

Strategic Planning Board

Agenda

Date:	Wednesday, 6th October, 2010
Time:	2.00 pm
Venue:	Council Chamber - 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 - 6)

To approve the minutes as a correct record.

4. Public Speaking

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

Contact:	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. **10/1005N-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 7 - 20)**

To consider the above application.

6. **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 21 - 34)**

To consider the above application.

7. **10/3103N-Application for Removal or Variation of a Condition for Approved Planning Permission P09/0126 - Condition 1 requires that the development be carried out in accordance with the approved plans and Condition 18 restricts any future increase in retail floorspace and also prevents internal alterations that would result in an overall increase in the gross floorspace, Sainsbury's Store/Fairway Suithouse, Middlewich Road, Nantwich, Cheshire for Sainsbury's Supermarkets Ltd (Pages 35 - 40)**

To consider the above application.

8. **Report in Relation to (1) Amendments to Plans for the Outline Planning Application and Section 106 Agreement and (2) Amendments to Conditions for Planning Application P06/1001 for Outline Application for Redevelopment and Relocation of Existing Garden Centre Facilities, A1 and A3 Retail Units, Construction of Class C3 Residential Development, B1 Office Development, Car Parking, Ancillary Facilities and Associated Infrastructure at Stapeley Water Gardens, London Road, Stapeley (Pages 41 - 48)**

To consider the above report.

9. **Interim Planning Statement on Affordable Housing (Pages 49 - 80)**

To consider a on the introduction of an Interim Planning Statement to be used in considering planning applications for housing development pending the adoption of a policy for Cheshire East in the LDF Core Strategy

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 15th September, 2010 at The Capesthorne Room -
Town Hall, Macclesfield SK10 1DX

PRESENT

Councillor H Davenport (Chairman)
Councillor J Hammond (Vice-Chairman)

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

OFFICERS PRESENT

James Baggaley (Nature Conservation Officer), Sheila Dillon (Senior Solicitor), Ros Ellison (Principal Planning Officer), Adrian Fisher (Head of Planning and Housing), David Townsend (Interim Business Lead Development Control (South), Bev Wilders (Principal Planning Officer) and Craig Wilshaw (Principal Planning Officer)

36 APOLOGIES FOR ABSENCE

Apologies due to Council business were received from Councillors W J A Arnold and P Edwards.

Apologies for absence were received from Councillor S R Wilkinson.

37 DECLARATIONS OF INTEREST/PRE-DETERMINATION

Councillor D Brown declared a personal and prejudicial interest in application 10/0346M-Erection of 15 No. Affordable Houses, Woodside Poultry Farm, Stocks Lane, Over Peover, Knutsford for Dean Johnson Farms Ltd/ Dane Housing by virtue of the fact that he was a Director of Dane Housing who were the Applicants and in accordance with the Code of Conduct left the meeting during consideration of the application.

Councillor J Hammond declared a personal interest in application 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 by virtue of the fact that he was a member of the Cheshire Wildlife Trust who been consulted on the application and in accordance with the Code of Conduct he remained in the meeting during consideration of the application.

Councillor G M Walton declared a personal interest in the same application as he was a Director on the Board of 'Visit Chester and Cheshire' who had been informally consulted on the application and in

accordance with the Code of Conduct he remained in the meeting during consideration of the application.

38 MINUTES OF THE PREVIOUS MEETING

RESOLVED

That the minutes be approved as a correct record subject to an amendment to the last word in the first paragraph of Minute no.33 Mill Street/Lockitt Street, Crewe being amended to index-linked.

39 PUBLIC SPEAKING

RESOLVED

That the public speaking procedure be noted.

40 10/0346M-ERECTION OF 15 NO. AFFORDABLE HOUSES, WOODSIDE POULTRY FARM, STOCKS LANE, OVER PEOVER, KNUTSFORD FOR DEAN JOHNSON FARMS LTD/ DANE HOUSING

(During consideration of the application Councillor B Livesley arrived to the meeting. In accordance with the Code of Conduct he did not take part in the debate nor vote on the application).

Consideration was given to the above application.

(Councillor A J Knowles, the Ward Councillor, Parish Councillor J Bennett, Chairman of Peover Superior Parish Council, Mr Nicholls, an objector and Mrs C Payne, the agent for the applicant attended the meeting and spoke in respect of the application).

RESOLVED

A. That, minded to approve the application subject to the Heads of Terms and the Conditions listed in the Report (as varied at B below) but taking into account the Applicant's offer to submit amended plans repositioning plots 10-15 2m further away from the boundary, adjacent to Woodcroft and Woodside Cottage power be delegated to the Head of Planning & Housing, in consultation with the Chairman, to determine the application after expiry of the reconsultation period for the amended plans.

B. That condition 30 shall include implementation of a redevelopment scheme.

The conditions were agreed as follows:-

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

(The meeting was adjourned at 3.40pm and reconvened at 3.50pm)

(Prior to consideration of the following application, Councillor C Thorley left the meeting and did not return).

41 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

Consideration was given to the above application.

(Councillor S Davies, the Ward Councillor, Parish Councillor P Butterill, Parish Councillor for Worleston Parish Council, Mr D Perkins, Chairman of Reaseheath and Poole Wildlife and Conservation Group, Mr M Krassowski, an objector, Mrs M Smith-Bendall, representing the applicant and Mrs S Woodbury, a supporter attended the meeting and spoke in respect of the application.

RESOLVED

That the application be refused 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.

(Councillor D Hough requested that his abstention from voting on the application be noted).

42 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

Consideration was given to the above application.

(Councillor S Davies, the Ward Councilor, Mr P Cawood, an objector and Mr Goodwin, the agent for the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That the application be refused for the following reasons:-

1. The proposed use of the land for the siting of 34 twin caravan units to provide a chalet development with associated roads, hardstandings, lighting, cycle parking and an office/ shop building will result in the erosion of the character of this rural location, creating visual intrusion, away from any established settlement.

2. To allow the development would be detrimental to the rural tranquillity of this area of open countryside and would erode the physical character of the location, detrimentally impacting on the appearance of the area, contrary to policies NE.2 (Open Countryside) and RT.6 (Recreation Uses in the Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

(This decision was against the Officers recommendation of approval).

- 43 **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**

This application was deferred to the next meeting.

- 44 **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**

This application was deferred to the next meeting.

- 45 **UPDATE REPORT ON PLANNING ENFORCEMENT PERFORMANCE**

Consideration was given to 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.

RESOLVED

1. That the report be noted.
2. That approval be given to the proposed future reporting procedures as recommended in paragraph 3.1 of the report.

46 **APPEALS SUMMARIES**

Consideration was given to the Appeal Summaries.

RESOLVED

That the Appeal Summaries be noted.

The meeting commenced at 2.00 pm and concluded at 6.15 pm

Councillor H Davenport (Chairman)

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.

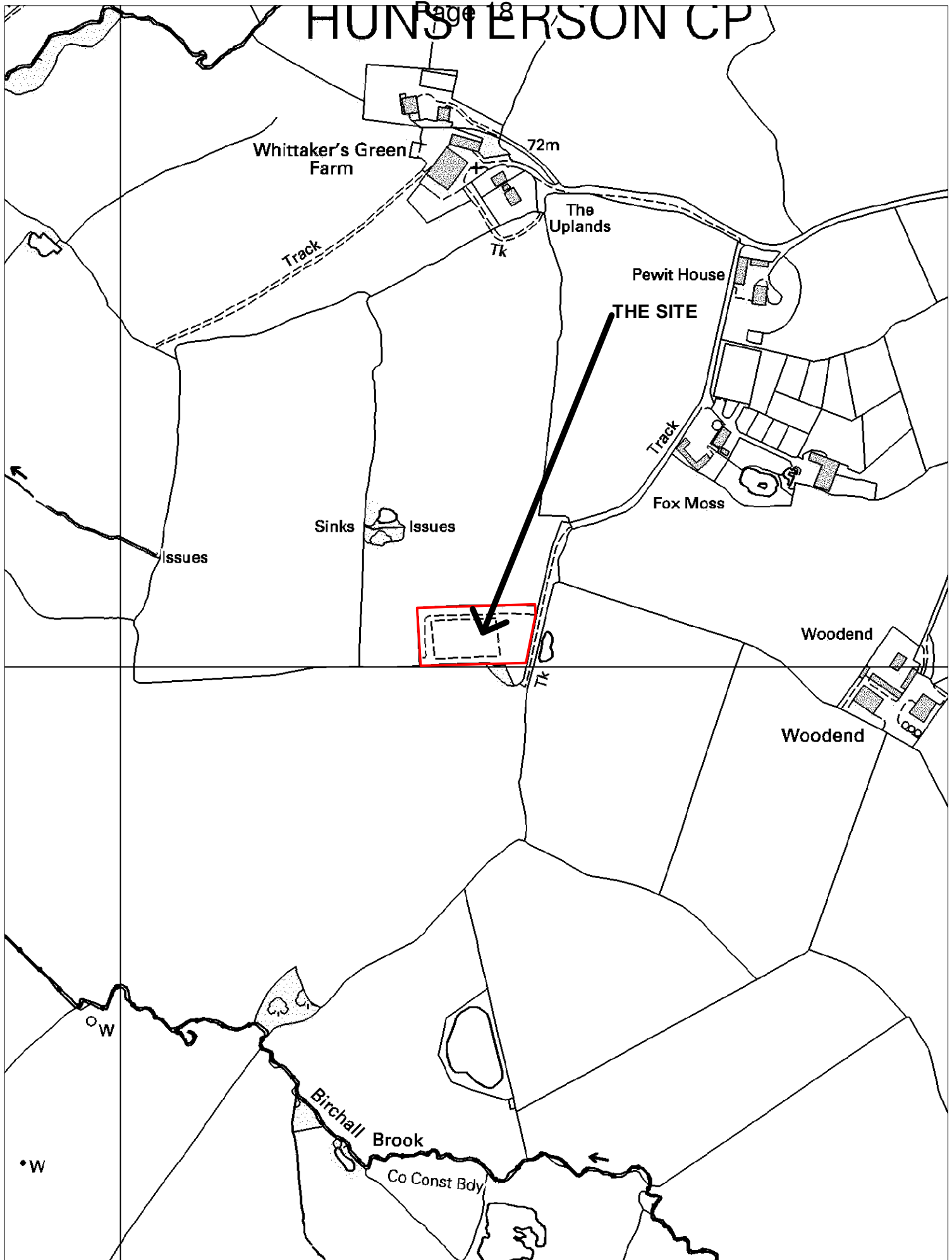
The import of non-green waste and its subsequent export will generate additional and unnecessary traffic movements which will impact on local amenity.

