

Strategic Planning Board

Agenda

Date:	Wednesday, 15th September, 2010
Time:	2.00 pm
Venue:	The Capesthorne Room - Town Hall, Macclesfield SK10 1DX

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.

Please note that members of the public are requested to check the Council's website the week the Planning/Board meeting is due to take place as Officers produce updates for some or of all of the applications prior to the commencement of the meeting and after the agenda has been published.

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

1. Apologies for Absence

To receive any apologies for absence.

2. Declarations of Interest/Pre-Determination

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 of the meeting held on 25 August 2010 as a correct record.

4. Public Speaking

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

Contact: Sarah Baxter
Tel: 01270 686462
E-Mail: Sarah.Baxter@cheshireeast.gov.uk

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

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

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

5. **10/0346M-Erection of 15 No. Affordable Houses, Woodside Poultry Farm, Stocks Lane, Over Peover, Knutsford for Dean Johnson Farms Ltd/ Dane Housing (Pages 5 - 22)**

To consider the above application.

6. **10/2810N-Change of Use of Land as a Residential Caravan Site for 8 Gypsy Families, Each with Two Caravans, including Improvement of Access, Construction of Access Road, Laying of Hard-standing and Provision of Foul Drainage, Land Off, Wettenhall Road, Poole, Nantwich for Mr T Hamilton (Pages 23 - 54)**

To consider the above application.

7. **10/1776N-Use of land for the siting of 34 Timber Clad Twin Unit Caravans, access works, car parking, administration building, cycle store and landscaping, Wrenbury Fishery, Hollyhurst Road, Marbury for Mr Spencer, Marcus Brook Ltd (Pages 55 - 84)**

To consider the above application.

8. **10/1005N-Application to Vary Planning Conditions 5 and 6 on Planning Permission 7/2009/CCC/1, in order to vary the description of permitted waste and specify a percentage of contaminated waste allowed, Whittakers Green Farm, Pewit Lane, Bridgemere for Mr F.H. Rushton (Pages 85 - 98)**

To consider the above application.

9. **10/2251N-Application to Vary Planning Conditions 5 and 6 on Planning Permission 7/2009/CCC/1, in order to vary the description of permitted waste and specify a percentage of contaminated waste allowed, Whittakers Green Farm, Pewit Lane, Bridgemere for Mr F.H. Rushton (Pages 99 - 112)**

To consider the above application.

10. **Update Report on Planning Enforcement Performance (Pages 113 - 124)**

To consider a report on the details of existing live Enforcement Notices/enforcement action carrying on from the last update report put before Members of the Strategic Planning Board on 23 December 2009.

11. **Appeals Summaries** (Pages 125 - 126)

To note the Appeal Summaries.

This page is intentionally left blank

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 25th August, 2010 in The Capesthorne Room - Town
Hall, Macclesfield SK10 1DX

PRESENT

Councillor H Davenport (Chairman)

Councillors A Arnold, D Brown, M Hollins, D Hough, W Livesley, J Macrae,
C Thorley, G M Walton, S Wilkinson and J Wray

APOLOGIES

Councillors Rachel Bailey and P Edwards
Councillor J Hammond owing to Council business

OFFICERS IN ATTENDANCE:

Sheila Dillon	Senior Solicitor
Adrian Fisher	Head of Planning and Policy
David Malcolm	Interim Development Manager
Nick Turpin	Principal Planning Officer
Declan Cleary	Planning Officer

30 DECLARATIONS OF INTEREST/PRE-DETERMINATION

There were no declarations of interest nor statements of pre-determination.

31 MINUTES OF THE PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 14 July 2010 be approved as a correct record.

32 10/2153M RESERVED MATTERS APPLICATION FOR ERECTION OF A 3-STOREY OFFICE BUILDING COMPRISING 3599 SQ METRES (TO BE DIVIDED UP INTO 2, 400 SQ. M OF B1 ON THE FIRST FLOOR AND SECOND FLOORS AND 1, 199 SQ. M OF D1 USE ON THE GROUND FLOOR) WITH ASSOCIATED CAR PARKING INCLUDING DECKED PARKING STRUCTURE. MACCLESFIELD DISTRICT HOSPITAL, VICTORIA ROAD, MACCLESFIELD, SK10 3BL. MR STUART BINKS, KEYWORKER HOMES (MACCLESFIELD) LTD

The Strategic Planning Board considered the above planning application.

RESOLVED

That the application for reserved matters be approved subject to the following conditions –

1. A02RM To comply with outline permission
2. A05RM Time limit following approval of reserved matters
3. A01AP Development in accordance with approved plans
4. A07EX Sample panel of brickwork and stonework to be made available and details of incorporating re-used stone from previous buildings on the site for the facing elevations of the “traditional” elements of the proposed building to be submitted.
5. A15LS Submission of type and colour of block pavements
6. A02HA Construction of access
7. A07HA No gates – new access
8. A01HP Provision of car parking
9. Details of the access ramp to be provided prior to commencement of development
10. Contaminated land
11. Pile driving
12. Construction of junction and roundabout
13. Prevention of mud, debris onto highway
14. Surface water drainage
15. Hours of operation
16. Fencing around condensing compound(s)/cycle shelters (to north and south elevations of the proposed office building) to be constructed in accordance with revised plan previously submitted.
17. Landscape details to be provided for the front (west) and side (north) elevations of the decked car park
18. Noise attenuation measures in respect of air conditioning equipment to be submitted.

In addition, Members requested that the Head of Planning and Policy write to the applicants requesting the decked car park area be designed /engineered to incorporate an additional deck(s) in the future, to ensure that parking within the vicinity of the site could be provided in the future as necessary.

33 MILL STREET/LOCKITT STREET, CREWE

Consideration was given to the report of the Head of Planning and Policy which sought a revision to a resolution passed by the Strategic Planning Board in respect of application P07/0639. The proposed amendment related solely to the requirements of the S.106 Agreement.

The original application for a mixed-use development, comprising residential, retail (food and non-food), pedestrian/cycle link and associated car parking, landscaping, servicing and access, had been approved by the Board on 24th March 2010.

RESOLVED

That the previous resolution in respect of application P07/0639 be amended to read –

The provision of on-site open space and equipped children's playspace in accordance with Policy RT.3 of the Local Plan with any shortfall in provision to be made up by way of a developer contribution in lieu of public open space calculated at £1,000 per house (index-lined);

Also

Affordable housing provision, which shall include a requirement that:

- 35% affordable housing
- 23% shall be social rented housing
- 12% shall be shared ownership

Also

Details of phasing of development to include the provision of the pedestrian/cycle link in three sections to correspond with the first three phases of development and the provision of a temporary link to Lockitt Street.

Also

A scheme of public art to be agreed for the site.

34 THE PLANNING PROTOCOL

The Strategic Planning Board considered the joint report of the Monitoring Officer and the Head of Planning and Policy which proposed amendments to the Planning Protocol adopted by the Council on 24th February 2009.

The Board was asked to review and comment on the proposed amendments.

RESOLVED

1. That the amended Planning Protocol contained in Appendix 1 of the report, be commended to the Constitution Committee for inclusion in the Constitution subject to –

(a) two revised paragraphs -

(i) paragraph 8.4 shall read "Do copy or pass on any lobbying correspondence you receive to the Planning Case Officer at the earliest opportunity or declare its receipt at the Planning Meeting."
(The revision allows Members to treat these two courses of action as alternatives.)

(ii) paragraph 4.5 shall read “Do remember that where other Ward Councillors are available and where they do not sit as a Member of the same Planning Meeting, they will not be subject to the same restrictions regarding fettering of discretion and are therefore a valid alternative contact for members of the public or lobby groups.” (The revision acknowledges that other Ward Councillors may or may not exist in a particular Ward.); and

2. any views expressed by the Standards Committee which would also be invited to comment.

35 APPEALS SUMMARIES

A summary of appeals was submitted. It was noted that the appeal in respect of 09/3401M (Fingerpost Cottage, Holmes Chapel Road, Toft) had been upheld and the costs refused. The report indicated that the appeal had been dismissed.

RESOLVED

That the summary of appeals be noted.

The meeting commenced at 2.00 pm and concluded at 3.45 pm

Councillor H Davenport (Chairman)

Application No: 10/0346M
Location: WOODSIDE POULTRY FARM, STOCKS LANE, OVER PEOVER, KNUTSFORD, WA16 8TN
Proposal: ERECTION OF 15 NO. AFFORDABLE HOUSES
For DEAN JOHNSON FARMS LTD/ DANE HOUSING
Registered 02-Mar-2010
Policy Item No
Grid Reference 378108 373981

Date Report Prepared: 6 September 2010

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

MAIN ISSUES

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

REASON FOR REPORT

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

DESCRIPTION OF SITE AND CONTEXT

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

DETAILS OF PROPOSAL

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

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

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

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

RELEVANT HISTORY

02/2275P

Outline Planning

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

WOODSIDE POULTRY FARM STOCKS LANE PEOVER SUPERIOR CHESHIRE

refused 20021120

04/2630P

Full Planning

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

WOODSIDE POULTRY FARM STOCKS LANE OVER PEOVER KNUTSFORD WA168TN

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

POLICIES

Local Plan Policy

NE11 Nature Conservation

BE1 Design Guidance

GC1 New Buildings in the Green Belt

H1 Phasing Policy

H2 Environmental Quality in Housing Developments

H5 Windfall Housing Sites

H8 Provision of Affordable Housing

H9 Affordable Housing

H13 Protecting Residential Areas

T2 Integrated Transport Policy

DC1 New Build

DC3 Amenity

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

Other Material Considerations

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

CONSULTATIONS (External to Planning)

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

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

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

Environment Agency: no objection subject to conditions regarding contamination.

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

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

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

VIEWS OF THE PARISH / TOWN COUNCIL

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

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

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

OTHER REPRESENTATIONS

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

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

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

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

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

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

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

APPLICANT'S SUPPORTING INFORMATION

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

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

The Affordable Housing Statement concludes that:

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

OFFICER APPRAISAL

Principle of Affordable Housing in this location

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

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

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

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

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

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

Assessment of Need

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

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

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

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

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

Green Belt

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

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

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

Design & Visual Impact

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

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

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

Amenity

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

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

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

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

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

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

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

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

Highways

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

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

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

Trees/Landscaping

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

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

Ecology

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

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

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

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

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

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

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

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

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

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

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

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

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

Leisure Provision

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

The applicants have agreed to pay the amount requested.

Other Matters

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

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

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

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

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

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

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

Heads of Terms

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

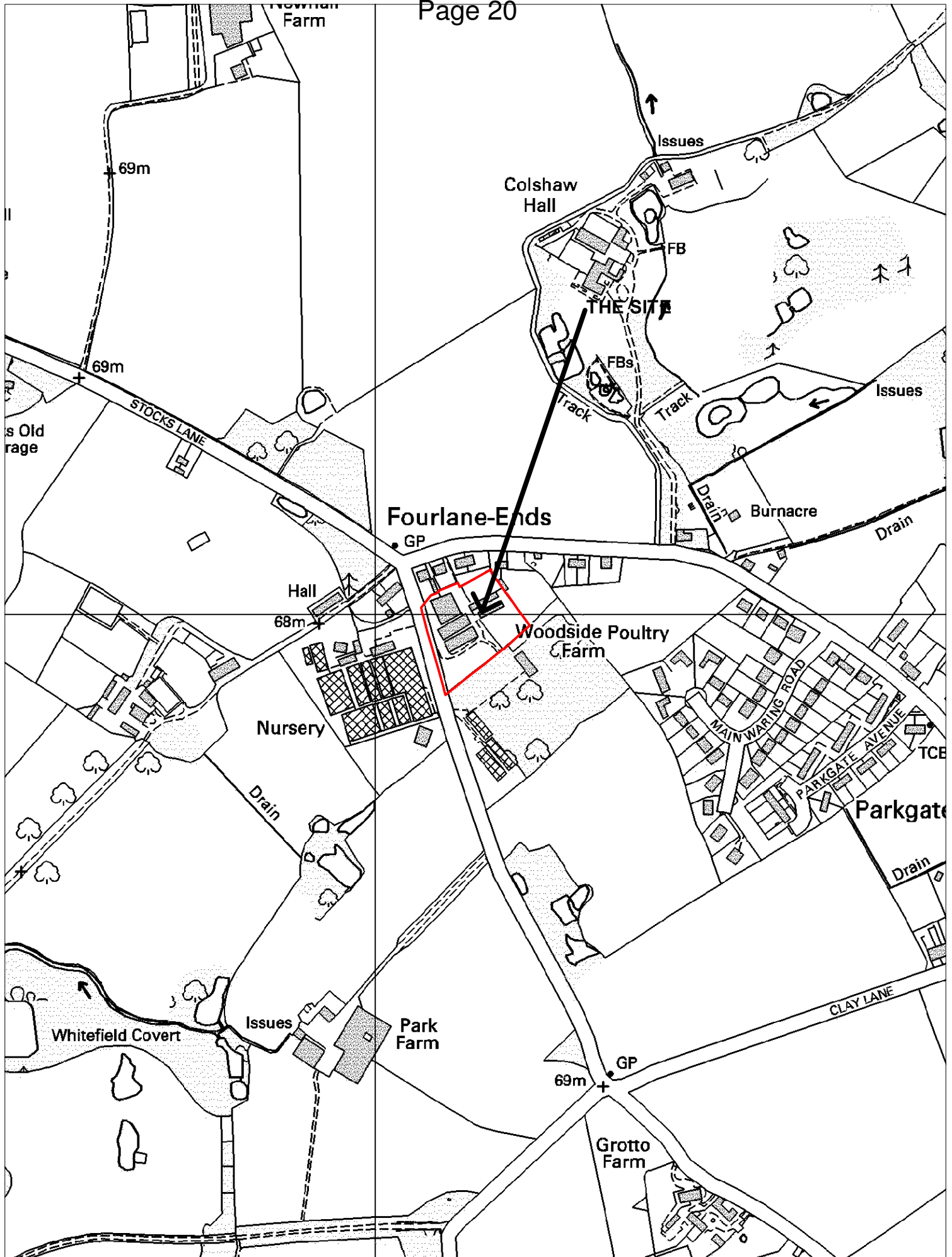
- dwellings will be retained as affordable housing in perpetuity and that occupation is restricted to those in genuine need who are employed locally or have local connection to the parish of Over Peover and then cascaded initially to adjoining parishes before being offered to residents of other areas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

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

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

CONCLUSIONS AND REASON(S) FOR THE DECISION

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



WOODSIDE POULTRY FARM, STOCKS LANE, OVER PEOVER, KN

Reproduced from the Ordnance Survey map with the permission of HMPSO. No warranty is made by the Ordnance Survey as to the accuracy of the information. Use of this map for any purpose other than that for which it was designed may lead to legal or civil proceedings. Cheshire East Borough Council, licence no. 100018585 2007..

Scale 1:10000

Application for **Full Planning**

RECOMMENDATION : Approve subject to following conditions

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

Planning Reference No:	10/2810N
Application Address:	Land Off, Wettenhall Road, Poole, Nantwich, Cheshire
Proposal:	Change of Use of Land as a Residential Caravan Site for 8 Gypsy Families, Each with Two Caravans, including Improvement of Access, Construction of Access Road, Laying of Hard-standing and Provision of Foul Drainage.
Applicant:	Mr T Hamilton
Application Type:	Full
Grid Reference:	364027 345697
Ward:	Cholmondeley
Expiry Dated:	14 th September 2010
Date Report Prepared:	
Constraints:	Open Countryside

SUMMARY RECOMMENDATION – REFUSE.

MAIN ISSUES

- Whether the development would provide a sustainable form of development.
- The impact of the development on the character and appearance of the area.
- Impact of the development on ecology.

Referral

This application is referred to the Strategic Planning Board due to the potential impact upon the provision of Gypsy and Traveller accommodation across the Borough set out by the Gypsy and Traveller Accommodation Assessment (GTAA) process and addressed as part of the Local Development Framework for Cheshire East.

GENERAL COMMENT

The application is a re-submission of application (ref 09/4331N) which was refused at Strategic Planning Board on 2nd June 2010. This application is essentially the same in scale and form however, the previous application was considered unacceptable due to the loss of wildlife habitat, unsustainable location and the resultant unjustified intrusion into the open countryside. The Applicant has provided additional information which seeks to address the reasons for refusal.

The application was considered acceptable in all other respects therefore, this application does not represent an opportunity re-considered issues that were

considered previously acceptable unless there has been a material change in circumstances. The material changes are considered in detail below.

A copy of the officer's report for 09/4331N is annexed to this report and should be considered as part of this report.

It should be noted that the officer's report referred to Nantwich Health Centre as Beam Heath Medical Centre, it should read Church View Primary Care Centre, Beam Street, Nantwich.

Whilst it is important to consider the proposal in full, in order to provide focus, comment within this report will, in the main, be limited to issues relating to the reasons for refusal for the previous application.

Since the previous decision was made Regional Spatial Strategies have been abolished. Supporting guidance issued by the Communities and Local Government office states, amongst other things, that the determination of the right level of provision of Gypsy and Traveller sites rests with the local authority, reflecting local need and historic demand, and for bringing forward land in Development Plan Documents (DPDs) and that they should continue to do this in line with current policy.

The Government has also announced its intention to replace Circular 01/2006 (ODPM) Planning for Gypsy and Traveller Caravan Sites and strengthen enforcement rules

The accompanying document to PPS1, 'the Planning System; General Principles' (Jan 2005) indicates that *"Emerging policies, in the form of draft policy statements and guidance, can be regarded as material considerations, depending on the context. Their existence may indicate that a relevant policy is under review; and the circumstances which have led to that review may need to be taken into account."* In this case it is not altogether clear what will replace the circular other than it will be 'light touch guidance'. Never the less the Government has sent a clear signal that it considers that the current advice is in need of revision – and by implication – too prescriptive in its content and tone. In these circumstances we contend that the advice of Circular 01/06 remains pertinent, but that overall it should be afforded less weight than before.

This report has therefore been prepared in the context of these new circumstances

DESCRIPTION OF SITE AND CONTEXT

The application site is situated within the open countryside, adjacent to an equine complex which includes a small stable block and outdoor manege. The site measures approximately 1.2 ha and comprises two fields, one adjacent to Wettenhall Road and the other immediately behind. The access has been taken from an existing field gate with a gravelled drive way running through the first field towards the second field which provides for the main caravan parking area.

The site itself lies approximately 1.7km from the edge of Nantwich, west of Reaseheath Agricultural College. There are a number of residential properties within the vicinity, with the nearest being those located on Cinder Lane which is 250 metres to the East.

The boundaries of the site are defined by hedgerows comprising native species. The hedge line also contains a number of mature Oak trees however, one appears to be dead.

The site lies outside a flood risk area as identified by the Environment Agency's Flood Zone Map.

DETAILS OF PROPOSAL

The proposal involves the creation of 8 family pitches designed to accommodate Gypsies. Each pitch will comprise one static/mobile home and one small touring sized caravan. Each pitch will be defined with a post and rail fence. The main caravan parking area has been predominately laid with self binding gravel to provide hard-standing for the caravans and to facilitate access and parking for the occupiers' motor vehicles which include 8 light goods vehicles. The submitted plan indicates a grassed area at the western side of the main parking area and either side of the access track.

RELEVANT HISTORY

The use of the site has been the subject of enforcement action, including the service of two Temporary Stop Notices to prevent more than eight caravans being stationed on the land and to prevent further hardcore from being deposited. Both of these notices have now expired. The site is now subject to an injunction issued by the Court which limits the size and number of caravans to a maximum of eight single unit trailers and prevents any further engineering work until such time that planning permission is granted. The purpose of the injunction is to prevent further development and intensification in the use of the site without proper consideration of the impact via the planning application procedure.

Application ref 09/4331N: Change of Use of Land as a Residential Caravan Site for 8 Gypsy Families, Each with Two Caravans, including Improvement of Access, Construction of Access Road, Laying of Hard-standing and Provision of Foul Drainage. Refused on 2nd June 2010 for the following reasons:

1. The development represents an inappropriate and unjustified visual intrusion in the open countryside due to the introduction of hardcore and the siting of caravans which is considered to have an adverse impact on the character and openness of the surrounding area contrary to the provisions of Policy NE.2 (Open Countryside) and Policy RES.5 (Housing in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan

2011.

2. The application fails to provide the Local Planning Authority with sufficient information to assess the appropriate mitigating measures required for the loss of wildlife habitat contrary to the provisions of Policy NE.5 (Nature Conservation Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.
3. The location of the site represents an unsustainable form of development due to the distance from local services and facilities contrary to Policy RES.13 (Sites for Gypsy and Travelling Showpeople) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the guidance contained within Circular 01/2006.

An appeal has been lodged against this decision and will be considered by means of a public enquiry. A provisional date in November 2010 has been set.

POLICIES

The development plan includes the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP) extended policies within the Cheshire 2016 Structure Plan Alteration.

The relevant development plan policies are:

Local Plan Policy

NE.2 (Open Countryside)
NE.9 (Protected Species)
BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
E.6 (Employment Development within Open Countryside)
RES.8 (Affordable Housing in Rural Areas Outside Settlement Boundaries)
RES.13 (Sites for Gypsies and Travelling Showpeople)

Cheshire 2016 Structure Plan Alteration:

HOU6 (Caravan Sites for Gypsies)

Other Material Considerations

PPS.1 (Delivering Sustainable Development)
PPS.3 (Housing)
PPG.13 (Transport)
PPS. 25 (Development and Flood Risk) 2010

Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) 2007.

Circular 01/2006 (ODPM) Planning for Gypsy and Traveller Caravan Sites.

Circular 06/2005 (ODPM) Biodiversity and Geological Conservation – Statutory Obligations and their Impact on the Planning System.

Designing Gypsy and Traveller Sites: Good Practice Guide May 2008.

English Nature: Barn Owls on Site; A Guide for Developers and Planners 2002.

CONSIDERATIONS (External to Planning)

Environment Agency – No objection subject to the submission of an acceptable method of foul and surface water disposal.

Environmental Health – No objection however recommends conditions relating to drainage, boundary treatment and internal layout.

Highways - No objection subject to a condition requiring access arrangements to be submitted and agreed.

Cheshire Fire Authority: Comments that access and facilities should be in accordance with guidance given in Approved Document B supporting the Building Regulations and Model Standards 2008 for Caravan Sites in England. Also details of the mains water supply should be submitted to them and recommends that the applicant should consider the inclusion of an automatic water suppression system within the design.

Housing – The GTAA identified a need for 54 pitches to be delivered by 2016 within Cheshire East. There is still a significant shortfall and therefore a need for the additional pitches.

Ecologist – Requests further details relating to the creation of the wildlife area.

VIEWS OF THE PARISH / TOWN COUNCIL – No received at the time of writing the report.

OTHER REPRESENTATIONS

Objections have been received from: The occupiers of Foxcroft Cottage; Cinder Lane Farm; The Cottage; Oak View; Brook House and Poole Hall which are all situated in Cinder Lane, Reaseheath. Additionally, objections have been received from the occupiers of Holders House on Wettenhall Road.

Walsingham Planning have also submitted representations on behalf of Poole and Reaseheath Residents' Association.

A number of issues have been raised however, the majority of these issues were considered and dealt with within the Officer Report which is annexed to this report.

In order to provide clarity, the following issues only relate to new matters which are considered material and comments relating to additional information produced by the applicant to address the reasons for refusal on the previous application:

No further Ecological Study has been carried out by the applicant and due to the contradictory results of the two studies there is no justification for the Council to now take a different view on ecology; and the second reason for refusal;

The Poole and Reaseheath Resident's Association consider that the location of the proposed development to local services, schools, shops transport networks is of paramount importance to the consideration of the application;

It is considered inappropriate to compare this site with other similar application sites which have been the subject of an appeal in terms of sustainability;

Since the previous application was refused the Secretary of State has revoked Regional Spatial Strategies and subsequently the targets they set;

There may be a need for additional gypsy sites within Cheshire East, the need is clearly not pressing (based on figures submitted by Walsingham Planning as comments to the previous application) and certainly does not justify overriding the previous reasons for refusal;

There is poor infrastructure and there are no pedestrian pavements or street lighting in the vicinity therefore people walking along the road would be at risk of injury;

The wider benefits of easier access to doctors, other health services, schools and local shops are not met as the site is too far from these services due to the lack of public transport into Nantwich;

The provisions of Policy HOU.6 are not satisfied because the site is not located within 1.6km of a local school;

The Government has announced that it intends to replace Circular 01/2006;

Policy regarding travellers sites appears to be changing and that local authorities have been issued with new guidelines, it is hoped that Cheshire East will ensure that these guidelines are adhered to.

APPLICANT'S SUPPORTING INFORMATION – The applicant has submitted a Design and Access Statement and two appeal decisions PDA1 and PBA2. The main emphasis and contents are designed to address the reasons for refusal on 09/4331N;

Scale, Landscaping and Appearance.

Gypsy sites are acceptable in principle in rural areas which are not subject to special protection and that the test that should be applied to the impact on the character and appearance of the countryside is whether the development causes unacceptable

harm which cannot be made acceptable with additional landscaping. Annex C to Circular 01/2006 infers that sites do not have to be adequately screened from the outset; secondly, that gypsy sites do not have to be hidden from view and, thirdly, that sites can be assimilated into their surroundings to a sufficient degree.

The Statement then refers to a appeal decision (PBA1) where the Inspector concluded that a balance should be drawn in terms of screening and planting, so that the occupiers are visually part of the community.

It is considered that this particular site is already well screened from public vantage points but the applicant is willing to carry out additional planting if required.

Access and Sustainability.

The access and verge will be improved to Highway Authority specifications. It is considered that the existing visibility splays are adequate, this is particularly the case if the most up to date sight stopping distances, set out in Manual for Streets (applicable to lightly used country lanes), are taken into account.

With respect to sustainability, the “in principle” acceptance of Gypsy sites in rural areas (paragraph 54 of Circular 01/2006) has a number of intended consequences. One of these is that rural areas in the main are less “sustainable” than urban areas, in that the range of transport options is likely to be more limited, and access to essential services is therefore more likely to be car dependant. Clearly, if rural areas are acceptable in principle, the aim of reducing car dependence must be secondary to the sustainability benefits set out in paragraph 64 of Circular 01/2006 (see below), and to the aim of achieving a major increase in the delivery of an adequate supply of Gypsy/Traveller sites.

Sustainability should not be assessed on the narrow basis of distance to services and transport modes. Account should be taken of the wider benefits set out in paragraph 64 of Circular 01/2006 which include easier access to a Doctor and other health services; children attending school on a regular basis and the provision of a settled base that reduces the need for long distance (or frequent) travelling and possible environmental damage caused by unauthorised encampment. The development achieves all of these benefits.

