that the development can proceed is subject to committed sales, without this Wimpey cannot progress. As I have said in earlier correspondence the proposed variations to the S106 would not result in Wimpey reneging on any of its obligations. Rather it is the case that a longer term phased approach is required which is closely linked to the completion of units (following committed sales) as opposed to the release of monies for the leisure facilities 'prior to the commencement of development'.

The table below details the existing clauses that need to be revisited and the way in which we see each being amended. Also attached is a plan prepared by TPM Landscape which should be read in conjunction with the table (Dwg ref: 380 Phasing Plan 23 April 09).

Deed of Agreement (dated 24.02.06)		Revised Heads of Terms
Clause 4.6	GW shall pay the County Council £100,000 for the delivery of highway improvements prior to the commencement of development.	GW shall pay the CC £100,000 on the commencement of development of the 50 th residential unit.
Clause 8.2	There shall be 2 junior grass pitches with new drainage systems and pumping station to lift surface water into a public drain.	There shall be 2 new grass pitches with new drainage systems. A new pumping station will be

		provided.
Clause 8.3.2	The reseeding and drainage improvements of the pitches shall be undertaken from April 2009 over the Summer of 2009 and be ready for Autumn 2009.	Phase 1: Sports pitch 1 to have remedial drainage treatment and ground preparation to make it playable for the 2009/10 season.
Clause 8.3.3	The pavilion shall be made available at the same time as the pitches in Autumn 2009.	<p>The pavilion is to be completed in two phases:</p> <p>Phase 2: Sports element of the pavilion to be completed in Autumn 2010.</p> <p>Phase 4: Community element of pavilion to be completed upon sale of all residential units or 2012.</p>
Clause 8.11.1	A construction, provision works, equipment phasing plan and programme for the MUGA, LEAP, remainder of the open space, landscaping arrangements, car park, pavilion and access shall be agreed in writing prior to the commencement of development.	Construction programme to be agreed in writing in accordance with enclosed Phasing Plan.
Clause 8.11.2	The open spaces, including the MUGA and LEAP, pavilion and pitches must be provided prior to first occupation of any residential units abutting to or in the vicinity of the these facilities.	Delete clause relating to occupation of units adjacent to the POS as delivery will be based on agreed Phasing Plan at Clause 8.11.1. .
Clause 8.15	The STP and grass pitches shall remain available for community use throughout the football season 2006/07. Drainage works are to be carried out during the closed or the summer season. This should continue until alternative facilities are provided off or on site.	<p>Phase 1: as set above.</p> <p>Phase 2: Sports pitch 2 to have remedial drainage treatment and ground preparation to make it playable for 2010 – 2011.</p>

I trust that this is sufficient for you and your Members to consider the broad principles of the proposed revised S106 at the meeting of the Strategic Board on the 27th May. If you require any additional information please do not hesitate to contact me.

Yours sincerely

Deborah Smith
Associate Director

cc: M Dawson
K Patrick

George Wimpey Ltd (Manchester)
TPM Landscape

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CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 27th May 2009

Report of: John Knight, Head of Planning and Policy

Title: List of Buildings of Local Interest

1.0 Purpose of Report

- 1.1 To consider the procedures for adding to and reviewing the List of Buildings of Local Interest in the new authority.

2.0 Decision Required

- 2.1 To agree to adopt the procedures as detailed in the report.

3.0 Background And Legislative Framework

- 3.1 There are many buildings or structures of special architectural or historic interest which appear as Listed Buildings in the national register of buildings of special architectural or historic interest compiled by the Secretary of State and these buildings are afforded significant layers of protection from demolition or harmful change, by the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 3.2 There are other buildings or structures which are of distinct historical or architectural interest at the local level which are not on the national register and which can become threatened by potentially damaging change or demolition.
- 3.3 Government Guidance in Planning Policy Statement 1 stresses the importance of local distinctiveness in respect of design. Locally important buildings make an important contribution to preserving local distinctiveness, which is a principle which has been supported by Inspectors at Appeal.
- 3.4 Therefore it is appropriate that Planning Authorities should draw up lists of such locally important buildings and structures and formulate policies in the local plan to assist in protecting their character, through normal development control procedures, but they will not enjoy the full protection of those identified on the statutory national register of Listed Buildings compiled by the Secretary of State.
- 3.5 Their protection is limited in that the local planning authority will only be able to consider proposals to alter or demolish such buildings or structures if such proposals need or are associated with proposals which need planning permission.

4.0 Current Practice

- 4.1 All three of the former Borough Councils which comprise Cheshire East either maintained or were in the process of compiling a Local List. However, there were variations in the practices for inclusion of buildings on the list between the former authorities and the new procedure is therefore necessary in order to promote a consistent and transparent approach across the new authority.
- 4.2 The genesis of the Crewe & Nantwich Borough Council Local List goes back to Policy BE.25 of the draft Local Plan published in 1993. In 1996 Planning Committee approved criteria for compiling the list which are set out in Appendix B of this report. A number of buildings or structures were subsequently identified by officers, parish councils and by local architects, local amenity and local history groups. Reports on their eligibility were then put to Planning Committee for consideration on 21st August 1997, the 13th November 1997, 2nd April 1998, 10th December 1998 and on the 3rd on February 2000, using the approved criteria.
- 4.3 The Planning Committee approved such buildings and structures for inclusion on the local list, and so they now appear in Appendix 5.3 of the adopted Replacement Local Plan 2011 and are afforded some degree of protection against inappropriate development proposals by Policy BE13 of that plan.
- 4.4 Since then 9 buildings/structures have been added, on an ad hoc basis, to the list by the Development Control Committee of the former Crewe & Nantwich Borough Council on 29th June 2006 and 6th March 2008. However, no mechanism existed for the periodic general review of the list.
- 4.5 The Macclesfield Borough Local Plan also includes, at Appendix 11 a List of Locally Important Buildings. This has been kept under constant review since adoption of the Plan in January 2004 and further inclusions have been made as appropriate. The Council's Cabinet formally approved the most recent version of the local list at its meeting on 6 February 2008. It was previously subject to a six-week period of public consultation, between 17 October and 28 November 2007. Buildings were assessed on the basis of the criteria set out in Appendix A of this report.
- 4.6 Work commenced in 2008 on formulating a Local List for the Congleton Borough Council area. A number of nominations were received from Officers, Members and the Local Community and basic descriptions of the buildings were provided. Congleton Borough Council Members granted delegated powers to officers to include buildings on the Local List. A consultant is progressing the preparation of the List for the former Congleton area, assessing the buildings against the same criteria as used by Macclesfield Borough Council and is making good progress. It should be completed by the end of July. Consequently, at

present, there is no adopted Local List in place for the former Congleton Borough.