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.

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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.

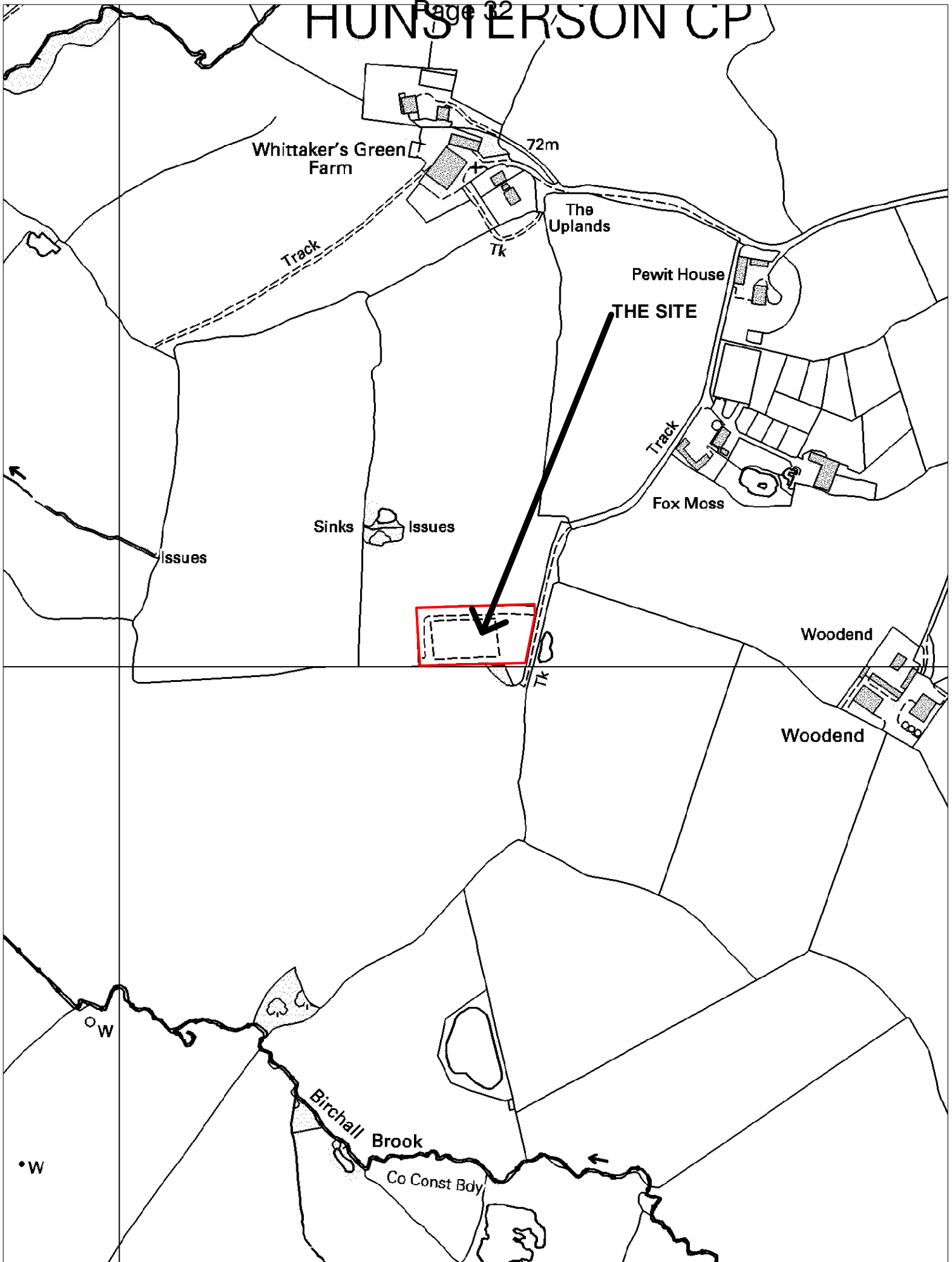
It is your officers view that on-farm compost sites that are selective in terms of suppliers and accept only green garden waste in accordance with their planning permissions should encounter very little unsuitable material. It is considered there is no justification in such circumstances to identify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

HUNSTON CP



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

NGR 368,902.7 : 344,998.1

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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.

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Planning Reference No:	10/3103N
Application Address:	Sainsbury's Store/Fairway Suithouse, Middlewich Road, Nantwich, Cheshire, CW5 6PH
Proposal:	Application for Removal or Variation of a Condition for Approved Planning Permission P09/0126 - Condition 1 requires that the development be carried out in accordance with the approved plans and Condition 18 restricts any future increase in retail floorspace and also prevents internal alterations that would result in an overall increase in the gross floorspace .
Applicant:	Sainsbury's Supermarkets Ltd.
Application Type:	Full Planning Permission
Grid Reference:	353570 365632
Ward:	Birchin
Earliest Determination Date:	13 th September 2010
Expiry Dated:	4 th October 2010
Constraints:	Settlement Boundary Hazardous Installations Consultation Zone

SUMMARY RECOMMENDATION:

- **APPROVE** subject to conditions.

MAIN ISSUES:

- **The acceptability of the development in principle and its impact on the vitality and viability of Crewe and Nantwich town centres.**
- **The suitability of the design**
- **Amenity implications**

1. REASON FOR REFERRAL

The application has been referred to Strategic Planning Board, because it is a variation of conditions relating to an application that was determined by the Board.

2. DESCRIPTION OF SITE AND CONTEXT

The application relates to the existing Sainsbury's Store (6,702sqm gross external area) and a surface customer car park accommodating 397 spaces and a customer recycling area. The existing building is predominantly single storey, with gable roof features and is constructed of red brick with pitched tiled roofs around the perimeter. The shop front elevation has an extended gable roof entrance feature with shop front ATM units and trolley storage areas.

There is an existing petrol filling station adjacent to the site entrance road, which is accessed via a roundabout junction from Middlewich Road.

The application site also includes the site of the former Fairway Suithouse industrial unit, which has now been demolished, and where work has commenced to construct the new Sainsbury's store.

The site is bounded to the north by the A500 Nantwich Bypass, to the south by Nantwich Trade Yard, to the West by the Vauxhall Masterfit Centre and to the East by residential properties on the opposite side of Middlewich Road.

3. DETAILS OF PROPOSAL

Full planning permission was granted for the demolition of the existing store and the adjacent warehouse unit and the erection of a new food store (providing a total of 9,407sqm of gross external floor space on two levels) with associated car parking, access, service yard and landscaping. (P09/0126 refers) This application seeks to vary two conditions attached to that planning permission.

Condition 1 requires that the development be constructed in accordance with the approved plans and condition 18 restricts any future increase in retail floorspace and also prevents internal alterations that would result in an overall increase in the gross floorspace of the development. This application seeks to vary those conditions to provide for an extension of 153 square metres to the bulk storage area of the store and an increase to the height of the parapet wall to the external elevations of 275mm.

4. RELEVANT HISTORY

P93/0016	Retail store, petrol station, car park and service area – approved on Appeal
P98/0586	Extension to store – approved 17 th September 1998
P09/0126.	Full planning permission for demolition of the existing store and the adjacent warehouse unit and the erection of a new food store (providing a total of 9,407sqm of gross external floor space on two levels) with associated car parking, access, service yard and landscaping – approved 4 th June 2010

5. POLICIES

Borough of Crewe and Nantwich Replacement Local Plan 2011

BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
S.10 (Major Shopping Proposals)

National policy

PPS 1: Delivering Sustainable Development
PPS 4: Planning for Sustainable Economic Growth

6. CONSULTATIONS (External to Planning)

None received at the time of report preparation.

7. VIEWS OF THE PARISH / TOWN COUNCIL:

The Town Council understand that this relaxation of conditions is made to permit some minor alterations to storage and parking facilities. Assuming that to be the case the Council have no observations on changes. However, the Council would remind the Planning Authority that condition 18 restricts an increase in retail floor space. This was specifically imposed to help protect retailers in the town and to mitigate the effect of an extended superstore a mile outside the town boundary. It is therefore essential that the effect of this condition is fully maintained in future

8. OTHER REPRESENTATIONS:

None received at the time of report preparation.

9. APPLICANT'S SUPPORTING INFORMATION:

Supporting Statement

- The size and scale of the proposed extension is proportionate with that of the approved food store and will be located at any appropriate location within the service yard to minimise impact on the operational arrangements in the store.
- The extension will be constructed using a cladding system to match the approved development
- The increase in the height of the parapet is necessitated by the need to ensure that the roof can be accessed safely for plant maintenance.
- Overall the prop[osed amendments do not change the principle of development which has planning permission but only change in a minor way some of the constituent details of the approved scheme.
- The proposed external alterations are minor in nature and are proposed to improve the efficiency and working of the store to meet customer requirements.
- No new planning issues are raised

10. OFFICER APPRAISAL

Principle of Development

The application site is located outside the Primary Shopping Area for Nantwich and, in accordance with Government guidance, after careful consideration the Council came to the view that the amount and nature of retail floorspace proposed would not adversely affect the vitality and viability of the town centre. However, conditions were imposed to ensure that the size of the store could not be increased without a further planning permission having first been granted, in

order to protect the town centre from any further adverse impact. The condition states *“the total floorspace of the replacement store hereby permitted shall not exceed 9,407 sq m and the net sales area shall not exceed 5,778 sq m.”*

This application seeks to vary that condition to increase the gross floorspace of the store, in order to allow for the construction of a larger bulk store room. There will be no increase in the net sales area. Consequently, it is considered that the proposal will not draw trade away from the town centre or impact on its vitality and viability. The development is therefore considered to be acceptable in principle.