Reference is made to an appeal decision (PBA2), where the Inspector concluded that rural Gypsy and Traveller sites are similar to other rural sites and that therefore there was no justification for withholding planning permission.

Nature Conservation

An ecological walkover survey was carried out in January 2010 and found that the applicant's land provided areas of low diversity habitat, and areas of greatest conservation interest would be unaffected by the development. Furthermore, protected species would be unaffected.

The applicant has offered to create a wildlife area on land within his ownership as part of any landscape mitigation measures.

Policy Context

The Statement then goes on to discuss the planning policy context in relation to the need for Gypsy and Traveller accommodation in Cheshire East. It is not considered necessary to include this in the report because this issue was fully considered during the assessment of the previous report.

OFFICER APPRAISAL

Principle of Development

PPS.1 states that where the development plan contains relevant policies, planning applications should be determined in line with the plan, unless material considerations indicate otherwise. In this particular case, the policies contained in the adopted local and structure plans relating to the provision of gypsy and traveller accommodation have been superseded by ODPM Circular 01/2006. Whilst under review, this requires local planning authorities to identify sites to accommodate for the gypsy and traveller community following a needs assessment (GTAA) for their area in the same way that sites are allocated for conventional dwellings for the settled population.

Need for Gypsy and Traveller Sites

As mentioned above the need for Gypsy and Traveller accommodation was considered within the officer's report to Committee relating to the previous application which is annexed to this report. It was concluded that there was an unmet need within the Borough based on the figures published in the GTAA.

The recent appeal decision, issued in June this year, relating to the formation of a Gypsy/Traveller site off Spinks Lane, Knutsford concluded amongst other things; that there was a serious shortage of accommodation for Gypsies and Travellers in Cheshire East. The Inspector commented *"as a consequence additional problems and inequalities for the gypsy and traveller community are created in terms of access to health, education, employment and other opportunities. Tensions over the use of pitches without planning permission also occur. It is such outcomes that Circular 01/2006 aims to address. I attach substantial weight to unmet need"*. This appeal was dismissed for other reasons however, the Inspectors comments relating to the un-met need are relevant and material to the current accommodation situation in Cheshire East.

The revocation of Regional Spatial Strategies does not materially alter the assessment as the guidance issued with the revocation letter advises that local planning authorities should determine the need within their area and they should do

this in line with current policy. The guidance suggests that GTAA's are a good starting point. The GTAA is the most up to date quantifiable needs assessment for Gypsy and Traveller accommodation for the area and will be the basis of formulating the Authority's Core Strategy. The Strategy will set out the vision, objectives and strategy for the spatial development of Cheshire East over the next 15 years.

Sustainability

The principles of sustainability were considered within the officer's report to Committee relating to the previous application which is annexed to this report. The report concluded that there were question marks over the sustainability of the site therefore only a temporary permission was recommended in order to allow the Authority to formulate policy and allocate more suitable sites. However, the Committee considered that the un-met need did not out-weigh the unsustainable location of the site and therefore the development was considered to be contrary to the provisions of Policy RES.13.

This revised application seeks to provide additional information to address these concerns. The agent has reiterated his opinion that the site is sustainability located and made reference to a 2009 appeal decision (PBA2) where the Inspector concluded that the "acceptable in principle" advice of gypsy sites in rural areas found in Circular 01/2006 outweighed local plan policy relating to the location of development.

In effect the applicant is inviting the Council to re-visit its consideration of the sustainability argument and to view the site afresh and in a different light. However the revised application does not alter the fundamentals of the site's location nor its intrinsic relationship to adjacent facilities. The Committee previously concluded that the site was unsatisfactory with regard to its sustainability – and conflicted with Policy RES13. There is not sufficient within the revised application to justify a deviation from this position.

Ecology

The statutory duty imposed on local authorities to consider the impact of development proposals on protected species and their habitat was highlighted in the previous Officers report which is annexed to this report.

The previous application was refused because the Committee considered that the development contravened the criteria set out in Policy NE.5. This policy seeks to protect, preserve and enhance the natural conservation resource and states that development must preserve this resource or provide replacement habitat as compensation. The site was originally unimproved grassland which would have provided ideal habitat for various species.

The revised application states that the applicant is prepared to create a wildlife area within the site as part of any landscape mitigation measures. However, further details will be required to evaluate whether this wildlife area will mitigate for the loss

of the un-improved grassland and the habitat which it afforded. Further information has been requested but at the time of writing this report information has not been received therefore the additional information provided fails to address the Council's reasons for refusal on the previous application.

Impact on the Character and Appearance of the Countryside

The revised application does not address this issue in a direct sense however, the Design and Access Statement states that the development would not conflict with Circular 10/2006 or relevant development plan policies in so far as these are consistent with the Circular. The inference being that the development complies with other relevant policy therefore is considered appropriate development when judged against the criterion contained within Policy NE.2.

The Council has previously concluded that the development is an inappropriate and unjustified visual intrusion in the open countryside due to the introduction of hardcore and the siting of caravans. These are considered to have an adverse impact on the character and openness of the surrounding area – and consequently the development would be contrary to the provisions of Policies NE.2 and RES.5

Once again a re-assessment of this position is invited, but with limited change to the fundamentals of the development itself. Circular 01/06 supports the principle of sites in a rural setting, but does not suggest that such development will always be acceptable. Given that is the case – and the fact that the Government has signalled a revision to this advice – there appears to be no reason to alter the balanced assessment that the Council has made on impact on the Countryside.

Other matters

The introduction of the hardcore could have a potential to contaminate surrounding groundwater therefore were the committee to consider approval of the application a condition requiring a detailed analysis of the hardcore together with any remedial measures would be recommended.

CONCLUSIONS AND REASON(S) FOR THE DECISION

Members will be aware that the original permission was refused contrary to officers' recommendations due to concerns over the sustainability of the site and the loss of natural habitat both of which resulted in the development being judged inappropriate in a countryside location.

The additional information provided by the applicant reinforces the applicant's stance that the site is sustainably located nevertheless, the situation remains substantially

the same because the additional information does not include any proposals that could be considered compensatory for what was considered to be an unsustainable location.

The additional information relating to mitigation for the loss of the wildlife habitat is not considered sufficient to address the Council's original reason for refusal on ecological grounds.

Accordingly it is considered that the revised application does not provide sufficient grounds to overcome or alter the conclusion that the Council previously reached. On that basis and having regard to Development plan policy and other material factors it is considered that the application should be refused

RECOMMENDATION: REFUSE

1. The development represents an inappropriate and unjustified visual intrusion in the open countryside due to the introduction of hardcore and the siting of caravans which is considered to have an adverse impact on the character and openness of the surrounding area contrary to the provisions of Policy NE.2 (Open Countryside) and Policy RES.5 (Housing in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.
2. The application fails to provide the Local Planning Authority with sufficient information to assess the appropriate mitigating measures required for the loss of wildlife habitat contrary to the provisions of Policy NE.5 (Nature Conservation Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.
3. The location of the site represents an unsustainable form of development due to the distance from local services and facilities contrary to Policy RES.13 (Sites for Gypsy and Travelling Showpeople) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the guidance contained within Circular 01/2006.

ANNEX A: Previous Officer's Report including Updates

Planning Reference No:	09/4331N
Application Address:	Land Off, Wettenhall Road, Poole, Nantwich, Cheshire
Proposal:	Change of Use of Land as a Residential Caravan Site for 8 Gypsy Families, each with 2 Caravan, including Improvement of Access, Construction of Access Road, Laying of Hard-standing and Provision of Foul Drainage.
Applicant:	Mr T Hamilton (<i>Error on previous report which stated it was a Mr T Loveridge</i>)
Application Type:	Full
Grid Reference:	364027 345697
Ward:	Cholmondeley
Expiry Dated:	07 May 2010
Date Report Prepared:	23 April 2010
Constraints:	Open Countryside

SUMMARY RECOMMENDATION – Approve with conditions**MAIN ISSUES**

- The need for and provision of gypsy and traveller sites in the area.
- Whether the development would provide a sustainable form of development.
- The impact of the development on the character and appearance of the area.
- Impact of the development on the ecology.
- Impact of the development on neighbouring amenity.

In order to provide an up to date report all relevant additional information, comments and any corrections have been consolidated into the report for convenience and are highlighted in italics.

Referral

This application is referred to the Strategic Planning Board due to the potential impact upon the provision of Gypsy and Traveller accommodation across the Borough set out by the North West Draft Regional Spatial Strategy Partial Review and GTAA process and addressed as part of the Local Development Framework for Cheshire East.

A decision on the application was deferred by Committee on 5th May 2010 in order to carry out a site visit.

DESCRIPTION OF SITE AND CONTEXT

The application site is situated within the open countryside, adjacent to an equine complex which includes a small stable block and outdoor manege. The site measures approximately 1.2 ha and comprises two fields, one adjacent to Wettenhall Road the other immediately behind. The access has been taken from an existing field gate with a gravelled drive way running through the first field towards the second field which provides for the main caravan parking area.

The site itself lies approximately 1.7km from the edge of Nantwich, west of Reaseheath Agricultural College. There are a number of residential properties within the vicinity, with the nearest being those located on Cinder Lane which is 250 metres to the *East*.

The boundaries of the site are defined by hedgerows comprising native species. The hedge line also contains a number of mature oak trees however, one appears to be dead.

The application was made invalid following its original validation after it was discovered that there was a discrepancy within the ownership certification. This matter has now been resolved. Additional information was requested around the same time due to the omission of pond on neighbouring land to the south and the lack of information relating to the impact on barn owls from the supporting Ecological Report. In light of these issues a limited re-consultation exercise was undertaken involving the Council's Ecologist, neighbours and the Parish Council.

The site lies outside a flood risk area as identified by the Environment Agency's Flood Zone Map.

DETAILS OF PROPOSAL

The proposal involves the creation of 8 family pitches designed to accommodate Gypsies. Each pitch will comprise one static/mobile home and one small touring sized caravan. Each pitch will be defined with a post and rail fence. The main caravan parking area has been predominately laid with self binding gravel to provide hard-standing for the caravans and to facilitate access and parking for the occupiers motor vehicles which includes 8 light goods vehicles. The submitted plan indicates a grassed area at the western side of the main parking area and either side of the access track.

RELEVANT HISTORY

The use of the site has been the subject of enforcement action, including the service of two temporary Stop Notices to prevent more than eight caravans being stationed on the land and to prevent further hardcore from being deposited. Both of these

notices have now expired. The site is now subject to an injunction issued by the Court which limits the size and number of caravans to a maximum of eight single unit trailer and prevents any further engineering work until such time that planning permission is granted. The purpose of the injunction is to prevent further development and intensification in the use of the site without proper consideration of the impact via the planning application procedure.

POLICIES

The development plan includes the Regional Spatial Strategy for the North West of England (RSS), and the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP).

The relevant development plan policies are:

Local Plan Policy

NE.2 (Open Countryside)
NE.9 (Protected Species)
BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
E.6 (Employment Development within Open Countryside)
RES.8 (Affordable Housing in Rural Areas Outside Settlement Boundaries)
RES.13 (Sites for Gypsies and Travelling Showpeople)

Cheshire 2016 Structure Plan Alteration:

HOU6 (Caravan Sites for Gypsies)

Other Material Considerations

PPS.1 (Delivering Sustainable Development)
PPS.3 (Housing)
PPG.13 (Transport)
PPS. 25 (Development and Flood Risk) 2010
RSS. L6 (Draft) (Scale & Distribution of Gypsy and Traveller Pitch Provision)
Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) 2007.
Circular 01/2006 (ODPM) Planning for Gypsy and Traveller Caravan Sites.
Circular 06/2005 (ODPM) Biodiversity and Geological Conservation – Statutory Obligations and their Impact on the Planning System.
Designing Gypsy and Traveller Sites: Good Practice Guide May 2008.
English Nature: Barn Owls on Site; A Guide for Developers and Planners 2002.

CONSIDERATIONS (External to Planning)

Environment Agency – No comments to make in relation to the application.

Environmental Health – No objection however recommends conditions relating to drainage, boundary treatment and internal layout.

Highways - No objection subject to a condition requiring access arrangements to be submitted and agreed.

Housing – The GTAA identified a need for 54 pitches to be delivered by 2016 within Cheshire East. There is still a significant shortfall and therefore a need for the additional pitches.

Ecologist – It cannot be satisfactorily concluded that Great Crested Newts are not present within the ponds close to the site however, due to the retrospective nature of the application and the lack of information to the quality of the habitats lost to the recently created hard standing area I am unable to offer advice on the impact. I can advise that minor future works within the present area of hard standing are unlikely to result in a significant adverse impact on newts if present.

VIEWS OF THE PARISH / TOWN COUNCIL

Objects to the application for the following reasons:-

1. The site is in open countryside and there is no viable or historical for it to be there.
2. The manner in which the occupation took place was conducted in order to present a fait accompli to the planning authority.
3. The dates on the application will bear some scrutiny compared with the facts of the case.
4. The GCN survey is dubious give it was undertaken in the depths of the hibernation period.
5. Work started prior to the application.
6. There is potential for pollution of the nearby brook and into the river from any outfall drainage.
7. This issue is very disquieting for parishioners, and undermines the whole credibility of the planning system.

OTHER REPRESENTATIONS

Objections have been received from : The occupiers of Foxcroft; Cinder Lane Farm; The Cottage; Chestnut Cottage; No 9; Lime Tree Cottage; OakView; Poole Green Cottage; East View & Brook House which are all situated in Cinder Lane, Reaseheath. Additionally, objections have been received from the occupiers of Lengthmen's Cottage & Poolehill Cottage both on Poole Hill Road together with the occupiers of Holders House and Copper Beach which is on Wettenhall Road, Oak View and Willow Cottage, in the Poole area.

Objections have also been received on behalf of Reaseheath College.

Cobbetts Law firm have also submitted representations on behalf of residents living in Cinder Lane and the occupiers of Pool Hall. The submission includes an additional ecological assessment carried by TEP ecological consultants and a written statement from Walsingham Planning Consultants regarding the planning merits of the application.

The key issues raised by these objections are:

The scale of the development is inappropriate to the area and will lead to difficulties of integration with the existing community;
Development of this nature is not part of the Regional Spatial Strategy;
There is insufficient existing infrastructure;
No public transport serves the site;
The development will lead to an increase in traffic along a road that is already over-stretched;
Questions over the surface water drainage of the site, ditches now appear to be blocked;
The existing settled community have human rights also;
Concerns over the method of foul water discharge;
The proposal will result in over-development of a small site;
The development is contrary to the character of the area;
The development was carried out without pre-application discussions with the local authority contrary to the provisions of Circular 01/2006;
Commercial vehicles are parked on the site;
The site is too far from local services and therefore unsustainable and consequently fails to meet policy set out in Cheshire 2016 Structure Plan Alterations Policies GEN1, GEN.3, HOU3 & HOU6 and Policy L6 of the Draft North West Plan Partial Review;
Access to the nearest facilities is dangerous by foot;
Commercial activities already taking place are objectionable given the rural location;
There are inaccuracies in the submitted Ecological Report therefore the Authority should carry out an independent survey;
The proposal conflicts with Local Plan Policies RES.8: RES.13; RES.5; BE.1 & NE.2;
The site is subject to a high water table and flooding;
The proposal will result in harm to the natural conservation resource of the immediate area and be harmful to the character and amenity of the area by reason of the proposed layout, design, materials of construction, appearance and its degree of permanence within the open countryside;
Further ecological work is required to confirm or rule out the presence of Great Crested Newts, Bats and Barn Owls;

Should the Authority consider approval the application, the following suggestions have been made:

Consideration should be given to granting a temporary permission to allow the Authority to identify more suitable sites through the LDF process;
The number of caravans should be limited to a total of six to minimise the impact on the existing small community;
Additional screening should be required;

No continuous 24 hour lighting.

Officer Comment: Policies GEN.1; GEN3 & HOU3 have not been saved and have been replaced by RSS Policy.

Additional Letter Addressed to Members of the Strategic Planning Board dated 4th May 2010 from the Occupier of Poole Green Cottage, Cinder Lane, Reaseheath.

The letter suggests that the views of the local residents have not been taken into account by the Council's Officers and that approval of the application would set a precedent which would make it difficult for the Council to refuse similar applications in the future. The letter confirms support of the neighbours views who will speaking at the meeting on the 5th May.

In response, whilst it is not practical to reproduce all representations verbatim within the planning report, it is considered that all comments received that are material to the application were considered within the report.

APPLICANT'S SUPPORTING INFORMATION – The applicant has submitted a Design and Access Statement. The main points are;

Caravans are capable of assimilation within rural areas through the use of natural screening. It is considered that the site is already satisfactorily screened but the applicant is willing to carry out additional planting if required.

The existing access will be improved and the crossing made up to Highway specification. Wettenhall Road is a lightly trafficked and the sight stopping distances contained in Manual for Streets have been taken into account.

The site is only 1.5km from the edge of Nantwich and even closer to the bus stops on the A51. Having regard to the recent Wybunbury Lane appeal decision, the application site must be regarded as being reasonably sustainable for a gypsy site.

Draft Policy L6 of the RSS Partial Review stipulates that provision will be made for at least 60 additional permanent pitches in Cheshire East between 2007 – 2016. the supporting text explains that “there is an urgent need to address the shortage of suitable accommodation for Gypsies and Travellers”.

The Inspector in the recent appeal concerning a proposed gypsy site at Wybunbury Lane stated there is undoubtedly an immediate need for further pitch provision both in Cheshire East and regionally. This is particularly the case because the GTAA found that the need was for small private family sites.

Structure Plan Policy HOU6 and Local Plan Policy RES.13 relate to the provision of gypsy sites but either are based on a quantitative assessment of need therefore this application should be determined in accordance with the more up to date circular advice (01/2006).

The Authority has not produced a site allocations DPD, and suitable alternative sites have not been identified as part of the Local Development Framework process and the Authority is unlikely to remedy this situation before 2014.

The countryside location is not subject to special planning constraints and therefore according to paragraph 54 of Circular 01/2006, is acceptable for use as a gypsy site in principle subject to being in a sustainable location and not subject to flooding.

OFFICER APPRAISAL

Principle of Development

PPS.1 states that where the development plan contains relevant policies, planning applications should be determined in line with the plan, unless material considerations indicate otherwise. In this particular case the policies contained in the adopted local and structure plan relating to the provision of gypsy and traveller accommodation have been superseded by ODPM Circular 01/2006 requires local planning authorities to identify sites to accommodate for the gypsy and traveller community following a needs assessment (GTAA) for their area in the same way that sites are allocated for conventional dwellings for the settled population.

Need for Gypsy and Traveller Sites

The residential accommodation need for the three former Boroughs now comprising Cheshire East was summarised in the GTAA as follows:

(Amended as per previous updates)

Former Authority	Current authorised provision (pitches)	Total additional residential need (pitches) 2006 – 2011	Supply of pitches (1 pitch per year allowance for turn over)	Total additional residential need (pitches) 2011 – 2016	Estimated supply of pitches 2011 – 2016	Total additional residential need (pitches) 2006 – 2016
Congleton	74	22 – 30	5 + 5 Horseshoe Fm + 3 Five Acre Fm	14 – 16	5	26 – 36
Crewe & Nantwich	27	5 – 11	Nil + 3 at Wybunbury	5 – 6	Nil	10 – 17
Macclesfield	0	0 – 1	Nil	*0*	Nil	*1*

The assessment identifies a need for 10-17 pitches in the former Crewe and Nantwich Borough during the period 2006 to 2016 of which 5 to 11 pitches are identified as being required by 2011. The draft RSS indicates that provision for Cheshire East should be at least 60 permanent residential pitches during the period 2007 to 2016.

The RSS requires pitch provision to be made between 2007-2016. The supporting text table 7.2 of the RSS which sets out the scale and distribution of pitch provision across the region (referred to above), explains that there is an urgent need to address the shortage of suitable accommodation for Gypsies and travellers.

The need described above is in addition to any existing sites or planning permissions which existing at the time of the GTAA. It was argued at the recent Planning Enquiry relating to an application for 3 Gypsy/traveller pitches on land off

Wybunbury Lane, Stapeley and an appeal hearing for 3 Gypsy families and 2 transit pitches that the extant permission at Three Oaks, Middlewich for the provision of an additional 24 pitches should be taken into account and deducted from the need identified in the GTAA. However, in both cases the respective Inspector ruled that this permission did not amount to supply because there was no certainty that the pitches would be provided. There were also question marks over the future occupiers of the pitches inasmuch as they would not be made available to traditional Gypsy families. Similarly, a site in Sound, New Meadowside/Pondarosa which formed part of the baseline figures for the GTAA has subsequently been removed from the last Gypsy/Traveller count within Cheshire East because there are no restrictions controlling the ethnic status of the occupants.

Nevertheless, the Middlewich site is relatively large and the preferred type of site as identified in the GTAA is for small private family sites.

A small private family site is not defined therefore it is a matter of fact and degree dependant on the proposal. In this particular case the agent states that the proposal involves the formation of a small private site of the type identified as a preference within the GTAA

Given the aforementioned it is clear that there is an immediate need for Gypsy and Traveller accommodation within the area. It is also noted that the Council's Spatial Planning Section have not raised an objection, as part of the internal consultation process to the application, on policy grounds.

Sustainability

ODMP Circular 01/2006 advocates a sequential approach to the identification of sites in Development Plan Documents (DPDs), requiring authorities to consider locations in or near existing settlements with access to local services first before windfall sites. Neither Cheshire East nor the legacy authorities have produced a Development Plan Document in response to the RSS and no suitable alternative sites have been identified as part of the Local Development Framework process.

Policy RES.13 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and Policy HOU6 of the Cheshire 2016 Structure Plan Alteration both support the provision of sites for the accommodation of gypsies and traveller subject to certain criteria. One of the criteria requires that site should be within easy reach of local services and facilities. Policy HOU6 requires, wherever possible, that sites should be within 1.6km of local services and frequent public transport. However, this Policy was adopted before Circular 01/2006 was issued. The Circular is designed to meet urgent need for sites therefore, the weight given to preferences contained within the Policy is materially reduced.

The agent's submission states that the site is 1.5km from the edge of Nantwich however, the important distance is the distance to the nearest facilities. A convenience store lies 2.4km from the site with a supermarket and hardware store approximately 2.8km away. The nearest primary school lies 3km away with the high

school being 2.2km from the site. Beam Heath Medical Centre is approximately 3km from the site and the nearest bus stop is on Welsh Row which is close to the High School.

Wettenhall Lane although, unlit and does not contain a separate footway, is relatively lightly trafficked. However, A51 route into Nantwich is a very busy derestricted road with a speed limit of 60mph and there is little or no highway verge along some stretches of the road and is therefore not considered to afford a safe route for pedestrians especially when using pushchairs or wheelchairs. Although pedestrian access to Nantwich Town Centre is possible using Welshmans Lane which runs from Welsh Row to the A51 at its junction with Wettenhall Road, the road conditions are similar to Wettenhall Road. PPG 13 suggests that 2km is not an unreasonable walking distance and 5km is considered an acceptable cycling distance. Using average walking speeds it would take around 32 minutes to the bus stop and 43 minutes to the centre of Nantwich, by cycle it would take 5 and 10 minutes respectively.

From the aforementioned, it is clear that the location of the site raises some significant concerns over its sustainability due to its distance from local facilities and potential danger of the road conditions for pedestrians. Circular 01/2006 advises that when rural locations are being assessed local planning authorities should be realistic about the availability, or likely availability, of alternatives to the car in accessing local services. The Circular also states that transport mode and distances from services is not the only consideration when assessing the sustainability. Other considerations should include; the promotion of peaceful and integrated co-existence with the local community; the wider benefits of easier access health services; children attending school on a regular basis; the provision of a settled base that reduces the need for long-distance travelling and possible environmental damage caused by unauthorised encampment.

Circular 01/2006 advises a sequential approach to identifying Gypsy and Traveller sites in DPD's, giving priority over sites that are located in or close to settlements with access to local services first. These identified sites should be used before windfall sites. However, at present the Authority has not produced a DPD and no suitable alternative sites have been identified as part of the Local Development Framework process. Whilst the site may not score high in a sequential assessment against other sites, there are no other sites currently available in the area.

Transitional arrangement guidance in Circular 01/2006 suggests that a temporary permission maybe appropriate subject to the advice contained in paragraphs 108-113 of Circular 11/96 (The Use of Conditions in Planning Permissions) which states that a temporary permission may be justified where it is expected that the planning circumstances will change in a particular way at the end of the period of the temporary permission. The Authority is working towards preparing a site allocation DPD, the timetable for adoption was quoted as being 2014 during the public enquiry for the Wybunbury Lane site. However, the Circular states in such circumstances that local planning authorities are expected to give substantial weight to unmet need in considering whether a temporary permission is justified. Given the remaining unmet need of up to 8 pitches in the former Crewe and Nantwich area the Council would have to demonstrate that there was likelihood that this need would be met

within the timeframe by more suitable sites in order to justify imposing a temporary permission. In this instance given the poor accessibility and sustainability of the site, and the considered view that appropriate need will be satisfied over the coming years as Cheshire East develops its policies, that a temporary permission can be justified. It is therefore considered that a 5 year temporary permission could be issued to give certainty for the next few years for the applicants, but then enable alternatives to be considered for more sustainable sites to come forward in the future.

Designing Gypsy and Traveller Sites: Good Practice Guide; suggests (para.5.35) that “where a site is isolated from local facilities and is large enough to contain a diverse community of residents rather than an extended family, provision of a communal building is recommended”. It is considered that such a building can offer facilities for visitors and the residents. *Given the location of the site a condition requiring the provision of an appropriate building is recommended.*

Impact on the Countryside.

The site is located in an area of open countryside characterised by open fields separated by native hedgerows. Development along Wettenhall Lane is made up for the most part by sporadic individual dwellings with the exception of the adjacent equine stables and manege. A more formal group of residential properties are located in Cinder Lane which is approximately 250m to the south of the site. Beyond lies Reaseheath College which comprises a number of agricultural and office style buildings, Crewe Alexandra Academy is located close to the College on Wettenhall Road.

The main parking area for the caravans is set back from the highway and is completely surrounded by existing hedgerows of varying heights between 2m to 3m. The caravans can still be seen from both Wettenhall Road and a number of the properties within the locality and public footpath: Poole No 5 which runs east to west approximately 150 towards the north of the site.

The entrance to the site utilises an existing field access although the width has been increased to 5.5m. The access track has been formed using dark colour hardcore similar to that used for the main caravan parking area, a simple post and rail fence identifies the boundaries of the track. The land either side of the track is currently unimproved grassland the submitted plan indicates that this will be retained. It is advisable that additional appropriate planting within the site is secured by a condition.

