

Strategic Planning Board

Agenda

Date:	Wednesday, 8th December, 2010
Time:	2.00 pm
Venue:	The Capesthorne Room - Town Hall, Macclesfield SK10 1DX

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

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

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

1. Apologies for Absence

To receive any apologies for absence.

2. Declarations of Interest/Pre-Determination

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

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

To approve the minutes 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. **10/3139M-Extension of Time to 07/1041P Erection of 9 Three-Storey Buildings for Class B1 (Business) Use, 1 Two/Three-Storey Building for Class C1 (Hotel) Use Together With Associated Highways, Car Parking And Landscaping Infrastructure, Land at Tytherington Business Park, Manchester Road, Tytherington, Macclesfield for Hadley Development Solutions Ltd (Pages 5 - 18)**

To consider the above application.

6. **10/3239M-Re-Development of depot for residential dwellings (maximum 50 dwellings), Cold Storage, Knutsford Road, Chelford for Mr Greg Williams, Eddie Stobart Group Ltd (Pages 19 - 40)**

To consider the above application.

7. **10/3448M-Outline Planning Application for the Erection of a Mixed Use Development Comprising Residential, Community and Employment Uses set in High Quality Landscaping and Attractive New Public Realm, Chelford Agricultural Centre, Dixon Drive, Chelford for Trustees of Chelford Agricultural Centre (Pages 41 - 66)**

To consider the above application.

8. **10/0346M-Erection of 15 No. Affordable Houses, Woodside Poultry Farm, Stocks Lane, Over Peover, Knutsford for Dean Johnson Farms Ltd/ Dane Housing (Pages 67 - 90)**

To consider the above application.

9. **Broadheath House, Slade Lane, Over Alderley, Alderley Edge - Judicial Review of decision to grant planning permission (Pages 91 - 96)**

To consider the above report.

10. **Appeal Summaries (Pages 97 - 100)**

To note the Appeal Summaries.

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 17th November, 2010 at Sandbach Cricket Club, Hind
Heath Road

PRESENT

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

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

OFFICERS PRESENT

Mr N Curtis (Principal Development Officer), Mr I Dale (Heritage and Design
Business Lead), Ms S Dillon (Senior Solicitor), Mr D Evans (Principal Planning
Officer), Mr A Fisher (Head of Housing and Policy), Mr R House (Local
Development Framework Manager) and Mr S Irvine (Development Control
Manager)

66 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors W J A Arnold, Mrs
R Bailey and W J Macrae.

67 DECLARATIONS OF INTEREST/PRE-DETERMINATION

All Councillors on the Board declared they had received a number of
emails and letters in relation to application 10/3471C - Land South of
Middlewich Road and East of Abbey Road, Sandbach: Proposed
Residential Development of up to 280 Dwellings, Landscaping, Open
Space, Highways and Associated Works for Fox Strategic Land &
Property.

Councillors C Thorley and G Walton declared a personal interest in the
same application by virtue of the fact that they were members of the
Cheshire Brine Subsidence Compensation Board who were consulted on
the application. In accordance with the Code of Conduct they remained in
the meeting during consideration of the application.

Visiting Councillor B Moran declared a personal and prejudicial interest in
the same application by virtue of the fact that he lived in a property close
to the application site. In accordance with the Code of Conduct he
exercised his right to speak as Ward Councillor and then left the meeting.

Councillor Mrs Rhoda Bailey declared a personal interest in the same
application by virtue of the fact that she was a member of the Campaign to

Protect Rural England. In accordance with the Code of Conduct she remained in the meeting during consideration of the application.

(During consideration of this item Councillor B Livesley arrived to the meeting).

68 MINUTES OF THE PREVIOUS MEETING

RESOLVED

That the minutes be approved as a correct record subject to the inclusion of Councillors P Edwards and C Thorley in the list of apologies.

69 PUBLIC SPEAKING

RESOLVED

That the public speaking procedure be noted.