5.0 Proposals and Recommendations

- 5.1 The Cheshire East Local Development scheme makes provision for a Local List Supplementary Planning Document which identifies locally important buildings (non-listed buildings and other structures of architectural or historic interest, which do not enjoy the full protection of statutory listing) deemed worthy of retention. It will also set out a single set of criteria for assessing buildings for inclusion across Cheshire East.
- 5.2 This document is intended to supersede the existing Locally Important Buildings SPD for Macclesfield and Appendix 5.3 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and to continue the work commenced by Congleton in drawing up a local list.
- 5.3 The Annual Monitoring Report (AMR) will assess the extent to which the SPD is being implemented successfully. The document will be reviewed as and when required as highlighted by the AMR, including, where necessary, review of both the content of the list and the criteria for inclusion.
- 5.4 However, periodically buildings of interest, which are not on the Local List, but are worthy of inclusion, will come to light as a result of a redevelopment proposal, which may pose an immediate threat to the building or its setting. It is therefore considered necessary to provide a mechanism for such buildings to be offered immediate protection by means of inclusion on the Local List, without a full review of the list or SPD needing to be undertaken.
- 5.5 Such an addition should only be made in exceptional circumstances, however, where there is evidence to suggest that the building is under imminent threat from development proposals. Furthermore, it should not be made where there is a “live” planning application or appeal under consideration, as this is likely to be seen as prejudicing consideration of the application. An examination of previous Appeal Decisions has revealed that where the listing has been made during the course of the planning application process, Inspectors have attached limited weight to it as a material consideration.
- 5.6 In cases where an immediate addition to the Local List is considered to be appropriate, it is recommended that a report be presented to Strategic Planning Board for consideration. The report shall set out why, in the opinion of the Head of Planning and Policy, the building is worthy of Local Listing, when assessed against the relevant adopted Local Listing Criteria, as set out in the SPD, as well as development plan policies and current central government and English Heritage guidance and best practice.

- 5.7 Until the new Cheshire East wide Local Listing Criteria are adopted as part of the forthcoming SPD. It is recommended that the existing criteria, as set out in Appendix A and B of this report should be applied in the former Crewe and Nantwich, Congleton and Macclesfield Borough Council areas as appropriate.

6.0 Financial Implications

- 6.1 The cost of producing the new SPD, and its monitoring and review, have been accounted for within the Local Development Framework budget.
- 6.2 The preparation and presentation of reports relating to the Local Listing of individual buildings will only be undertaken in exceptional circumstances and therefore the resource implications will be limited.

7.0 Legal Implications

- 7.1 To provide a fair and transparent decision-making process in accordance with the Constitution and best practice and to reduce the risk of appeals, costs applications and legal challenges.

8.0 Risk Assessment

- 8.1 To mitigate against the potential for appeals, costs and legal challenges.

9.0 Reasons for Recommendation

- 9.1 To ensure consistency and transparency across Cheshire East when adding to and reviewing the List of Buildings of Local Interest in the new authority.
- 9.2 To ensure that there is a mechanism for affording protection to buildings worthy of inclusion on the local list, which are likely to be affected by development proposals between the periodic general reviews of the list.

For further information:

Portfolio Holder: Councillor Jamie Macrae
Officer: Ben Haywood – Principal Planning Officer
Tel No: 01270 537089
Email: ben.haywood@cheshireeast.gov.uk

Background Documents:

- *Adopted Congleton Borough Local Plan First Review*
- *Borough of Crewe and Nantwich Replacement Local Plan 2011*
- *Macclesfield Borough Local Plan*

- *PPG15: Planning and Historic Environment*
- *Macclesfield Borough Council Supplementary Planning Document: Locally Important Buildings*

Documents are available for inspection at:

- *Town Hall, Macclesfield*
- *Municipal Buildings, Crewe*
- *Westfields, Sandbach*

APPENDIX A

***MACCLESFIELD / CONGLETON BOROUGH COUNCIL
CRITERIA FOR LOCAL LIST.***

1. AUTHENTICITY:

Be substantially unaltered and retain the majority of its original features.

2. LOCAL ARCHITECTURAL INTEREST:

Buildings which are good examples of a particular local building type, local craftsmanship, architectural quality, style or detailing, buildings by local architects or builders of esteem.

These represent the best of the non-statutory listed building in the area. They are either unique or typical of the traditional buildings in the locality. Their detailing and decoration, use of quality materials, and their setting are reasons for local listing. They will represent the work of local architects or the local work of designers/ architects of national importance.

3. LOCAL HISTORICAL SIGNIFICANCE:

Buildings or structures, which display physical evidence of periods of local economic, technical or social significance, well known local people or historic events, buildings of local community interest.

These represent buildings that have local historical associations either of events, people, or with local building phases and movements.

4. GROUPS OF BUILDINGS:

Buildings or groups of buildings which contribute significantly to the character and identity of a townscape or a rural area or which enhance their landscape.

These are groups of buildings or spaces that contribute significantly either individually or collectively to the local scene e.g. squares, terraces.

5. AGE & RARITY:

This will be a relevant consideration as the older a building is, and the fewer the surviving examples of its kind, the more likely it is to have historic importance.

APPENDIX B

**CREWE & NANTWICH BOROUGH COUNCIL
CRITERIA FOR LOCAL LIST.**

The first criteria should always be satisfied in conjunction with (a) or (b) as appropriate.

1. ***Authenticity:*** *Buildings or structures should be substantially unaltered and retain the majority of their original features.*
2.
 - a. ***Architectural significance:*** *of good architectural quality or time period, a good example of a particular local buildings type or display good innovation or craftsmanship.*
 - b. ***Historical:*** *display physical evidence of periods of local economic or social significance, well known local historic events, people or designers.*

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CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 27th May 2009
Report of: John Knight, Head of Planning and Policy
Title: Regents College, Nantwich

1.0 Purpose of Report

- 1.1 To consider Regent's College in Nantwich for immediate inclusion on the List of Buildings of Local Interest.

2.0 Decision Required

- 2.1 To agree to include Regent's College on the Local List.

3.0 Introduction

- 3.1 There are many buildings or structures of special architectural or historic interest which appear as Listed Buildings in the national register of buildings of special architectural or historic interest compiled by the Secretary of State and these buildings are afforded significant layers of protection from demolition or harmful change, by the Planning (Listed Buildings and Conservation Areas) Act 1990.
- 3.2 There are other buildings or structures which are of distinct historical or architectural interest at the local level which are not on the national register and which can become threatened by potentially damaging change or demolition.
- 3.3 Therefore, all three of the former Borough Councils which comprise Cheshire East either maintained or were in the process of compiling lists of such locally important buildings and structures and put in place policies in the local plan to assist in protecting their character, through normal development control procedures. However they do not enjoy the full protection of those identified on the statutory national register of Listed Buildings compiled by the Secretary of State.
- 3.4 A separate report elsewhere on this agenda details the steps which are being put in place to amalgamate and review the existing local lists of the former authorities in order to generate a single list for Cheshire East. It also sets out proposed procedures to enable buildings of local interest which have come to light as a result of development proposals to be offered immediate protection by means of inclusion on the Local List, without a full review of the list or SPD needing to be undertaken.