There are no matters of principle associated with the proposed increase in the height of the parapet wall.

Design

The proposed store room extension is a very utilitarian, flat roofed box shaped structure, which will project from the rear elevation of the new store. However, it will be located within the service yard to the rear of the building and will be largely screened by the main part of the new store to the east, the screen planting along the boundary with the bypass to the north and the commercial and industrial premises to the east. Consequently it will not be visible from public vantage points. It will be finished in white composite panels to match the main part of the store. It will also be lower in overall height, creating the appearance of being subservient to the main building. The design is therefore considered to be acceptable.

The increase in the height of the parapet will is very marginal, relative to the size of the building, and will not therefore materially impact upon its overall design or appearance within the street scene.

Amenity

The proposed store will be sited approximately 150m away from the dwellings on the opposite side of Middlewich Road, at the closest point. Therefore it is not considered that the increase in height or the proposed extension would have any impact on the amenity of neighbouring properties.

11. CONCLUSIONS

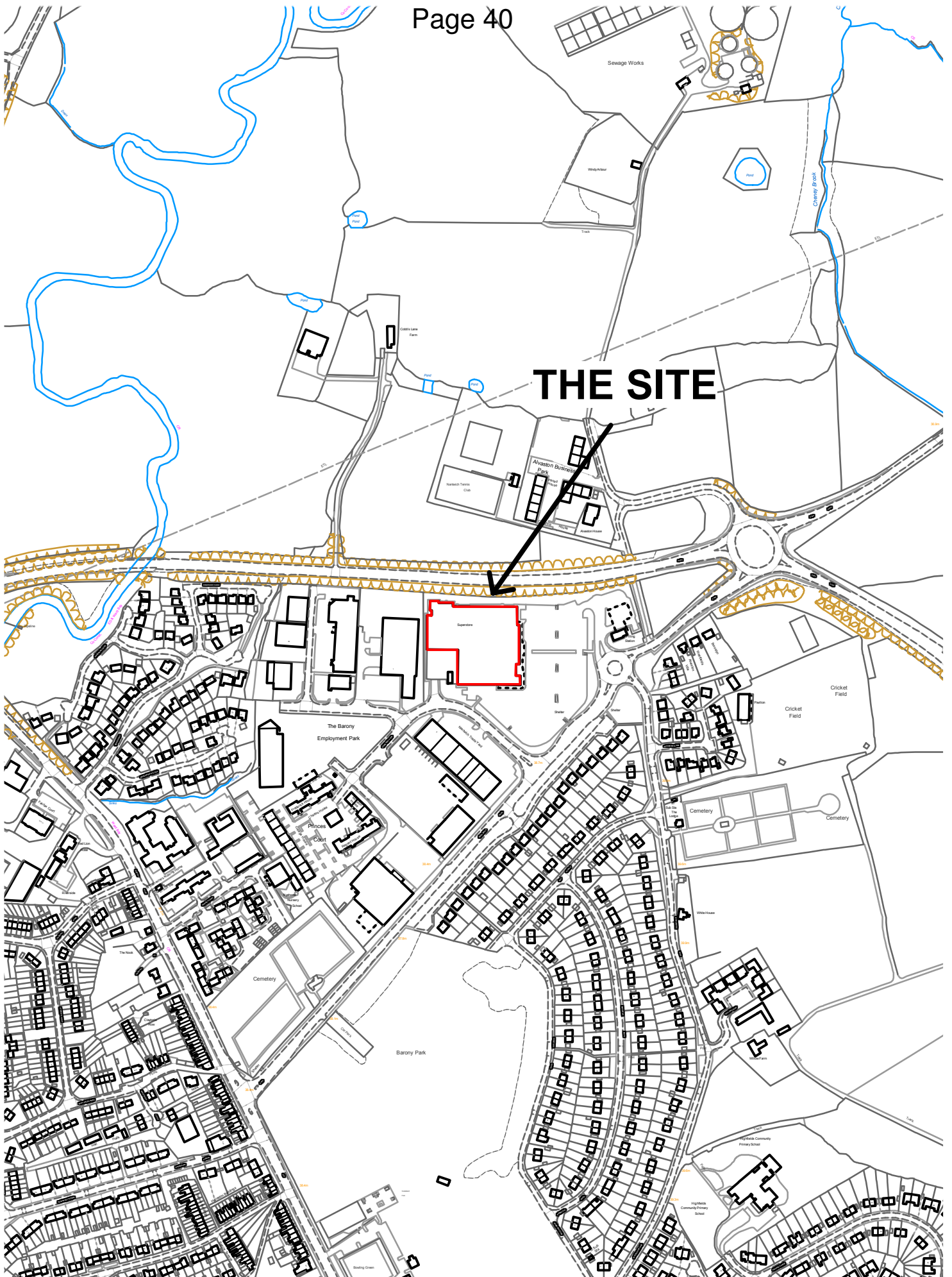
In summary it is considered that proposal will not impact on the vitality and viability of Nantwich town centre. The proposed amendments are acceptable in terms of design and amenity and therefore comply with the relevant development plan policies. Accordingly the application is recommended for approval.

12. RECOMMENDATIONS

APPROVE subject to the following conditions:-

1. Approved plans

2. The total floorspace of the replacement store shall not exceed 9,560sq m and the net sales area shall not exceed 5,778 sq m.



10/3103N J SAINSBURY PLC, MIDDLEWICH ROAD, NANTWICH, CW5 6PH
NGR- 365,640:353,570



CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 6th October 2010
Report of: Head of Planning and Policy
Title: Report in Relation to (1) Amendments to Plans for the Outline Planning Application and Section 106 Agreement and (2) Amendments to Conditions for Planning Application P06/1001 for Outline Application for Redevelopment and Relocation of Existing Garden Centre Facilities, A1 and A3 Retail Units, Construction of Class C3 Residential Development, B1 Office Development, Car Parking, Ancillary Facilities and Associated Infrastructure at Stapeley Water Gardens, London Road, Stapeley.

1.0 Purpose of Report

- 1.1 To seek the approval of the Strategic Planning Board for (1) alterations to the plans deposited for the determination of the outline planning application submitted for the redevelopment of Stapeley Water Gardens and related land which was the subject of planning application P06/1001 and for use in the related Section 106 Agreement, (2) minor alterations to the wording of condition 18 in relation to the draft outline planning permission for the development, and (3) the removal of condition 19 as recommended in the report on planning application P06/1001.

2.0 Decision Required

- 2.1 Members approve the alterations to the plans for the outline planning application and the Section 106 Agreement requirements together with the variation to the wording of the condition 18 and removal of condition 19 in the manner set out in paragraph 7 of this report.

3.0 Financial Implications for the Council

- 3.1 Costs for staff time to vary the Agreement.

4.0 Legal Implications for the Council

- 4.1 None

5.0 Risk Assessment

- 5.1 None.

6.0 Background and Report

6.1 A report on planning application P06/1001 for redevelopment of 13 ha of land at Stapeley Water Gardens was considered by the Development Control Committee of the former Crewe and Nantwich Borough Council on 20th September 2007. The application was recommended for approval subject to the applicant signing a Section 106 Agreement in relation to affordable housing, phasing of the development and the provision of a master plan for the mixed use development, commuted payments for off-site highway works, the provision of an equipped play space and shared recreational open space, and a maintenance scheme for the ecological mitigation areas.

6.2 More specifically the recommendation which was approved, as amended by the Additional Information Report, stated:-

The application is recommended for approval with conditions subject to the applicant entering a Section 106 Agreement to secure:-

(1) the provision of 33% affordable housing on the site with:-

(a) a minimum provision of 26% for the development of Stapeley Manor site (Phase 1) and minimum provision of 37% on all subsequent phase(s) on the basis that the level of provision for each phase will be identified in the first reserved matters application and that the overall provision will be 33%, and

(b) one third 1-bed units, one third 2-bed units and one third 3-bed units across the whole site and 50% social rented and 50% shared ownership in all phases of residential development,

(2) phasing of development and submission of a master plan to ensure that the site is brought forward as a mixed use development together with the provision and continuity of the relocated Water Gardens,

(3) commuted payments for off site highways works (to include signage to direct traffic away from Nantwich town centre, contributions to the Willaston to Nantwich cycle link, contributions to works for the signalised junction at Wellington Road/ Park Road junction, contributions to traffic calming in London Road and Wellington Road, a sum for completion of a cycle link on South Crofts/ Monks Lane),

(4) the provision of an equipped play space to be provided in the early stages of phase 2, and shared recreational open space and play space in all phases of development. A maintenance scheme for all areas of open space/ play equipment to be submitted,

(5) a maintenance scheme for ecological mitigation areas,

Should the Section 106 Agreement not be completed within a period of six months from the date of the Committee meeting a further updating report will be presented to the Committee to

explain the position at that time and consider any outstanding issues which may be delaying completion of the Agreement.

6.3A subsequent report was presented to the Development Control Committee on 29th April 2008 which recommended that the report be received. Members received the report which noted that the developer at that time had still to confirm ownership of the land which was the subject of the S106. Following that confirmation drafting of the Agreement would commence. The report recommended that no further action be taken by the Committee.