70 10/3471C - LAND SOUTH OF MIDDLEWICH ROAD AND EAST OF ABBEY ROAD, SANDBACH: PROPOSED RESIDENTIAL DEVELOPMENT OF UP TO 280 DWELLINGS, LANDSCAPING, OPEN SPACE, HIGHWAYS AND ASSOCIATED WORKS FOR FOX STRATEGIC LAND & PROPERTY

Consideration was given to the above application.

(Councillor Ms S Furlong, the Ward Councillor, Councillor Mrs G Merry, the Ward Councillor, Councillor B Moran, the Ward Councillor, Councillor Mrs Rhoda Bailey, a non Ward Councillor, Councillor A Wood, Sandbach Town Council, Mr Neumann, representing Friends of Abbeyfields and Mr Roberts, an objector attended the meeting and spoke in respect of the application.

The application was refused for the following reasons:-

1. The proposed residential development within the open countryside would be contrary to the provisions of Policies PS8 and H6 of the adopted Congleton Borough Local Plan First Review. Whilst it is acknowledged that the Council does not currently have a five year housing land supply and that, accordingly, in the light of the advice contained in PPS3 it should consider favourably suitable planning applications for housing, the current proposal is not considered to be "suitable" as it is located on the periphery of Sandbach, rather than Crewe. It would undermine the spatial vision for the area and wider policy objectives as it would be contrary to the general thrust of the Core Strategy Issues and Options which directs the majority of new development towards Crewe, as well as the Council's Draft Interim Planning Policy on the Release of Housing Land and Policies RDF1 and MCR3 of the North West of England Plan Regional Spatial Strategy to 2021, which articulate the same spatial vision. This would be contrary to

advice in PPS.3 and PPS1, which states these emerging policies are material considerations. For these reasons the Housing Land Supply arguments advanced by the applicants are considered to be insufficient to outweigh the general presumption against new residential development within the Open Countryside as set out in the adopted development plan.

2. Release of this site would prejudice the development of the significant number of brownfield sites within Sandbach with extant planning permission, which would provide significant regeneration benefits, and would be sufficient to address housing requirements within the Sandbach area. The proposals are therefore contrary to Policy advice within PPS.3 which gives priority to the development of previously developed land, the provisions of Policy H2 of the adopted Congleton Borough Local Plan First Review, and Policies DP4 and DP7 of the North West of England Plan Regional Spatial Strategy to 2021.

3. The proposal would involve the loss of best and most versatile agricultural land. PPS7 states that where significant development of agricultural land is unavoidable, local planning authorities should seek to use areas of poorer quality. In this case it is considered that the development of the site is avoidable as there are no overriding reasons for allowing the development. For the reasons stated above, in this case there are not considered to be any overriding reasons for allowing the development and the proposal is therefore contrary to PPS7.

4. There is a pond to the north of the application site within the curtilage of 180 Middlewich Road. Great Crested Newts have been found in a pond within the residential curtilage of a nearby residential property and Great Crested Newts are reasonably likely to be present within the pond at 180 Middlewich Road. No Protected Species Survey has been submitted as part of this application to identify whether or not Great Crested Newts are present in this pond or any mitigation measures to protect this species during the construction works. In the absence of this information, to allow this development would be contrary to Policy NR.2 (Statutory Sites) of the adopted Congleton Borough Local Plan First Review, Circular 6/2005 and PPS9.

5. The submitted plans show that 172 Middlewich Road would be demolished as part of the proposed development. The dwelling is pre 1960's and is within 200 metres of water and as a result could offer a potential habitat for bats in accordance with the Councils Guidance on Biodiversity and Geodiversity Conservation Statements. No Protected Species Survey has been submitted as part of this application to identify whether or not Bats are present within the fabric of the building or any mitigation measures to protect this species during the construction works. In the absence of this information, to allow this development would be contrary to Policy NR.2 (Statutory Sites) of the adopted Congleton Borough Local Plan First Review, Circular 6/2005, PPS9 and Policies EM1 and DP7 of the North West of England Plan Regional Spatial Strategy to 2021.