- 3.5 Regent Theological College and the attached Grove House and Chapel are currently occupied by the Elim Bible College but are due to be vacated at the end of May 2009 and the site has been placed on the market with a view to redevelopment.
- 3.6 Elim Pentecostal Church who are the present owners use it as a college affiliated to the University of Wales and the University of Bangor.
- 3.7 Within the substantial grounds of the Theological College are a number of buildings of varying dates all constructed in brick (except for the rendered covered swimming pool) with a mixture of pressed brick and sandstone dressings and tiled and slate roofs.
- 3.8 In view of the imminent sale and redevelopment and for the reasons set out below, the buildings have now been identified as potential new candidates for immediate inclusion in the List of Buildings of Local Interest.

4.0 Assessment

Authenticity: Buildings or structures should be substantially unaltered and retain the majority of their original features.

- 4.1 The Theological College is a substantial three storey brick building in the Arts and Crafts style built in 1899, attached to which is a chapel dated 1924 in the same materials and overall style. The distinctive front sections of the Theological College and the chapel are substantially unaltered.
- 4.2 To the rear is the three storey brick Georgian building known as Grove House which was the original building on this large site which is set within its own grounds and lies between Crewe Road and London Road to the east of Nantwich. The addition of a floor to the distinctive front section of Grove House to the rear was an early addition to the building, carried out prior to the construction of the college building and demonstrates the evolution of this building and does not detract from its historical integrity.

Architectural significance: of good architectural quality or time period, a good example of a particular local buildings type or display good innovation or craftsmanship.

- 4.3 An approach to English Heritage was made by officers in November 2008 to request that the Theological College, the chapel and Grove House be included on the national register of buildings of special architectural or historic interest compiled by the Secretary of State, when they were identified following an approach by a property developer to re-develop the site prompted by its placement for sale on the open market.

- 4.4 English Heritage's decision has now been received and whilst it is not intended to include these buildings on the national register it concludes that the principal buildings of the Theological College, including the main administrative block, chapel and Grove House are of local interest.
- 4.5 The main college building is a good example of Arts and Crafts Architecture. It incorporates evidence building techniques and materials which were innovative at the time that the college was constructed and which were used for a comparatively short period of time.
- 4.6 The Chapel, which was built after the First World War is also a good example of the architecture of its time.

Historical: display physical evidence of periods of local economic or social significance, well known local historic events, people or designers.

- 4.1 The current college was constructed by the owner of the Grove House as a school for sons of impoverished clergymen until it closed in 1937. It was then used as a young offender's institute by the Roman Catholic Church and later as a remand home by the local authority.
- 4.2 The buildings also display evidence of a period of local social significance recorded in the plaque to former pupils who fell in the Great War. The Chapel also includes imagery within the stained glass windows that represent the values and attitudes of society at the time. They show agricultural scenes which represent a return to the land and a "wholesome" way of life after the horrors of war and the creation of a "land fit for heroes".
- 4.3 The group are therefore considered worthy of inclusion on the local list because of their contribution to the Arts and Crafts movement and because of their historical significance as an example of Victorian patronage and their connections with war time sacrifice.
- 4.4 Having taken all these findings into account and assessed these buildings against the approved criteria for their inclusion on the List of Buildings of Local Interest it is recommended that these buildings, which are of architectural and historic significance are of good architectural quality for their time period.
- 4.5 Their inclusion on the local list will enable their demolition to be resisted in any future development proposals, to potentially enable them to be converted to an appropriate alternative use incorporating only minimal changes to their original fabric and limiting any proposals for alterations to areas where change has already taken place

5.0 Recommendation

- 5.1 That the Theological College, its chapel and Grove House be added to the list of Buildings of Local Interest and that the owners be notified of their inclusion and sent details of what this means and the buildings selected will be registered as a land charge.

6.0 Financial Implications

- 6.1 There are no financial implications.

7.0 Legal Implications

- 7.1 To mitigate against the potential for appeals, costs and legal challenges.

8.0 Risk Assessment

- 8.1 There are no risks associated with this decision.

9.0 Reasons for Recommendation

- 9.1 To strengthen the Council's position in dealing with any planning applications for redevelopment or subsequent Appeals in order to ensure that a high quality scheme for the site is achieved and inappropriate development is resisted.

For further information:

Portfolio Holder: Councillor Jamie Macrae
Officer: Ben Haywood – Principal Planning Officer
Tel No: 01270 537089
Email: ben.haywood@cheshireeast.gov.uk

Background Documents:

- *Borough of Crewe and Nantwich Replacement Local Plan 2011*
- *PPG15: Planning and Historic Environment*

Documents are available for inspection at:

- *Municipal Buildings, Crewe*



PROJECT:
Regent's Theological
College, Nantwich

TITLE:
Site Location Plan

Date: Sept 2005

Scale: 1:2500

Ref: ELIM1000/01

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STRATEGIC PLANNING BOARD

Date of meeting: 27th May 2009
Report of: Head of Planning and Policy
Title: Planning Obligations – Administrative and Procedural Issues and Options

1.0 Purpose of Report

- 1.1 To present a number of issues and options relating to the harmonisation of the procedural and administrative arrangements for planning obligations negotiated under section 106 of the Town and Country Planning Act 1990 (as amended)

2.0 Decision Required

- 2.1 To indicate the preferred option in respect of each of the issues detailed in the report

3.0 Financial Implications for Transition Costs

- 3.1 The preparation of standard templates for legal agreements and unilateral undertakings will require specialist legal resource

4.0 Legal Implications

- 4.1 See Risk Assessment below

5.0 Risk Assessment

- 5.1 Failure to apply consistent practice in respect of the issues raised in the report will leave the Council open to legal challenge and investigations by the Local Government Ombudsman.