6.4 Drafting commenced and a number of meetings have been held between the Council officers and representatives of the applicant. The drafting work continued and on 14th April 2010 a further report was presented to the Strategic Planning Board regarding changes to the following clauses in the Section 106 agreement:-

- Affordable Housing Requirements
- Phasing and Masterplan Requirements.
- Open Space, Play Space and Shared Recreational Space Requirements.
- Ecological Requirements

6.5 On 14th April 2010 the Strategic Planning Board resolved :-

To issue permission in respect of outline planning application P06/1001 for redevelopment of Stapeley Water Gardens subject to conditions as detailed in the decision by the Development Control Committee of the former Crewe and Nantwich Borough Council on 20th September 2007 and subject to the applicant completing and signing a Section 106 Agreement to secure:-

- (1) the provision of 33% affordable housing on the site with:-**
 - (a) a minimum provision of 26% for the development of Stapeley Manor site (Phase 1) on the basis that the level of provision for each phase will be identified in the first reserved matters application and that the overall provision will be 33% and**
 - (b) one third 1-bed units, one third 2-bed units and one third 3-bed units across the whole site or the option for the provision of twelve 1-bed units, nineteen 2-bed units and nineteen 3-bed units and 50% social rented dwellings and 50% shared ownership/ Rent to Homebuy dwellings in all phases of residential development,**
- (2) phasing of the development and submission of a master plan to ensure that the site is brought forward as a mixed use**

development together with the provision and continuity of the relocated Water Gardens,

(3) commuted payments for off site highways works as per report P06/1001 (to include signage to direct traffic away from Nantwich town centre, contributions to the Willaston to Nantwich cycle link, contributions to works for the signalised junction at Wellington Road/ Park Road junction, contributions to traffic calming in London Road and Wellington Road, a sum for completion of a cycle link on South Crofts/ Monks Lane),

(4) the provision of an equipped play space to be provided in phase 1 of the residential development, and shared recreational open space and play space. A maintenance scheme for all areas of open space/ play equipment to be submitted,

(5) a maintenance scheme for ecological mitigation areas.

6.5 Since the outline application for the redevelopment of Stapeley Water Gardens has been submitted Dobbies Garden Centre has been secured to relocate the Water Garden facility. David Wilson Homes (DWH) has been secured to deliver the open market and affordable housing. Dane Housing has been identified as the preferred housing provider to take forward the affordable housing units.

6.6 This report now seeks approval for (1) minor alterations to the boundary to the planning application area for the outline planning permission (application P06/1001) and the related plans used for the S106 Agreement, (2) a minor revision to the proposed wording for condition 18 on the outline planning permission and (3) the removal of condition 19 from the outline planning permission. It should be noted that the applicant is not seeking to remove requirements of the section 106 agreement to but alter certain details.

Alterations to plans

6.7 Work has continued to progress the Section 106 agreement and in relation to this it has been necessary to ensure compatibility with the Section 106 agreement signed in relation to the Cronkinson Farm Development. That agreement includes provision for the establishment and maintenance of a number of areas of land for Landscape and Nature Conservation. One such area is situated between Peter Destaplegh Way and the development areas of land which presently fall within the Stapeley Water Gardens outline planning application. In addition other land to the west of the Stapeley Water Gardens application area also falls within the Landscape and Nature Conservation area.

6.8 At present the application area edged red which has been submitted with the Stapeley Water Gardens outline application includes an area of land which falls within the Landscape and Nature Conservation Areas of the Cronkinson Farm S106 Agreement. If this is to continue that then all

landowners of the area covered by Cronkinson Farm agreement will also need to sign the Stapeley Water Gardens agreement. That becomes an impractical exercise and it would be difficult to enforce the two agreements. It is considered that by redrawing the boundaries of the planning application area for the outline application for Stapeley Water Gardens the two agreements can be retained without overlap and each agreement enforced independently.

6.9 The land which the Council now wishes to remove from the outline planning application and the Stapeley Water Gardens S106 agreement is that area of land which falls within both S106 agreements at present.

6.10 This is a triangular shaped piece of land which lies behind the landscape planting on the south side of Peter Destapleigh Way and north of the area to be used for the relocated Water Gardens in the Master plan for the development of Stapeley Water Gardens. By removing this land from the planning application and the related S106 agreement the land will still be retained in accordance with the requirements of the Cronkinson Farm S106 agreement.

Variation to Condition 18

6.11 In approving the report on the outline application for the mixed use development, subject to conditions, the Development Control Committee approved condition number 18 which stated:-

“Additional tree survey for mitigation areas on land to the south west of the application area, to be submitted with planning application for Great Crested Newt pond works.”

6.12 The planning application for the Newt mitigation works was submitted under reference 09/4017N and was approved by the Strategic Planning Board on 14th April 2010. The additional tree survey for the land to the south west of the application area was not at that time submitted although the application did indicate that all trees would be retained. Trees around the site are located in the peripheral hedgerows. The condition was required because some but not all the trees were included in the submitted tree survey. It is therefore recommended that this tree survey should still be submitted but because the application for the pond work has been approved, that the survey should be submitted prior to the commencement of the development to which the outline permission relates.

Removal of Condition 19

6.13 In approving the report on the outline application for the mixed use development, subject to conditions, the Development Control Committee approved condition number 19 which stated:-

“Existing planting on the northern site boundary adjacent to Peter Destaplegh Way to be retained.”

- 6.14 With the submission of revised plans, as explained above, the land which was planted under the requirements of the S106 agreement for Cronkinson Farm and the related planning permission will be removed from the application area for Stapeley Water Gardens. Condition 19 as proposed in the original report to the Development Control Committee of the former Crewe and Nantwich Borough Council required the retention of this planting. Since the land will no longer be in the application area the condition is not relevant and should therefore be removed from the outline permission. The planting will be retained and maintained under the Cronkinson Farm S106 agreement.

7.0 Recommendation

Members approve the following amendments:-

- (1) the alteration to the plans to remove an area of land on the north side of the Stapeley Water Gardens development site for use with the outline planning application and for the related S106 agreement.**
- (2) alterations to the wording of condition 18 on the outline planning permission to require the submission of the tree survey in relation to land to the south west of the outline planning application area (i.e. part of the ecological mitigation area) prior to the commencement of development of the outline permission.**
- (3) the removal of condition 19 from the outline planning permission to be issued which requires the retention of planting between the Stapeley Water Gardens development area and Peter Destaplegh Way.**

8.0 Reasons for Recommendation

The alterations to the plans will ensure that the requirements under the Cronkinson Farm S106 Agreement for the use of that land for Landscape and Nature Conservation are still retained and enforceable.

There will be no adverse impact on the development of the Stapeley Water Gardens for a mixed use development in accordance with the principles agreed in previous reports to this Council and Crewe and Nantwich Borough Council resulting from the removal of this land from the planning application area.

The alteration to the timing for the submission of the tree survey in relation to land to the south west of the outline application area will ensure that this information is still submitted.

With the removal of land on the north side of the Stapeley Water Gardens site from the application area, Condition 19 which required the retention of planting on that land is no longer necessary.

For further information:

Portfolio Holder: Councillor J Macrae

Officers: Rachel Goddard Senior Lawyer Tel:01270 685839

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Rosamund Ellison Principal Planning Officer Tel No: 01270-537482

Email:ros.ellison@cheshireeast.gov.uk

Background Documents:

Planning File and correspondence reference P06/1001

*Documents are available for inspection at: Municipal Buildings, Earle Street, Crewe
CW1 2BJ*

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CHESHIRE EAST COUNCIL

REPORT TO: STRATEGIC PLANNING BOARD

Date of Meeting: 6th October 2010
Report of: Strategic Director - Places
Subject/Title: Interim Planning Statement on Affordable Housing
Portfolio Holder: Cllrs David Brown/Jamie Macrae

1.0 Report Summary

- 1.1 This report considers the Council's policy position to the provision of affordable housing and the results of the Strategic Housing Market Assessment and proposes the introduction of an Interim Planning Statement to be used in considering planning applications for housing development pending the adoption of a policy for Cheshire East in the LDF Core Strategy. This report was considered and approved by Cabinet on 20th September 2010.

2.0 Decision Requested

- 2.1 That Strategic Planning Board endorses the Cabinet approval of the draft Interim Planning Statement on Affordable Housing (as appended to this report) for consultation purposes, and its agreement that it be treated as a material consideration in the determination of planning applications pending the adoption of the finalised document in such a format as may be appropriate following the consultation process.

3.0 Reasons for Recommendations

- 3.1 To ensure that the Council has up to date planning guidance on affordable housing pending the adoption of a new Council wide policy in the Local Development Framework.

4.0 Wards Affected

- 4.1 All wards

5.0 Local Ward Members

- 5.1 All members

**6.0 Policy Implications including - Climate change
- Health**

- 6.1 The Interim Planning Statement on Affordable Housing provides guidance on the delivery of policies on affordable housing. New housing is required to achieve high levels of energy efficiency and provide healthy living conditions.

7.0 Financial Implications (Authorised by the Borough Treasurer)

- 7.1 There are no operational financial implications of this statement as any change in officer time in negotiating schemes and S106 agreements will be managed within existing budgets.
- 7.2 Paragraph 2.13 of the Interim Planning Statement on Affordable Housing recognises that the requirements will result in a cost to the developer. This in turn will impact on the value of any land that the Council sells for housing.

8.0 Legal Implications (Authorised by the Borough Solicitor)

- 8.1 There will be requirement for officer time in negotiating and preparing the S106 agreements. This will be managed within existing staffing resources.

9.0 Risk Management

- 9.1 The 2010 Strategic Housing Market Assessment has demonstrated the continuing high level of demand for affordable housing throughout the Borough that warrants an increase in the target for the amount of affordable housing to be provided on development sites. Without the introduction of the Interim Housing Policy on Affordable Housing, a lower level of affordable housing would be provided.

10.0 Background and Options

- 10.1 The Council has inherited three different planning policies for affordable housing in the Local Plans of the predecessor district authorities. The Crewe and Nantwich and Congleton Borough Local Plans both seek a minimum target of 30% affordable housing on allocated and windfall sites. The Macclesfield Borough Local Plan requires a minimum of 25%. Differences exist in the threshold at which the affordable housing requirement is applied. The Macclesfield Local Plan does not contain a rural exceptions policy whereas the other two Local Plans do, albeit with slightly different wording.
- 10.2 The three current Local Plans recognise that there may be instances when the level of affordable housing provided on individual sites might be influenced by economic viability issues. However, over the past 12 to 18 months, there has been an increasing number of occasions when developers have sought to provide a significantly lower level of affordable housing on sites due to viability issues which have been brought into sharper focus due to the down turn in the UK housing market. There is a lack of a clear framework for evaluating viability issues for individual planning applications.