6. Although access is a reserved matter, vehicular access to the site could only be provided through 3 possible access points (two onto Abbey Road and one onto Middlewich Road). The provision of vehicular access at any of these points would have an adverse effect on existing healthy trees of amenity value. As a result the proposed development would be contrary to the provisions of Policy NR.1 (Trees and Woodlands) of the adopted Congleton Borough Local Plan First Review and Policies EM1 and DP7 of the North West of England Plan Regional Spatial Strategy to 2021.

The meeting commenced at 2.00 pm and concluded at 3.20 pm

Councillor H Davenport (Chairman)

Planning Reference No:	10/3139M
Application Address:	Land at Tytherington Business Park, Manchester Road, Tytherington, Macclesfield
Proposal:	Extension of time to 07/1041P – Erection of 9 three storey buildings for Class B1 (Business) Use, 1 two/three storey building for Class C1 (Hotel) use, together with associated highways, car parking and landscaping infrastructure.
Applicant:	Hadley Development Solutions Ltd.
Application Type:	Extension of time
Grid Reference:	918 760
Ward:	Prestbury and Tytherington
Earliest Determination Date:	27 th October 2010
Expiry Date:	9 th November 2010
Date of Officer's Site Visit:	6 th October 2010
Date Report prepared:	15 th October 2010
Constraints:	Manchester Airport Safeguarding Woodford Safeguarding Development Brief Existing Employment Area Green Belt Proposed Open Space Tree Preservation Order

SUMMARY RECOMMENDATION: Approve subject to conditions

MAIN ISSUES

- Whether there has been a significant change in circumstances or policy since the original grant of permission for 071041P.
- Whether there is sufficient information submitted to enable an extension of time to the original full permission 07/1041P to be granted.

REASON FOR REPORT

This application is to be determined by the Strategic Planning Board because of the amount of accommodation on the application site - nine three storey office buildings for B1 use (25 628 sqm) and a two/three storey building for hotel use (100 bed).

Members will recall that the application was deferred at the Strategic Planning board on 27th October 2010, in order to allow for further ecological surveys to be carried out.

DESCRIPTION OF SITE AND CONTEXT

The site lies approximately 2km to the north of Macclesfield Town Centre. The site is bounded to the west by the A538 (London Road) and employment land to the east which forming part of the established Tytherington Business Park. To the south lies the residential area known as the “old” Tytherington Estate with properties on both Pool End Close and the A538 being adjacent to the application site. The land is uneven and rough in appearance, with a lot of weeds and scrub having become established. The buildings which were originally part of Pool End Farm have been removed and there are no buildings on the site at present.

SCOPE OF THIS APPLICATION

Extensions to the time limits for implementing existing planning permissions were brought into force on 1 October 2009. The new system was introduced in order to make it easier for developers to keep planning permissions alive for longer during the economic downturn. It includes provisions for a reduced fee and simplified consultation procedures.

As a matter of law the Board decides applications afresh: resolutions which vary from previous decisions may be justified by change of circumstances or of weight. For this type of application, the Government's advice is for Local Planning Authorities to take a positive and constructive approach towards applications that improve the prospects of sustainable development being brought forward quickly. The development proposed will, by definition, have been judged acceptable in principle at an earlier date. It is the Government's advice that Local Planning Authorities should only look at issues that may have changed significantly since that planning permission was previously considered to be acceptable in principle.

In short, it is not intended that Local Planning Authorities should re-open debates about principles of any particular proposal, except where material circumstances may have significantly changed, either in local plan policy terms or in terms of national policy or other material considerations.

DETAILS OF PROPOSAL

This is an application for an extension in time to outline planning permission granted under reference 07/1041P. The outline permission granted consent for nine three storey buildings for Class B1 (Business) use, one three storey building for Class C1 (Hotel) Use together with associated highways, car parking and landscaping infrastructure. The application was determined on 28th August 2007.