With the introduction of additional landscaping it is considered that the site can be adequately and appropriately screened given that some degree of intrusion is inevitable when Gypsy and Traveller sites are developed in rural areas.

Ecology

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

- *in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment*

and provided that there is

- *no satisfactory alternative and*
- *no detriment to the maintenance of the species population at favourable conservation status in their natural range*

The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection

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

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

PPS9 (2005) advises LPAs to ensure that appropriate weight is attached to protected species "Where granting planning permission would result in significant harm [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where ... significant harm ... cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused."

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to "refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm."

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

Additional email correspondence received from Corbetts on behalf of residents in Cinder Lane, Reaseheath on 5th May 2010.

The correspondence suggests that an ecological survey was undertaken on behalf of the applicant prior to the development of the site and that this should be obtained and considered before a decision is made.

In response, Mr Hamilton, who represents the applicant, has confirmed that an ecological survey was not undertaken prior to the occupation of the site. Whether a survey was carried or not and what was said to the Police at the time that the hard core was being laid is not for consideration at this time it is however, the Council's duty to consider the merits of proposals based on the information provided by the applicant at the time the application is submitted and any subsequent information submitted in support of the application.

In this particular case an ecological survey was submitted by the applicant and an additional survey submitted on behalf of the local residents. The conclusions and recommendation of both reports were summarised in this report.

On the basis of this advice the conclusions set out within the main report remain the same.

The application is supported by a walkover ecological assessment undertaken by Peak Ecology, the report was updated after it was discovered that there was an additional pond near to the site which is not recorded on the ordinance survey map for the area. The accuracy of the survey was somewhat hampered due to access difficulties to land outside the applicant's control.

The report concluded using the Habitat Suitability Index (HSI) that the presence of Great Crested Newts was unlikely in the two ponds which are within 250m of the site and that newts occupying ponds beyond that distance would not be impacted by the development.

The report also concluded that the barn owl box located close to the site showed no sign of occupation and given the retention of the existing trees and hedgerows there would not be a detrimental impact on bats or other protected species.

The ecological survey undertaken by TEP concludes that one of the two ponds mentioned above did have potential using the HSI index. The survey also observed an additional pond just over 100m from the site. This pond was also considered to potential for newt habitation. This particular survey was afforded direct access to the ponds in question and therefore carried greater weight.

The TEP report also questions findings of the Peak Ecology report in relation to the impact on barn owls because whilst the existing box was not occupied, the use of the site would discourage the barn owls from nesting.

Both surveys included an assessment of the hedgerows and trees within the site however, the application does not propose removal of any of the trees or hedgerows.

Circular 06/2005 imposes a duty on local authorities to consider the impact on protected species before planning permission is granted and advises that consents requiring an ecological survey should only be granted in exceptional circumstances.

In this particular case a major issue has been made of the fact that the site was development without the benefit of planning permission in respect to the improvement of the access, construction of the access track and hard-standing area for the caravans. The site was visited immediately after the track and hard-standing were formed by the Council's Ecologist and the Police Countryside and Wildlife Liaison Officer. The main purpose of the visit was to ascertain the impact of the development on ecology and whether there was evidence that an offence had been committed under the Wildlife and Countryside Act. It was concluded by both the Police and the Council officers that there was no evidence that an offence had been committed or because the work was substantially complete that there had been loss of an important ecological resource. Nevertheless, the Council did stop further development on the site by obtaining a Court injunction. The Injunction remains in force until such time that a grant of express planning permission is made or until a further Order of the Court.

Given that it is not possible to assess the conditions of the site before the hardcore was laid and that any impact during the construction process has happened, it is considered that it is only the retention of the hardcore, the intended use and the work that is required to complete the development that can be assessed in relation to their impact on ecology.

The retention of the hardcore on the site is not considered to have an adverse impact on Great Crested Newts, should they be present within the vicinity of the site because of the inert nature of the aggregate and the fact that there is sufficient unimproved grassland within the immediate vicinity to facilitate foraging habitat. The ecological impact assessment submitted by TEP (para 5.4) accepts that the conditions within the site (assuming that it was unimproved grassland - Officer Comment) are replicated in the wider landscape and therefore development of the site is unlikely to affect the conservation status of the species (if present) assuming the use of appropriate reasonable avoidance measures during the works.

The main areas of work required to complete the development involve the installation of a private sewer treatment plant, fresh water supply pipe, additional fencing between each pitch, formation of the amenity area and surface finishing of the hard core areas. The applicant's agent has confirmed that the sewage treatment plant will be located on the existing disturbed areas within the site. The installation of the water pipe can be carried out along the line of the existing track thereby minimised ground disturbance.

The Authority's ecologist has confirmed that these activities would constitute minor works unlikely to have an impact on protected species even if it were proven that they are populating the surrounding land.

A barn owl nest box is located within a tree on the boundary of the site. Under the Wildlife and Countryside Act it is an offence to disturb an owl during the nesting period. Neither of the ecology surveys found any evidence of owl occupation and therefore an offence is unlikely.

Great Crested Newts are often found within domestic gardens therefore the existence of humans and associated residential activity would not have a detrimental impact on their environment. Similarly, guidance issued by English Nature (Barn Owls on Site: A Guide for Developer and Planners) states that owls and people can co-exist and that regular human activity can be tolerated, as long as the birds have a dark cavity, well above ground level, in which they can safely roost out of sight. Given this evidence it is clear that the use of the land as a residential caravan site will not have a detrimental impact on protected species.

The applicant has offered to create a wildlife area on land within his ownership to the side of the access track as part of any landscape mitigation measures.

Impact on Neighbouring Amenity

Circular 01/2006 advises that Gypsy and Traveller sites should not dominate the existing community. The scale of the site is similar to other sites within the rural area in Cheshire East which manage to co-exist with the settled community within the vicinity of the site. It is considered that the scale of the site will not dominate the existing community within the vicinity of the site.

It is accepted the activities associated with the operation of a caravan site can have an adverse impact on amenity due mainly to the comings and goings of the vehicles. The site is at least 250m from the nearest dwelling and well screened by existing hedgerows. There will be some disturbance to the neighbouring equestrian site however, any disturbance is not considered materially greater than that experienced by the site from vehicle movements along Wettenhall Road which lies adjacent to it.

It is common for gypsy and Traveller to operate business from which their caravans are stationed. This fact is recognised by Circular 01/2006 which states that mixed use sites are not permitted on rural exception sites. The current occupiers of the site appear to park commercial vehicles on the site however, this is not an uncommon occurrence at any residential property. The fact that this activity is taking place does not automatically result in a material change of use. However, a condition is recommended to limit any commercial activity to a non-material level.

Other Matters.

Surface water run-off of the site is not considered to be a major issue as the surface treatment is pervious. Foul water drainage is to be provided by a private treatment plant, which is considered to be acceptable in principle, subject to siting and design being agreed. Given the length of the access track and the existing cluster of waste bins adjacent to the highway it would be prudent to require the submission of appropriate storage details.

The Council's Highway Engineers have not raised an objection in principle but have asked for detailed drawings of the access arrangements to be submitted for approval.

CONCLUSIONS AND REASON(S) FOR THE DECISION

It is acknowledged that retrospective applications can be very emotive especially where development is knowingly undertaken without consent however, the development and subsequent proposal have to be considered on their merits.

Following the results of the GTAA undertaking in 2007 it is clear that there is an unmet need for Gypsy and Traveller sites within Cheshire East. The site itself appears adequate to accommodate for 8 family pitches without detrimental impact on highway or neighbouring amenity.

The impact of the already introduced hard-core on ecology cannot be evaluated with any certainty after the event and it is concluded that the operations required to complete the development are not likely to have an adverse impact on ecology

Given the current situation in respect of identified need, a refusal at this time would be difficult to sustain. However, the site nonetheless raises significant concerns in respect of sustainability as highlighted. It is therefore considered that in this instance a temporary consent can be justified, albeit for a 5-year period, providing certainty for the next few years for the applicants, but then to enable alternatives to be considered for more sustainable sites to come forward in the future.

RECOMMENDATION: APPROVE

Conditions

- 1. Temporary consent for 5 years**
- 2. Site occupation limited to Gypsy and Travellers**
- 3. No vehicle over 3.5 tonnes to be parked or stored on the site**
- 4. No commercial activities to take place on the land including storage of materials.**
- 5. No more than 8 pitches and no more than 2 caravans on each pitch.**
- 6. The use hereby permitted shall cease following the failure to meet any of the requirements set out below.**
 - i. Within 3 months of the date of this decision a scheme for: Internal layout of the site including any concrete hard-standing; means foul and surface water drainage; proposed external lighting; visibility of splays and road crossing; communal building; installation of service/utilities; landscaping scheme which shall include gapping up of existing hedgerows and environmental improvement measures in mitigation for the loss of grassland; type and location of additional barn owl nest box; and details of measures to ensure that any potential harm to protected species is satisfactorily minimised shall have been submitted for written approval and the said scheme shall include a timetable for implementation.**
 - ii. The approved scheme shall be carried out and completed in accordance with the approved timetable**

7. Maintenance of the landscaping.

Additional Conditions

In order to ensure that the retention of the hardcore will not lead to contamination of the surrounding ground water a detailed analysis of the hardcore shall be submitted for approval together with any remedial measures.

8. Contaminated land survey.

Following further consideration an additional condition is recommended requiring re-instatement of the site once the use of the site ceases. This re-instatement would be subject to the submission of an ecological assessment of the impact of the scheme for agreement.

9. Reinstatement of the site shall be carried out in accordance with an ecological impact assessment, this assessment should be submitted for approval prior to the reinstatement.

UPDATES

STRATEGIC PLANNING BOARD UPDATES

2nd June 2010

APPLICATION NO: 09/4331N

PROPOSAL: Change of Use of Land as a Residential Caravan Site for 8 Gypsy Families, each with 2 Caravan, including Improvement of Access, Construction of Access Road, Laying of Hard-standing and Provision of Foul Drainage.

ADDRESS: Land Off, Wettenhall Road, Poole, Nantwich, Cheshire

COMMENT

Further correspondence has been received from Walsingham Planning on behalf of residents in Cinder Lane, Reaseheath dated 21st May 2010.

The correspondence comments on a number of points discussed in the main committee report:-

Need for Gypsy and Traveller Sites

The conclusion at there is an immediate need for gypsy and traveller accommodation is factually incorrect, a gross over simplification of the true position and ignores an important material planning consideration i.e.

That only limited weight should be given to Draft RSS Policy L6;

That Cheshire East has approved 32 pitches since the 2007 GTAA (Gypsy and Traveller Accommodation Assessment), which equates to 76-119% of the immediate 5 year supply requirement (2006-2011) and 59-68% of the full 10 year requirement (2006-2016). Therefore, we challenge the assertion in the original report that additional pitches provide to day fall well short of the GTAA and RSS (Regional Spatial Strategy) target;

That the Officer's conclusion that the Wybunbury Lane appeal inspector concluded that approvals do not amount to supply because there was no certainty that the pitches would be provided, was incorrect.

They conclude that far less weight on the need case when considering the current planning application.

Comment

The figures contained within the GTAA are baseline and considered to be a minimum not a target. The issues highlighted in the correspondence were considered by the Inspector during the Wybunbury Lane Enquiry. It was concluded that although work had commenced at the Three Oaks Site in Middlewich (25 pitches) some time ago, no further work further work has been carried out since, there were also question marks over who will be allowed to occupier the site if the accommodation should become available because the site is operated by and for English Travellers.

It is also noted that the GTAA baseline figures included pitches at Lea Holmes site in Wrenbury (16 pitches) and New Meadows side site at Sound (5 pitches) both of which have been subsequently found not to be restricted to Gypsy and Traveller occupation and are now occupied by a number of people who do not meet the definition of a Gypsy or traveller set out in Circular 01/2006. Whilst it is acknowledged that 3 pitches at Wybunbury Lane, Stapeley have been approved, the loss or unavailability of the aforementioned sites is considered significant in relation to the Authority's requirement to meet the immediate need identified in the GTAA for the Cheshire East area.

The Balancing Exercise

The letter questions whether the committee report is balanced given the material issues including compliance with adopted policies and compliance with Circular 01/2006.

Comment

The correspondence does not raise any additional matters not already dealt with in the main committee report therefore, no additional comments are required other than to state that the main report is considered to be a balanced and professional assessment of the development in question.

Human Rights Issues

The letter states that the original committee report failed to address the Human Rights issues raised by an objector.

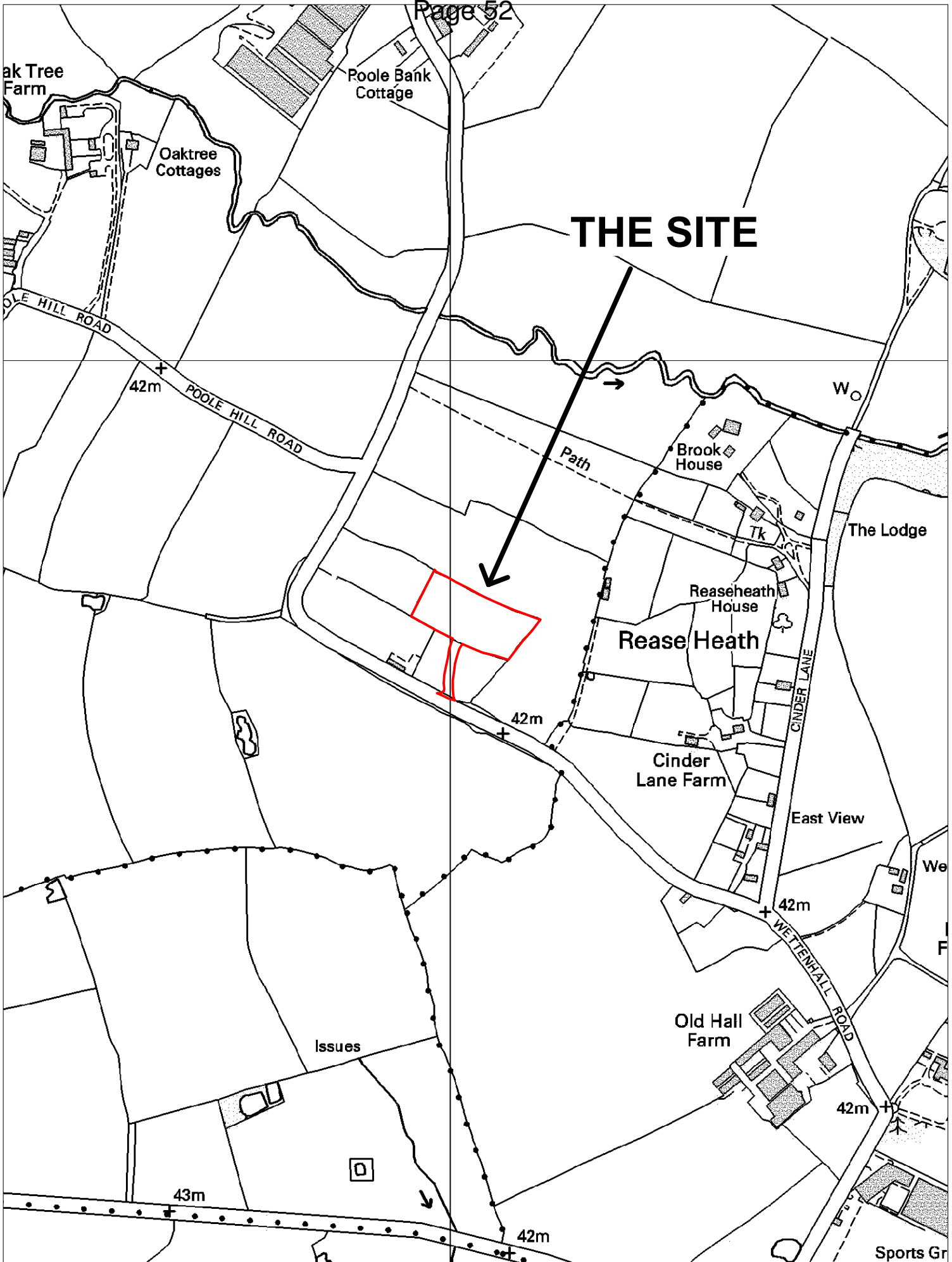
Comment

Circular 01/2006 Para 70 reminds local authorities that the provisions of the European Convention on Human Rights (ECHR) should be considered as an integral part of their decision making.

Article 8: Right to Respect for Private and Family and Home. In cases involving retrospective applications for Gypsy and Traveller sites, human rights issues form an important part of the consideration when the authority is minded to refuse the application because to refuse the application and the consequential liability for enforcement action can result in forced eviction from the occupants home. However, in this particular case, the issues were not discussed in the report because the recommendation was for approval albeit for a temporary period.

The Circular also make reference to the rights of local residents when considering such applications. As stated above, the provisions of the ECHR are integral to all decisions made by the Authority. The application has been assessed against adopted policies and relevant guidance which seek amongst other things to protect the local environment including the living conditions of local residents.

Therefore, it is considered that the recommendations contained within the report accord with the provisions set out by the ECHR.



10/2810N - LAND OFF, WETTENHALL ROAD, POOLE, NANTWICH
N.G.R. - 364,010 - 354,730

Reproduced from the Ordnance Survey map with the permission of HMSO.
© Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to legal or civil proceedings. Cheshire East Borough Council, licence no. 100018585 2007..

#

RECOMMENDATION

That the conclusion and recommendations made in the main committee report stand without alteration.

.

This page is intentionally left blank

Planning Reference No:	10/1776N
Application Address:	Wrenbury Fishery, Hollyhurst Road, Marbury, Cheshire
Proposal:	Use of land for the siting of 34 Timber Clad Twin Unit Caravans, access works, car parking, administration building, cycle store and landscaping.
Applicant:	Mr Spencer, Marcus Brook Ltd.
Application Type:	Full Planning Application
Grid Reference:	358810 345845
Ward:	Chomondeley
Earliest Determination Date:	14 th July 2010
Expiry Dated:	26 th August 2010
Date of Officer's Site Visit:	9 th August 2010
Date Report Prepared:	1 st September 2010
Constraints:	Wind Turbine Development consultation area

SUMMARY RECOMMENDATION:

APPROVE subject to conditions.

ISSUES:

Principle of development

Impact on the character and appearance of the open countryside

Existing trees and hedges

Ecology

Highway matters and parking

Drainage

Sustainability

Residential amenity

1. REASON FOR REFERRAL

This application is to be determined by the Strategic Planning Board because the site area is 7.2 ha.

2. DESCRIPTION OF SITE AND CONTEXT

The application area is an irregular shaped piece of gently undulating land in which fishing pools have been constructed under a previous planning permission. A single island is present in each pool which is joined to the bank by an isthmus of land. The site is approached on an unmade access track located to the west of the application area with an access point on Hollyhurst Road. The track serves a poultry unit and other activities. Adjacent land was subject to an application for a water bottling facility which was withdrawn.

The site is enclosed by established hedges, trees and fences. An unmade track with a mature hedgerow on one side passes through the middle of the application area.

The site is located within open countryside in the Borough of Crewe and Nantwich Replacement Local Plan.

3. DETAILS OF PROPOSAL

This is a full planning application for the use of 7.2 ha of land for the siting of 34 twin caravans measuring 6.8m x 20m in total. The units would be timber clad with pitched tile roof. Access is from Hollyhurst Road. Amended plans have been submitted which reduce the car parking provision on site to one space per unit plus a car parking of 93 spaces, of which 80 are already approved for the fishery. These 93 spaces would be provided adjacent to the office/ shop and close to the entrance to the site. Cycle parking would also be provided. The amended plans also show the toilet block (5m x 8m) located at the northern end of the car park to overcome the objection in relation to the potential contamination of water from the spring on adjacent land. The two passing places which are shown on the access road plans approved as part of the fishery application have been added to the amended plans. In addition a warden's office and shop measuring 18m x 9m would be provided with operational compound including recycling facilities adjacent to the office. No details of the appearance of the office/ shop or toilet block have been submitted with the application. The layout includes internal access roads.

Three fishing lakes were created under application P06/0771 with an island located centrally within each lake. The land bridge which has been used to form the islands, but was not included in the original application for the fishing lakes, would be retained. Ten of the units would be sited on the three islands which have been formed within the fishing pools.

The remaining units would be sited around the pools. Existing peripheral hedgerows on the road frontage to Hollyhurst Road, those along one side of the access track located centrally through the site and those on the southern and eastern site boundaries would be retained. An extensive landscaping scheme has been submitted with the application and includes areas of woodland mix and hedgerows with woodland mix, around the periphery of the site. In addition an area of planting would define and separate the individual lodges.

4. RELEVANT HISTORY

P06/0771 Fishing lakes. Approved 25th August 2006.

5. POLICIES

The development plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP).

Local Plan Policies

NE.2 Open Countryside
NE.5 Nature Conservation and Habitats
NE.9 Protected Species
NE.20 Flood Prevention
BE.1 Amenity
BE.2 Design
BE.3 Access and Parking
BE.4 Drainage Utilities and Resources
TRAN.3 Pedestrians
TRAN.5 Provision for Cyclists
TRAN.9 Car Parking Standards

Cheshire Replacement Waste Local Plan

Policy11A Development and Waste Recycling.

Other Material Considerations

PPS1: Delivering Sustainable Development
PPS4: Planning for Sustainable Economic Growth
PPS7: Sustainable Development in Rural Areas
PPS9: Biodiversity and Geological Conservation
PPG13: Transport
PPS25: Development and Flood Risk.
Good Practice Guide on Tourism

6. CONSULTATIONS

Strategic Highways Manager: No highways objections. The highways authority has looked at all of the traffic information provided and come to the conclusion that there would be no significant impact on the highways network, as the vast majority of vehicular movements generated from this site would be outside of peak traffic times. The access from Hollyhurst Road is in a poor state of repair and should be constructed to CEC specification. The highways authority notes that the visibility splays could be improved and asks that the hedge line is trimmed back to increase the visibility splays.

Ecology: The submitted updated Ecological Surveys are acceptable.

- The development is unlikely to affect Great Crested newts and no further action is required in relation to this species.
- High visibility fencing should be required to protect the badger sett nearby.
- A number of trees were identified as suitable for bat roost and one tree was recorded as supporting a roost. No works to deadwood this tree should be carried out.
- The method statement in respect of works to trees is acceptable.
- No trees on site have potential barn owl roosts. A barn owl was recorded on site however the development is unlikely to result in any direct adverse impact on barn owls.
- Rough grassland should be retained to ensure that the site supports small mammals as prey for barn owls.

- A condition should be imposed to ensure that the bat and bird nest boxes and the restoration of pond 3 are achieved.
- Pond 3 shall not be stocked with fish but retained for wildlife value.

Landscape Officer: No specific concerns. If any permission is issued conditions should be attached to ensure that appropriate tree and hedgerow protection is provided and landscaping implemented in accordance with the submitted documents. The Landscape Visual Assessment is a fair representation of the impact of the proposed development. The mitigation aims to minimise impact of the development on the main receptors notably people using footpath number 6 by the barns and views from the train.

Environment Agency: Following the receipt of additional information, it is understood that the discharge from the development would be directed to a surface water feature that is down gradient of the water supply and therefore remove the previous objection subject to the inclusion of conditions to secure the submission and implementation of a scheme for foul and surface water drainage, the submission of a landscape management plan including details of new planting and formation of wildlife habitats. The submitted Flood Risk Assessment (FRA) explains that surface water from the proposed development may discharge to the existing ponds on the site. The ponds should therefore have suitable overflow arrangements, to ensure that water levels in the ponds can be managed.

A revised Flood Risk Assessment has been submitted which takes into account the increase in impermeable hardstanding due to the need to protect ground water sources at a nearby spring. The Agency raise no objections to the modified FRA subject to the inclusion of a condition for a surface water drainage scheme, based on sustainable drainage principles to be submitted, approved and implemented.

Cheshire East Visitor Economy:

- Visitor numbers to the Cheshire East area for 2008 was 16.7m. Day visitors are the biggest market to Cheshire East, accounting for 15.3m of the overall visits. When comparing this to the overnight market, this is significantly lower; in 2008 there were 1.5m nights spent. This highlights the potential of expanding that market with an improved destination offer.
- Total value of east Cheshire's visitor economy is worth £653m, however the accommodation sector only accounts for £69m, highlighting the potential for growth.
- Wrenbury falls within the South Cheshire area being promoted as part of Nantwich & South Cheshire. It is promoted as an area with historic houses, gardens, cultural attractions, world-class events and market towns. With regard to accommodation it seeks to highlight a range of accommodation types on offer, their quality and their style.
- Cheshire East Council Visitor Economy will strongly argue that the chalets are quality graded to 3* or above. Having the grading will also mean that VCC are able to promote the facility, as without grading this cannot happen
- Self catering holidays account for approx 15% of domestic holidays, 22% of nights spent away and 17% of the holiday expenditure. Self catering holidays are becoming less frequent than staying at a friends or relatives house, or using a serviced accommodation. However, self catering holidays tend to be longer and above the average for holiday expenditure.
- Self catering accommodation is of a much higher importance in rural areas. The expenditure in rural areas is over double for self catering than for serviced

accommodation. This trend is even more noticeable when looking at longer holidays where self catering accommodation equates to almost 64% of expenditure. In the year 2000, over 70% of holiday camps and parks and 57% of all self catering accommodation was located in rural areas.

- Seasonality is a problem for holiday chalet owners as most rentals take place between Easter and the end of October, however Christmas family breaks are becoming increasingly popular.

- There is also a shift happening in holiday habits. The Sunday Times recently showed that 54% of Britons plan to take their main holiday at home in 2010. The continuing tight economic situation, coupled with the fact that families who chose to stay at home this year have been surprised about the quality, variety and value that a UK holiday now offers means that consumers are planning to repeat the experience in future years.

- There are not many real competitors with the South Cheshire area in relation to holiday chalets. However, it is worth noting that similar self-catering accommodation is readily available at 12 locations in the area. There is also a section in the Destination Management Plan for Visit Chester & Cheshire that states that one of their actions between now and 2012 will be to 'Assess the potential to develop the self-catering offer in Cheshire & Warrington, the most rapidly expanding form of visitor accommodation across the UK'.

Cheshire Fire and Rescue Service: Offer comments in relation to access for the fire service, water supply, means of escape and ask the applicant to consider the inclusion of an automatic water suppression system.

Public Rights of Way Unit: The development has the potential to affect public right of way number 6 and the developer should be advised of their obligations in this respect. If the development will permanently affect the right of way then a diversion order must be sought. If the development will temporarily affect the right of way then a temporary closure order may be necessary.

Mid Cheshire Footpath Society: If the application is approved request the applicant install kissing gates instead of stiles and to keep the open aspect of the footpath. In addition the footpath should be kept walkable at all times.