- 10.3 An Interim Planning Statement on Affordable Housing has been produced therefore to address these issues and is set out in Appendix 1. The planning statement is intended to provide updated guidance on affordable housing provision, with particular reference to the determination of planning applications where there is an affordable housing requirement and to ensure consistency of approach in negotiating the provision of affordable housing. The Interim Planning Statement on Affordable Housing also addresses the increasing number of issues surrounding development economics and the viability of providing affordable housing.

This report was considered and approved by Cabinet on 20th September 2010.

11.0 Overview of Year One and Term One Issues

11.1 None

12.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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Designation:	LDF Manager
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Email:	Richard.house@cheshireeast.gov.uk

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INTERIM PLANNING STATEMENT: AFFORDABLE HOUSING



SEPTEMBER 2010

SPATIAL PLANNING SERVICE

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- 1. INTRODUCTION**
- 2. DELIVERING AFFORDABLE HOUSING**
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APPENDICES

- 1. VIABILITY OF DELIVERY OF AFFORDABLE HOUSING**
- 2. MODEL HOUSING NEEDS SURVEY FORM**

1. INTRODUCTION

- 1.1 The document relates to the provision of all forms of affordable housing by developers on housing sites within the Borough. As such it sets out the Council's definition of affordable housing and specific site requirements, as well as providing guidance on development considerations and means of securing their provision. It also sets out the Council's requirements for achieving mixed and balanced communities including the housing needs of specific groups.
- 1.2 This Interim Planning Statement (IPS) has been produced within the framework of the three adopted Local Plans for the former District authorities of Crewe and Nantwich, Congleton and Macclesfield, the Council's Strategic Housing Market Area Assessment (SHMA) and government guidance as expressed in national planning guidance and policy statements. It is also consistent with the Council's Corporate Objectives and the Sustainable Community Strategy.
- 1.3 The production of the IPS has been necessary because of changes to Government guidance since the Local Plans were adopted and sets out how that guidance will be applied pending the production of the Cheshire East Local Development Framework Core Strategy. It also reflects up to date housing need information for the Borough contained in the 2010 Strategic Housing Market Assessment. The IPS also addresses the increasing number of issues surrounding development economics and the viability of providing affordable housing.

Creating Balanced and Mixed Communities

- 1.4 A community's need for an appropriate balance and mix of housing including the provision of affordable housing is recognised at national level as a material consideration in determining planning applications for housing development. Government policy is to create sustainable communities that offer a wide range of housing and are socially inclusive.
- 1.5 Although the Borough has a stock of good quality housing with relatively low vacancy rates, in many areas there is an imbalance in the type and tenure of available housing. There is a need to ensure that future housing development in Cheshire East helps to support economic growth by providing for a range of income groups. This includes housing for economically active households seeking open market dwellings; households requiring affordable housing (both social rented and increased diversity of options through intermediate tenure). Such an approach will help to maintain long-term community sustainability and enhance the quality of life for local residents

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- 1.6 The 2010 SHMA demonstrates strongest aspirations for traditional houses (three bedrooms in particular) from groups most likely to be economically active. It identifies a need to stimulate the housing market at all levels to ensure an adequate supply to accommodate a range of household types and income levels. Evidence suggests that across Cheshire East there is considerable market imbalance, with demand exceeding supply. Preferences are predominantly for houses (76.9%), followed by bungalows (15.4%) and flats (7.8%). Aspirations are therefore traditional and a key challenge is to reconcile this with development opportunities and site density requirements.
- 1.7 In addition the SHMA identifies that, based on CLG modelling, there is a net shortfall of 1,243 affordable homes each year across the District for the five year period 2009/10 to 2013/14. On this basis there is both a clearly identified need for more affordable housing, but there will not be sufficient supply side opportunities through which this can be addressed. It is therefore important that the Council establish an affordable housing target within its LDF policies that secures a proper balance between the provision of affordable and market housing, reflecting the needs in Cheshire East.
- 1.8 In order to address these deficiencies and needs, the Council will expect that all sites for new housing developments contribute to the creation of balanced and mixed communities. Mixed and balanced communities are those which provide a mix of tenures, dwelling types and sizes appropriate to the needs of the local community. This is recognised at national, regional and local level as being important to achieving social diversity and avoids creating concentrations of deprivation. The extent to which a site can contribute towards achieving this mix will be dependent on the size of the site and other factors such as site characteristics, site suitability and economics of provision - on larger sites there will clearly be greater scope to provide a range of different house types and tenures.
- 1.9 Whilst it is expected that general market housing will continue to make a significant contribution to meeting future housing needs, the Council gives priority to addressing other forms of housing to ensure that the Borough's housing needs are properly met. The IPS seeks to address principally those other forms of housing - affordable housing, low-cost market housing, special needs housing etc. – which are required to create properly balanced and mixed communities.

The Borough's Need for Affordable Housing

- 1.10 The 2010 SHMAA shows that In terms of relative affordability, Cheshire East is ranked the 8th least affordable District in the North West. The SHMAA found a high level of need for affordable housing in the

Borough with an estimated annual requirement of 1243 additional affordable homes per year.

- 1.11 The main need for affordable housing provision is for social rented accommodation but the SHMAA identifies that 35% of households in need would consider intermediate tenures
- 1.12 Analysis suggests that around 54.2% of annual affordable requirement is likely to be satisfied through existing supply and an element of newbuild (which varies by the former districts: in the former Crewe and Nantwich 60.3% of requirement is likely to be satisfied, Congleton 58.2% and Macclesfield 46.9%).
- 1.13 Analysis of affordable housing requirements suggests that a range of affordable dwellings are required, in particular two and three bedroom general needs properties to address the needs of families. It is important that particular care is taken to ensure that properties are built to reflect the demand from families and in the interests of long-term community sustainability.

Background/ National Policy

- 1.14 Planning Policy Statement 3 Housing (issued in 2006 and amended in 2010) states the national policy context for affordable housing.
- 1.15 Paragraph 29 of PPS3 states what should be included in Local Development Documents with regard to targets and specific details for the amount, type, size etc of affordable housing and these documents must be based on robust, shared evidence base, through a Strategic Housing Market Assessment (SHMA).
- 1.16 Paragraph 30 goes on state the advice for affordable housing in rural communities, mentioning local authorities 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, LPA's should consider allocating and releasing sites solely for affordable housing, including using a Rural Exception Site Policy. These small sites should only be used for affordable housing in perpetuity and the 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.
- 1.17 Local policy is provided by the adopted Local Plans of the three former District Authorities as expanded on below. It should be noted that all three Local Plans and the Congleton Supplementary Planning Document 6 predated the publication of PPS3 in 2006.

Crewe and Nantwich Borough Local Plan

- 1.18 Policy RES 7 of the Crewe and Nantwich Replacement Local Plan (2005) sets a target of a maximum of **30%** affordable housing on allocated housing sites and on windfall sites. In relation to windfall sites, the threshold for application of the policy is sites of 25 units or more or greater than 1.0 hectares in size. However in settlements of less than 3,000 population or less a lower threshold of 5 units is applied and exceptionally, where there is a proven need, the threshold is sites of more than 1 unit.
- 1.19 The Policy states that, in determining whether a site is suitable for an element of affordable housing, the local planning authority will take into account:
- Whether the existing affordable housing stock meets the identified need
 - The proximity of the site to local facilities and public transport
 - The targets in the plan derived from the 2005 Housing Needs Survey
 - The suitability of the site for housing and
 - Economics of provision
- 1.20 This policy was modified by the former Crewe and Nantwich Borough Council in November 2005 to increase the affordable housing target to 35% and to lower the threshold to sites of 15 units or more or greater than 0.5 hectares in size. This reflected the findings and recommendations of the 2005 Housing Needs Survey for the former Borough of Crewe and Nantwich. The policy is therefore a material consideration, when dealing with planning applications. The modified policy could not, however, be saved by the Secretary of State under the Direction issued in February 2008.

Congleton Borough Local Plan and SPD 6

- 1.21 Policy H13 of the Congleton Borough Local Plan First Review (2005) states that the Council will negotiate the provision of an appropriate element of affordable housing on allocated sites and on unidentified housing sites of 1 hectare or more or comprising 25 or more dwelling units. The scale and nature of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities and other planning objectives.

-
- 1.22 Policy H13 is supported by the Supplementary Planning Document No.6 'Affordable Housing and Mixed Communities', which was adopted by Congleton Borough Council on 27th April 2006. On all sites which have been allocated for new housing in the Local Plan, the SPD states that the Borough Council will negotiate for the provision of a specific percentage of the total dwelling provision to be affordable homes. The desired target percentage for affordable housing for all allocated site is a minimum **of 30%**, in accordance with the recommendation of the 2004 Housing Need Survey.
- 1.23 The SPD also states that the Planning Authority will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 0.5 hectare or 15 dwellings or more. The exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion of affordable housing for any site will normally be 30%.
- 1.24 On allocated sites and windfall sites which are subject to an affordable housing requirement, there is also a requirement for 25% of dwellings to be 'low cost market housing'.

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- 1.25 Policy H8 and its supporting Reason set out and explain the position with regard to affordable housing requirements. Generally the policy provides that in developments of 25 or more dwellings, or on residential sites of 1 hectare or more, irrespective of the number of dwellings, the Council will negotiate for the provision of **25%** of the dwellings as affordable housing.
- 1.26 Policy H8 also states that in settlements in rural areas with a population of 3,000 or fewer, the council will negotiate for a proportion of affordable housing to be provided on every housing proposal, where justified by reference to an assessment of housing needs and the available supply of land for housing.
- 1.27 The policy states that in determining the level of affordable housing on specific sites, site suitability, economics of provision, the need to achieve a successful housing development and site size will be taken into account

2. DELIVERING AFFORDABLE HOUSING

Definition of Affordable Housing

- 2.1 The government has defined affordable housing in Planning Policy Statement PPS3 '*Housing*' in November 2006 (revised 2010) as follows:

"It should meet the needs of households who are unable to access or afford market housing. It should be available at a cost low enough for them to afford, determined with regard to local incomes and local house prices. Its supply should include provision for the home to remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision.