The current application (received on 6 April 2010) was received whilst the original application was an extant permission. Whilst the guidance advises Applicants not to leave their applications to the last minute, it remains clear that this application was submitted in time and therefore should be determined as a valid application.

The original committee report which was considered by the former Macclesfield Planning Committee for the approved scheme is attached to this

report as Appendix 1, and an update report is attached as Appendix 2. The Decision Notice 07/1041P is attached as Appendix 3.

RELEVANT PLANNING HISTORY

07/1041P – Erection of 9 three-storey buildings for Class B1 (Business) use, 1 two/three storey building for Class C1 (Hotel) use together with associated highways, car parking and landscaping infrastructure – Approved – 28.08.07

05/0753P – 4 x five storey office buildings and five storey hotel. Refused June 2005 on the grounds of scale, height and design, introduction of an inappropriate use, contrary to RPG13, transport issues, non-accordance with the Tytherington Business Park Development Brief, failure to comply with sustainability objectives, and impact on highway network.

04/0506P - Outline application for development of B1 office accommodation. Refused May 2004 on the grounds of insufficient justification for the proposed office accommodation in relation to its impact on the character and appearance of the site and the adjacent residential areas, and impact upon the highway network, and submission of a Travel Plan which failed to comply with Government advice and best practice.

02/1441P – Renewal of outline planning permission 99/0664 for B1 office development, B2 General Industrial Units and B8 warehousing - Approved.

99/0664P – Outline application for B1 office development, B2 general industrial units and B8 warehousing. Approved July 1997.

97/2379P – New estate road for business park – Approved with conditions following completion of Legal Agreement – March 2000.

97/0237P - Site for B1, B2 and B8 development comprising offices, research and development facilities, light and general industry and warehousing – Application not determined – Appeal withdrawn 18.07.97

83319P - Site for B1, B2 and B8 development comprising offices, research and development facilities, light and general industry and warehousing – Application not determined – Appeal Allowed 18.07.97

POLICIES

Local Plan Policy

BE1, NE4, NE11, RT1, RT6, RT7, RT8, RT14, E1, E2, E3, E4 and Development Control Policies.

Other Material Considerations

National Planning Guidance in the form of: -

PPS1: Delivering Sustainable Development

PPS3: Housing

PPG15: Planning and the Historic Environment

PPS9: Biodiversity and Geological Conservation

PPG13: Transport

PPG25: Development and Flood Risk

The newly published PPS4: Planning for Sustainable Economic Growth is also of relevance to this proposal. The development is for an office development with a hotel on land which is allocated for employment uses within the Macclesfield Local Plan. The site is considered to fall within a relatively sustainable location. As a scheme that provides employment opportunities the principles of achieving sustainable economic development are still relevant.

CONSULTATIONS (External to Planning)

The Highways Engineer raises no objections to this application.

The Community Fire Protection Officer has commented in relation to Access for the Fire Service - the access and facilities for the fire service should be in accordance with the guidance given in Approved Document B supporting the Building Regulations 2000. In relation to Water Supplies – the applicant is advised to submit details of the water main installations in order that the fire hydrant requirements can be assessed. In relation to the Means of Escape – the applicant should be advised that the means of escape should be provided in accordance with the current Building Regulations. The applicant is also advised that they should consider the inclusion of an automatic water suppression subsystem to enhance any proposed design. The above comments should be forwarded to the applicant.

Manchester Airport raise no safeguarding objections to this application.

The Environment Agency have no objections to the proposed extension of time.

Bollington Town Council comment that they have had discussions with the Dumbah Residents Association. It is suggested that the matters raised in the Dumbah Associations letter, (which in addition to other things, raises concerns about parking and the height of buildings) should be properly considered when the application is determined.

OTHER REPRESENTATIONS

A total of 20 letters of objection have been received in relation to this application. The Dumbah Association objected to the original application (07/1041P) on the following grounds: -

The Business Park's Feasibility Study cites a population of 1400 persons for the entire Business Park. Lance's own population figures exceed that value just for its 30% of the Business Park. The Royal Institute of Chartered Surveyors Cutting Edge document suggests a population of up to 23% higher still.