Cheshire Wildlife Trust:

- There are known to be breeding barn owls within 100m of the site
- No information about the Cheshire Biodiversity Action Plan species or habitats on or near the site.
- The application fails to address impacts on the Combermere SSSI and SBI less than 1 km away.
- Lack of consideration of impacts on water quality in the new lakes and the water course flowing through the site.
- No details provided about the islands to be formed.
- If the application is approved recommend conditions to ensure that the landscape proposals are implemented. It appears that the various wildlife component parts of the application to form the lakes were never implemented.

CPRE: Object

- The development will lead to the loss of a tranquil area and damage the character of the area with a significant loss in landscape value;
- The fishing ponds are of poor quality work and still unfinished

- The development could have a long term adverse effect on the countryside.
- Doubts about the commercial viability of the business bearing in mind its remote location, and other caravan sites in the Wrenbury area. Presumably Yew Tree Barns had to show that there was not demand for tourist accommodation when they were converted to dwellings.
- Narrow access lanes which cannot accommodate the number of visitors envisaged. Only a small minority would cycle to the site.
- There is no reference to loss of agricultural land as required by policy NE12. The country cannot afford to lose agricultural land.

7. VIEWS OF THE PARISH COUNCIL

WRENBURY PARISH COUNCIL

Object on the following grounds:-

- Policy NE.2 allows for essential development in the open countryside. Policy RT6 allows for recreational uses in the open countryside and policy NE.13 allows for diversification but the application does not meet the requirements of policies RT.6 or NE.13 and cannot be regarded as "essential". The development will cause demonstrable harm to the character and appearance of the open countryside by visual intrusion. In addition it is not sited close to a farm complex and will not re-use existing buildings.
 - Policy RT.6 requires that development in rural areas has suitable access roads to accommodate the traffic generated. Policy BE.1 requires that development should not prejudice the safe movement of traffic on surrounding roads. The local highway network has narrow lanes often single track and is not adequate for the traffic which will be generated.
 - The applicant has stated that units may be sold or sublet. The occupancy of these units will be difficult to control and long periods of occupancy or permanent residential use is not compatible with policies for the rural area.
 - The Parish Council consider the site is one planning unit and to develop the site under two separate permissions one for the fishery and one for the chalets may present difficulties enforcing the planning conditions. The description of the development should be changed to include reference to both the fishery and the holiday accommodation to allow future control by the Local Planning Authority.
 - It is not clear whether the applicant knows if the proposal is commercially viable and there is an intention to sell to another developer. The viability should be tested in the same way that agricultural workers' dwellings are tested and that there is demand/ need for the accommodation.
 - Representations indicate that the adjacent landowner who owns the track is not willing to give permission for the track to be used to access the development.
 - Drainage arrangements are not clear and there could be a detrimental effect on the local watercourse.
- The site is not served by public transport and can only be accessed by car, coaches and HGVs over an inadequate highway network.

MARBURY PARISH COUNCIL

- Express concerns about the suitability of local roads for the additional traffic which would be generated particularly bearing in mind the use by walkers, cyclists and horse riders.
- Potential negative impacts on wildlife.
- Concern that to deliver the “twin units” to site would require local road closures.

8. OTHER REPRESENTATIONS:

A petition with 301 signatures, letters of objection and comments have been received from:-

Yew Tree Farm, Wrenbury
1, 2, 4 Yew Tree Barns, Hollyhurst Road, Wrenbury
Hawksbill Hall, Hollyhurst Road,
The Orchards, Marbury Road, Pinsley Green,
6 Oak Cottages, 40, Churchside Cottage, The Nook, The Woodlands, 1
Holland House, Nantwich Road, Wrenbury
Springfield, New Road, Wrenbury
1, 2 Lime Tree Barns, Rose Cottage, Frith Lodge, Frith Lane, Wrenbury
Birchwood House, Oak House, The Green, Wrenbury
10 Church Farm, Church Farm, Wrenbury
4 Pinsley Green Road, Wrenbury
1, 6, Pinsley View, Wrenbury
34 Oakfield Avenue, Wrenbury
The Cottage, Pinsley Green, Wrenbury
Smeaton Wood Farm, Wrenbury
West End Cottage, Wrenbury
Wrenbury Hall Drive, Wrenbury
3 Hollyhurst Cottages, Marbury
Hollyhurst Farm, Marbury
2 Pooles Cottages, Hollyhurst, Marbury
Bottle Lodge, Hollyhurst
Marley Hall Farm, Marbury
1 Hollins Lane Cottages, Marbury
Pheasant's Cross, Rowan House, School Lane, Marbury
The Cottage, The Bungalow, 3, 5, Gautons Bank, Norbury
Pear Tree Farm, Norbury
Brook Bank, Wrenbury Road, Aston
Sandford Farm, Aston
19, 20, 32 Sheppenhall Grove, Aston
The Brambles, Sheppenhall Lane, Aston
Ashbourne, Heatley Lane, Broomhall
48 Welsh Row, Nantwich
64 Moorlands Road, Malvern

The comments and grounds of objection can be summarised as follows:-

- The development is not appropriate for the area
- The development will spoil the character of the area
- The area is peaceful countryside with considerable natural beauty
- The development will have a long term adverse effect on the countryside

- The landscape has been spoilt by other developments with no planting taking place
- The site is 1.6km from Wrenbury Conservation Area and 2.3km from Marbury Conservation Area.
- The area is one of scattered farms and low density population and the proposal is of an inappropriate scale for such an area.
- No policy to allow permanent caravans/ chalets for holiday use in the Local Plan
- 34 units is too many
- The development should be located closer to urban areas
- There has been enough development in the area recently
- The local roads are narrow winding country lanes, in a poor condition, with limited visibility to see approaching traffic and are not suitable for the additional traffic
- The access track is not of suitable construction being formed from gravel hardcore and stone and of single width. It is unsuitable for the amount of traffic which will be generated.
- The access track is unsuitable for heavy service vehicles such as refuse lorries which will damage it.
- There is a history of accidents on the narrow road and hundreds of near misses
- Roads are used by tractors and trailers, milk tankers, animal feed lorries, large vehicles etc
- The development will make dangerous roads more dangerous, major road widening would be required.
- Public transport is not readily available at the site
- Increase the risk of accidents
- The bridge over the canal has been broken leading to a detour via Marbury. Extra traffic is not needed to deal with these conditions.
- The roads are used for horse riding and cycling and the development will have an adverse effect on these users as well as people who walk the lanes
- Wrenbury has the canal, two public houses one of which has a caravan park and a shop further tourist accommodation is are not required
- Another shop is not needed.
- Local residents have provided barn owl boxes which are in use and if left as open land the ground could form suitable land for barn owls.
- There is a variety of wildlife including barn owls, badgers, newts, water voles, kestrels and butterflies in the locality which will suffer as a result of the proposed development
- The case is not proven that there will be no adverse impact on nature conservation and protected species.
- The development will have an adverse impact on the declining number of farmland birds
- No facilities for holiday makers who will have to travel for food, entertainment etc
- The site is not close to the station and visitors would not use the public footpath between the station and the site which passes through fields if carrying suitcases.
- Will result in pollution and litter
- Will create noise and disturbance for local residents
- The development will lead to people hanging around the area

- Security and safety for children playing and walking to school
- The area is one where it is still possible to see the night sky and has low levels of street lighting. This development will result in significant lighting which will be detrimental to the night sky, local people and wildlife.
- Land has flooded in the past
- Object to the fishery. The site is not running as a fishery and has not been set up as such.
- Loss of agricultural land when more food production is needed
- Creation of the fishery has resulted in flooding of adjoining farm land
- Will affect the value and desirability of nearby property.
- Caravans could be sold off for permanent dwellings
- Clarification is required on whether the units are for use as holiday homes or short term residential use.
- Waste pollution and sewage could get into the spring at the bottom of the valley.
- Effect on Quoisley Mere SSSI and Combermere SSSI.
- The flood risk assessment does not include adequate information in relation to the presence of the Barnett Brook. It fails to provide a site specific fluvial flood risk assessment in accordance with PPS25. It fails to assess the risk posed by the lakes themselves and to quantify how large the water bodies are and whether they are compliant with the Reservoir Act. It fails to detail surface water and foul water drainage for the site. It is not possible to determine from the information available whether there will be any resultant overland flows from the site to adjoining land, and to provide details of drainage design for the site. There is no determination of critical storm and no quantification of how the drainage will react in heavy rainfall. Fully designed drainage details should be provided. No explanation is offered as to how the "bound gravel" will react. There are no flood risk reduction measures within the residual risk section. No infiltration tests have been completed. There is no information about how the ponds connect to the hydrological cycle.
- There are doubts about the commercial viability of the enterprise especially since the barn conversion at Yew Tree Farm presumably had to demonstrate that there was no need for the accommodation for tourist accommodation.
- Other such chalet sites are available in Cheshire, three of which offer fishing.
- The chalets are unlikely to be used by people who are fishing at the site but for visitors to places such as North Wales, Chester and the Peak District.
- The development will not provide housing for local families in need.
- Lack of information in relation to owner occupiers, the number of people using the site for short term letting, subletting, the maximum annual residency and the number of day people fishing at the site.
- If this is part of a rolling strategy to develop the site over a period of time the full development proposals should be provided and the development should then be capped for a specified period eg 25 years.
- No details of the administrative building.

Comments from adjacent landowner and owner of Woodlands Brewery

An earlier objection lodged in relation to the potential damage to ground water and concerns about the use of the access route has now been withdrawn following negotiations to ensure measures to protect the water supply from the adjacent spring.

9. APPLICANT'S SUPPORTING INFORMATION:

Planning, Design and Access Statement (Prepared by Goodwin Planning Services and dated May 2010)

- The site is laid out with 34 twin units. The number of units has been determined by the need to retain a spacious setting and minimise visual impact of the development as well as the position of the lakes and need for internal roads.
- The main car park reception and office are located to the south of the site and the office, reception and car park will be shared with the fishery.
- A cycle store, operation compound and recycling area will also be provided.
- Caravans will be single storey with a pitch roof and measure 6.8m wide, 20m in length and have an internal ceiling height of 3.05m
- Separation distances between units will be in excess of the minimum requirement of 5m
- Units will be timber clad to be sympathetic to the rural location
- The scheme is submitted with substantial boundary planting
- Internal roads and car parking will be surfaced with porous self binding gravel.
- Support for holiday touring caravans and chalet parks is found in :-
 - o The Good Practice guide on Planning for Tourism
 - o PPS4 especially policy EC7
 - o Borough of Crewe and Nantwich Replacement Local Plan
 - o Developing the Visitor Economy: The Strategy for Tourism in England's North West 2003-2010
 - o North West Regional Economic Strategy
 - o Growing the visitor Economy: A Refreshed Framework for Cheshire and Warrington to 2015A visitor Economy Strategic Framework for Cheshire East (currently under development)
- The development will assist in improving the quality and stock of accommodation for visitors in Cheshire East and the drive to grow the visitor economy
- The development complies with policies in the Development Plan.

Market Need Assessment (Prepared by Humberts Leisure dated April 2010)

The submission includes an assessment of the strategic policy setting of the site for tourist development, an evaluation of demand using numbers of visitors to the area and a drive time catchment analysis of the local population and a quantitative and qualitative assessment of the local holiday lodge market.

Support for the application is found in:-

- Developing the Visitor Economy: the Strategy for Tourism in England's North West 2003-2010
- Northwest Regional Economic Strategy
- Growing our Visitor Economy : A Refreshed Framework for Cheshire and Warrington to 2015

- An emerging visitor economy strategy for Cheshire East which will be formulated by the end 2010.

Location factors

The site is approximately 30 mins drive from M6 and is within reasonable reach of a number of regional airports

Trains to Wrenbury from Shrewsbury and Crewe are infrequent and this suggests visitors are less likely to rely on the train.

Discussions with lodge operators confirm that there is a growing demand for self catering accommodation for short breaks

In addition rental lodge holiday makers are generally willing to travel around 90 mins to reach their destination.

Within a travel time of 90 mins there is a resident population of 8,269,437 people.

This covers North and Mid Wales, Preston, Derby and Birmingham.

Within this population there is a slightly higher proportion of the 35-54 age group and this is a key group of holiday makers for lodge accommodation.

Tourism factors

Visit Britain suggest that due to the down turn in the economy people regard holidays as an essential rather than a luxury item of expenditure.

The down turn in the economy has also resulted in an increase in the interest of holiday park rental accommodation

Park Holidays UK Ltd report an increase in demand for holidays, with advanced bookings up two thirds on its 2009 figure.

Hoseasons have similarly announced that short break bookings were up 25% on 2009.

The appeal of the UK for holidays has increased as a result of the downturn in the economy.

Whilst visitor trips to Cheshire tend to be shorter breaks than regionally the spend per visitor per night is higher.

Visitor trips to Cheshire tend to be day trips but this may in part be due to the lack of suitable accommodation and the provision of accommodation may encourage people to stay for longer.

There are a wide variety of visitor attractions within the area particularly heritage attractions which fits well with the demographics of people attracted to holiday lodges.

The more rural parts of Cheshire attract the older holiday maker and the typical holiday maker in Cheshire is more likely to be staying in self catering accommodation or camping attracted by the "great outdoors" or heritage. There is clearly potential for visitor accommodation in rural Cheshire.

The age profile of the typical staying visitor in Cheshire fits well with the age profile of the lodge holiday makers and with the catchment demographics.

It is envisaged that the accommodation would initially be aimed at the holiday rental market with the possibility of selling homes coming later.

Nationally the holiday parks and lodges sector of regional and national tourism is growing and lodges are generally used by persons who appreciate freedom. Holiday lodge accommodation has therefore grown over the last decade.

The use of the caravan has to some extent been replaced by demand for lodge type accommodation more recently and local statistics show that Cheshire has the smallest number of caravan and camping sites of the region which may suggest that the potential for holiday lodges is in its infancy and that there is opportunity for new growth.

There are just 6 lodge parks in Cheshire offering 35 lodges and planning permission for a further 106 lodges at these 6 sites. This is considerably lower than in adjoining areas. The majority of these lodges are owner occupied showing that there is potential for further rental development.

The closest of these sites is approximately 18 miles away /35 mins drive time.

By comparison with Denbighshire (15 sites / 194 lodges), Shropshire (17 sites/ 135 lodges) and Staffordshire (5 sites 58 lodges), Cheshire is under provided with holiday lodge accommodation.

Field research suggests that occupancy levels range from 75%-93% across the season which is considered to be very high. Normally 60% occupancy would be considered robust.

Whilst there is an abundance of angling facilities across the county few offer overnight accommodation and given the demographics of the population within 90 mins drive time and the profile of anglers it is considered that there is a strong synergy between anglers and holiday lodge accommodation.

There is clear evidence to indicate that there will be a good level of demand for the timber clad lodges at Yew Tree Farm.

Transport Statement (prepared by Singleton Clamp and dated April 2010)

- The site is 1.8km from the village of Wrenbury
- The site is accessed from the unmade track which serves farmland and the poultry unit to the south. This track will be provided with three passing bays as a requirement of the planning permission for the fishing lakes
- Hollyhurst Road meets Wrenbury Road some 230m north of the access point to the site and a public footpath is located to the north of the application site.
- Lanes in the area are lightly trafficked and whilst there are no dedicated cycle facilities there are a number of signed cycle routes
- A speed survey at the access point on Hollyhurst Road showed that a total of 34 vehicles passed the point in 2.5 hours and the 85th percentile of eastbound traffic was travelling at 29.1 mph and 29.85 mph for west bound traffic.
- The proposal includes one access point from a route which leaves the access track 125m from Hollyhurst Road and a second access point which follows the access route approved for use by the fishery.
- Visibility at the access point on Hollyhurst Road is 2.4m x 70m in both directions although road side vegetation will need to be trimmed to retain this visibility. Given that the 85th percentile is below 30mph it is considered that this level of visibility is acceptable.
- The site is 1.8km from the centre of Wrenbury, the railway station is marginally outside the 2km walking distance recognised in PPG13 using either local roads or the Public right of Way. The village store and post office, and some pubs also fall within this 2km distance.
- The site is well located for walking using the local public rights of way
- The villages of Aston, Marbury, Norbury and parts of Sound are within 5km the recognised distance for cycling in PPG13
- The nearest bus stop is in Wrenbury village approximately 2km from the site, and bus service 72 between Nantwich and Whitchurch stops up to 5 times per day in each direction
- The Wrenbury railway station can be reached by walking or using the 72 bus. Trains run approximately every 2 hours to Crewe and Shrewsbury with 8 to 10 trains in each direction on Monday and Saturday

- A local taxi service based in Nantwich could also be used to link to the railway station
- The site operator could also provide a mini bus.
- Survey information based on surveys in September 2007 at Ribblesdale Park, Gisburn and Bassenthwaite Park, Keswick showed that for each occupied unit 2 trips were generated per day per unit at Ribblesdale Park and 1.69 trips for each unit at Bassenthwaite.
- TRICS data base shows that similar trip rates are generated by larger caravan sites
- Based on survey information from Ribblesdale Park it is estimated that the site for 34 units would generate 68 trips per day at full occupancy or 31 trips per day assuming 45% occupancy with 10 trips in the busiest hour at 100% occupation or 5 trips per hour at 45% occupation.
- With a Travel Plan for the site these trip rates can be reduced further.
- The lodges will be marketed for fishing breaks and there is therefore potential for these trips to be reduced further.

INTERIM TRAVEL PLAN

Development improvements include the use of a minibus to transport visitors to the village or the railway station and also to collect and drop of staff depending on their origin/ destination.

A welcome pack including bread milk and basic foods could be provided to reduce the need for guests to travel with a comprehensive pre-order serve available for visitors on arrival.

Information would be made available to visitors within the lodges about public transport links, PROW, cycle routes, details of cycle hire and cycle repair shops.

The Travel Plan will be monitored by the Travel Plan Coordinator who will be the site manager.

HIGHWAY TECHNICAL NOTE

In order to allay concerns over vehicle numbers site surveys were conducted on 9th and 10th July, a weekday and a Saturday.

The results show the access road is lightly trafficked with 12 vehicles "in" on the weekday (0700-1900) and 13 "in" on the Saturday. There were 13 vehicles out on the weekday and 11 "out" on the Saturday over the same time periods in each case.

Peak times for journeys were between 10am and 11 am on the weekday and 9am and 10am on Saturday.

The peak time for journeys for holiday lodge accommodation is between 12pm and 1.00pm on Saturdays. Based on 100% occupancy for 34 lodges this would generate 10 vehicles in total during that hour.

Whilst the fishery would add traffic to that it is clear that the existing levels of traffic on the access road are insignificant. There is little likelihood of vehicles approaching in opposite directions but if they did 2 passing bays are proposed on the access track.

Great Crested Newt Assessment mitigation and ecological update (Prepared by UES and dated 15.07.10)

- The 2006 Great Crested Newt Survey for the fishery inspected 7 ponds within the locality and found small sized populations in three of the 7 ponds.
- The development is unlikely to affect any protected species or habitats

- Three new ponds have been created two of which are stocked with fish, the other is dry.
- It is recommended that a new pond is formed on the site of an offsite scrape and 3 bat and 3 bird nest boxes are provided to offset any ecological impacts.
- The aquatic habitats provide good habitats for invertebrates birds and foraging bats.
- If development commences in the bird nesting season then a breeding bird survey should be undertaken to ascertain the presence of nesting birds.

Bat and Barn Owl Survey (Prepared by UES and dated 19th August 2010)

- Five species of bats were found to use the site, Common Pipistrelle, Soprano Pipistrelles, Daubentons Bat, Noctule and Brown Long Eared Bat.
- Six trees were identified as having suitable features for bat roosts. One of these was found to be used by a Soprano Pipistrelle, (T9 on the tree survey).
- It is recommended that T9 is retained with its deadwood to avoid disturbing bats and their roosts. (Tree survey recommended minor deadwooding only)
- The management of trees T5, T13, T19, T22, and T23 which have suitable features for bat roosts can go ahead without the need for further survey or licence provided the advice in relation to mitigation, compensation and management is followed. No bats were seen to emerge from these trees.
- Mitigation includes tree works to take place in the presence of and following advice from a licensed bat ecologist. Any branches removed with cavities suitable for use by bats should be carefully lowered to the ground and left for 48 hours to allow bats to escape if present.
- Compensation includes the provision of 10 bat boxes.
- Management includes planting proposed in the landscaping scheme which will improve the site for use by bats, barn owl, hirundines and other wildlife. Areas of grassland and rough habitat at the edge of the site should also be retained.
- No signs of the presence for cavity roosting or nesting were found the survey on 15th and 16th August.
- During the dawn survey on 16th August one Barn Owl was found perching on tree T13 which then moved to T22.
- A Little Owl as noted perching on the farm barn gable next to Yew Tree Cottage.
- Barn Owl boxes were noted in the adjacent field.
- Records from the South Cheshire Barn Owl group do not record any breeding attempts or roosting records from these boxes.
- Provided the advice on evaluation and recommendations is followed there should be no negative effect on the local bat population and the correct management of the trees and hedges with the provision of bat boxes could improve the quality of the habitat for bats.

Flood Risk Assessment (Prepared by Betts Associates, dated June 2010, amended 23 August 2010)

- The site is located outside of any area at risk from flooding (within Flood Zone 1).
- A tributary located approximately 100m to the south of the site but due to the levels of land the tributary would pose a minimal risk to flooding at the site.
- The development would result in 20% of the land (4.406ha) of impermeable surfaces.

- Surface water run off from the impermeable surfaces will be drained to the man made ponds already present within the site which will have the capacity to store water from 1 in 100 year flood events.
- The development generates a maximum volume of run off for a 1 in 100 year event of 834 cubic metres.
- Emergency access and egress would not be affected in times of flooding since the level of the land is above that level at risk from flooding.

Tree Survey and Assessment (prepared by FFC Landscape Architects and dated January 2010)

Identifies 52 trees on or close to the site. Some of which are in need of work to remove ivy and dead wood for their long term health. Some have potential bat roost cavities. Root Protection Areas are shown. The majority of trees are in good to fair condition, only 4 trees are identified as poor and of these only one is identified as potentially requiring felling if remedial tree works fail.

Landscape Visual Impact Study and Mitigation Proposals (prepared by FFC Landscape Architects dated April 2010)

The site is identified in the EWM1 (Estate Wood and Mere) category of The Cheshire Landscape Character Assessment. This is typically rolling countryside.

Within the site land slopes from north to south with levels ranging from 74m AOD to 67 m AOD.

The site has been modified by the formation of 3 fishing lakes and hedgerows interspersed with Oak and other mature trees in a variety of conditions around the site. A north-south hedgerow divides the site into two areas.

The study identifies 3 character areas (1) Rolling countryside and small wetlands such as meres, heaths and mosses (2) Ornamental landscape features such as parkland and lakes) and (3) Meres mosses and ponds some meres adapted for ornamental purposes.

Rolling countryside and small wetland area such as meres, heaths and mosses is typically a distinctive landscape with a strong sense of place and has features worthy of conservation. Some areas have large scale agricultural development and other ad-hoc features which form significant distraction to the setting reducing the overall landscape quality. The area is sensitive to inappropriate change

Ornamental Landscape features such as parkland and lakes – This characteristic is a distinctive and desirable landscape with a strong sense of place and generates landscape of ecological, amenity and conservation interest. It should be protected from intrusion as a result of need for farming diversification and should be protected from large scale agricultural features. The landscape quality is highly desirable and can be enjoyed by visitors and users. It is sensitive to inappropriate change.

Meres Mosses and ponds – This area has a distinguishable landscape characteristic though there is no particular sense of place. The fishery is in a state of development. Interest and demand for the sport will enable this to mature to an attractive feature for human use as well as for wildlife. Overall the current landscape value is low as it is being developed but there is scope for positive change.

24 view points (receptors) were initially identified. These were then reassessed taking account of landform and vegetation to 7 viewpoints as follows:-

Approach from the west on Hollyhurst Lane (site entrance)

Approach from north east from Wrenbury

View from A536 Marley Hall Covert
From Combermere monument
View from Pooles Riding Wood
View from Barn conversion
View from footpath along railway line
View from footpath by barns
View from railway

For views from the site entrance, and the approach from Wrenbury and users of the railway, the number of people affected by the development could be a significant number. For the other viewpoints there will be few occasions to view the development because these are rural tracks or properties or rural footpaths which are only used occasionally.

No trees or hedges will be removed from the site. Landscaping will enhance the setting of the individual lodges. New buffer planting along the drive, to the north and along the existing hedgerows will strengthen existing planting. The new woodland cover will reflect the species present.

The edges of the site are visible from certain vantage points and these will be improved by buffer zone planting. This planting will reduce the impact of the development on the visual envelope except for a small number of elevated viewpoints which will still gain views over hedges and trees (3 view points)

Mitigation includes:-

Buffer strip on average 8m wide to the north end of the site – this will mitigate views from footpaths, the railway and the barn conversion.

Planting strips alongside the entrance 3-10m wide - this will mitigate for the view from Hollyhurst Lane, the approach from Wrenbury, from Marley Hall Covert and more distantly Combermere monument.

Planting blocks on southern boundary including planting on the bank and around the new site entrance and car park – this will mitigate impacts from the south and Pooles Riding Wood.

Climate Change Statement (Prepared by Stephen Goodwin and received on 27th May 2010)

-The location of the accommodation and development in association with the fishery will reduce potential vehicle movements

- The site is located on a public footpath, within 1.8km of the centre of Wrenbury Village, which has a shop and post office and a number of local pubs.

- The local road network is suitable for cycling and Aston, Marbury, Norbury and parts of Sandbach are within cycling distance (5km in accordance with PPG13) of the site, as is Wrenbury railway station.

-The development includes a secure cycle store.

-The number 72 bus route passes through Wrenbury village and passes the railway station.

- A travel plan will be produced.

- Timber for the lodges will be from sustainable sources.

- All lodges will have double glazing, heating and sound insulation, and low energy light fittings.

- The landscaping scheme provides details of native planting.

- Facilities will be put in place for waste recycling for glass, aluminium cans and paper.
- Surface water run off from the site will drain to the lakes to control run off from the site.

10. OFFICER APPRAISAL

Principle of Development

This application is for the provision of 34 chalets (twin unit caravans) and not the fishery which was the subject of an earlier planning permission. Comments in relation to the suitability and condition of the fishery are not therefore relevant to the consideration of this application.

Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan allows for “essential” development for agriculture, forestry, outdoor recreation, essential works undertaken by a public service authority or statutory undertaker, or for other uses appropriate to the rural area. Policy RT.10 (Touring Camping and Camping Sites) allows for touring caravan and camping sites where a number of criteria are met. However this application is for timber clad holiday lodges not touring accommodation. Policy RT.7 (Visitor Accommodation) in relation to visitor accommodation allows hotel or guest house accommodation within settlement boundaries or for the change of use of existing residential accommodation in the open countryside to guest houses.