6.0 Background and Issues

- 6.1 In working towards harmonising the procedural and administrative arrangements for planning obligations and their incorporation into a Planning Obligations Protocol, a number of key issues have been identified where differing working practice exists across the former constituent Councils. The Council's approach to these practical issues needs to be resolved so that they can be introduced as working practice at Cheshire East and incorporated into the Planning Obligations Protocol. The issues are:

- Whether commuted sums will be indexed to maintain the value of the commuted sum
 - Whether an interest charge will be applied for the late payment of commuted sums
 - Whether standard templates for legal agreements and unilateral undertakings will be prepared and published on the Council's website
 - Whether a monitoring fee will be applied to enable effective compliance monitoring, reporting and publication of information relating to planning obligations and the benefits secured
- 6.2 Whilst there is some element of consistency between the former constituent Council's in their practices relating to indexation and late payment interest, the only Council that published standard templates and applied a monitoring charge is Macclesfield.
- 6.3 The preparation and publication of standard templates and the introduction of a monitoring charge at Macclesfield coincided with the publication of a Code of Practice on Planning Obligations which was published by the Council in October 2007 and incorporated recognised best practice and the latest relevant Government guidance.
- 6.4 Each of the issues is considered individually below and Members are asked to indicate their preferred option for each one

7.0 The Issues

7.1 Maintaining the Value of Commuted Sums

- 7.1.1 Commuted sums are also known as financial contributions and are paid to the Council in lieu of the developer providing the related physical infrastructure on site e.g. open space, play equipment and affordable housing
- 7.1.2 The amount of a commuted sum is finalised at the time the legal agreement or undertaking is completed, which is usually at the same time the planning permission is issued. The trigger for the developer to pay the commuted sum to the Council is detailed in the legal agreement or undertaking e.g. commencement of development or occupation of the first dwelling. For various reasons, the payment trigger may not occur for several years. This time lag can result in inflationary pressure reducing the value or spending power of the commuted sum. An example of this is as follows.
- 7.1.3 Example: *A commuted sum of £100,000 for open space was contained in a legal agreement dated January 2006, but the trigger for payment meant that the money wasn't payable until January 2009. If a standard Index (e.g. RPIx – All Items Retail Prices Index excluding Mortgage Interest Payments) had been applied to the commuted sum,*

the amount paid in January 2009 would have been £109,500. This demonstrates that without having applied the index to the commuted sum, its value or spending power would have been eroded by £9,500 or 9.5% to the disadvantage of the local community

7.1.4 The provision is clearly detailed in the legal agreement or undertaking and the developer therefore accepts the provision when signing the agreement or undertaking.

7.1.5 Members are invited to indicate which option detailed below is their preferred option for incorporation into the Planning Obligations Protocol and introduction as working practice in Cheshire East.

Options:

(1) Legal agreements and Unilateral Undertakings will contain provision for the indexation of commuted sums using appropriate indices.

(2) Legal agreements and Unilateral Undertakings will not contain any provision for the indexation of commuted sums

It is considered that option (1) would result in the Council adopting working practice that most accurately reflects best practice and Government advice

7.2 Charging Interest for Late Payment of Commuted Sums

7.2.1 The triggers for the payment of commuted sums to the Council are clearly stated in a completed legal agreement or undertaking. However, these triggers can easily be overlooked or forgotten by developers and the monies paid late or not at all. These oversights result in the receipt of monies being delayed and the developer gaining the associated financial benefit.

7.2.2 The application of a rate of interest for late payment encourages developers to ensure that commuted sums are paid on time. A commonly accepted rate is 3% or 4% above the Bank of England's Bank Rate (formerly known as the Base Rate) or that of the Bank used by the Council. The provision is clearly detailed in the legal agreement or undertaking and the developer therefore accepts the provision when signing the agreement or undertaking.

7.2.3 Members are invited to indicate which option detailed below is their preferred option for incorporation into the Planning Obligations Protocol and introduction as working practice in Cheshire East.

Options:

(1) Legal agreements and Unilateral Undertakings will contain provision for the application of late payment interest at an appropriate

percentage above the Bank of England's Bank Rate or the base rate of the Co-operative Bank (the Council's Bankers)

- (2) Legal agreements and Unilateral Undertakings will not contain any provision for the application of late payment interest

It is considered that option (1) would result in the Council adopting working practice that most accurately reflects best practice and Government advice

7.3 Preparing and Publishing Standard Templates for Legal Agreements and Unilateral Undertakings

- 7.3.1 ODPM Circular 05/2005: *Planning Obligations* encourages Local Planning Authorities to use and publish standard heads of terms, legal agreements/undertakings or model clauses in the interest of speeding up the negotiation and completion of planning obligations. Their availability enhances transparency and predictability for developers and enables them to prepare draft legal agreements and undertakings for submission with their planning applications. This 'front loading' simplifies and speeds up the decision making process.

- 7.3.2 Members are invited to indicate which option detailed below is their preferred option for incorporation into the Planning Obligations Protocol and introduction as working practice in Cheshire East.

Options:

- (1) Standard templates for Legal agreements and Unilateral Undertakings will be prepared and published on the Council's website
- (2) Standard templates for Legal agreements and Unilateral Undertakings will not be prepared

It is considered that option (1) would result in the Council adopting working practice that most accurately reflects best practice and Government advice

7.4 Introducing a Fee to enable the Monitoring of Planning Obligations

- 7.4.1 Once planning obligations have been agreed, it is important that they are implemented and enforced in an efficient and transparent way in order to ensure that financial contributions are spent on their intended purpose, non financial (physical) benefits are delivered and that restrictions on uses and occupation are adhered to. This involves detailed monitoring and requires standardised systems which include IT databases to ensure that information on the implementation of planning obligations is readily available.

- 7.4.2 An effective monitoring system should support:

- Responding to enquiries about the current status of obligations
- Providing information on the types and amounts of agreed obligations compared to what has been implemented and what still needs to be implemented
- Input of new details about obligations where changes occur over time
- Input of information by staff from different areas of the Council
- Electronic storage and access to all documents relating to and including the planning obligations themselves
- Providing alerts to relevant staff regarding any upcoming deadlines, events, commitments etc.; and
- Generation of reports to provide updates on planning obligations for various different audiences

7.4.3 Many Councils, including Macclesfield, have introduced monitoring systems within recent years and applied an associated fee to all relevant legal agreements and undertakings to fund the cost of providing the resources required to set up and operate an effective monitoring system. In some cases, the fee also either subsidises or fully funds the provision of a dedicated Officer.

7.4.4 Members are invited to signify whether or not they support the introduction of a charge to allow the setting up and operation of a system to monitor compliance with planning obligations and the delivery of benefits they secure, by selecting which option detailed below is their preferred option

Options:

- (1) The introduction of a monitoring charge is supported in principle, although a detailed report setting out how such a charge could be formulated and introduced should be prepared and submitted to Members for consideration
- (2) The introduction of a monitoring charge is not supported at this time, although the issue should be reconsidered in 6 months
- (3) The introduction of a monitoring charge is not supported

It is considered that option (1) would result in the Council taking a positive step towards adopting working practice that most accurately reflects best practice and Government advice

8.0 Reasons for Recommendation

8.1 To define consistent working practices in relation to the administrative and procedural aspects of planning obligations and permit their incorporation into the Planning Obligations Protocol

9.0 Equality Impact Assessment

- 9.1 An Equality Impact Assessment has been undertaken and it is not felt that the issues raised would result in an adverse impact on any group or individual. A copy of the assessment is available for inspection on request.