It can be:

- social rented (owned and managed by councils or registered social landlords); or
- intermediate housing (available at prices and rents above those of social rent, but below market levels)."

Acceptable Forms of Affordable Housing

- 2.2 As indicated above affordable housing may take the form of social rented or intermediate housing. Intermediate housing includes shared ownership schemes, discounted housing for sale and intermediate rent. Details of each of the main types are given below, although the Council will consider any other means of achieving affordable housing appropriate to the development:

Social Rented Housing

- 2.3 This refers to the provision of rented accommodation which is provided at levels no higher than the Homes and Communities Agency (HCA) target rents. The Council will normally require all social rented housing to be developed and managed by RSLs (Registered Social Landlords) as these organisations have as their prime objective the provision of social housing and are regulated by the HCA. Where an RSL is involved there are normally no reasons for the Council to impose legal restrictions on allocation, future occupation etc, other than those required to restrict eligibility on rural schemes (see Section 5). Consideration will, however, also be given to other suitable providers of social rented housing undertaken in partnership with the HCA, but in such cases legal restrictions on eligibility and rental levels will be necessary (see Section 5). The local authority will require, in the first instance, 75% nomination rights to all social rented properties and 50% on subsequent lettings. In order to ensure a balanced community is achieved, a local lettings policy may also be applied as stipulated within the Cheshire Homechoice service.

New Build Homebuy (Shared Ownership)

- 2.4 New Build Homebuy is a way of helping households to buy a share in their own home even though they cannot afford the full market value. The household purchases a share usually between 25 – 75% and pays rent on the remaining proportion to the managing Registered Social Landlord (RSL). Additional shares can be purchased which will enable a resident to increase their equity share in the property. In 2009 the Government introduced new legislation whereby most of the rural parts of Cheshire East Council became 'Designated Protected Areas' whereby new affordable shared ownership dwellings in these areas would be subject to requirement that owners are either not able to acquire more than 80% equity in a property or if they acquire 100% equity, it has to be sold back to the RSL to retain as affordable housing in perpetuity.. The Council normally expect all schemes to be developed and managed by a RSL although consideration will be given to other suitable providers. In such cases legal restrictions on eligibility and rental levels will be necessary (see Section 5).

Discounted Housing For Sale

- 2.5 This refers to the provision of subsidised low-cost market accommodation through a re-sale covenant scheme. The principle is that the accommodation is available at a fixed discount below the open market value to households in need. The level of discount will be that which is required to achieve the maximum selling price determined by the Council for those in need locally who cannot afford to buy on the open market.
- 2.6 The individual circumstances of each case and the area will be taken into consideration and will need to be negotiated with the Council prior to the determination of the relevant planning application. Evidence has shown that in order to achieve an affordable price, the level of discount will normally be required to be a minimum of 30% and up to 50% of the market price. The discount applies on initial and all subsequent re-sales thus ensuring that the accommodation is retained as affordable. Further information on the operation of re-sale covenant schemes is available on request. Discounted housing for sale will normally be provided by a private developer, in which case it should be subject to a satisfactory arrangement to ensure that the benefit of below market price housing is available in perpetuity to future occupants
- 2.7 The Council will consider other forms of discounting housing for sale that meets its affordable housing objectives.

Intermediate Rent

- 2.8 This is housing that is a step between social rented and renting at full market value. Intermediate rents are lower than full market rents but higher than social rents.

Eligibility Requirements

- 2.9 The underlying criteria for eligibility to affordable housing is that households must be in unsuitable housing and unable to afford to rent or buy on the open market. This is the Council's definition of housing need for affordable housing.
- 2.10 If an RSL is to manage the affordable housing, either for rent or sale, then the Council is satisfied that this will be sufficient to control both eligibility and future occupancy.
- 2.11 If affordable housing is developed by other housing providers the Council will require arrangements in place to ensure that any accommodation is available to those in housing need, as defined by the Council. Priority will also be required to be given to persons with a direct connection to the location of the scheme – location being defined as the catchment area for the property as agreed with the Council. In this respect direct connection would be defined as currently living in the location, having a first line relative currently living in the location (having been there over 5 years), or currently in employment in the location.
- 2.12 In the case of rural exceptions site schemes further occupancy criteria, generally as set out below, will need to be followed, in addition to the main housing need requirement. The details of such criteria will be the subject of discussion with the relevant Parish Council (See Section 7)

Criteria for Rural Exceptions Sites

- Occupancy will generally be restricted to a person resident or working in the relevant locality, or who has other strong links with the relevant locality.
- The locality to which the occupancy criteria are to be applied will need to be agreed with the Council prior to determination of the relevant planning application. Generally this is taken as the Parish or adjoining Parishes.
- To ensure an adequate supply of occupiers in the future, the Council will expect there to be a "cascade" approach to the locality issue appropriate to the type of tenure. Thus, first priority is to be given to those satisfying the occupancy criteria in relation to the geographical area immediately surrounding the application site, widening in agreed geographical stages.

Financial Requirements

House Prices and Rent Levels

- 2.13 **Social Rented and Intermediate Rented Accommodation** - where an RSL is involved rental levels will be set at an affordable level by the RSL itself. For social rented accommodation provided by other providers this must be in partnership with the Homes and Communities Agency and the rental levels will also need to be clarified with the Council to ensure they are set at an affordable level. For intermediate rental schemes, rents are typically at no more than 80% of market levels. In all cases a Section 106 Agreement will be required to ensure that rental levels remain affordable
- 2.14 **New Build Homebuy (Shared Ownership)** - where an RSL is involved the rental element will be set at an affordable level by the RSL itself but will need to be clarified with the Council. For shared ownership provided by other providers this must be in partnership with the Homes and Communities Agency and the rental element will also need to be clarified with the Council to ensure they are set at an affordable level. In such cases a Section 106 Agreement will be required. As indicated in Para 2.4 above, in most of the rural areas of the Borough, the Government has applied restrictions on the amount of equity that an owner is able to acquire. The house price of each property will be based on the open market value prevailing at the time of marketing the property as agreed with the Council, less a discount off open market value.
- 2.15 **Discounted Housing for Sale** - the house price of each property will be based on the open market value prevailing at the time of marketing the property as agreed with the Council, less the appropriate discount to achieve the agreed maximum selling price based on evidence contained in the SHMA and as updated annually by the Council's Housing Section. A Section 106 Agreement will be required to ensure that the level of discount remains in force for all initial and subsequent re-sales.

Resourcing an Affordable Housing Scheme

- 2.16 The Council recognises that requiring developers to develop or to allow parts of their site to be used for non-market affordable housing will result in a cost to the developer. Developers should assume that no social housing grant is available to support the provision of affordable housing. Therefore, in order to offset these costs developers will be expected to take the requirement for affordable housing into account when negotiating land value with site owners.
- 2.17 Where an RSL is to be involved the developer will be required to subsidise the cost of providing the housing either through the provision of land or the building of the accommodation or through a financial contribution such as to enable the property to be sold or rented at an affordable level without the need for social housing grant. In such cases,

the number of units and the developer's contribution will normally be expected to reflect the total cost of the required affordable housing minus the capital element that can be serviced through the rents.

- 2.18 Where funding is provided towards a scheme by the Homes and Communities Agency, there must be evidence that the grant is adding value over and above that which would be obtained without the funding.

Use of Financial or Other Contributions in-lieu

- 2.19 As a rule, the Council would prefer to see affordable housing provided on-site. This is in line with Government guidance to encourage the development of sustainable and balanced communities. However, there may be physical or other circumstances where an on-site provision would not be practical or desirable. Such circumstances might include where:

- the provision of the affordable housing elsewhere in the locality would provide a better mix of housing types
- management of the affordable dwellings on site would not be feasible
- it would be more appropriate to bring back existing vacant housing into use as affordable units
- the constraints of the site prevent the provision of the size and type of affordable housing required in the area

- 2.20 In such exceptional cases and entirely at the Council's discretion, developers may, in lieu of such provision, provide off-site affordable housing, or offer financial or other contributions towards the provision of affordable housing on an alternative site.

- 2.21 Where a financial contribution is offered, the amount of such contribution will normally be expected to reflect the cost necessary to facilitate an equivalent amount of affordable housing as would have been provided on-site. The amount of any contribution will need to be agreed with the Council. Where off-site provision is made by the developer or as a result of any financial contribution, this should be in a location elsewhere within the Borough where there is an identified need.

How to Achieve Affordable Housing

- 2.22 The policy requirement to provide affordable housing places an onus on the developer and/or landowner of a site to consider its provision prior to the sale or acquisition of a site.

- 2.23 To be accepted by the Council as affordable housing it must accord with the Council's definition of affordable housing as set out in this IPS, be of a suitable type and size, be on a suitable site and be subject to adequate arrangements to ensure its provision and continued occupancy by

appropriate households. The IPS sets out precisely what those requirements are and all developers are expected to adhere to them.

- 2.24 Where a site meets the criteria for affordable housing as set out in the IPS, the Council will produce a Housing Needs Statement (HNS) for the site based upon current information. The HNS will set out the affordable housing needs of the area and the Council's requirements for the site in terms of the most appropriate mix of affordable house types and advise on the most appropriate means of securing their provision. Developers are therefore advised to approach the Council and seek early involvement of an RSL prior to submission of a planning application to enable negotiations to be entered into at an early stage.
- 2.25 Achieving affordable housing will require liaison between the developer and the relevant Sections of the Council. Depending on the nature of the housing it may also be appropriate to involve any third party responsible for managing the scheme and the Homes and Communities Agency in discussions. The agreed provision will then be secured through the use of planning obligations attached to the approved scheme.
- 2.26 In respect of rural exceptions schemes, the Council will require that a local housing needs survey is carried out before submitting a planning application in order to determine the extent of any need.