Policy RT.6 (Recreational Uses in the Open countryside) allows for recreational uses in the open countryside. It is considered that the provision of the lodges is not specifically a recreational use but is recreational accommodation. The justification to the policy refers to Stapeley Water Gardens and Bridgemere Garden World hence the fact that this policy is aimed at attractions rather than visitor accommodation. Policy NE.15 (Re-use and Adaptation of Rural Buildings) also allows the conversion of existing buildings to visitor accommodation where specified criteria are met.

There is therefore no specific policy which permits development for holiday lodges in the open countryside although policy NE.2 allows for development which is appropriate in the rural area, where this can be regarded as “essential”. Under such circumstances the application has been advertised as a departure to the adopted Local Plan.

It is therefore necessary to look at Government guidance to ascertain whether there may be grounds for allowing the development based on such advice.

Policy EC7 of PPS4: Planning for Sustainable Economic Growth states that Local Planning Authorities should support sustainable rural tourism which benefit rural businesses, communities and visitors and which utilise rather than harm the character of the countryside. It notes the need to support the provision and expansion of tourist facilities in appropriate locations where identified need is not met by existing facilities in service centres, carefully weighing the objective of providing adequate facilities or enhancing visitors’ enjoyment or improving the financial viability of the facility with the need to

protect landscapes. Whilst the policy encourages the re-use of rural buildings, it notes that where new buildings are required these should be in sustainable locations where possible and also recognises that facilities may be required in other locations where they are provided in conjunction with a particular countryside attraction. The policy notes that new or expanded holiday accommodation, including chalet sites, should not be prominent in the landscape and any visual intrusion should be minimised by effective high quality screening. The policy therefore supports development away from a village or settlement where this is related to an existing tourist facility.

Policy EC12 of PPS4 notes that when determining planning applications for economic development in rural areas, sites which are remote from local service centres may be an acceptable location for development, even if not readily accessible by public transport.

Further support for the provision of rural tourist accommodation is found in The Good Practice Guide on Tourism. The Guide notes that holiday parks are the largest providers of rural bed space and that the provision of tourist accommodation can help to support the local economy and provide for rural diversification. It advises of the need to balance concerns to protect the landscape and minimise environmental impacts with the need to provide adequate facilities.

The site is no longer in agricultural use but has the benefit of an extant permission for the use of the land as a fishery therefore concerns about the loss of agricultural land do not fall to be considered.

Representations make reference to the fact that prior to the conversion of Yew Tree Barns for residential development the application submitted would have needed to demonstrate that there was no requirement for the buildings for tourist accommodation. However the economics of provision mean that unless a relatively high rate of occupation can be achieved, the cost of converting barns to tourist accommodation is often prohibitive.

Whilst PPS 4 notes the need to carefully weigh the objectives of providing adequate facilities or enhancing visitors' enjoyment or improving the financial viability with the need to protect the landscape, it does not require the authority to test the viability of the proposal. The provision of the chalet accommodation with the fishing lakes will allow visitors to use the fishing lakes or the chalet accommodation or both and in that sense therefore provides a wider economic base for the proposed business.

The accommodation offered at the existing caravan park at Wrenbury offers a different type of accommodation and whilst some people may be attracted to both the chalet accommodation and the caravan park others may prefer the more spacious accommodation of a chalet.

In summary the policy in PPS4 also notes that new chalet developments may be acceptable where they are not prominent in the landscape and high quality screening is provided to minimise the visual impact. For reasons explained in detail later in this report it is considered that the proposed development meets these requirements and that the development complies with this policy. It is

therefore considered that the more recent policy in PPS4 presents a reason to allow the application contrary to the development policies in place at this point in time. PPS4 states at paragraph 3, in the introduction to the PPS, that “The development management policies in the PPS can be applied directly by the decision maker when determining planning applications.”

Impact on the character and appearance of the open countryside

The application is for 34 chalets on land varying in height from 67mAOD at the southern edge of the site to 74m at the northern end. The chalets would be timber clad and stand between 3.5m and 4.5m high depending on the manufacturer supplying the units.

The Landscape Visual Assessment has been completed in accordance with the “Guidelines for Landscape and Visual Impact Assessment” produced by the Landscape Institute and the “Landscape Character Assessment Guidance” produced by the Countryside Agency.

From an initial 24 potential receptors following site survey only 7 were identified as being of high or medium sensitivity. These were:-

Site entrance from the west

Site entrance from the north east

Marley Hall covert

Poole's Riding Wood

Footpath Number 5 alongside the railway line

Footpath Number 6 alongside the barn conversion

Railway line.

The Assessment recognises that for the first two and last of the above receptors the number of people affected could be significant as a result of passenger numbers / traffic in the area.

The remaining receptors are considered to offer low sensitivity due to the fact that they are rural properties, tracks or footpaths which are not heavily used.

The Assessment notes that the hedgerows with trees would be retained on the eastern site boundary, the eastern part of the southern site boundary and the hedgerow with trees located centrally within the site would also be retained.

Landscape mitigation is proposed in the form of new areas of hedgerow with woodland mix in the following locations:-

-along side the existing retained hedges around the site

-along the northern boundary

-along side the access track from the entrance at its junction with Hollyhurst Road

-along the southern site boundary.

This in effect would provide an inner buffer of planting within the site boundaries.

Areas of woodland mix would be provided in the site itself on the three retained islands, which would all include chalets, and around the car park, office, shop and toilet block. In addition individual trees and shrubs would be used to create bays to separate and enhance the individual sites of each chalet.

The planting would be native species, based on those growing in the area. The planting would therefore provide an enhanced setting to the area to mitigate the effects on the development on the receptors. The site may be developed on a phased basis and if it is then the landscaping would need to be phased to ensure that those areas of planting required to screen the site from nearby dwellings at Yew Tree Barns, the access route and from the adjacent public right of way should be provided early on in the development of the site. However there may be some areas close to the sites of chalets where planting would be more practically completed after the chalets are in position.

Whilst it would take time for the planting to grow and become fully effective it is considered that the proposed planting would provide a good screen to mitigate the effects of the development. Views of the development would continue to be present for some time while the planting takes effect from the site access, a gate on Hollyhurst Road, the public footpaths in the area and the railway line. However it is not considered that views from these public points are sufficient to justify refusal of the application.

Turning to the dwellings which are close to the site, the existing hedgerow through the centre of the site would to some extent soften the appearance of chalets around the two eastern lakes from dwellings at Yew Tree Barns. There is however no screening between the dwellings and the western lake at present, until such time as the new planting begins to grow. It is noted that the rear elevation of the dwellings face more towards the access track rather than the lake, however views of the western lake can be clearly seen. Five units would be provided in this area, two on the north side of the lake and three on the island. With the two closest units being over 110m from the converted dwellings and the three on the island being over 150m from the dwellings it is not considered that these five units are positioned so as to justify refusal of the application.

The remaining 29 units would be positioned around the two eastern lakes with 2 units being close to the northern site boundary. However, a mature hedgerow which separates the barn conversions from the application site provides some initial softening until such time as the new planting is established. The two closest units would be almost 60m from the closest dwelling in the barn conversion and slightly under 50m from the farm house itself. However the farm house is in part screened from the development by a two storey outbuilding. Three units would be located on the island in the northern lake at a distance in excess of 100m from the farm house and converted dwellings. The remaining 24 units would be positioned between the two eastern lakes and around the eastern lakes at greater distances from the existing dwellings.

With the exception of the public footpaths in the area and the railway line there are no large open expanses of land where the public have access and from which the site is clearly visible. There are locations along Hollyhurst Road from which the site would be seen but these are gateways and entrances rather than long areas of open views. In view of the existing landscape infrastructure, the fall of the land and the proposed mitigation it is considered that the development would not adversely impact on the character and appearance of the open countryside.

Whilst no details of the appearance of the shop/ office and toilet block have been submitted these would be relatively small single storey structures

measuring approximately 9m x 18m and 5m x 8m respectively. They would be located on the car park with planting to the rear of each. They would not therefore have any significant impact on the landscape overall and it is considered that the details of the appearance can be submitted by condition.

Representations suggest that the development would have a detrimental impact on the Wrenbury and Marbury Conservation Areas. However the site is too remote from these locations to justify refusal of the application on the grounds of adverse impact on the character, appearance or the setting of the conservation areas and is not visible from them.

Existing Trees and Hedges

The development would retain all the trees and hedges around the site with the exception of one tree (T19 in the south eastern corner of the site) which may have to be removed if tree works are unsuccessful. The development would not therefore have any detrimental impact on existing trees and hedgerows. Tree works including the removal of ivy, deadwooding, selective thinning/ branch removal and in one case major tree surgery (to T19) are proposed to some of the trees on the site. This work should be required to be completed by condition. Tree protection measures are also proposed and should be subject to a condition. No chalets would be positioned within Root Protection Areas although three chalets would abut the Root Protection Areas. In addition now that the proposed toilet block has been repositioned to protect the fresh water spring the toilet block and a small area of the main car park would also fall within a Root Protection Area but this is towards the edge of the area and provided construction includes no-dig methods it is not considered that this would adversely impact on the tree. Conditions should be included for no dig construction and for tree protection measures to be put in place and retained for the period of construction.

No details of hedgerow protection have been provided for the construction period and these should also be required by condition. Since the applicant is considering developing the site on a phased basis any condition for tree and hedgerow protection should be on a phased basis.

Ecology

Whilst the application was not originally submitted with any ecological information an update to the 2006 Great Crested Newt Survey and Ecological Assessment and Bat and Barn Owl Survey have been submitted more recently.

The submitted Ecological Assessment notes that meta-populations of Great Crested Newts are likely to be decreasing and recommends the creation of a new pond at the site recorded as pond 3 in the survey. This is a damp area or scrape rather than a pond at present. The proposal is to form a pond of about 2m depth and surface area of about 300 square metres (ie approx 15m x 20m) to provided optimal conditions for Great Crested Newts. A condition should be attached to any permission for a scheme to be submitted and the implementation of these works. A further condition should be attached to prevent it being stocked with fish which might be detrimental to Great Crested Newts. The proposed site planting would enhance shelter and foraging areas for Great Crested Newts.

In addition protective fencing should be provided to the off site badger sett to ensure no damage to it. A further condition should also ensure no tree or hedgerow works take place in the nesting season. Another condition should ensure that if development commences in the bird nesting season the site is inspected and no works take place within 4m of any nesting bird.

Trees have been subject to survey and one, T9 (close to the northern pond on the eastern side of the site) was found to be used as a bat roost. As a result, deadwooding originally proposed to this tree, will not now take place. Following the more detailed bat and barn owl survey the number of bat boxes proposed has been increased from 3 to 10. It is therefore considered that subject to these provisions with tree works following the practice outlined in the survey, there would be no adverse impact on bats.

The submissions propose 10 Schwegler bat boxes and 3 Schwegler bird nest boxes to be provided but no details of the location are given. A condition should be attached to any permission for details of the locations to be submitted, approved and then the nest boxes to be provided before the chalets are first occupied.

The presence of barn owls on the site and the provision of barn owl boxes on adjacent land are noted but it is not considered that the development would be likely to have any adverse impact on this species. Further with appropriate management of the landscaping, the retention of rough grassland within the site and along the edges of the site could improve the habitat for small mammals and promote use of the site by barn owls. A condition for a maintenance scheme is recommended and this can include the requirement to retain rough grassland.

It is not considered that the development would adversely impact on the water quality in the Barnet Brook or adversely affect Quoisley Mere SSSI or Combermere SSSI, since the application site is some distance away from these sites and the Brook.

The Environment Agency requests a number of conditions including the submission of details of landscaping using native species and to provide wildlife habitats on the site. It would appear that the Agency have not fully studied all the documents submitted with the planning application. Whilst it is accepted that there is no management and maintenance regime submitted, the actual details of planting and additional habitat provision on site is acceptable to the Council's ecologist.

With these measures in place it is considered that the development would not have any adverse impact on protected species and that it includes appropriate measures to enhance biodiversity at the site. The use of native species and additional tree and hedgerow planting with woodland blocks would in any event provide a new habitat on this land to enhance biodiversity.

Highway Matters and Parking

A Transport Statement and Interim Travel Plan were originally submitted with the application and more recently an additional Technical Note has been submitted. This reports the results of a traffic survey. Following the receipt of this the Strategic Highway Manager raised no objections to the proposals. The survey demonstrated that the levels of traffic on Hollyhurst Road were low and that the speed of traffic was about 29 mph in both directions.

The site would be accessed down the track which is to be used by the fishery. This also serves two other holdings and is used by Woodlands Brewery to collect water. However the development would have two access routes one of which would leave the access track some 120m from its entrance on Hollyhurst Lane. The main entrance would use the access track for a distance of 300m before turning east.

A traffic survey on Hollyhurst Road found that over a 2.5 hour period a total of only 34 vehicles used Hollyhurst Road. Traffic is also light on the access road which would serve the development. In the event that the chalets were all occupied by comparison with traffic at other similar developments, 34 chalets would generate 10 vehicle movements during the busiest hour which is 12 midday to 1.00pm. If this is combined with the traffic using the access road (3 vehicles for the same hour) this would give a total of 13 vehicles on the access road for this hour, which is the busiest time for traffic serving the chalet park. At other times of the day the traffic would be far less as it would if there was less than 100% occupation. There would in reality be very few occasions when the site is 100% occupied.

Average occupancy rates of around 45% would give 5 vehicles per hour which added to the existing traffic would generate 8 vehicles per hour on the access track.

Therefore the traffic that would be generated by the development is not considered to be sufficient to justify refusal of the application on highway grounds. A widening of the access track, immediately adjacent to the junction with Hollyhurst Lane, at the site entrance, allows vehicles to pass already. The application includes the formation of the two passing bays along the access track as shown on the plans submitted with the fishery. Therefore passing places are included to serve the development.

Representations express concern about the impact of the development on local roads which are narrow and winding country lanes. However the level of traffic generated by the development would not be sufficient to justify refusal of the application due to impact on the highway network in the area.

A visibility splay of 2m x 70m is proposed which is considered acceptable for the speed of traffic recorded on Hollyhurst Road.

The application has been amended by the reduction of parking spaces at the units to one space per chalet. There is in addition a parking area proposed with the fishery which would hold 93 vehicles. A further small parking/ picnic area is proposed adjacent to the northern access route which leads to the western lake and this could hold about 10 more vehicles depending on how it is laid out.

The proposals with the application for the fishery included 80 parking spaces on the site of the main car park. The increase in parking proposed by this application is therefore a maximum of 57 additional spaces spread around the site, which is considered reasonable.

Whilst representations object to the application on the grounds of the number of people who walk, cycle and horse ride on local roads bearing in mind the level of traffic which will be generated this would not present a reason to refuse the application.

The submission includes an Interim Travel Plan which makes suggestions for improving the sustainability of the development. Measures proposed include the use of a mini bus to ferry visitors around, information about public transport, cycle hire etc, and the use of a groceries made available for visitors on arrival. A condition should be attached to any permission to require a Travel Plan to be submitted approved and implemented prior to the occupation of the units and monitored and updated annually.

There is a public right of way through the northern section of the site for a distance of about 40m. The Mid Cheshire Footpath Society request that the two stiles which are on the site boundaries where the footpath enters and leaves the site be replaced by kissing gates to improve openness. However the styles are in good condition and in the absence of a policy to achieve this it is not considered necessary to require such works. The development is located to the south of the path which passes close to a pair of parking bays at the northern group of two chalets.

Drainage

A Flood Risk Assessment has been submitted. The Environment Agency initially raised concerns regarding the impact of the proposed development specifically with regard to the spring on adjacent land. It was considered that the run off from the car park and overflow from the toilet block could potentially damage the quality of water taken from the spring. However the application has been amended to relocate the toilet block to the northern end of the car park. The overflow from the toilet block would be drained through adjoining land away from the spring and the application area to the Barnett Brook which lies some distance to the south of the site. In addition the car park would be surfaced in tarmac and provided with oil interceptors to ensure that run off does not pollute the water supply.

The owner of the spring, having initially objected to the application and the Environment Agency, have both now withdrawn their earlier objections raised. A condition can be attached as requested by the Environment Agency for a drainage scheme to be submitted. A revised Flood Risk Assessment has been submitted to the Environment Agency which takes account of the need to hard surface the car park and hence increases the area of non-permeable surfacing within the site. The Environment Agency raise no objections to this due to the need to protect the quality of the ground water and request that a scheme for the disposal of surface water drainage scheme, based on sustainable drainage principles be submitted.

Whilst the Authority would not normally look for a tarmac surface to a car park for 93 vehicles in the open countryside in this particular case it is required to protect the water quality. There are no public rights of way through this part of the site and although the car park would be clearly visible to those persons using it, it is not in any public area or accessed along public rights of way. Therefore in this particular instance there are no objections. The area around the car park would be planted with native species as part of the site landscaping.

A representation objects to the submitted Flood Risk Assessment due to lack of information but no such objection has been sustained by the Environment Agency. At paragraph 10 PPS25 states that Flood Risk Assessments should be carried out to the appropriate degree at all levels of development. It is considered that the Assessment

submitted is proportionate to the application proposed. It would be difficult to justify refusal of the application for such a reason when there are no objections from the Environment Agency.

Sustainability

The Transport Statement, submitted with the application, notes that the site is located 1.8km from the centre of Wrenbury and that the station is just over 2km from the site. Measurements on the Council's GIS show the distance from the site access on Hollyhurst Road to the post office in Wrenbury is slightly over 2km (2.07km). Whilst this is just over the distance of 2km which PPG13 recognises as the distance most people are prepared to walk it is not significantly over that distance. The GIS measurements show that the station falls within 2km of the site access, walking by road. Walking through the fields would reduce this distance slightly. The distance to the public houses at the Cotton Arms and Dusty Miller would be 2.4km from the site access. It is therefore considered that these facilities would be within walking distance of the site for people who were prepared to walk although there is no footway for most of the journey.

In terms of public transport the village and railway station are on the number 72 bus route which runs between Nantwich and Whitchurch. There are 6 or 7 buses per day Mondays to Saturdays which serve the village and station during the working day, although the Wednesday service is slightly different. The railway station has links to Nantwich and Whitchurch with about 12 trains running on week days from 06:00 hours to just after midnight. In reality very few visitors to the site would use public transport and the submitted application and supporting information acknowledge this. However the Travel Plan offers to provide a mini bus to help support visitors who want to use public transport.

Policy EC12 of PPS4 recognises that a site may be acceptable for economic development in the rural area where it is not readily accessible by public transport and in view of the fact that the site could be visited using public transport it is not considered that the limited links to public transport would justify refusal of the application.

The development would be constructed with measures to minimise energy usage both during construction through the use of sustainable timber and insulation and subsequently through the inclusion of double glazing, insulation and low energy light bulbs. Measures would be provided for recycling where possible. Whilst the site is located away from any settlement and not on a bus route the provision of cycle parking would encourage the use of cycling as an alternative means of transport. In addition the presence of a shop stocking supplies for holiday makers would help to minimise the need to travel. An interim Travel Plan has been produced and would be developed to a full Travel Plan to promote sustainable means of transport wherever possible together with the use of a mini bus.

The development therefore complies with policies which seek to ensure that measures for sustainable living are incorporated into new development. A condition should be provided to ensure that details of recycling facilities to be provided are submitted approved and implemented.

Residential Amenity

The section assessing impact of the development on the character and appearance of the area explains the distances between the closest dwelling and the chalets. The main rear elevation of the majority of the dwellings face over the access drive rather than the

proposed chalets although they would clearly see the closest chalets. The end unit and farmhouse have windows facing the site. The distances between the proposed chalets and the dwellings are explained in the section of this report which discusses impact on the landscape. It is not considered that the chalets would be so close to dwellings as to justify refusal of the application due to the presence of the chalets themselves. Whilst the mature hedgerow which leads from the dwellings to the site helps to screen the chalets at ground level they would still be visible from first floor windows. However it is not considered that the closest would adversely impact on the amenities of residents.

No details of external lighting have been submitted with the application but in reality some degree of lighting would be required to ensure the safety of people staying in the accommodation at night time. Therefore a condition should be attached to any permission for a scheme of lighting to be submitted, approved and implemented. Lighting should be predominately low level lighting, angled down, shielded and controlled by sensors so as to reduce light pollution. With these controls the lighting should not adversely impact on residential amenities at nearby dwellings. The fact that lighting would be required and no details have been submitted is not a reason to refuse the application.

The proposed chalets are to be developed in conjunction with a fishery and no social club, bar or café is proposed at the site. In addition the majority of the chalets would be well away from the existing dwellings at Yew Tree Barns. It is not therefore considered that the development would result in noise and disturbance for residents at the existing dwellings, particularly since visitors staying at the site are likely to respect the need to be relatively quiet to ensure no adverse impact on the fishing.

Conditions

In order to ensure that the development is only used for holiday accommodation and not for permanent residential development conditions should be attached as recommended in the Good Practice Guide for Tourism and the Conditions Circular to limit the occupation of the chalets to holiday purposes only, not to be occupied as the persons sole or main place of residence, and for the operator to maintain an up to date register of names of all owner(s) and occupier(s) of each chalet and their main address. Further, the operators should be required to make this record available to the local authority at all reasonable times, upon request.

Shopping policies seek to ensure that retail development is located in town and village centres. However the recent development of marinas has allowed a shop/chandlery and or café at such sites to serve the users of the marina. Provided the shop element at the proposed chalet site only sells day to day needs and small items which the fishermen may require, so that it functions as an ancillary element of the other development at the site, there are no objections. The provision of an on-site shop could help to reduce the travel needs of visitors to the site. A condition should be attached to any permission to ensure that the shop only sells food and items required for the day to day needs of visitors staying at the accommodation and small scale items required by the fishermen visiting the site. In addition it should not include any café element selling food and drinks for consumption on the premises.

Other Matters

The comments of the Public Rights of Way Unit, Fire and Rescue Service and informative on the Environment Agency's response should be forwarded as an

informative to the applicant. The applicant should also be advised of the Strategic Highway Manager's wish to see the hedgerow on Hollyhurst Lane trimmed to improve visibility at the access.

11. CONCLUSIONS

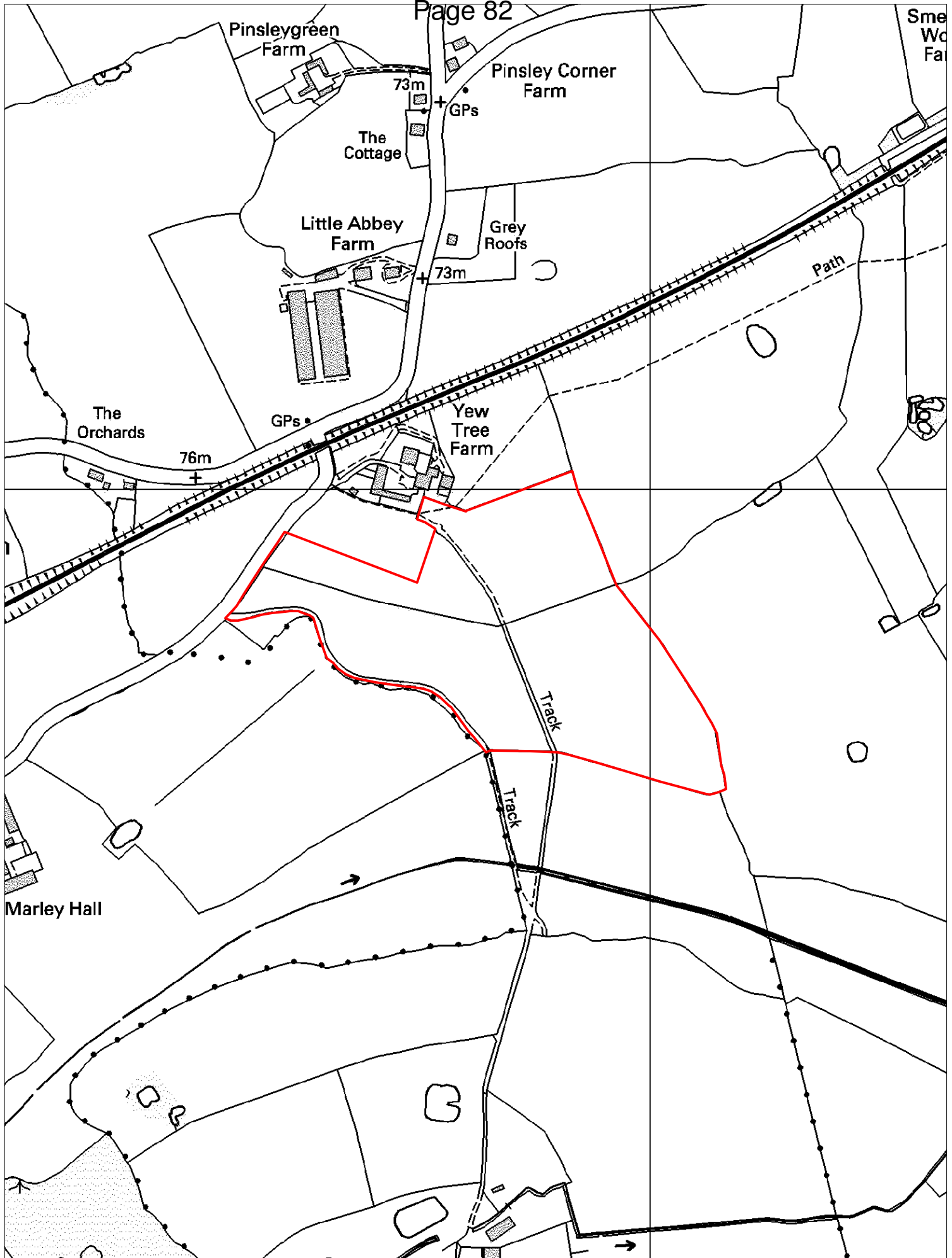
There are no policies in the Borough of Crewe and Nantwich Replacement Local Plan to allow the provision of holiday chalets within the rural area. The application has therefore been advertised as a departure to the Development Plan. However PPS4 is supportive of new or expanded chalet development sites which are not prominent in the landscape and where any visual intrusion is effectively minimised by high quality screening. The Landscape Visual Impact Study demonstrates that the site is not prominent and the landscaping scheme shows that the site would be effectively screened by high quality planting. The retention of the existing planting around the site together with the proposed landscaping would ensure that there is no detrimental impact on the character and appearance of the locality.

Whilst the site is accessed via narrow winding roads the transport submission has demonstrated that the roads can accommodate the traffic which would be generated by the development and the proposal would not adversely impact on highway safety. Adequate parking would be provided within the site to accommodate the needs of the fishery enterprise and the parking requirements for the chalet development.