For further information:

Portfolio Holder: Jamie Macrae

Officer: John Knight

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APPENDIX 1 PRO-FORMA FOR THE INITIAL ASSESSMENT

Service Area Planning	Section Development Management	Person responsible for the assessment Shawn Fleet			
Name of the Policy to be assessed	Planning Obligations Administrative and Procedural Issues	Assessment date	15 May 2009	Is this a new or existing policy?	Existing
			Does this policy have either a time limit or a date for review?		No

1. Describe the aims, objectives and purpose of the policy/plan/procedure/strategy	<i>Please continue on a separate sheet if necessary</i> The aim of the policy is to establish an appropriate framework for working with applicants in respect of required planning obligations (s106 agreements).		
2. Please note any associated objectives of the policy	None		
3. Who is intended to benefit from the policy and in what way?	The policy is intended to benefit two groups. Developers and the Planning Department by setting out clear guidelines on the planning obligation requirements process and each parties obligations		
4. What outcomes are wanted from this policy?	To ensure that there is clear guidance on the due process.		
5. What factors/forces could contribute/detract from the outcomes?	A lack of understanding of the legal process and the requirement for obligations from inexperienced practitioners.		
6. Who are the main stakeholders in the policy?	The Council (Members and Officers) and the public.	7. Who implements the policy and who is responsible for the policy?	The policy is to be implemented and managed principally by planning officers and legal services.

8. Are there concerns that the policy <u>could</u> have a differential impact on racial groups?	Y	N	
What existing evidence (either presumed or otherwise) do you have for this?	It is felt that the time of the scheme would not have a differential impact on any racial group.		
9. Are there concerns that the policy <u>could</u> have a differential impact due to gender?	Y	N	
What existing evidence (either presumed or otherwise) do you have for this?	It is felt that the time of the scheme would not have a differential impact on any gender group.		
10. Are there concerns that the policy <u>could</u> have a differential impact due to disability?	Y	N	
What existing evidence (either presumed or otherwise) do you have for this?	It is felt that the time of the scheme would not have a differential impact on any group.		
11. Are there concerns that the policy <u>could</u> have a differential impact on people due to sexual orientation?	Y	N	
What existing evidence (either presumed or otherwise) do you have for this?	It is felt that the time of the scheme would not have a differential impact on any specific group.		
12. Are there concerns that the policy <u>could</u> have a differential impact on people due to their age?	Y	N	
What existing evidence (either presumed or otherwise) do you have for this?	It is felt that the time of the scheme would not have a differential impact on any age group.		

13. Are there concerns that the policy <u>could</u> have a differential impact on people due to their religious belief?	Y	N	
What existing evidence (either presumed or otherwise) do you have for this?	It is felt that the time of the scheme would not have a differential impact on any religious group.		
14. Are there concerns that the policy <u>could</u> have a differential impact on people due to them having dependants/caring responsibilities?	Y	N	
What existing evidence (either presumed or otherwise) do you have for this?	It is felt that the time of the scheme would not have a differential impact on any care group.		
15. Are there concerns that the policy <u>could</u> have a differential impact on people due to their offending past	Y	N	
What existing evidence (either presumed or otherwise) do you have for this?	It is felt that the scheme would not have a differential impact on any individual.		
16. Are there concerns that the policy <u>could</u> have a differential impact on people due to them being transgendered or transsexual	Y	N	
What existing evidence (either presumed or otherwise) do you have for this?	It is felt that the scheme would not have a differential impact on any individual.		

17. Are there concerns that the policy could have a differential impact on people due issues surrounding poverty	Y	N	
What existing evidence (either presumed or otherwise) do you have for this?	<p>Whilst the policy relates to the handling of financial matters, it is felt that no individual or group would be prejudiced by the method in which planning obligation are requested and subsequently managed.</p> <p>The scale of contribution being sought would be a matter for consideration through the determination of each planning application and the financial viability of the applicant to meet the requisite obligations would be appraised on a scheme by scheme basis.</p> <p>In summary therefore it is believed that this policy will not have a negative impact.</p>		
18. Is there <u>potential</u> for the policy to have either a positive <u>OR</u> a negative impact on children (aged 0-19)?	Y	N	Leave blank
18a. If yes please describe the nature and level of the impact (Also consider impact both now and in the future)	N.A.		
18b If yes , please also describe any consultation undertaken with children and their families to inform this policy (please state if none carried out)	N.A.		
18c. If no , please describe why there is considered to be no impact / significant impact on children	This policy relates to the management of required obligations and the processing of a planning applications. It does not relate to the form of development being proposed and accordingly will not impact on children.		
19. Could the differential impact identified in questions 8-18 amount to there being the potential for <u>adverse</u> impact in this policy?	Y	N	<p><i>Please explain</i></p> <p>It is not felt that the policy would result in an adverse impact on any group or individual.</p>

20. Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or any other reason?			<i>Please explain for each relevant area (questions 8-18), using a separate sheet of paper if necessary</i> N.A.				
21. Should the policy proceed to a partial impact assessment?	¥	N	22. If Yes, is there enough evidence to proceed to a full EIA?	¥	NA	23. Date on which Partial or Full impact assessment to be completed by	N.A.

Signed (completing officer) __Shawn Fleet_____

Signed (Lead Officer) _____

SIGNED EQUALITY OFFICER _____

DATE APPROVED BY EQUALITY WORKING GROUP _____

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STRATEGIC PLANNING BOARD

APPEALS

Application Number: 08/1637p

Appellant: Cancho Coffee Company

Site Address: 89 Mill Street, Macclesfield

Proposal: Change of use from A1 retail to A3 coffee shop

Level of Decision: Delegated – former Macclesfield Borough Council

Recommendation: Refusal

Decision: Refused 11.9.2008

Appeal Decision: Allowed 6.5.2009

MAIN ISSUES:

The application proposed a change of use of a retail unit to an A3 coffee shop at 89 Mill Street, identified as falling within the Secondary Shopping Area (SSA) as identified by the Local Plan. Policy MTC4 states within SSA's a minimum of 50% of the frontage must remain in retail use, and concentrations of non-retail functions must be avoided in order to maintain the vitality of the area. The proposed change of use would have led to a concentration of non-retail functions within this area of Mill Street, and would also represent a drop in retail frontages to less than 50%, therefore the application was refused.

INSPECTORS REASONS:

The Inspector considered that the proposal would not result in less than 50% of the existing frontages being held within retail, when considering part of the southern area of Mill Street. The Inspector considered that various different uses within SSA's are appropriate, and that Mill Street represents this approach. The Inspector considered that the proposed change of use would have no impact on the character of the shopping area as many "wedges" of non-retail use were situated in between retail units, and as such the application complied with MTC4.