3. SPECIFIC SITE REQUIREMENTS FOR AFFORDABLE HOUSING

Allocated Sites

- 3.1 On all sites which have been allocated for new housing in any of the Congleton, Crewe and Nantwich and Macclesfield Local Plans, the Council will negotiate for the provision of a specific percentage of the total dwelling provision to be affordable homes. The desired target percentage for affordable housing for all allocated site will be a **minimum of 30%**, in accordance with the recommendations of the 2010 Strategic Housing Market Assessment. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing. In addition, the Council will require the provision of an element of the market housing to be unsubsidised low-cost market housing (see para. 3.13).

Windfall Sites - Settlements of 3,000 Population or More

- 3.2 Planning Policy Statement 3 'Housing' states that the minimum site-size threshold above which affordable housing is to be sought should be 15 dwellings or more. The Council will therefore negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or than 0.4 hectare in size.
- 3.3 The exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment. This proportion relates to the provision of both social rented and/or intermediate housing, as appropriate. In addition, the Council will require the provision of an element of the market housing to be unsubsidised low-cost market housing (see para. 3.13). Where a scheme is for 100% affordable housing, an RSL should be involved in managing a proportion of the units in order to achieve a mix of tenures.
- 3.4 On sites below the size threshold the provision of affordable housing will not be a material consideration in determining the application, but developers are invited to consider making provision for an element of such housing as part of the overall scheme. In particular, the Council may seek the provision of an element of unsubsidised low-cost market

housing in some areas to overcome deficiencies in this sector of the market.

- 3.5 In applying the size threshold, site areas will normally be measured to the natural, physical perimeters of the site. It will not be acceptable for developers to divide a site into smaller components in order to take the site below the threshold.

Windfall Sites - Settlements of less than 3,000 Population

- 3.6 Planning Policy Statement 3 'Housing' states that local authorities may wish to set lower minimum thresholds in rural areas where viable and practical this approach is supported by the 2010 Strategic Housing Market Assessment, subject to substantiating evidence.
- 3.7 Monitoring has shown that in settlements of less than 3,000 population the majority of new housing has been delivered on sites of less than 15 dwellings. The Council will therefore negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 0.2 hectares or 3 dwellings or more in all settlements in the rural areas with a population of less than 3,000 population. The exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion for any site will normally be 30%. This proportion includes the provision of social rented and/or intermediate housing as appropriate. In addition, the Council may seek the provision of an element unsubsidised low-cost market housing (see para. 3.13).
- 3.8 On small sites the Council may agree that a payment in lieu of on-site provision is more appropriate to enable the affordable housing needs of the area to be met through provision elsewhere in the area or by other means, such as rehabilitation of empty properties. On sites below the size threshold the provision of affordable housing will not be a material consideration in determining the application, but developers are invited to consider making provision for an element of such housing as part of the overall scheme. In particular, the Council may seek the provision of an element of unsubsidised low-cost market housing in some areas to overcome deficiencies in this sector of the market.
- 3.9 In applying the size threshold, site areas will normally be measured to the natural, physical perimeters of the site. It will not be acceptable for applicants to divide a site into smaller components in order to take the site below the threshold.

Rural Exceptions Sites

- 3.10 Planning Policy Statement 3 'Housing' advises Local Planning Authorities to consider releasing sites solely for affordable housing in rural areas where planning permission for housing development would not normally be allowed. The Congleton and Crewe and Nantwich Local Plans both contain policies for these 'rural exception sites'. Such sites must be close to existing or proposed services and facilities. Proposals must be for small schemes appropriate to the locality and consist in their entirety of subsidised housing that will be retained in perpetuity for rent, shared ownership or in partnership with a RSL. In all such cases they must be supported by an up-to-date survey identifying the need for such provision within the local community. The Council's Rural Housing Enabler can give advice on the methodology for the survey which should normally be carried out either by, or in association with, the Parish Council. Unless the survey indicates a need for such provision, planning permission will not be granted. Section 7 of this statement gives further information on how Parish Councils can assist in the delivery of affordable homes to meet the needs of their communities.
- 3.11 As the release of such sites will be an exception to normal planning policy, the location, scale, layout, density, access and design of any proposed scheme will be critical in determining whether it is acceptable. The 'Rural Exceptions' policy does not apply to proposals for individual homes in the rural areas not forming part of an overall affordable housing scheme, and consequently such proposals must accord with normal planning policies for the area.

Retirement Housing Schemes

- 3.12 Recently some innovative models of private sector housing for older people have been developed, including retirement and extra care villages. These schemes are characterised by the availability of varying degrees of care, 24 hour staffing and ancillary facilities. The Council recognises that such models can contribute to meeting affordable and special needs housing, thus the Council will seek an affordable housing contribution from these schemes in accordance with paragraph 3.2 above.

Low-Cost Market Housing Provided without Subsidy

- 3.13 Low-cost market housing provided without subsidy cannot be regarded as affordable housing. However, it does have an important role to play in meeting the needs of households with income levels just adequate to access the open market. Because of the nature of the housing stock in the Borough there is a shortage of housing at the lower end of the market range. The Council will therefore normally require any new housing development of 10 dwellings or more to provide an element of its market housing units as unsubsidised low-cost market housing. Generally, and in addition to the requirement for affordable housing, the Council will look for a **minimum of 25%** of the total housing units on such sites to be

unsubsidised low-cost market housing, although the nature of the site, economic considerations, the level of affordable housing provision, its location and nearby provision will be taken into consideration in determining the exact level of provision.

- 3.14 To be acceptable, unsubsidised low-cost market housing must be designed in an appropriate manner to be able to be more affordable than most general market housing in the area by virtue of its size, accommodation and amenities. The level of house prices for low-cost market housing for sale will be set by the developer but should be competitively priced to attract those who cannot afford existing housing in the locality. Usually this implies housing priced in the lower quartile of house prices for the area averaged over the most recent 12 months. The Council will also normally require all such housing to meet the dwelling type and size preferences set out for affordable housing property in para. 4.5
- 3.15 Such forms of housing are usually provided by a private developer and are not subject to any eligibility or tenure controls by the Council, although there may be controls on the type of property and a requirement to ensure that the property is made available at an initial sale price in the lower quartile of house prices for the area.

4. DEVELOPMENT CONSIDERATIONS FOR AFFORDABLE HOUSING

Location

- 4.1 All affordable housing accommodation should be located on sites which are sustainable and contribute to the creation of mixed urban and rural communities. Wherever feasible and practicable, priority should be given to the use of previously developed (brownfield) sites in sustainable locations and to the reuse and conversion of existing buildings, particularly buildings which are of architectural or historic interest. All proposals will be required to accord with the policies of the adopted Local Plan in respect of their location.

Dwelling Types

- 4.2 The provision of affordable housing must be appropriate in size and type to meet the needs of specific households identified by the local authority as part of its strategic assessment of housing need. Wherever possible any affordable housing scheme should incorporate a range and mix of affordable house types although it is recognised that in smaller schemes the range and mix will be more limited.
- 4.3 The 2010 Strategic Housing Market Assessment indicates that in terms of affordable housing tenure, there is a requirement for both affordable homes for rent and intermediate housing options. a tenure target that matches the stated preferences of the target households of 35% intermediate and 65% social rented is considered appropriate to maximise the benefits of financially efficient intermediate housing options.
- 4.4 Where there is an identified need, affordable housing may also include other forms of dwelling types, such as communal flats, bungalows and sheltered accommodation, which are suitable for accommodating households with special needs e.g. elderly, physically disabled or those with learning disabilities.
- 4.5 In terms of property size and type, the requirements identified indicate a range of needs with some variation across the Borough. The appropriate mix of affordable housing should therefore be considered for each specific location. Overall, the 2010 Strategic Housing Market Assessment indicates that affordable needs are for the additional supply to be
- 14% for older persons comprising one or two bedroom units
 - 50% one or two bedroom properties for general needs. Note that these figures combine the data for one bedroom (20%) and two bedroom (30%) as the long-term sustainability of

small units should be carefully considered against the needs and demand.

- 23% three-bedroom and
- 13% four bedroom or larger.

- 4.6 With regard to the type of properties, in order to achieve mixed and tenure-blind developments, it is desirable that the affordable homes match the types being provided for the open market. The identified property preferences (house 42.3%, flat 38.7% and bungalow 19%), indicate that a range of types is appropriate.

Design and Layout

- 4.7 The Borough Council recognises that dwellings are more likely to be affordable in comparative terms if the development in which they are comprised is at a relatively high density. On sites well served by public transport or close to the town centre, higher densities of development are particularly appropriate.
- 4.8 The design of new housing developments should ensure that affordable homes are integrated with open-market homes to promote social inclusion and should not be segregated in discrete or peripheral areas. Affordable homes should therefore be 'pepper potted' within the development. The external design, comprising elevation, detail and materials, should be compatible with open market homes on the development in question thus achieving full visual integration.
- 4.9 Affordable homes should be constructed in accordance with the standards proposed to be adopted by the Homes and Communities Agency and should achieve at least Level 4 of the Code for Sustainable Homes (2007). The design and construction of affordable housing should also take into account forthcoming changes to the Building Regulations which will result in higher build standards particularly in respect of ventilation and the conservation of fuel and power.

Phasing

- 4.10 In order to ensure the proper integration of affordable housing with open market housing, particularly on larger schemes, conditions and/or legal agreements attached to a planning permission will require that the delivery of affordable units will be phased to ensure that they are delivered periodically throughout the construction period, but in any event not later than the sale or let of 50 % of the open market homes.