The submitted Ecological surveys indicate that there would be no detrimental effect on protected species and that the measures proposed would ensure that biodiversity is enhanced by the formation of a new pond for wildlife purposes, the provision of bird and bat boxes and the proposed landscaping. Measures would be adopted to protect nesting birds.

Whilst the site would be seen from nearby dwellings until such time as the planting is established it is not considered that the proposed units would be so close to the dwellings as to justify refusal of the application.

Whilst the site is not located particularly close to the village, nevertheless PPS4 acknowledges that facilities involving new development may be acceptable where they are related to another countryside attraction therefore the location of the chalets at the site of the fishery is considered acceptable.



WRENBURY FISHERY, HOLLYHURST, MARBURY, CW5 8HE

NGR - 358,750 : 345,868.1

Reproduced from the Ordnance Survey map with the permission of HMSO.

© Crown Copyright. Unauthorised reproduction infringes Crown Copyright and may lead to legal or civil proceedings. Cheshire East Borough Council, licence no. 100018585 2007..

Scale 1:10000

12. RECOMMENDATIONS

APPROVE with the following conditions:-

- 1. Commence development within 3 years.**
- 2. Development in accordance with approved plans**
- 3. Details of external appearance of chalets together with coloured samples of external materials to be submitted, approved and implemented.**
- 4. Details of external appearance and materials, including colours and finishes, for toilet block to be submitted approved and implemented.**
- 5. Details of external appearance and materials, including colours and finishes, for office/ shop block to be submitted approved and implemented**
- 6. Phasing plan for tree protection measures which should be in accordance with submitted details.**
- 7. Details of phased hedgerow protection measures to be submitted approved and implemented**
- 8. No trees, except T19, to be removed from the site until the development has been fully implemented and then trees only to be removed in accordance with management and maintenance scheme for the site.**
- 9. No dig construction within root protection areas.**
- 10. No deadwooding or other works to T9, otherwise completion of tree works to trees on site as per Tree Survey and Assessment prior to the occupation of any chalets.**
- 11. No tree or hedgerow works to take place in the bird nesting season.**
- 12. Submission of phasing plan for the implementation of proposed landscaping. Implementation of landscaping in accordance with agreed phasing.**
- 13. Management and maintenance scheme to be submitted prior to the commencement of development, approved and implemented for landscaping. Scheme to include the provision of rough grassland on the site including the edges of the site close to hedges to promote small mammal habitats.**
- 14. Scheme for formation of off-site pond to be submitted, approved and implemented.**
- 15. New pond formed under the above condition not to be stocked with fish at any time.**
- 16. Badger protective fencing to be provided before development commences and retained throughout development of the area around the southern lake.**
- 17. No site works/ development to commence in nesting season unless the site has first been surveyed and no works within 4m of any nesting bird.**
- 18. Details of location of 3 bird nest boxes to be submitted, approved and boxes provided.**
- 19. Details of location of 10 bat boxes to be submitted, approved and boxes provided.**
- 20. Provision of main car park and small overflow car park by western lake before occupation of the first unit and thereafter retained.**
- 21. Provision of one parking space for each chalet and no more before that chalet is first occupied. Parking to be retained as originally laid out.**
- 22. Submission of full Travel Plan, approval and implementation and annual monitoring and updating according to the needs of the development.**

23. Formation of passing places before first chalet occupied.
24. Foul drainage scheme to be submitted approved and implemented.
25. Surface water drainage scheme, based on sustainable drainage principles, to be submitted approved and implemented. Submission to include details to control level of water in the lakes or other means of storing surface water run off and their controls.
26. Chalets to be occupied as holiday accommodation only.
27. No chalet shall be occupied as the persons' main or sole residence.
28. The site operator shall maintain an up to date register of the names and postal addresses of all owners and all occupiers and shall make this record available to the local authority at all reasonable times, upon request.
29. Scheme for external lighting to be submitted approved and implemented. All external lighting to be controlled by sensors, and be predominately low level lighting, shielded, angled and controlled by sensors so as to minimise light pollution and impacts on wildlife.
30. Details of secure covered cycle parking to be submitted approved and implemented.
31. Details of recycling facilities/ waste storage to be submitted approved and implemented.
32. Development to be provided in accordance with the measures to reduce energy consumption in accordance with the principles of sustainable development as detailed in the submitted Climate Change statement.
33. Shop to be for A1 purposes only and ancillary to the use of the site for fishing and visitor accommodation. It shall sell only items to meet the day to day requirements of visitors staying at the accommodation and small scale items to meet the needs of the fishermen. The shop shall not sell any hot or cold food and drink for consumption on the premises.
34. Access to be constructed to CEC specification.
35. Details of surface materials to be submitted approved and implemented.

Planning Reference No:	10/1005N
Application Address:	WHITTAKERS GREEN FARM, PEWIT LANE, BRIDGEMERE, CW5 7PP
Proposal:	Application to Vary Planning Conditions 5 and 6 on Planning Permission 7/2009/CCC/1, in order to vary the description of permitted waste and specify a percentage of contaminated waste allowed.
Applicant:	MR F.H RUSHTON
Application Type:	Variation of Condition
Ward:	DODDINGTON
Constraints:	Open Countryside

NOTE

The applicant has applied to vary conditions 5 and 6 of planning permission 7/2009/CCC/1. A second identical application to vary the conditions of 7/2007/CCC/7 has also been submitted and appears as a separate item on this agenda.

REASON FOR REPORT

Due to the site area, this application is not considered to be a major waste application; therefore the decision would have been delegated by the Head of Planning and Housing to officers for decision. However, this application has been called in to the Southern Planning Committee by Councillor Walker so that the application can be reported to them for determination.

Councillor Walker provided reason for the call-in; *I believe the Committee should discuss these changes in the light of possible pollution resulting from them (planning policies BE.1 and NE.17).*

Due to the strategic nature of this site, and the high level of public interest, this application has been referred by the Head of Planning and Housing from the Southern Planning Committee to the Strategic Planning Board for determination.

DESCRIPTION OF SITE, CONTEXT AND SITE HISTORY

The application site is an existing green waste composting facility located within the open countryside approximately 8.5 miles south east of Nantwich and a kilometre south of Hunsterson. The surrounding countryside is slightly undulating, divided into medium sized fields utilised for arable production. There are a number of isolated properties and farm units widely spaced surrounding the compost site. The nearest residential property; Fox Moss is 230 metres to the north east of the site, with Pewit House a further 200 metres away to the north east. The Uplands lies 440 metres and Whittakers Green Farm is located 470 metres to the north of the application site.

Woodend is 350 metres to the east of the site, and Woodfall Hall Farm is 670 metres to the south west.

Hunsterson Footpath No. 22 lies immediately on the eastern and southern boundary of the compost site.

The site has been operational for approximately five years. The original application (7/P04/0124) granted the use of the land for the composting of green waste on 11th August 2004. The permission enabled the applicant to produce compost for use as a soil improver to assist the farm to become organic. The compost produced as a soil improver and for sole use on the applicant's farm, cannot be exported; this was controlled by condition. The applicant's farm amounts to an 80-hectare farm which is in a nitrate vulnerable zone, which restricts the amount of nitrogen which can be applied to the land.

Condition 9 states; *only those wastes specified in the application, namely 'green' garden wastes, shall be imported to, deposited, processed or stored at the site.*

Condition 10 states; *any material contained within the waste deliveries which falls outside of the above description shall be removed from the 'green' waste, and stored in a designated covered container, prior to removal from the site.*

Application 7/2006/CCC/11 to vary condition 13 of permission 7/P04/0124 to allow the importation of green waste on Bank Holidays except for Christmas was approved on 6th December 2006. The conditions attached to the initial permission with the exception of pre-commencement conditions which had been satisfied were replicated within this consent. Conditions 9 and 10 above became 5 and 6 on the new consent.

Application 7/2007/CCC/7 to provide an extension to the existing green waste composting facility, doubling the size of the concrete storage pad, was approved on 25th June 2007. Previous conditions were again replicated.

Application 7/2008/CCC/7 to create a new access off Bridgemere Lane and track to join up to existing tracks at Whittaker's Green Farm, and thereby the compost site and hence avoid the use of Pewits Lane, was approved 30th March 2009, subject to a legal agreement regarding routing.

Application 7/2008/CCC/9 for a variation of Condition 14 of permission 7/P04/0124 to increase the green waste vehicle movements from 10 movements to 40 a day was refused permission 7th July 2008.

The decision to refuse was appealed (Appeal ref: APP/A0645/A/08/2080691) and the appeal was dismissed on 27th October 2008. The reasons for the appeal dismissal were that the increase in vehicle movement would generate a level of traffic which would be unsuitable on the local highway network and which would harm the safe movement of traffic on the local roads, and it would also have an unacceptable impact on local communities and the local environment with regards to increased noise and disturbance contrary to Policy 28 of the WLP.

Application 7/2009/CCC/1 was a resubmission to vary of Condition 14 of permission 7/P04/0124 to increase the number of vehicle movements, differing from the previously appealed and refused application by including seasonal variations in maximum average vehicle movements, but less vehicles than the refused application, with restricted hours of delivery to avoid school delivery and pick-up times and to encourage an alternative route. The application was approved 11th March 2009.

Application 09/1624W was a retrospective application for the improvement and extension of an existing agricultural track for use in association with agricultural and green waste compost operations at Foxes Bank and Whittakers Green Farm. This permission regularised development that took place to extend the track approved by 7/2008/CCC/7 and to join existing tracks. The application was approved on 21 October 2009.

Enforcement Appeal; APP/Z0645/C/09/2098882

An enforcement notice was served by Cheshire County Council on 30 January 2009, alleging that without planning permission, an unauthorised change of use had occurred in that an unauthorised Waste Transfer Station was being operated on the land in addition to the permitted green garden waste composting activities. Despite the condition limiting the import of waste to 'green' garden wastes, it was apparent a considerable proportion of mixed waste was being brought onto the site.

The operator appealed against this enforcement notice and following a hearing, the appeal was dismissed but time periods for compliance were extended in a decision letter dated 7th October 2009.

The appellant then appealed against the above appeal decision at the high court on 2 November 2009. Part of that appeal was allowed, as the High Court Judge considered that the Inspector had failed to give any or any adequate reasons for her conclusion that a material change had occurred.

For this reason the Inspector's decision should not be allowed to stand and that the decision should therefore be remitted to the Secretary of State. As such, the court has ordered that the appeal should be decided again. This does not necessarily mean that the original decision will be reversed. The current situation is that the decision is open for re-determination under Rule 17 of the Town and Country Planning (Enforcement) (Hearing Procedures) England). This appeal is still lodged with the Planning Inspectorate.

DETAILS OF PROPOSAL

The applicant has applied to vary conditions 5 and 6 of planning permission 7/2009/CCC/1. A second identical application to vary the conditions of 7/2007/CCC/7 has also been submitted and appears as a separate item on this agenda.

Condition 5 of planning permission 7/2009/CCC/1 states that:

“Only those wastes materials specified in the application, namely ‘green’ garden waste, shall be imported to, deposited, processed or stored at the site.”

The applicant seeks to vary Condition 5 to read:

“Only those materials identified by the Environment Agency as constituting green waste and specified in the European Waste Catalogue as:

02 01 03 – Plant Tissue Waste

02 01 07 – Waste from Forestry

20 02 01 – Biodegradable Waste

Shall be imported to, deposited, processed or stored at the site.”

Condition 6 of planning permission 7/2009/CCC/1 states that:

“Any material contained within the waste deliveries which falls outside of the above description shall be removed from the ‘green’ waste, and stored in a designated covered container, prior to removal from the site.”

The applicant seeks to vary Condition 6 to read:

“Any material contained within the waste deliveries which falls outside of those identified in condition 5 above shall be removed and stored in a designated covered container, prior to removal from the site. At any one time these other materials shall not amount to anymore than 5% by tonnage of the total waste materials held on the site.”

POLICIES

The Development Plan comprises of The Cheshire Replacement Waste Local Plan 2007 (CRWLP) and The Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011 (CNLP).

The relevant Development Plan Policies are:

Cheshire Replacement Waste Local Plan (CRWLP)

Policy 1: ‘Sustainable Waste Management’

Policy 2: ‘The Need for Waste Management Facilities’

Policy 12: ‘Impact of Development Proposals’

Policy 14: ‘Landscape’

Policy 17: 'Natural Environment'

Policy 18: 'Water Resource Protection and Flood Risk'

Policy 20: 'Public Rights of Way'

Policy 23: 'Noise'

Policy 24: 'Air Pollution; Air Emissions Including Dust'

Policy 25: 'Litter'

Policy 26: 'Odour'

Policy 28: 'Highways'

Borough of Crewe and Nantwich Adopted Local Plan 2011

BE.1 Amenity

BE.4: Drainage, Utilities and Resources

NE.2 Open Countryside

NE.5 Nature Conservation and Habitats

NE.9 Protected Species

NE.12 Agricultural Land Quality

NE.17: Pollution Control

RT.9: Footpaths and Bridal ways

Other Material Considerations

Waste Strategy (2007)

National Planning Policy and Guidance

PPS 1: Delivering Sustainable Development

PPS 7: Sustainable Development in Rural Areas

PPS 9: Biodiversity and Geological Conservation

PPS 10: Planning for Sustainable Waste Management

PPS 23: Planning and Pollution Control

PPG 24: Planning and Noise

CONSULTATIONS (External to Planning)

The Strategic Highways and Transport Manager has not raised an objection to the proposal as it can be accommodated within the vehicle numbers (20) permitted to use the site daily.

The Borough Council's Environmental Health Officer notes that the requested categories of waste have the potential to contain animal and food wastes and that these are not acceptable and should not be imported into the site. The only acceptable wastes on the site should comprise wood and plant tissue. Concerns raised about the potential of odour and vermin should not arise if animal and food waste is not composted, or imported into the site, requiring storage prior to removal. Nevertheless a specific condition to control odours from non-compostable material should be added if this is not controlled by other conditions.

The Public Rights of Way Unit does not object to the proposal. The property is adjacent to Public Footpath Hunsterson No. 22 as recorded on the Definitive Map. It appears unlikely that the proposal would interfere with the public right of way. However, should planning permission be granted, the Public Right of Way Unit requests an informative to be attached to any decision notice, listing the developers' obligations with regards to the public footpath.

The Environment Agency has no objection to the variation of conditions 5 and 6 of planning permission 7/2009/CCC/1. Additional comments were sought from the Environment Agency Officer responsible for permitting the site to provide comments with regards to the European Waste Catalogue Codes suggested by the applicant. The EA consider that the waste that is received under these codes would need to satisfy each part of the description, i.e. the waste would have to sit comfortably under each of the three individual 'sections' of the code break down. The codes used under the EA 'Standard permit' issued to the application have been decided nationally, and are therefore deemed acceptable for a composting site to receive, so these may be a good starting point when addressing the code changes on the existing planning permission.

VIEWS OF THE PARISH / TOWN COUNCIL

Doddington and District Parish Council object to the application. They highlight the ongoing concerns of the residents of the Parish which include the detrimental effect the composting site has had on the local area. Their principle concerns have been the hazards of increased heavy traffic going to and from the site, and the detrimental effect on the local environment, particularly the impact of the importation of large quantities of non-compostable material.

Hatherton and Walgherton Parish Council object to the application. There is particular concern around the increased heavy traffic on local roads, which would be necessary to remove the additional waste received on site. The Parish Council

consider that the site is becoming more like a waste transfer site than the type of operation that was approved in the original application.

OTHER REPRESENTATIONS

23 letters of objection from local residents have been received expressing concerns towards this application.

The main issues which are raised include:

- The application is seeking to do what the Planning Inspector into the recent Enforcement Appeal found unacceptable. In fact the 5% contamination level applied for is greater than the 4.5% claimed to be on site during the appeal, and shown in the photo evidence.
- Prematurity based on the fact that the enforcement appeal proceedings have not yet been decided as the enforcement appeal is back in the hands of the Planning Inspectorate for redetermination
- The proposal would change the use and scale of the development which is currently permitted for on farm composting to a larger industrial waste transfer station operation which is unsuitable for this location;
- It is intolerable that applications and appeals have allowed this situation to drag on for 2 years;
- Permitting more non-compostable waste would lead to more heavy goods vehicles on local country roads as a result of importing and then removing the non-compostable waste off site;
- 5% of non-compostable waste is too much; in a typical 10 tonne green garden waste collection vehicle 5% would amount to ½ a tonne of 'landfill' material, such a level of contamination is not acceptable;
- Creating a landfill in the open countryside with no environmental controls;
- A 5% limit would be difficult to control and enforce;
- The vast amount of contaminated material is not removed, instead it is shredded and included in the compost resulting in contaminating the land once it is spread;
- There are significant health and environmental risks associated with accepting non-compostable waste (landfill material) which have not been assessed in the application;
- Contrary to the development plan and policies in the CRWLP;
- Cardboard is considered by the EA to be compostable but in food packaging such as pizza cartons often food remains attracting vermin and flies to the site also resulting in malodours waste, no odour management plan is proposed.
- Setting a precedent over other composting site across Cheshire as none of them have these conditions
- The application would have an adverse impact on residential amenity putting an intolerable burden on the roads which are inadequate for the increase traffic this would involve;
- Concerns that non-compostable wastes are being burnt on site.
- Cheshire East will become a dumping ground for unsorted rubbish outside of the Borough as witnessed by the imports of mixed waste from Blackpool.

APPLICANT'S SUPPORTING INFORMATION

A Supporting Planning Statement dated March 2010 accompanies the application.

OFFICER APPRAISAL

Condition 5; Types of waste – definition of green waste

The original 2004 application sought the composting of green waste for use as a soil improver within the farm unit. Green waste composting was further defined within the application as consisting of garden, park and roadside, including tree trimmings. The application was not for a general commercial compost facility. The condition limiting the type of waste considered suitable attached to that permission was a standard condition that referred to green garden waste. Such a condition has been used on similar sites throughout the County and has not proved contentious elsewhere. The Council, originally the County Council has interpreted the condition as relating to garden type waste irrespective of the wastes source and including as acceptable green material from those locations cited in the original application namely garden, park and roadside.

This condition was not appealed or questioned by the operator, nor have any of the subsequent permissions which have been granted, each contain the same condition. The applicant is now claiming that the wording of the condition does not reflect the permitted use or waste types being imported and has suggested alternative wording through a Section 73 application to vary condition 5 to now read;

“Only those materials identified by the Environment Agency as constituting green waste and specified in the European Waste Catalogue as:

02 01 03 – Plant Tissue Waste

02 01 07 – Waste from Forestry

20 02 01 – Biodegradable Waste

Shall be imported to, deposited, processed or stored at the site.”

Enforcement action was taken against the operator of Whittakers Green Farm because significant quantities of non-green waste were being brought onto the site contrary to the conditions of the relevant permissions. Whilst some of the imported waste may well have been bio-degradable, quantities of non-degradable wastes including, plastic's, foam furnishing, fabric, cans, metal, rubble and glass were also present. Whilst some of this waste has been removed and exported from site, a proportion is shredded and ultimately spread on the land. The bio-degradable element includes animal faeces, food scraps and paper and cardboard often with inks, waxed and plastic coatings. This enforcement case has yet to be finally determined, however, the applicant now seeks to align the definition of acceptable wastes to those being imported.

The above three numbered categories of waste are lifted from the sixteen categories included within the sites license issued by the Environment Agency. However, there are a number of waste types within the above listed categories from the European Waste Catalogue, which from a planning and pollution control point of view would not be considered to be acceptable. The categories include fairly general descriptions of waste types and or sources, for example food processing wastes, horticultural waste, civic amenity waste and parks and garden waste. Such types of waste or sources could consist of a very wide range of wastes, they are ambiguous and certainly do not assist in defining more clearly the type of waste that would be acceptable for on-farm composting. Also within these categories is a general description; green waste, which is exactly the general description the applicant is now seeking to avoid.

Mixed source waste from civic amenity sites, food processors and park bins are likely to contain unacceptable materials that could generate odours, attract vermin and pests and present a health risk. Within the bio-degradable content are likely to be rotting food, animal faeces and quantities of paper and cardboard contaminated with inks, plastics and waxes.

Without considerable refinement the above definition is not acceptable and does little to clarify the wastes that should be accepted on site.

The Association for Organics Recycling, which is the body overseeing the quality and accreditation of compost from sites such as this, considers composts containing contaminants such as cardboard in quantity should only be used for land reclamation and is not suitable for farm application. Application of compost derived from the above categories would appear to be contrary to the farms stated aims of achieving and holding organic farm status.

Cheshire East Council's green/garden waste collection excludes cardboard. Cardboard is collected separately and sent on for recycling. Therefore there should be no cardboard in the source supply to the farm from the local authority and local landscapers. Whilst cardboard and paper should be more sustainably used through recycling schemes, which are higher up the waste hierarchy, clean brown cardboard can form a small useful balancing component in composting, particularly were the primary source of material is wet, for example grass cuttings.

Whilst it is acknowledge that it would be appropriate to amend the wording of the condition to be more defined, it is considered that the wording suggested by the applicant could be more ambiguous, give rise to an unacceptable impact on residential amenity, present health and safety concerns especially with regards to animal faeces and excrement and could result in pollution protection problems.

As noted earlier the present definition has not with the exception of this site proved problematic. It may however be appropriate to condition such permissions with;

Only waste materials consisting of green garden type waste originating from gardens, parks, cemeteries and highway verges, specifically plant tissue including cuttings/trimmings from trees, hedges and shrubs, vegetation including weeds, crops and grass, and also paper and cardboard collected as part of the Local Authority's green kerbside waste bin collection up to a maximum of 5% by volume, but excluding litter bin contents unless pre-sorted, kitchen

waste and wastes including any produce of animal origin, shall be imported to, deposited, processed or stored at the site.

This should provide sufficient clarity for on farm compost facilities.

Condition 6 to allow a contamination level of 5% for imported waste

It is appreciated that the import of green waste into an on-farm composting site is likely to contain from time to time, material that has inadvertently been mixed in and is therefore contrary to condition 5. The odd flower pot, plant label, piece of rubble, crisp packet or drinks bottle are often found within green wastes. None of these items will be compostable and must therefore be removed from the waste and taken off site for appropriate disposal. The present condition 6 covers this eventuality and it is expected that a waste bin or small covered skip is kept on sites for this purpose. Such a small covered regularly emptied bin should satisfy the odour condition required by the Environmental Health Officer.

This condition has been used as a model condition by many waste planning authorities for a considerable time, including all sites in Cheshire East. To date this has not presented any problem.

The applicant seeks the variation of this condition so that a level of contamination is set and the operator knows what level is acceptable and what is not. The operator will then have a clear idea of when the local authority will take enforcement action against the level of contamination. The applicant is seeking a 5% contamination level by tonnage, to be a threshold of acceptance.

As stated above, an enforcement notice was served in January 2009 by Cheshire County Council as it was obvious significant quantities of non-green waste was being brought onto the site in contravention to condition 5, and the amount of waste being sorted and then exported resulted in a change of use to a waste transfer station. The enforcement notice was appealed and evidence prepared and submitted to a hearing.

Some of the photographic evidence used at the appeal will be presented at the meeting, it shows the high proportion of non-compostable waste being brought into the site, it also shows the condition of shredded material, which was not solely green waste, but includes those wastes being applied for by variation of condition 5 above. The County Council considered these levels to be unacceptable as did the Planning Inspector. This evidence is significant because the appellant claimed that the contamination rate was 4.54%; that is less than the 5% now being applied for.

As noted by objectors a 5% level of contamination would equate to half of tonne of unsuitable waste being brought in on every 10 tonne lorry load. There is little confidence that all of the contaminated material would be removed, entailing a high probability that unsuitable and polluting material would be spread over the farm. Objectors have indicated that this is visually obvious already, particularly after the land has been ploughed and prepared for seeding. Even for the material that can be sorted and will be removed from site, the likelihood that vermin and pests will be attracted and odours generated, is significant and likely to adversely affect

residential amenity. The additional sorting will introduce additional activity on site with the likelihood that additional bio-aerosol discharges, visual intrusion, dust, odour and noise would be created.

The sorting of such large quantities of material goes well beyond the simple hand removal envisaged by the existing conditions and constitutes development more appropriate to a waste transfer station, such a facility being unsuitable for open countryside. A view also held by the Planning Inspector.

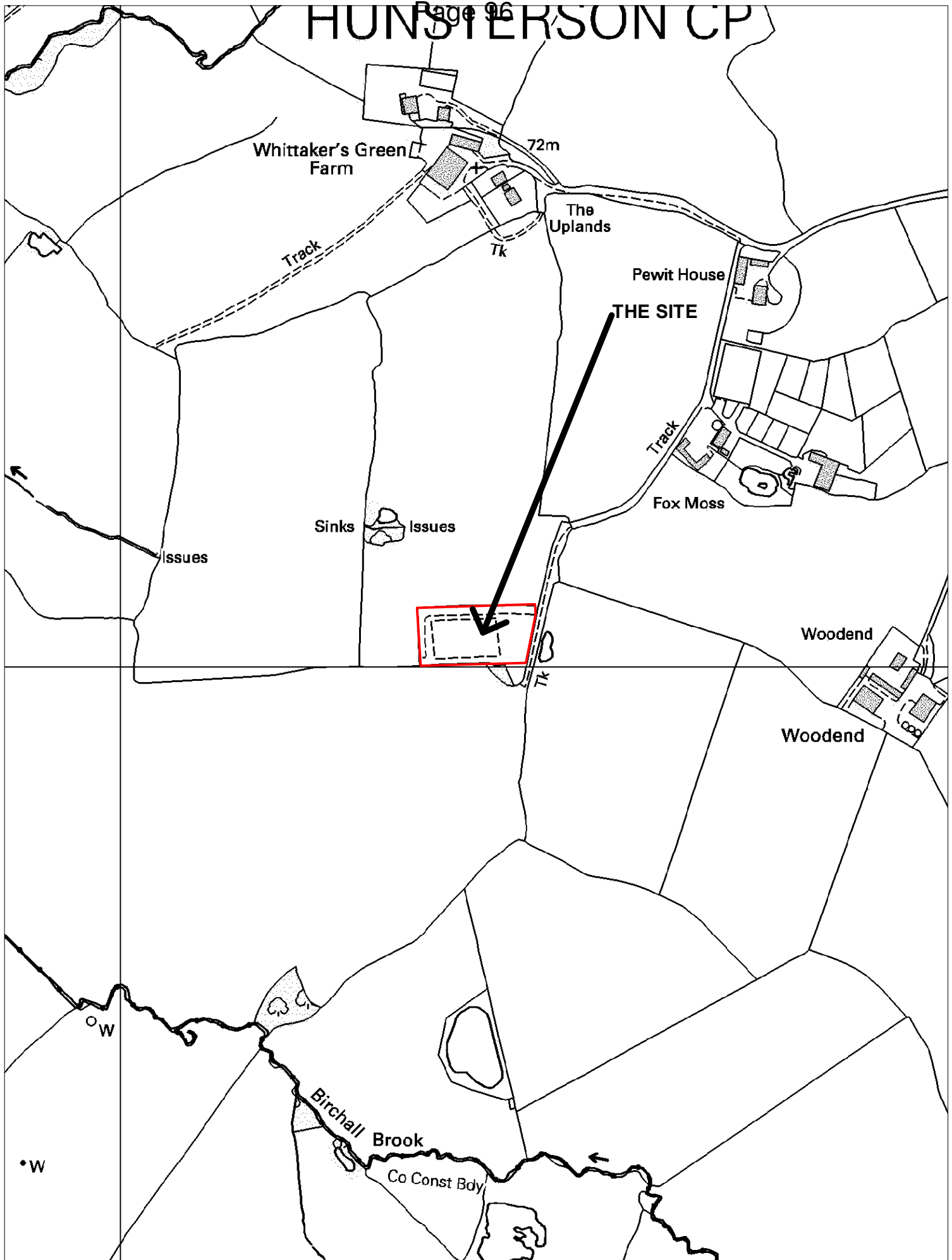
The import of non-green waste and its subsequent export will generate additional and unnecessary traffic movements which will impact on local amenity.