IMPLICATIONS FOR THE COUNCIL

The Inspector concluded that the character and appearance of the SSA was a subjective assessment, and in his opinion the intent of policy MTC4 was complied with. Given this statement by the Inspector, the Council can continue assess each application by its own merits.

Application Number: 08/1069P

Appellant: Mr John Ryan

Site Address: Centuryan House, Grotto Lane, Over Peover, Macclesfield

Proposal: First floor extensions

Level of Decision: Delegated – former Macclesfield Borough Council

Recommendation: Refuse

Decision: Refused 23.07.2008

Appeal Decision: Dismissed 12.02.2009

MAIN ISSUES:

The proposal was for two first floor extensions above existing single-storey lean-to outriggers facing Grotto Lane. Permission was refused due to the size and prominence of the extensions, and the associated increase scale and bulk of the built form immediately adjacent to Grotto Lane. The extensions would appear as visually obtrusive features within the Green Belt, which was considered to harm the appearance of this traditional and linear barn, and subsequently the visual amenities and character of the Green Belt.

INSPECTOR'S REASONS:

The Inspector considered that the extensions would be residential in function and appearance, which would highlight the domestic use of the building, and alter the distinctive linearity of the elevation. He considered that the departure from the existing characteristic built form would be unacceptably harmful to the character and appearance of the barn conversion.

He maintained the building is a significant element in the landscape that reinforces the rural character of the area. The prominent roadside location would highlight the development, and the harm that would occur to the barn conversion would significantly diminish its contribution to the rural character of the area.

IMPLICATIONS FOR THE COUNCIL:

By virtue of the identified harm to the character and appearance of the barn conversion itself and the wider area, the Inspector considered the proposal to be contrary to policies BE1, GC12, DC1 and DC2 of the Macclesfield Borough Local Plan, as well as the objectives of PPS7. The decision reinforces the strength of these policies and the impact that sympathetic barn conversions, and their extensions, can have upon the intrinsic character of the countryside.

Application No: 08/11733P

Appellant: Herring Properties Ltd

Site Address: 211A Peter Street, Macclesfield Cheshire, SK11 8ES

Proposal: Appeal against the rejection of planning permission by Macclesfield Borough Council for the construction of a two storey dwelling.

Level of decision: Delegated – former Macclesfield Borough Council

Decision: Refused: 25/09/08

Appeal Decision: Allowed: 24/02/09

MAIN ISSUES

The Council in principle have no objection to the construction of a dwelling on the site. The key issues relate to the effect on the character and appearance of the street scene and also the impact the scheme has on highway safety.

INSPECTOR'S REASONS

The Inspector notes the wide variation of properties along Peter Street, and as a result the Inspector does not believe that the street has a prevailing character or local distinctiveness. The Inspector finds that the plans offer an acceptable proposal and would not materially harm the character or appearance of the street scene.

In terms of highway safety the Inspector has followed advice from the County Highway Engineer in regards to the repositioning of parking bays and therefore imposes a subsequent condition.

In conclusion the Inspector feels with the imposition of conditions the effect of the building can be mitigated and therefore does constitute acceptable development with the imposition of conditions.

IMPLICATIONS FOR THE COUNCIL

Whilst disappointing this is a site specific decision which further demonstrates the subjectivity of design in planning terms and interpretation of Policies BE1 & H13 of the Local Plan. There are no planning implications for the Council.

Application Number:	P08/0734
Appellant:	Future Homes
Site Address:	Site at rear of 315-319 West Street, Crewe, Cheshire, CW1 3HU
Proposal:	Appeal against the refusal of planning permission by the former Crewe and Nantwich Borough Council for Eight 2 Bedroom Apartments, Secure Site Enclosure, Eight Parking Spaces, Access Road and Parking Area
Level of Decision:	Development Control Committee (Crewe and Nantwich Borough Council)
Recommendation:	Refuse
Decision:	Refused 14/08/2008
Appeal Decision:	Dismissed 22/04/2009

MAIN ISSUES:

The main issues in the appeal were the effect of the proposal on the living conditions of neighbouring residents, with particular reference to privacy, light and outlook; the character and appearance of the surroundings; and the living conditions of future occupiers of the appeal site, with regard to privacy.

The appeal site is situated to the rear of No. 319 which is an end of terrace property that fronts onto the northern side of West Street. The block of land to the rear of the terrace beyond a narrow back lane comprises for the most part of gardens areas, which are associated with the terrace.

INSPECTOR'S REASONS:

The Inspector considered that the proposed scheme would have an unacceptable impact on the privacy of properties in West Street because it failed to comply with the minimum distances set out in the new Supplementary Planning Document: Development on Backland and Gardens (SPD). Whilst the scheme met the minimum distance between the flank elevation and the principal windows of the dwellings to the side, the Inspector attached considerable weight to the fact that proposed building would overshadow the garden areas of those dwellings and was in his view un-neighbourly.

He did not agree with the Appellants view that the scheme would improve the appearance of the site by reducing fly tipping and vandalism, which he said could be dealt with through relatively simple security improvements. The

Council has separate powers to deal with untidy land and to attach weight to this argument as a material consideration could encourage landowners seeking beneficial permission not to manage their land in a diligent fashion.

The Inspector considers that the massing of the building would be acceptable but that the half-hipped form of the roof and projecting stairwell would appear out of keeping with its surroundings.

He also concluded that the deck access to the proposed flats which would run directly past bedroom windows would be detrimental to the privacy and amenity of the occupants of the new properties.

Whilst the proposal would make better use of previously developed land, this did not outweigh the concerns set out above.

IMPLICATIONS FOR THE COUNCIL:

This is a good decision for the Council because the Inspector gave considerable weight to the former Crewe and Nantwich Borough Councils Supplementary Planning Document: Development on Backland and Gardens (SPD) and the minimum separations distances set out in it. It can also be concluded that existing problems with vandalism and fly tipping on the site should be afforded little weight as a material consideration. Making better use of previously developed land within town centres should not be at the expense of residential amenity and quality design.

It can also be concluded that three storey development of this nature is acceptable in principle in the West-end of Crewe subject to appropriate detailed elevational design.

Application Number: P08/1112

Appellant: Mr K Taylor

Site Address: Rose Cottage, Longhill Lane, Hankelow, Crewe, CW3 0JQ

Proposal: Appeal against the refusal of planning permission by the former Crewe and Nantwich Borough Council for a Two Storey Side Extension and Single Storey Link Extension

Level of Decision: Delegated

Recommendation: Refuse

Decision: Refused 10/11/2008

Appeal Decision: Dismissed 08/05/2009

MAIN ISSUES:

The main issues of the appeal are the effect of the proposed development on the character and appearance of the existing dwelling and its surroundings.