5. AGREEMENTS FOR SECURING AFFORDABLE HOUSING

General

- 5.1 The Council will require any provision of affordable housing and/or any control of occupancy in accordance with this SPD to be secured by means of planning obligations pursuant to Section 106 of the Town and County Planning Act 1990 (as amended).
- 5.2 The Agreement will cover the number, type and size of units; their availability; need and affordability; price control and agreed tenure. In some instances it will address issues of periodic viability reviews where a reduced or nil element of affordable housing has been agreed.
- 5.3 Where any element of affordable housing is to be comprised in a larger development which also includes market housing, the Council will expect that the affordable housing element will be available and ready for occupation before 50% of the market housing is sold or let. The Council will therefore require the Agreement to contain an obligation restricting the developer from allowing the sale or letting of an appropriate proportion of the market housing until the affordable housing element is built and ready for occupation.
- 5.4 In all cases where an RSL is to be involved in the provision of any element of affordable housing, then the Council will require that the Agreement contains an obligation that such housing is transferred to and managed by an RSL and that it should only be used for the purposes of providing housing accommodation to meet the objectives of an RSL as set out in the Housing Act 1996.

Need and Affordability

- 5.5 The Council regards the involvement of an RSL in any element of affordable housing as a sufficient guarantee of need and affordability without any additional control. In all other cases of affordable housing, the Council will require the Agreement to contain an obligation to make the affordable housing available to those in housing need and at less than the market price or rent in perpetuity, so far as the law allows, in accordance with the guidance set out in this Policy Statement

Tenure

- 5.6 The Council will require the Agreement to contain obligations appropriate to each tenure. Thus, where a development contains an element of affordable housing that is to be available for rent, the Council will require the Agreement to contain an obligation that any such housing is to be managed by an RSL or other agreed landlord.

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- 5.7 Where a development contains an element of affordable housing that is to be available for sale or shared ownership, then the Council will require the Agreement to contain adequate principles of a scheme that has already been approved in advance by the Council or alternatively the Agreement may reserve the Council's right to approve a specific scheme prior to implementation.

Dwelling Types and Size

- 5.8 If the relevant planning application is in outline only, then the Council will require that the Agreement must stipulate the number, type, tenure and size of all affordable housing units.
- 5.9 If the relevant planning application is a detailed application, then the Council will require that the Agreement contains an obligation that the affordable dwellings are to be built in accordance with the details comprised in the approved application as regards number, type, design, tenure and size of each dwelling.

Price and Rent Control

- 5.10 Where a development contains an element of affordable housing that is to be available for sale, the Council will require that the Agreement sets out the formula to be applied to achieve the desired level of discount in perpetuity. Where a development contains an element of affordable housing that is to be available for intermediate rent, the Council will require that the Agreement sets out the provisions and safeguards to achieve an affordable rent in perpetuity.

Rural Exception Sites

- 5.11 In addition to the above requirements, the Council will require the Agreement to contain obligations which adequately reflect the occupancy criteria and the locality criteria referred to in para. 2.9

Use of Financial or Other Contributions

- 5.12 Where developers offer financial or other contributions towards the provision of affordable housing on an alternative site in the locality, and it is agreed by the Council that this is an acceptable means of providing affordable housing, the Borough Council will expect the Agreement to contain obligations relating to the provision of such contribution

6. VIABILITY OF AFFORDABLE HOUSING PROVISION

- 6.1 National Planning Policy as set out in PPS3 'Housing' requires Local Planning Authorities to set economically viable targets for affordable housing. Consequently the targets set out in the Statement have been independently tested for economic viability through the Strategic Housing Market Assessment and are appropriate for use in current market conditions.
- 6.2 Nevertheless, as made clear in Section 3 of this Statement, the viability of individual schemes will be a material consideration in deciding planning applications. Since 2008 there has been significant downturn in the housing market and particularly on brownfield sites where costs of redevelopment are proportionally higher than greenfield sites. Developers have sought and continue to seek to negotiate a lower (or in some cases nil) provision of affordable housing on the basis that the Council's normal requirements would render redevelopment unviable. It is important therefore that a clear methodology for testing the viability of specific development proposals is established.
- 6.3 Accordingly the Council will require applicants, who are suggesting that exceptional financial circumstances exist to the extent that the Council's requirements for affordable housing cannot be achieved, shall provide a robust development appraisal and appropriate supporting evidence with their application when submitted.
- 6.4 Prior to submission the Council will expect that applicants' development appraisals shall have been independently verified by an external valuation expert. The costs of this independent verification shall be borne by the applicant. The external valuation expert to be used shall be previously agreed by the Council.
- 6.5 The minimum level of information that should be included in such a development appraisal is set out in Appendix 1 of this statement.
- 6.6 Where it is accepted by the Council that a development is not sufficiently viable to provide the requisite level of affordable housing, and where the development is in all other respects acceptable, it may consider requiring the applicant to enter into a legal agreement which effectively defers developer contributions during the period of development. More detail on this approach is contained in the Home and Communities Agency Good Practice Note on Investment and Planning Obligations (July 2009), however the broad principles are explained below.
- 6.7 In these circumstances subject to the developer agreeing to initially provide the proportion (if any) of the affordable housing that the development appraisal indicated was viable, a further payment in lieu

of the remaining affordable housing would become payable if and when there was an increase in the achieved sale values of the dwellings compared to the values assumed in the development appraisal. The calculation of further payments would be at agreed periods during the life of the development. This mechanism would only apply once development had commenced.

7. RURAL EXCEPTIONS

- 7.1 Generally planning policies do not allow for new housing development in the open countryside outside of villages with settlement boundary lines. However in certain circumstances planning permission may be granted for small schemes of affordable housing where;
- The site adjoins the settlement boundary of a village or is within a village with no settlement boundary
 - There is an identified need for affordable housing in that village or locality
 - All the proposed housing is affordable, for people with a local connection and will remain affordable in perpetuity
 - The development is in accordance with other local plan policies
- 7.2 The Council considers that the development of affordable housing in rural areas is best achieved in partnership with Parish Councils and local communities. For that reason the Council has appointed a Rural Housing Enabler who will provide Parish Councils with independent advice, support and information in developing a local affordable housing scheme.

Identifying Local Housing Needs

- 7.3 The first stage will be a rigorous assessment of local housing needs by means of a survey of all households in the Parish. The Rural Housing Enabler will advise on the detailed wording of the survey form, however a model form is attached at Appendix 2 of this Statement.
- 7.4 The survey will provide evidence of the level of need based on the number of households living in unsuitable accommodation or living with relations. It will give an idea of the potential number and type of dwellings that may be required and any specialist requirements (i.e disabled adaptations).
- 7.5 The Rural Housing Enabler, in conjunction with the Parish Council, will then undertake an analysis of the survey results.

Site Assessment

- 7.6 Subject to a need being identified, the next stage will be to identify a suitable site. The Parish Council would be expected to play an important role in site identification having an in depth local knowledge, although it will be important to involve the Council's Planning Officers to ensure that sites are suitable in terms of landscape impact, access, flood risk, nature conservation etc.
- 7.7 Priority will be given to sites within or on the edge of villages with a reasonable level of services and public transport. Clearly it is crucial

that the landowner of any identified site is supportive of it being developed for affordable housing. Rural exception sites work because of the low values of the sites concerned. For this reason the inclusion of open market dwellings to subsidise the overall scheme is unacceptable and landowners should be made aware of this at the outset.

Development Partners

- 7.8 Normally a Registered Social Landlord (RSL) will be identified to lead the development process and to provide long term management of the resultant scheme. The RSL will undertake detailed site investigations, negotiate with the landowner to acquire the site and apply for planning permission. In designing the scheme prior to submitting a planning application, the RSL will be expected to work closely with the Parish Council and Council Planning Officers to achieve a suitable design and layout. The exact number and type of dwellings will necessarily depend upon the nature of the site and the level of identified need, however these types of development should be small scale and integrate well into the existing village scene.
- 7.9 A local consultation event will normally be held to allow local people the opportunity to comment on the plans before a formal planning application is submitted.

Implementation

- 7.10 Once planning permission has been granted the site may be developed and the dwellings built will be let to local people. In most cases the dwellings will be sold to an RSL which will then allocate or sell the properties to local people in housing need. The planning permission will be subject to a legal agreement that ensures that the dwellings will remain affordable to meet local needs in perpetuity. The legal agreement will also restrict occupancy of the dwellings to people who either live in the area or have strong local connection. In those cases where shared ownership housing is provided, it is likely that there will be restrictions on 'staircasing' (i.e. the level of equity in a property that the owner is able to secure) as explained in Para 2.4 of this document.
- 7.11 In the rare event that a property cannot be let to a person who either lives locally or has strong local connections, the legal agreement will include a cascade mechanism to ensure that an affordable dwelling is not left empty. In these circumstances a property may be let to a person who lives in a neighbouring parish or failing that other people on the Council's Housing Register. (See Para 2.9 above)

APPENDIX 1

VIABILITY OF DELIVERY OF AFFORDABLE HOUSING

The Council will expect an 'open book' type of approach by the developer when considering evidence supplied about viability. The following gives an indication of the type of information that will be required from the developer in order for an assessment of viability to be carried out. All information supplied should be independently verified at the developer's cost by experts previously agreed by the Council.

REVENUES

- Gross Internal floor area of the properties
- The anticipated total sales value of the market housing.
- The anticipated value of the 30% affordable housing provision
- Affordable Housing Grant

COSTS

- Marketing and sales costs associated with the sales of the dwellings.
- Site acquisition costs including legal costs, stamp duty, fees etc.
- Build costs
- Preliminaries indicating what are included.
- Fees e.g. architect, quantity surveyor etc
- Planning and building control costs
- Site infrastructure to include site roadways, landscaping, boundary treatment etc
- Costs of finance including interest rate and term

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- Other Section 106 costs such as external highways works, public open space, community benefits or infrastructure etc.
 - Abnormal costs (i.e. not known at time of site acquisition)
 - Developer's profit margin.
 - Contingencies

APPENDIX 2

**MODEL HOUSING NEEDS SURVEY FORM FOR RURAL
EXCEPTIONS SCHEMES**

(In course of preparation and to be included in consultation
document)