It is your officers view that on-farm compost sites that are selective in terms of suppliers and accept only green garden waste in accordance with their planning permissions should encounter very little unsuitable material. It is considered there is no justification in such circumstances to identify a level of acceptable contamination as this should be virtually nil.

CONCLUSIONS

This application is seeking an amendment to existing conditions that stipulate the type of waste that can be brought onto the site for composting and to identify a level of contamination that is acceptable. The alternative wording suggested by the applicant and based on European Waste Catalogue definitions, reflects the type of waste brought onto the site over the last two years which is the subject of an ongoing enforcement case. The definition includes material and sources that are not considered acceptable for an on-farm composting facility and which are considered likely to cause injury to local amenity. Following considerable discussion an alternative acceptable form of wording to the existing condition 5 is recommended;

It is considered that on-farm composting facilities should be selective in accepting waste onto their sites and that such wastes should strictly adhere to the conditions attached to any planning permission. There should be no contamination of source material and any loads or sources containing contamination should be immediately rejected. The existing condition 6 provides for the occasion when inadvertently items are mixed in with the green waste. It is expected that the quantity of such material will be exceedingly small and it is therefore considered it is not appropriate to set threshold limits of acceptability.



WHITTAKERS GREEN FARM, PEWIT LANE, BRIDGEMERE, CW5 7F

RECOMMENDATION

It is recommended that condition 5 is reworded to more closely define the type of waste acceptable for composting at the site;

Only waste materials consisting of green garden type waste originating from gardens, parks, cemeteries and highway verges, specifically plant tissue including cuttings/trimmings from trees, hedges and shrubs, vegetation including weeds, crops and grass, and also paper and cardboard collected as part of the Local Authority's green kerbside waste bin collection up to a maximum of 5% by volume, but excluding litter bin contents unless pre-sorted, kitchen waste and wastes including any produce of animal origin, shall be imported to, deposited, processed or stored at the site.

Reason: to define the type of waste allowed at the site.

It is further recommended that the existing wording of condition 6 remains unaltered and the submitted amendment is refused.

Reason: the existing and amended condition 5 makes clear the type of waste acceptable on site, the operator should ensure only such waste is imported. Existing condition 6 adequately allows for inadvertent contamination. Allowing a quantity of mixed waste, up to 5% to be imported would have unacceptable impacts on amenity.

This page is intentionally left blank

Planning Reference No:	10/2251N
Application Address:	WHITTAKERS GREEN FARM, PEWIT LANE, BRIDGEMERE, CW5 7PP
Proposal:	Application to Vary Planning Conditions 5 and 6 on Planning Permission 7/2007/CCC/7, in order to vary the description of permitted waste and specify a percentage of contaminated waste allowed.
Applicant:	MR F.H RUSHTON
Application Type:	Variation of Condition
Ward:	DODDINGTON
Constraints:	Open Countryside

Note

The applicant has applied to vary conditions 5 and 6 of planning permission 7/2007/CCC/7. A second identical application to vary the conditions of 7/2009/CCC/1 has also been submitted and appears as a separate item on this agenda.

REASON FOR REPORT

Due to the site area, this application is not considered to be a major waste application; therefore the decision would have been delegated by the Head of Planning and Housing to officers for decision. However, this application has been called in to the Southern Planning Committee by Councillor Walker so that the application can be reported to them for determination.

Councillor Walker provided reason for the call-in; *I believe the Committee should discuss these changes in the light of possible pollution resulting from them (planning policies BE.1 and NE.17).*

Due to the strategic nature of this site, and the high level of public interest, this application has been referred by the Head of Planning and Housing from the Southern Planning Committee to the Strategic Planning Board for determination.

DESCRIPTION OF SITE, CONTEXT AND SITE HISTORY

The application site is an existing green waste composting facility located within the open countryside approximately 8.5 kilometres south east of Nantwich and a kilometre south of Hunsterson. The surrounding countryside is slightly undulating, divided into medium sized fields utilised for arable production. There are a number of isolated properties and farm units widely spaced surrounding the compost site. The nearest residential property; Fox Moss is 230 metres to the north east of the site, with Pewit House a further 200 metres away to the north east. The Uplands lies 440 metres and Whittakers Green Farm is located 470 metres to the north of the

application site. Woodend is 350 metres to the east of the site, and Woodfall Hall Farm is 670 metres to the south west.

Hunsterson Footpath No. 22 lies immediately on the eastern and southern boundary of the compost site.

The site has been operational for approximately five years. The original application (7/P04/0124) granted the use of the land for the composting of green waste on 11th August 2004. The permission enabled the applicant to produce compost for use as a soil improver to assist the farm to become organic. The compost produced as a soil improver and for sole use on the applicant's farm, cannot be exported; this was controlled by condition. The applicant's farm amounts to an 80-hectare farm which is in a nitrate vulnerable zone, which restricts the amount of nitrogen and hence compost which can be applied to the land.

Condition 9 states; only those wastes specified in the application, namely 'green' garden wastes, shall be imported to, deposited, processed or stored at the site.

Condition 10 states; any material contained within the waste deliveries which falls outside of the above description shall be removed from the 'green' waste, and stored in a designated covered container, prior to removal from the site.

Application 7/2006/CCC/11 to vary condition 13 of permission 7/P04/0124 to allow the importation of green waste on Bank Holidays except for Christmas was approved on 6th December 2006. The conditions attached to the initial permission with the exception of pre-commencement conditions which had been satisfied were replicated within this consent. Conditions 9 and 10 above became 5 and 6 on the new consent.

Application 7/2007/CCC/7 to provide an extension to the existing green waste composting facility, doubling the size of the concrete storage pad, was approved on 25th June 2007. Previous conditions were again replicated.

Application 7/2008/CCC/7 to create a new access off Bridgemere Lane and track to join up to existing tracks at Whittaker's Green Farm, and thereby the compost site and hence avoid the use of Pewits Lane, was approved 30th March 2009, subject to a legal agreement regarding routing.

Application 7/2008/CCC/9 for a variation of Condition 14 of permission 7/P04/0124 to increase the green waste vehicle movements from 10 movements to 40 a day was refused permission 7th July 2008.

The decision to refuse was appealed (Appeal ref: APP/A0645/A/08/2080691) and the appeal was dismissed on 27th October 2008. The reasons for the appeal dismissal were that the increase in vehicle movement would generate a level of traffic which would be unsuitable on the local highway network and which would harm the safe movement of traffic on the local roads, and it would also have an unacceptable impact on local communities and the local environment with regards to increased noise and disturbance contrary to Policy 28 of the WLP.

Application 7/2009/CCC/1 was a resubmission to vary Condition 14 of permission 7/P04/0124 to increase the number of vehicle movements, differing from the previously appealed and refused application by including seasonal variations in maximum average vehicle movements, but less vehicles than the refused application, with restricted hours of delivery to avoid school delivery and pick-up times and to encourage an alternative route. The application was approved 11th March 2009.

Application 09/1624W was a retrospective application for the improvement and extension of an existing agricultural track for use in association with agricultural and green waste compost operations at Foxes Bank and Whittakers Green Farm. This permission regularised development that took place to extend the track approved by 7/2008/CCC/7 and to join existing tracks. The application was approved on 21 October 2009.

Enforcement Appeal; APP/Z0645/C/09/2098882

An enforcement notice was served by Cheshire County Council on 30 January 2009, alleging that without planning permission, an unauthorised change of use had occurred in that an unauthorised Waste Transfer Station was being operated on the land in addition to the permitted green garden waste composting activities. Despite the condition limiting the import of waste to 'green' garden wastes, it was apparent a considerable proportion of mixed waste was being brought onto the site.

The operator appealed against this enforcement notice and following a hearing, the appeal was dismissed but time periods for compliance were extended in a decision letter dated 7th October 2009.

The appellant then appealed against the above appeal decision at the high court on 2 November 2009. Part of that appeal was allowed, as the High Court Judge considered that the Inspector had failed to give any or any adequate reasons for her conclusion that a material change had occurred.

For this reason the Inspector's decision should not be allowed to stand and that the decision should therefore be remitted to the Secretary of State. As such, the court has ordered that the appeal should be decided again. This does not necessarily mean that the original decision will be reversed. The current situation is that the decision is open for re-determination under Rule 17 of the Town and Country Planning (Enforcement) (Hearing Procedures) England). This appeal is still lodged with the Planning Inspectorate.

DETAILS OF PROPOSAL

The applicant has applied to vary conditions 5 and 6 of planning permission 7/2007/CCC/7. A second identical application to vary the conditions of 7/2009/CCC/1 has also been submitted and appears as a separate item on this agenda.

Condition 5 of planning permission 7/2007/CCC/7 states that:

“Only those wastes materials specified in the application, namely ‘green’ garden waste, shall be imported to, deposited, processed or stored at the site.”

The applicant seeks to vary Condition 5 to read:

“Only those materials identified by the Environment Agency as constituting green waste and specified in the European Waste Catalogue as:

02 01 03 – Plant Tissue Waste

02 01 07 – Waste from Forestry

20 02 01 – Biodegradable Waste

Shall be imported to, deposited, processed or stored at the site.”

Condition 6 of planning permission 7/2007/CCC/7 states that:

“Any material contained within the waste deliveries which falls outside of the above description shall be removed from the ‘green’ waste, and stored in a designated covered container, prior to removal from the site.”

The applicant seeks to vary Condition 6 to read:

“Any material contained within the waste deliveries which falls outside of those identified in condition 5 above shall be removed and stored in a designated covered container, prior to removal from the site. At any one time these other materials shall not amount to anymore than 5% by tonnage of the total waste materials held on the site.”

POLICIES

The Development Plan comprises of The Cheshire Replacement Waste Local Plan 2007 (CRWLP) and The Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011 (CNLP).

The relevant Development Plan Policies are:

Cheshire Replacement Waste Local Plan (CRWLP)

Policy 1: ‘Sustainable Waste Management’

Policy 2: ‘The Need for Waste Management Facilities’

Policy 12: ‘Impact of Development Proposals’

Policy 14: ‘Landscape’

Policy 17: 'Natural Environment'

Policy 18: 'Water Resource Protection and Flood Risk'

Policy 20: 'Public Rights of Way'

Policy 23: 'Noise'

Policy 24: 'Air Pollution; Air Emissions Including Dust'

Policy 25: 'Litter'

Policy 26: 'Odour'

Policy 28: 'Highways'

Borough of Crewe and Nantwich Adopted Local Plan 2011

BE.1 Amenity

BE.4: Drainage, Utilities and Resources

NE.2 Open Countryside

NE.5 Nature Conservation and Habitats

NE.9 Protected Species

NE.12 Agricultural Land Quality

NE.17: Pollution Control

RT.9: Footpaths and Bridleways

Other Material Considerations

Waste Strategy (2007)

National Planning Policy and Guidance

PPS 1: Delivering Sustainable Development

PPS 7: Sustainable Development in Rural Areas

PPS 9: Biodiversity and Geological Conservation

PPS 10: Planning for Sustainable Waste Management

PPS 23: Planning and Pollution Control

PPG 24: Planning and Noise

CONSULTATIONS (External to Planning)

The Strategic Highways and Transport Manager has not raised an objection to the proposal as it can be accommodated within the vehicle numbers (20) permitted to use the site daily.

The Borough Council's Environmental Health Officer notes that the requested categories of waste have the potential to contain animal and food wastes and that these are not acceptable and should not be imported into the site. The only acceptable wastes on the site should comprise wood and plant tissue. Concerns raised about the potential of odour and vermin should not arise if animal and food waste is not composted, or imported into the site. Nevertheless a specific condition to control odours from non-compostable material should be added if this is not controlled by other conditions.

The Public Rights of Way Unit does not object to the proposal. The property is adjacent to Public Footpath Hunsterson No. 22 as recorded on the Definitive Map. It appears unlikely that the proposal would interfere with the public right of way. However, should planning permission be granted, the Public Right of Way Unit requests an informative to be attached to any decision notice, listing the developers' obligations with regards to the public footpath.

The Environment Agency has no objection to the variation of conditions 5 and 6 of planning permission 7/2009/CCC/1. Additional comments were sought from the Environment Agency Officer responsible for permitting the site to provide comments with regards to the European Waste Catalogue Codes suggested by the applicant. The EA consider that the waste that is received under these codes would need to satisfy each part of the description, i.e. the waste would have to sit comfortably under each of the three individual 'sections' of the code break down. The codes used under the EA 'Standard permit' issued to the application have been decided nationally, and are therefore deemed acceptable for a composting site to receive, so these may be a good starting point when addressing the code changes on the existing planning permission.

VIEWS OF THE PARISH / TOWN COUNCIL

Doddington and District Parish Council object to the application. They highlight the ongoing concerns of the residents of the Parish which include the detrimental effect the composting site has had on the local area. Their principle concerns have been the hazards of increased heavy traffic going to and from the site, and the detrimental effect on the local environment, particularly the impact of the importation of large quantities of non-compostable material.

Hatherton and Walgherton Parish Council object to the application. There is particular concern around the increased heavy traffic on local roads, which would be necessary to remove the additional waste received on site. The Parish Council consider that the site is becoming more like a waste transfer site than the type of operation that was approved in the original application.

OTHER REPRESENTATIONS

26 letters of objection from local residents have been received expressing concerns towards this application.

The main issues which are raised include:

- The application is seeking to do what the Planning Inspector into the recent Enforcement Appeal found unacceptable. In fact the 5% contamination level applied for is greater than the 4.5% claimed to be on site during the appeal, and shown in the photo evidence.
- Prematurity based on the fact that the enforcement appeal proceedings have not yet been decided as the enforcement appeal is back in the hands of the Planning Inspectorate for redetermination
- The proposal would change the use and scale of the development which is currently permitted for on farm composting to a larger industrial waste transfer station operation which is unsuitable for this location;
- It is intolerable that applications and appeals have allowed this situation to drag on for 2 years;
- Permitting more non-compostable waste would lead to more heavy goods vehicles on local country roads as a result of importing and then removing the non-compostable waste off site;
- 5% of non-compostable waste is too much; in a typical 10 tonne green garden waste collection vehicle 5% would amount to ½ a tonne of 'landfill' material, such a level of contamination is not acceptable;
- Creating a landfill in the open countryside with no environmental controls;
- A 5% limit would be difficult to control and enforce;
- The vast amount of contaminated material is not removed, instead it is shredded and included in the compost resulting in contaminating the land once it is spread;
- There are significant health and environmental risks associated with accepting non-compostable waste (landfill material) which have not been assessed in the application;
- Contrary to the development plan and policies in the CRWLP;
- Cardboard is considered by the EA to be compostable but in food packaging such as pizza cartons often food remains attracting vermin and flies to the site also resulting in malodours waste, no odour management plan is proposed.
- Setting a precedent over other composting site across Cheshire as none of them have these conditions
- The application would have an adverse impact on residential amenity putting an intolerable burden on the roads which are inadequate for the increase traffic this would involve;
- Concerns that non-compostable wastes are being burnt on site.
- Cheshire East will become a dumping ground for unsorted rubbish outside of the Borough as witnessed by the imports of mixed waste from Blackpool.

APPLICANT'S SUPPORTING INFORMATION

A Supporting Planning Statement dated March 2010 accompanies the application.

OFFICER APPRAISAL

Condition 5; Types of waste – definition of green waste

The original 2004 application sought the composting of green waste for use as a soil improver within the farm unit. Green waste composting was further defined within the application as consisting of garden, park and roadside, including tree trimmings. The application was not for a general commercial compost facility. The condition limiting the type of waste considered suitable attached to that permission was a standard condition that referred to green garden waste. Such a condition has been used on similar sites throughout the County and has not proved contentious elsewhere. The Council, originally the County Council has interpreted the condition as relating to garden type waste irrespective of the wastes source and including as acceptable green material from those locations cited in the original application namely garden, park and roadside.

This condition was not appealed or questioned by the operator, nor have any of the subsequent permissions which have been granted, each contain the same condition. The applicant is now claiming that the wording of the condition does not reflect the permitted use or waste types being imported and has suggested alternative wording through a Section 73 application to vary condition 5 to now read;

“Only those materials identified by the Environment Agency as constituting green waste and specified in the European Waste Catalogue as:

02 01 03 – Plant Tissue Waste

02 01 07 – Waste from Forestry

20 02 01 – Biodegradable Waste

Shall be imported to, deposited, processed or stored at the site.”

Enforcement action was taken against the operator of Whittakers Green Farm because significant quantities of non-green waste were being brought onto the site contrary to the conditions of the relevant permissions. Whilst some of the imported waste may well have been bio-degradable, quantities of non-degradable wastes including, plastic's, foam furnishing, fabric, cans, metal, rubble and glass were also present. Whilst some of this waste has been removed and exported from site, a proportion is shredded and ultimately spread on the land. The bio-degradable element includes animal faeces, food scraps and paper and cardboard often with inks, waxed and plastic coatings. This enforcement case has yet to be finally determined, however, the applicant now seeks to align the definition of acceptable wastes to those being imported.

The above three numbered categories of waste are lifted from the sixteen categories included within the sites license issued by the Environment Agency. However, there are a number of waste types within the above listed categories from the European Waste Catalogue, which from a planning and pollution control point of view would not be considered to be acceptable. The categories include fairly general descriptions of

waste types and or sources, for example food processing wastes, horticultural waste, civic amenity waste and parks and garden waste. Such types of waste or sources could consist of a very wide range of wastes, they are ambiguous and certainly do not assist in defining more clearly the type of waste that would be acceptable for on-farm composting. Also within these categories is a general description; green waste, which is exactly the general description the applicant is now seeking to avoid.

Mixed source waste from civic amenity sites, food processors and park bins are likely to contain unacceptable materials that could generate odours, attract vermin and pests and present a health risk. Within the bio-degradable content are likely to be rotting food, animal faeces and quantities of paper and cardboard contaminated with inks, plastics and waxes.

Without considerable refinement the above definition is not acceptable and does little to clarify the wastes that should be accepted on site.

The Association for Organics Recycling, which is the body overseeing the quality and accreditation of compost from sites such as this, considers composts containing contaminants such as cardboard in quantity should only be used for land reclamation and is not suitable for farm application. Application of compost derived from the above categories would appear to be contrary to the farms stated aims of achieving and holding organic farm status.

Cheshire East Council's green/garden waste collection excludes cardboard. Cardboard is collected separately and sent on for recycling. Therefore there should be no cardboard in the source supply to the farm from Cheshire East Council or from local landscapers. Whilst cardboard and paper should be more sustainably used through recycling schemes, which are higher up the waste hierarchy, clean brown cardboard can form a small useful balancing component in composting, particularly where the primary source of material is wet, for example grass cuttings.

Whilst it is acknowledged that it would be appropriate to amend the wording of the condition to be more defined, it is considered that the wording suggested by the applicant could be more ambiguous, give rise to an unacceptable impact on residential amenity, present health and safety concerns especially with regards to animal faeces and excrement and could result in pollution protection problems.

As noted earlier the present definition has not with the exception of this site proved problematic. It may however be appropriate to condition such permissions with

Only waste materials consisting of green garden type waste originating from gardens, parks, cemeteries and highway verges, specifically plant tissue including cuttings/trimmings from trees, hedges and shrubs, vegetation including weeds, crops and grass, and also paper and cardboard collected as part of the Local Authority's green kerbside waste bin collection up to a maximum of 5% by volume, but excluding litter bin contents unless pre-sorted, kitchen waste and wastes including any produce of animal origin, shall be imported to, deposited, processed or stored at the site.

This should provide sufficient clarity for on farm compost facilities.

Condition 6 to allow a contamination level of 5% for imported waste

It is appreciated that the import of green waste into an on-farm composting site is likely to contain from time to time, material that has inadvertently been mixed in and is therefore contrary to condition 5. The odd flower pot, plant label, piece of rubble, crisp packet or drinks bottle are often found within green wastes. None of these items will be compostable and must therefore be removed from the waste and taken off site for appropriate disposal. The present condition 6 covers this eventuality and it is expected that a waste bin or small covered skip is kept on sites for this purpose. Such a small covered regularly emptied bin should satisfy the odour condition required by the Environmental Health Officer.

This condition has been used as a model condition by many waste planning authorities for a considerable time, including all sites in Cheshire East. To date this has not presented any problem.

The applicant seeks the variation of this condition so that a level of contamination is set and the operator knows what level is acceptable and what is not. The operator will then have a clear idea of when the local authority will take enforcement action against the level of contamination. The applicant is seeking a 5% contamination level by tonnage, to be a threshold of acceptance.

As stated above, an enforcement notice was served in January 2009 by Cheshire County Council as it was obvious significant quantities of non-green waste was being brought onto the site in contravention to condition 5, and the amount of waste being sorted and then exported resulted in a change of use to a waste transfer station. The enforcement notice was appealed and evidence prepared and submitted to a hearing.

Some of the photographic evidence used at the appeal will be presented at the meeting, it shows the high proportion of non-compostable waste being brought into the site, it also shows the condition of shredded material, which was not solely green waste, but includes those wastes being applied for by variation of condition 5 above. The County Council considered these levels to be unacceptable as did the Planning Inspector. This evidence is significant because the appellant claimed that the contamination rate was 4.54%; that is less than the 5% now being applied for.

As noted by objectors a 5% level of contamination would equate to half of tonne of unsuitable waste being brought in on every 10 tonne lorry load. There is little confidence that all of the contaminated material would be removed, entailing a high probability that unsuitable and polluting material would be spread over the farm. Objectors have indicated that this is visually obvious already, particularly after the land has been ploughed and prepared for seeding. Even for the material that can be sorted and will be removed from site, the likelihood that vermin and pests will be attracted and odours generated, is significant and likely to adversely affect residential amenity. The additional sorting will introduce additional activity on site with the likelihood that additional bio-aerosol discharges, visual intrusion, dust, odour and noise would be created.

The sorting of such large quantities of material goes well beyond the simple hand removal envisaged by the existing conditions and constitutes development more appropriate to a waste transfer station, such a facility being unsuitable for open countryside. A view also held by the Planning Inspector.

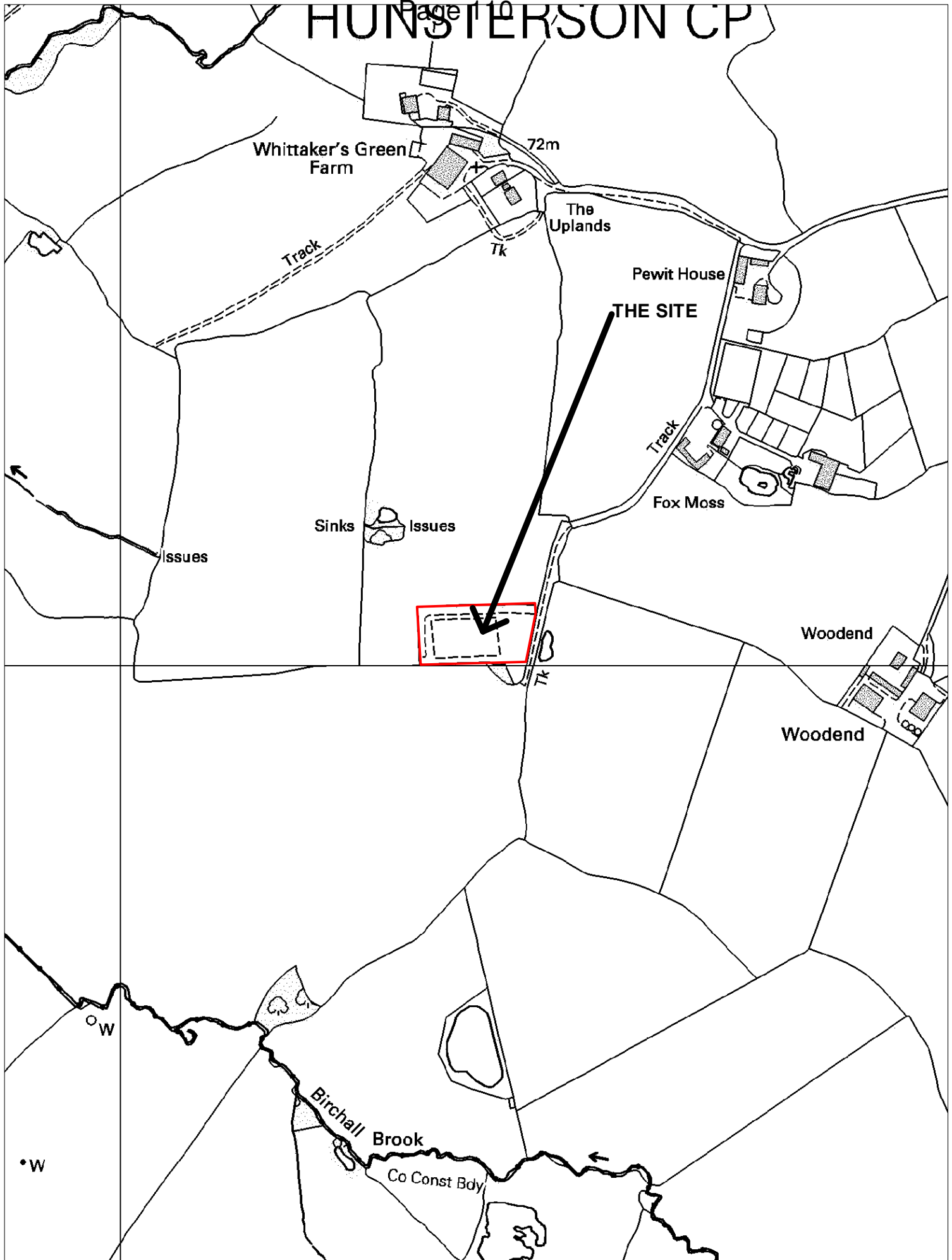
The import of non-green waste and its subsequent export will generate additional and unnecessary traffic movements which will impact on local amenity.