Rose Cottage is a modest brick and tile cottage sitting below the level of the adjacent highway in a large 'L' shaped plot of land on the edge of a small cluster of dwellings in open countryside. Within the curtilage is a single storey dilapidated outbuilding of single skin brick and concrete block with no roof, which sits to its north west some 8m away from the main house.

INSPECTOR'S REASONS:

The Inspector states that there has been a previous application on this site which was approved in 2007 for a two storey extension to the dwelling together with a detached annex which would accommodate a family/garden room, and a gallery in the roof of the outbuilding. However this application has not been implemented to date. The proposed scheme differs from the previous application as it includes a linked section between the extended dwelling and annex as approved to form a single building, along with a dormer window in the attached annex roof and changes to the internal layout.

The Inspector states that the existing outbuilding is currently in a poor state, and is likely to require re-building. He considers that the dilapidated outbuilding is of humble origin and modest single storey scale which plays a subservient role to the dwelling, which is a relationship carried through in the approved scheme.

The Inspector notes that the modest cottage with dilapidated outbuilding would be replaced by a much more imposing single building which would increase the original dwelling by 135% from about 235m³ to some 550m³, exceeding the 'not more than double' rule within the justification to Local Plan Policy RES.11. It was considered that linking the main part of the enlarged dwelling to the outbuilding combined with its orientation broadside to the highway, would emphasise and elongate the resultant dwellings' size and mass, creating a large, imposing and visually prominent single building more than double the size of the original dwelling.

The Inspector states that the proposed dormer window in the outbuilding would destroy the attractive and subservient relationship of the outbuilding as an annex to the main dwelling and by doing so would further emphasise the excessive size and bulk of the resultant single building.

The Inspector took account of other issues raised in relation to proposed materials, and the roof pattern. However, he did not consider that these issues outweigh the harm caused by the proposed development and therefore considers that the appeal is contrary to the policy objectives of BE.2 and RES.11 of the Crewe and Nantwich Replacement Local Plan 2011.

IMPLICATIONS FOR THE COUNCIL:

This is a good decision for the Council as the Inspector has accepted the volume calculations referred to in the Council's appeal statement which quantifies the 'no more than double the size of the originals dwelling' criteria included within the Crewe and Nantwich Replacement Local Plan Policy RES.11, and the Extensions and Householder Development SPD. This will help the Council to resist extensions which are only just over double the size of the original dwelling. Moreover the Inspector gives weight to the need to retain the existing outbuilding which is a historic but unlisted building and therefore this will strengthen the Council's case for retaining such buildings within other similar extension proposals.

Application Number: P08/1115

Appellant: Mr C McNally

Site Address: Swallow Croft, Egerton, Malpas, Cheshire, SY14 8AN

Proposal: Appeal against the refusal of planning permission by the former Crewe and Nantwich Borough Council for a Two Storey Side Extension

Level of Decision: Delegated

Recommendation: Refuse

Decision: Refused 05/11/2008

Appeal Decision: Dismissed 06/05/2009

MAIN ISSUES:

The main issues of the appeal were the effect of the proposal on the character and appearance of Swallow Croft and its surroundings. The appeal site is situated within the open countryside and is set apart from neighbouring development.

INSPECTOR'S REASONS:

The Inspector states that the appeal site is former two storey barn, with a pitched main roof. A small single storey annex with a mono-pitched roof, projects from its eastern gable and an external flight of steps which adjoins its western gable, leads to a first floor level doorway. The appeal property is not Listed nor is it sited within a Conversation Area. The Inspector states that in principle residential development within the curtilage of an existing dwelling would not conflict with the aim of Local Plan Policy NE.2 which ensures that development within the open countryside is for a use appropriate to a rural area.

The Inspector states that the building has been sensitively converted into a four bedroom dwelling which retains the simple, bold, vernacular form of a barn that contributes positively to the traditional rural landscape around. The Inspector notes that the former Crewe and Nantwich Borough Council's Supplementary Planning Document: Extensions and Householder Development (SPD) indicates that these characteristics of former rural buildings can be compromised by extensions, which for that reason, will not normally be allowed. However in some case it may be considered acceptable and should be as small as possible and sympathetic to the design of the buildings appearance. Such extensions are usually expressed as a small outshut or lean-to which has been constructed in the traditional manner.

The proposal includes the removal of the external steps at the western end of the building and the erection of a two-storey extension, in materials to match the existing dwelling. The extension, although subservient to the main building, would be substantial, being equivalent in length to around one third of the two-storey length of the existing building. The Inspector considered that the proposal would not amount to a small addition, and that the proposed roof level would be lower than that of the original building, resulting in a step in the two-storey roof line which would give the property a more complex appearance, to the significant detriment of its simple bold character, contrary to the aims of the SPD.

The Inspector notes that the English Heritage publication entitled 'The Conversion of Traditional Farm Buildings: A guide to good practice' supports the retention of features such as external staircases and considers that the loss of the distinctive flight of steps at the western end of the building would detract from the buildings original character. The Inspector notes that the staircase is not visible from public vantage points and its loss would not be sufficient on its own to justify refusal. Nevertheless the proposal, conflicts with the SPD, and would unacceptably harm the character and appearance of Swallow Croft and its surroundings, contrary to the aims of saved LP Policies RES.11 and BE.2.

IMPLICATIONS FOR THE COUNCIL:

This is an excellent decision for the Council as the Inspector has highlighted the importance of design considerations in respect of additions and alterations to barn conversions, which make up an increasingly significant number of dwellings in the Borough. It will assist the Council in resisting other proposals for inappropriate and overly domestic additions to barn conversions, which detract from their vernacular character and places weight on the former Crewe and Nantwich Borough Council's Extensions and Householder Development SPD. This prioritises the SPD as an important consideration in determining planning applications. The Inspector considers that the proposed development is contrary to the Policy aims of the Crewe and Nantwich Replacement Local Plan 2011 policies BE.2 and RES.11.

Application Number: 8/08/0493/CPO

Appellant: Mr MJ Farnell and Ms JT Cornwell

Site Address: Bostock House Farm, Hassall, Sandbach

Proposal: Raising of ground levels to drain waterlogged land.

Level of Decision: Committee – former Cheshire County Council Development Regulatory Committee.

Recommendation: Refuse

Decision: Refused 11/09/2008

Appeal Decision: Dismissed 06/05/2009

MAIN ISSUES:

Unauthorised tipping of inert wastes to infill a flooded depression at Bostock House Farm, Hassall, was brought to the attention of officers in September 2005 by local residents complaining about dangerous traffic movements on local country lanes. An enforcement notice was served requiring the import of material to cease and the land tipped to be restored. This was complied with. The appellant later submitted a planning application to complete the works undertaken and bring the remaining waterlogged land back into agricultural use. Considerable local objection was based on previous experience of traffic movements and the dangers and disturbance this would again cause.

The raising of ground levels to alleviate waterlogging by the import of 34,000 cubic metres of inert material was considered contrary to policies 12, 28 (ii) and (iii) of the Cheshire Replacement Waste Local Plan as it would have an unacceptable impact on residential amenity, recreational resources (the access was a bridleway, cycleway and PRow), and road safety. It was also considered the access arrangements were inadequate for the nature, volume and movement of traffic likely to be generated.

INSPECTOR'S REASONS:

The Inspector was not convinced of the agricultural need for the proposed infilling. The import of fill material to the site would involve considerable disturbance for the local community, and would significantly harm the amenity provided by the lanes and bridleway leading to the site. Although this would be a temporary effect, there would nevertheless be a conflict with planning policy, which is not outweighed by any cogent case for the proposed filling.

IMPLICATIONS FOR THE COUNCIL:

The Inspector fully supported the case put by officers to justify the refusal of the application and accepted the policy support for that decision. There are no implications arising from this decision.

Application Number: 08/1317/OUT

Appellant: Richborough Estates

Site Address: Former Bath Vale Works, Brookhouse Lane, Congleton

Proposal: Demolition of existing buildings and erection of up to 130 dwellings, provision of public open space, highway improvements and associated works.

Level of Decision: Committee

Recommendation: Refuse

Decision: Refused: 7 November 2008

Appeal Decision: Allowed 28 April 2009

MAIN ISSUES:

The main issue in this case is whether the proposal to provide 5% affordable housing would be sufficient to satisfy the objectives of national guidance and local policy to secure mixed housing, particularly in terms of tenure and price.

INSPECTOR'S REASONS:

The appeal application was submitted in July 2008 and was accompanied by an 'Affordable Housing Assessment' document (AHA). This concluded that redevelopment of the site was unviable unless the affordable housing element was reduced from 20% to 5%. The reasons behind this reassessment were increases in interest rates on borrowing, increases in building costs and income reductions arising from a fall in house sales prices.

The Council did not dispute the conclusion of the assessment however, it pointed to various trends in the market which could have had an impact in the period since the AHA was prepared.

The appellant explained that recent falls in interest rates had not been passed on to borrowers and that the 'real' cost of borrowing remained much the same as it was in July 2008. While the appellant accepted that indicators of building costs showed that the cost of building the scheme was static at present, it was likely to rise as contractors found that they could no longer afford to take on work with no profit margin and as the construction industry began to shrink. With regard to falling house prices, the AHA produced in 2008 was based on a projected 6% fall. At the time of the appeal, the actual decline in prices was more than double this figure.

The Council pointed out that in their currently volatile and unpredictable state, economic conditions could change quickly. It argued that economic circumstances could change over the life of any planning permission granted

which would make a higher affordable housing requirement viable. The Council went on to argue that there is a requirement for affordable housing in the district which needs to be met, irrespective of current economic conditions. If decisions are made to reduce or remove requirements placed on developers to provide affordable housing, the Council's ability to meet the housing needs of the district would be curtailed and the opportunities which sites present would be lost.

The Council explained to the Inspector that it is currently considering a number of housing sites and fears that, if the affordable housing requirement is reduced in response to financial reassessments based on falling house prices in this case, other developers may put forward similar arguments.

The overall effect on affordable housing provision could be substantial. It also argued that it was possible that developers who secured planning permissions with reduced affordable housing requirements at this time could 'bank' sites until economic circumstances improved and thereby avoid providing appropriate levels of affordable housing. The appellants explained that repayments on existing borrowing made such a scenario financially impossible in the appeal case.

The Inspector recognised that the Council's arguments in this regard were understandable. However, he also argued that current economic circumstances are very unpredictable. Whilst it is possible that house prices could begin to rise again and the 'real' cost of borrowing could reduce in the near future, there are few signs that this will happen. Most indicators of the economy tend to suggest that recovery from the current downturn is likely to be slow and protracted. Circumstances are just as likely to become worse as they are to become better and it would, therefore, be unwise to base any decision on predicted changes.

In the Inspectors view there was little alternative to making the decision on current costs and values. National guidance and local policies require that the Inspector should take economic viability into account in determining an appropriate level of affordable housing provision on the site.

In the Inspectors opinion, redevelopment of the site would secure substantial environmental benefits. The existing dereliction would be removed, current anti-social behaviour issues would be resolved, the contamination would be removed together with the threat which it poses to adjacent watercourses, existing overgrown woodland which makes up a large part of the site would be managed, wildlife would be encouraged through habitat enhancement and car parking facilities would be provided for the nearby footpath/cycleway. The development would also assist the Council in meeting its 5 year land supply for which it was currently falling short.

In this case the Inspector considered that the benefits were so substantial that redevelopment should not be unnecessarily hindered. He accepted that although other proposals may come before the Council which have similar benefits they will need to be assessed on a case by case basis. In closing, the

Inspector accepted that his decision in this case would not set a precedent which would make unacceptable schemes difficult to resist.

IMPLICATIONS FOR THE COUNCIL:

Policies supported by the Inspector

The three areas of policy at the heart of the appeal decision were:

- Policy H13 of the adopted Congleton Borough Local Plan First Review
- Planning Policy Statement (PPS) 3: Housing
- Supplementary Planning Document (SPD) 2006 Affordable Housing and Mixed Communities'

The Inspector in principal supported all three strands of policy. The balance of judgement lay in the consideration of the issue of viability which is referred to in Policy H13 as the '... economics of provision ...' and in paragraph 19 of the supplementary document to PPS3, Delivering Affordable Housing.

In coming to his decision, the inspector did not challenge the value of Policy H13 which provides one of the cornerstone elements of planning policy for affordable housing provision within the former Congleton Borough Council area of Cheshire East and it is felt that this policy is sufficiently robust to continue being used in the determination of applications.

Current market conditions

In coming to a judgement on the balance of weight to be applied to the policy and the market appraisal undertaken by the applicant, the Inspector considered the case in the context of the current market conditions.

It would appear from the Inspectors report that if the appeal had been heard two years ago when the market was stronger, then less weight would have been given to the appellant's arguments and the appeal may have been potentially dismissed.

This approach taken by the Inspector reinforces the need to consider each development on its merits.

Future Considerations

Clearly the ability (or not) of the Council to provide affordable housing, or to secure other community benefits e.g. public open space, through application of appropriate planning policies will have implications for future provision of community facilities.

Clearly, there will be some developments where the viability is exceptionally tight and the immediate community development of securing development on site will outweigh the loss of long-term strategic infrastructure for example the development of derelict sites in the centre of town centres. But at the same

time, each developer will also be seeking to minimise the overheads their scheme has to carry.

However, as the Inspector concluded, careful assessment of future applications will need to be made on a case-by-case basis to consider which schemes can be fully justified without compliance with normal planning policy.