It is your officers view that on-farm compost sites that are selective in terms of suppliers and accept only green garden waste in accordance with their planning permissions should encounter very little unsuitable material. It is considered there is no justification in such circumstances to identify a level of acceptable contamination as this should be virtually nil.

CONCLUSIONS

This application is seeking an amendment to existing conditions that stipulate the type of waste that can be brought onto the site for composting and to identify a level of contamination that is acceptable. The alternative wording suggested by the applicant and based on European Waste Catalogue definitions, reflects the type of waste brought onto the site over the last two years which is the subject of an ongoing enforcement case. The definition includes material and sources that are not considered acceptable for an on-farm composting facility and which are considered likely to cause injury to local amenity. Following considerable discussion an alternative acceptable form of wording to the existing condition 5 is recommended;

It is considered that on-farm composting facilities should be selective in accepting waste onto their sites and that such wastes should strictly adhere to the conditions attached to any planning permission. There should be no contamination of source material and any loads or sources containing contamination should be immediately rejected. The existing condition 6 provides for the occasion when inadvertently items are mixed in with the green waste. It is expected that the quantity of such material will be exceedingly small and it is therefore considered it is not appropriate to set threshold limits of acceptability.



WHITTAKERS GREEN FARM, PEWIT LANE, BRIDGEMERE, CW5 7F

RECOMMENDATION

It is recommended that condition 5 is reworded to more closely define the type of waste acceptable for composting at the site;

Only waste materials consisting of green garden type waste originating from gardens, parks, cemeteries and highway verges, specifically plant tissue including cuttings/trimmings from trees, hedges and shrubs, vegetation including weeds, crops and grass, and also paper and cardboard collected as part of the Local Authority's green kerbside waste bin collection up to a maximum of 5% by volume, but excluding litter bin contents unless pre-sorted, kitchen waste and wastes including any produce of animal origin, shall be imported to, deposited, processed or stored at the site.

Reason: to define the type of waste allowed at the site.

It is further recommended that the existing wording of condition 6 remains unaltered and the submitted amendment is refused.

Reason: the existing and amended condition 5 makes clear the type of waste acceptable on site, the operator should ensure only such waste is imported. Existing condition 6 adequately allows for inadvertent contamination. Allowing a quantity of mixed waste, up to 5% to be imported would have unacceptable impacts on amenity.

This page is intentionally left blank

STRATEGIC PLANNING BOARD

Date of Meeting: 15th September 2010

**Report of: Deborah Ackerley Principal Planning Officer (Enforcement)
Cheshire East Borough Council.**

Title: Update Report on Planning Enforcement Performance

1.0 Purpose of Report

- 1.1** To inform Members of the details of existing live Enforcement Notices/enforcement action carrying on from the last update report put before Members of the Strategic Planning Board on 23 December 2009.
- 1.2** Table 1 of this report details all existing cases where Notices have or are due to be issued or where legal action is pending or has been through the courts since the last report.
- 1.3** Table 2 details the number of enforcement enquiries received since the last report; the number of cases closed; and the numbers and type of Notices issued. It also details the team's performance as per the Local Performance Indicators set out in the Council's adopted Enforcement Protocol i.e. numbers of site visits undertaken within the prescribed timescales.

2.0 Performance Reporting

- 2.1** Enforcement Officers currently have to work using four different enforcement computer data bases inherited from the legacy authorities. Given the apparent vagaries of the Oracle data base and licensing arrangements it appears not to be possible for each officer to have access to all systems. Consequently this significantly hinders cross borough working and officers, in the main, are restricted to dealing with cases within their legacy authority boundaries.
- 2.2** This, accompanied with the loss of a member of the team, has resulted in extreme pressure being placed on already limited resources. However, every effort is being made to respond to complaints in accordance with the timescales set out in the adopted Enforcement Protocol.
- 2.3** Progress is being made on the transition to the Swift computer system. This should allow greater cross borough working and allow for more detailed statistical reports to be put before Members.

- 2.4** It is anticipated that the Swift system should be in use for enforcement early in the New Year.

3.0 Future Reporting Procedures

- 3.1** It was previously recommended that an update report be presented to the Strategic Planning Board on a quarterly basis. On reflection it is suggested that a bi-annual report would be more appropriate taking into account the timescale for appeals to be decided and matters to progress through the courts. It is clear from Table 1 that the majority of Enforcement Notices issued result in an appeal. The appeal process, on average takes approximately 6 months. A further point worthy of note is that the compliance period of many notices is greater than 3 months.

4.0 Recommendation

- 4.1** That Members receive this report and also confirm the proposed future reporting procedures as recommended in paragraph 3.1 above.

For further information:

*Portfolio Holder: Jamie Macrae
Officer: Deborah Ackerley
Tel: No. 01279 537441*

Table 1: Planning Enforcement Notices - Cheshire East Borough Council

Site Address	Breach	Type of Notice	Current Status
Land at Carr Lane, Chorley	Steel structure clad in blue corrugated sheeting	Enforcement Notice	Enforcement Notice served. Appeal dismissed. High Court challenge to appeal decision dismissed. Planning Permission 02/2280P granted subject to conditions for retention of building with new facing and roofing materials. Appeal against imposition of conditions in relation to the timing of implementation allowed. Legal proceedings against non compliance with Enforcement Notice deferred to allow for implementation of planning permission 02/2280P. Planning permission expired on 08/01/2008. Direct Action to demolish the building now being considered.
Land at Carr Lane, Chorley	(1) Hardstanding (2) Use of land for stationing of caravan and Portacabins for residential and non agricultural storage	Enforcement Notice	Enforcement Notice served. Appeal dismissed. No compliance. Prosecution commenced but withdrawn due to legal advice regarding nature of respondents defence. Opportunity for any successful legal action is dependant on change in owner's financial circumstances.
Lindow End Smithy, Edge View Lane, Chorley	Erection of building	Enforcement Notice	Enforcement Notice served. Appeal dismissed. Building demolished and concrete slab removed. CASE CLOSED.
Styal Moss Nursery, Moss Lane, Styal	Unauthorised use of land for airport parking	Enforcement Notice	Enforcement Notice served. Appeal lodged 12/10/06. Public Local Inquiry held 12 and 13 February 2008. Appeal dismissed 10/03/08. Successful High Court challenge 2009. Awaiting date for appeal to be re-heard.
Lode Hill, Altrincham Road, Styal, Wilmslow	Unauthorised use of land for commercial parking (airport parking)	Enforcement Notice	Enforcement Notice served. Appeal lodged 12/02/08. Appeal part allowed and part dismissed (use allowed to continue, but hardstanding to be removed). Planning Inspectorate made typing error in their formal Decision Letter which may result in the Council being unable to pursue compliance. Legal advice being sought.
Lindow End Smithy, Edge View Lane, Chorley	Change of use of land from industrial to residential including the siting of residential caravans, greenhouses, shed, meter housing and other domestic paraphernalia	Enforcement Notice	Enforcement Notice served. Appeal lodged 08/04/08. Appeal Dismissed 07/01/09, Notice upheld. Notice complied with. CASE CLOSED.
Croker Farm, Sutton	Unauthorised building	Enforcement Notice	Continued non-compliance with Enforcement Notice. Two prosecutions for non-compliance. On each occasion owner fined £250 and ordered to pay £250 costs. Planning application to retain as replacement dwelling refused. Appeal lodged and dismissed. Considering further prosecution but this will not secure removal of the building.
Deans Farm, Congleton Road, Gawsworth	Formation of hardstanding and storage of caravans	Enforcement Notice	Caravans removed several years ago but a small area of hardstanding remained. Enforcement Notice was aimed at caravan storage use, with hardstanding being a secondary issue. It is no longer expedient to pursue the removal of the hardstanding. CASE CLOSED.

1 Putty Row, Macclesfield Road, Eaton	Erection of front porch, boundary wall, railings and gates	Enforcement Notice	Enforcement Notice served. No appeal. Partial compliance with Notice. Porch not removed. Decision required as to whether to pursue removal of porch through legal proceedings.
Hollands Nursery, Maley Pole Farm, Congleton Road, Gawsorth	Breach of planning condition that required removal of building	Breach of Condition Notice	Breach of Condition Notice served (no right of appeal). Not complied with. Legal Department instructed to commence prosecution, but property was about to change hands which would have made prosecution no longer possible. Sale was never completed. Planning application 10/1711M approve July 2010 for redevelopment of the site for Lodge Park which will regularise the breach. Site unoccupied as Nursery has closed down.
Robins Cob, Fanshawe Lane, Henbury	Unauthorised detached garage and extension to dwelling	2 x Enforcement Notices	Two Enforcement Notices Served (Notice A - Garage and Notice B - Extensions). Appeals Lodged against both Notices. Inspector upheld Notice A and quashed Notice B. Time for compliance with Notice A extended to 12 months. Notice A complied with. CASE CLOSED.
Jarmans Farm, Over Alderley	Unauthorised boundary wall	Enforcement Notice	Enforcement Notice served. Appeal lodged. Appeal dismissed. No compliance. Negotiations ongoing in relation to acceptable modifications before further planning application submitted.
3 Georges Road West, Poynton	Unauthorised erection of two storey side extension	Enforcement Notice	Enforcement Notice served. Appeal lodged 3/12/2007. Appeal dismissed 31/03/08. Notice not complied with. Owners successfully prosecuted 26/08/09. Enforcement Notice substantially complied with. CASE CLOSED.
Land at Swanscoe Lane, Higher Hurdsfield, Macclesfield	Unauthorised erection of two buildings and an area of hardstanding	Enforcement Notice	Enforcement Notice served. Appeal lodged 27/05/08. Appeal dismissed 13/05/09. No ground a) appeal lodged and so planning merits not dealt with. Subsequently submitted planning application to retain development but was refused on 07/05/10. Owner has stated his intention to appeal. Appeal deadline in 07/11/10. Legal advice being sought regarding legal action for non compliance with Enforcement Notice.
Stable Cottage, Mereside Road, Mere	Unauthorised single storey link extension	Enforcement Notice	Enforcement Notice has been complied with. CASE CLOSED
Crabtree Farm, Crabtree Lane, High Legh	Unauthorised change of use of land, formation of ménage and erection of buildings	Enforcement Notice	Enforcement Notice served. Appeal part dismissed and part allowed. Planning permission 08/1575P granted in 2008 for a modified version of one of the buildings and part of hardstanding. Enforcement Notice has been complied with. CASE CLOSED
Breach Cottage, Breach House Lane, Mobberley	Construction of an unauthorised building	Enforcement Notice	Enforcement Notice served. Appeal lodged 05/12/07. Appeal dismissed and Notice upheld in relation to the building that was the subject of the Enforcement Notice, however planning permission granted for the building as it existed as the time of the Public Inquiry (the building was reduced in size shortly before Public Inquiry). The Council was challenging the appeal decision in the High Court, but later withdrew proceedings. CASE CLOSED.
Maple Farm, Paddock Hill, Mobberley	Construction of an unauthorised building	Enforcement Notice	Enforcement Notice served. Appeal lodged 21/12/07. Appeal dismissed 08/01/09. Compliance due 08/04/09. Modified building granted planning permission on 23/12/09. CASE CLOSED.
1 Pear tree Cottage, Paddock Hill, Mobberley	Construction of unauthorised building	Enforcement Notice	Enforcement Notice served. Appeal lodged 28/12/2007. Appeal allowed 05/01/2009. Notice quashed. CASE CLOSED
Mere End Cottage, Mereside Road,	Unauthorised erection of	Enforcement Notice	Enforcement Notice served. Appeal lodged 29/04/08. Appeal part allowed

Mere, Knutsford	dwellinghouse and detached garage		part dismissed February 2009 – Garage allowed to remain but dwelling to be demolished. Planning permission granted in March 2009 for modified dwelling. Planning permission 09/2837M requesting amendments to previously approved scheme submitted September 2009 but still awaiting determination. Dwelling remains unoccupied.
Land at Spinks Lane, Pickmere	Unauthorised MCU of land for agricultural use to the siting of residential and touring caravans etc	Enforcement Notice	Notice served 31/03/0. Appeal Lodged 29/04/09. Appeal dismissed 16/11/09. Compliance due 11/03/11.
Land of Prestbury Road, Macclesfield	Unauthorised shipping container, hardstanding and fencing	Enforcement Notice	Notice served 07/07/09, Appeal Lodged 28/07/09. Appeal dismissed 16/11/09. Compliance Due Date 16/05/2010. Enforcement Notice mostly complied with, full compliance expected shortly.
White Peak Alpaca Farm, Paddock Hill, Mobberley	Unauthorised erection of a dwelling and laying of hardstanding	Enforcement Notice	Notice served 10/12/09. Appeal lodged 04/01/10. Appeal dismissed 16/07/10. Compliance due 16/07/11.
Fairview, Stannylands Road, Wilmslow	Unauthorised airport parking	Enforcement Notice	Notice being drafted
Rose Cottages, 51 Moss Lane, Styal	Unauthorised airport parking	Enforcement Notice	Notice being drafted
Newhall Farm, Stocks Lane, Over Peover	Unauthorised use of land for helicopter and erection of hanger with landing pad	Enforcement Notice	Notice being drafted
PSS Nursery, 9 Lees Lane, Newton, Macclesfield	Unauthorised change of use of land from nursery to garden centre with café and erection of associated buildings	Enforcement Notice	Notice being drafted
Land off Groby Road, Crewe	Unauthorised skip hire	Enforcement Notice	Lawful Use application for use of site for operation of skip hire (Ref P04/1614) was refused 31/03/05. Correspondence from owner regarding the submission of a further Lawful Use application. In December 07 an appeal against the refusal of the lawful use application was received. Appeal Inquiry was scheduled for 23/09/08 but the appeal was withdrawn. An application for lawful use in respect of a smaller area of land has been received and is under consideration.
Plum Tree Moorings, Nantwich Road, Wrenbury Heath	Unauthorised change of use to permanent moorings and unauthorised engineering works – construction of retaining wall	Enforcement Notice	Appeal made against Notice. Appeal hearing held 28/06/08. Appeal dismissed and Notice upheld. 12 months given within which to comply with the Notice. Correspondence with the Planning Inspectorate for clarification on decision. Residential use has ceased. Ongoing negotiations with regards to an amended scheme for the retaining wall.
39 Welsh Row, Nantwich	Unauthorised alterations to a listed building	Enforcement Notice	Appeal made against Notice. Inspector dismissed Appeal and upheld Notice. 2 months given within which to comply with the Notice. Site visit on 20/12/07 shows Notice not complied with. Matter passed to Legal Services. Legal In dialogue with the owner. Date for compliance extended to 6 th February 2009. Notice has been complied with. CASE CLOSED

4 Bridge House Farm, Baddington Lane, Nantwich	Unauthorised extension	Enforcement Notice	Appeal lodged. Planning Inspector upheld the notice and extended the date for compliance to 23/02/08. Planning permission granted for a smaller extension to be implemented within 1 year therefore, applicant had until 07/03/09 to implement the permission. Permission now implemented. CASE CLOSED
Land off Waldrons Lane, Coppenhall, Crewe	Unauthorised engineering works – track and parking	Enforcement Notice	Planning application was refused; a 2 nd application was also refused. An appeal against the Enforcement Notice was part allowed (access track Chapel Lane and glass houses) and part dismissed mobile home and access track from Waldron Lane). Further visit required to check compliance.
Haycroft Farm, Peckforton Hall Lane, Spurstow	Unauthorised operational development and engineering works	Enforcement Notice	Appeal dismissed. The Enforcement Notice is not currently being complied with; however there has been a recent, positive, meeting with the owners' representative.
Land at Swallow Farm, Elton Lane, Winterley	Unauthorised siting of mobile home unit and wooden structure	Enforcement Notice	A Planning application has been submitted for residential occupation on site and the application refused in September 2009. Occupier has moved from the site. Notice complied with. CASE CLOSED
Oakhanger Equestrian Centre, Oakhanger	Unauthorised repairs/adaptations to motor vehicles	Enforcement Notice	Appeal lodged to be dealt with by written representation. Appeal dismissed and notice upheld. Further complaints regarding noise disturbance have been received although recent site visits have not revealed any evidence of the notice being breached. This remains under investigation.
Land at Wybunbury Lane, Stapeley	Unauthorised engineering works and siting of 3 caravans	Temporary Stop Notice	Temporary Stop Notice expired
Land at Wybunbury Lane, Stapeley	Unauthorised engineering works, change of use from agricultural to residential and siting of 3 caravans.	Stop Notice	
Land at Wybunbury Lane, Stapeley	Unauthorised engineering works, change of use from agricultural to residential and siting of 3 caravans.	Enforcement Notice	Appeal upheld and planning permission granted subject to conditions. Conditions complied with. CASE CLOSED
153 Wistaston Road, Crewe	Construction of railings on single storey extension	Enforcement Notice	Notice Served 25/06/09. Notice took effect: 29/07/09. Notice partially complied with, subject to receipt of an application for the construction of first floor railings around roof of single storey extension. Site visit/re-assessment to be undertaken.
Land at Sunnyside Farm, Peckforton Hall Lane, Spurstow	Unauthorised formation of concrete base and erection of wooden stable thereon	Enforcement Notice	Notice issued and served 30/11/09. Notice took effect on 28/12/09. Three months given to remove stable and base and leveling and seeding of footprint to match immediately surrounding land. Notice complied with. CASE CLOSED.
New Start Park, Wettenhall Road, Poole	Unauthorised change of use from agricultural to a mixed use for agriculture and a caravan park.	2 x Temporary Stop Notices Enforcement Notice Drafted	Issued December 2009. Injunction issued December 2009 to prevent further caravans being brought onto the site. Planning application refused. Appeal lodged. Further planning application submitted. Enforcement Notice drafted and currently with Legal Services.
Horseshoe Farm, Warmingham Lane, Warmingham	Unauthorised change of use from keeping horses to a mixed	Enforcement Notice	The enforcement appeal was dismissed and planning permission granted with conditions, the conditions have not been complied with therefore the

	use for the keeping of horses/stationing of caravans/mobile homes and associated works and structures		expediency of further enforcement action in relation the breach of conditions is to be considered alongside the failure to meet the requirements of the enforcement notice in relation to land outside the red line of the application. However, a further planning application for an extension to the site previously permitted on appeal was submitted and refused. Negotiations ongoing with regards to submission of a further application for the site.
Oakotis Heath Road, Sandbach	Unauthorised stationing of caravans and unauthorised creation of hard standing.	Enforcement Notice	Enforcement Notices were issued against both breaches of planning control and the period for compliance has now lapsed. Further action is therefore now anticipated, this will take the form of prosecution in the Magistrates Court in the first instance a report has been prepared seeking the relevant authority in February 2009, in September additional information was requested via the Head of Planning and Policy, this was provided at the end of September, that report remains with the Head of Planning and Policy. One caravan, hardstanding and amenity building remain on site, further report produced seeking authority to prosecute along with witness statement, all currently with Legal Services. Summons issued by Court first hearing due in September.
Owls Hoot, Blackden Lane, Goostrey	Unauthorised erection of a dwelling, double garage and boundary wall, gate piers and gates.	Enforcement Notice	Separate Enforcement Notices have been issued in relation to the dwelling, garage and boundary walls each Notice requires demolition of the structure detailed. An appeal was lodged only that Notice which relates to the dwelling, the appeal was dismissed and the notice, which requires demolition of the dwelling, was due to be demolished by 23/11/09 the remaining Notices should also have been complied with. An application for a replacement dwelling approved. Officers in contact with site owners regarding demolition of existing unauthorised dwelling.
Ye Old Kings Arms, Congleton	Unauthorised works to a listed building	N/A	The property is a grade II listed building and the exterior of the premises has been painted without the necessary listed building consent, i.e. the plaster in fill panels and the timber. Criminal investigations were undertaken and three people were interviewed under caution. Appropriate remedial works to the building were explored to ensure the integrity of the building was not further compromised. A Listed Building Enforcement Notice was issued on 11/11/09. Notice has now been complied with. CASE CLOSED.
56 Crewe Road, Alsager	Take-away premises operating outside its permitted hours	Enforcement Notice	Appeal against the Enforcement Notice dismissed on 9 th June 2009. The Notice has not been complied with and a report was sent to the Director of Places on 24 September 2009 seeking authority to prosecute, confirmation of authority is still awaited at the time this report is being prepared. Evidence is now likely to be out of date, further investigation required to ascertain whether Notice is still being breached.
30 Lime Close, Sandbach	Unauthorised erection of a front dormer window	Enforcement Notice	The Notice was appealed and the appeal dismissed. The requirements of the Notice have not been met and a report is to be produced considering appropriate further action.
4 Model Cottages, Cranage	unauthorised change of use of residential premises to a mixed	Enforcement Notice	The Notice was appealed and the appeal was heard at a Public Inquiry in 2008. The appeal was dismissed, however, the appellant applied for judicial

	residential and commercial use		review, the appellant did not attend the hearing and leave to appeal was not granted. Owners and occupier of property successfully prosecuted for failure to comply with Notice. Further ad hoc visits will be carried out to ensure continued compliance with the Notice.
28 Kendal Court, Congleton	property which has been allowed to fall into a state of disrepair so much so that it is considered to have an adverse impact on the visual amenity of the area.	S215 Notice	A S215 (Untidy Site) Notice has been issued and was due for compliance by the end of February 2009. The requirements of the notice have not been met; the owner was convicted of failing to comply with the Notice in Crewe Magistrates Court. A further report is to be prepared considering the expediency of carrying out works in default.
4 Nidderdale Close, Congleton	Unauthorised raised decking	Enforcement Notice	Retrospective planning permission has been refused for raised decking and an enforcement notice has been issued. Appeals against both the refusal of planning permission and the enforcement notice were dismissed. The Notice has not been complied with in full however it is anticipated that a further application for amended scheme approved. CASE CLOSED
Land North of Pedley Lane, Timbersbrook	Unauthorised change of use from and agricultural use to a recreational and education use.	Enforcement Notice	Enforcement Notice issued and appealed. Appeal dismissed 3007/10. Compliance due 30 March 2011.
School Farmhouse, Walnut Tree Lane, Bradwall	Unauthorised outbuilding in cartilage of listed building	Enforcement Notice	Planning permission refused, Notice drafted, amended retrospective application refused. Building allowed on appeal. CASE CLOSED
86 Crewe Road, Alsager	Non-compliance with hours of operation condition	Enforcement Notice	Enforcement Notice due for compliance mid December 09, further monitoring to take place to ascertain compliance.
Betchton Cottage Farm	Unauthorised change of use from agricultural land to use in association with a skip hire business and laying of hardcore	Enforcement Notice	Enforcement Notice drafted, refusal of planning permission appealed, appeal upheld and planning permission granted. CASE CLOSED
Beechcroft, Newcastle Road, Smallwood	Unauthorised change of use for residential property to a mixed residential and commercial use.	Enforcement Notice	Notice issued 05/02/10 and due for compliance 19/09/10.
Land at Corner of Twemlow Lane, Cranage	Unauthorised change of use of land from agricultural use to a mixed agricultural and domestic storage use.	Enforcement Notice	Notice drafted

Thimsworra, Dragons Lane, Moston	Unauthorised change of use of land from agricultural use to a mixed agricultural and residential use	Enforcement Notice	Notice drafted
Boundary Villa Farm, Boundary Lane, Congleton	Unauthorised change of use of use of agricultural land to residential garden	Enforcement Notice	Notice drafted
Oakleigh, Childs Lane, Brownlow	Unauthorised construction of an out building	Enforcement Notice	Notice Drafted
Boars Head Hotel, Middlewich	Unauthorised building	Enforcement Notice	Notice drafted
Silver Birches New Platt Lane, Cranage	Unauthorised felling of protected trees	Prosecution	Summons Issued initial court date 17 September 2010.
Land at Halith Cottage, Higher Poynton	Importation and Deposit of Waste	Enforcement Notice	Notice served. Appeal dismissed. Failure to comply with steps of Notice for removal of waste. Prosecution is being considered.
Whittakers Green Farm Composting Site, Hunsterston	Unauthorised waste transfer station	Enforcement Notice	Notice upheld at appeal. Currently awaiting notification of appeal to the High Court

This page is intentionally left blank

Table 2

Period covering 1st December 2009 – 14th August 2010.

Total Number of cases received	603
Cases closed	400
Site visits undertaken with Protocol Timescales	92%

Type of Notice	No. Issued
Planning Contravention Notice	20
Breach of Condition Notice	0
Enforcement Notice	2
Injunction	2
Temporary Stop Notice	2
Stop Notice	0
S215 (Untidy Site) Notice	0
Convictions	3

This page is intentionally left blank

Ref Number	Address	Description	Level of Decision Del/Cttee	Over turn Y/N	Rec and Decision	Appeal Decision
09/3535C	LAND SOUTHWEST OF, OLD MILL ROAD, SANDBACH, CHESHIRE	Housing development consisting of forty-three 1,2,3 and 4 bedroom detached dwellings, mews houses and apartments (2, 2.5 & 3 stories) - amendment to previous approval No. 37691/3.	Strategic Planning Board	N	Refused	Allowed 5/08/2010 Cost Appeal Refused 05/08/2010
09/1116C	TALL ASH FARM, BUXTON ROAD, CONGLETON, CHESHIRE, CW12 2DY	THE CONSTRUCTION OF 20 NEW BUILD AFFORDABLE HOUSES AND NEW ACCESS ROAD.	n/a Not determined	n/a	n/a	Dismissed 12/08/2010
09/4148C	30- 32, SHADY GROVE, ALSAGER, CHESHIRE, ST7 2NH	Proposed Radio Aerial	Delegated	n/a	refused	Dismissed 11/08/2010
09/3490C	20, PIKEMERE ROAD, ALSAGER, CHESHIRE, ST7 2SB	PROPOSED SUBDIVISION OF DOMESTIC CURTILAGE TO CREATE ADDITIONAL SEPARATE DWELLING	Southern Planning Committee	N	Refused	Dismissed 20/08/2010
09/3256N	COCOA YARD, NANTWICH, CHESHIRE, CW5 5BL	Erect New (A1) Shop and (A2) Use - Two and Single Storey Building	Southern Planning Committee	N	Refused	Dismissed 27/08/2010 Costs appeal refused 27/08/2010

This page is intentionally left blank