Lance's own figures predict a shortage of 394 car parking places. RICS models predict shortage up to 663 places. These hundreds of car users will target neighbouring residential roads as overspill car parks.

Only 16% of the Orbit's 25-buildings are 3-storey; 100% of Lance's 10-building are 3-storey.

Orbit's hotel was in the Statutory Local Plan. Lance's is not and yet it's more than twice the size. Lance's hotel is sited precisely where the Business Park's Development Brief makes provision to alter the intercept of Tytherington Lane with Manchester Road (i.e. residential properties close-by could have expected a significantly improved environment). Instead, they'll be blighted by an immediately adjacent huge hotel.

Additional reasons are added in relation to this application: -
Incompatibility with The Planning Inspectorate's related decision to an earlier Orbit Application. This decision limits the site to 2-storey and 3-storey areas as shown on the Inspectors plan. MBC translated this as a condition NOT to place 3-storey buildings on the periphery of the site. The Inspector acknowledges the Development Brief as a material consideration in his deliberations and the Development Brief's para 6.4 states: adjacent to existing dwellings, no more than 2-storeys.

The siting of a hotel could have been avoided. The environmental consequences fall upon nearby residential dwellings. These residents were expecting a road realignment and landscaping, not a 3-storey hotel. The RCIS Cutting Edge document was ignored by Cheshire Highways. Councillors were misled as the previous applicants 'Lance' pointedly stated the Cutting Edge document was not commissioned by DoE when giving evidence to Main Planning Committee councilors and this rubbished the pedigree of the Cutting Edge argument.

The Dumbah Association questions whether Planning Committee Councillors were made aware of the Inspectors explicit reference to the height of buildings on the site. Lance's proposed hotel is on the periphery of the site.

The writer suggests that LPAs may refuse applications to extend the time limit for permissions where changes in the development plan or other relevant material considerations indicate the proposal should no longer be treated favourably. Since the original Planning Application (07/1041P) and the introduction of the Extension of Time scheme (Oct 2009) there has been: a change in Government, change in Council and a change in management at the Planning Department. *(Officer comment – none of these factors are material planning considerations)*

The other grounds for objection from residents are summarised as follows: -

- This submission did not comply with the outline planning consent and therefore should be rejected.

- The development is far too high a density, particularly on the southern part of the site, and needs to be reduced by removing a minimum of three blocks from those lettered A-F.
- The designs proposed are completely out of character. The 3 storey hotel is of a very dated design and will not enhance the entrance to the park.
- There was no clear need for the proposed development in 2007 when permission was granted. Three years later, after one of the deepest recessions since the war, there is even less need. So far as we understand, the existing Orbit development is far from fully let. The case for a substantial extension to an underused development is simply not made out.
- There is no need for a hotel. Macclesfield has enough low- to mid-range hotels already.
- The development will result in traffic congestion and car parking on local roads. Highway safety will be affected by the volume of traffic.
- The council should talk to the developers to require the land and give them city centre options instead. Then the land could be easily and cheaply joined into the local pathway system. The wetlands could be made into a nature reserve. This would be used by many bicycle groups, bird watchers, local mothers with children, biology study areas for local schools, dog walkers, the list is endless.
- One objector has included a précis of a speech given to the main planning committee on the 28th August 2007 by the Secretary of the Dumbah Association, which relates to a feasibility Study of the business park and the Royal Institute of Chartered Surveyors Cutting Edge document.
- The proposed plans will affect the character of the area as most properties on Tytherington Lane date back to the Eighteenth Century.
- There is a drain from the septic tank of one of the objectors which goes across the land to the stream. What is going to happen to this?
- The development will have a detrimental impact on wildlife.
- One resident has requested that the ground levels be lowered so that the buildings can blend in with the rest of the landscape and immediate properties.

A further letter was received from the Dumbah Association which is summarised as follows: -

This letter explains how the Dumbah Association has requested details of application 07/1041P in order to ascertain whether the Councillors who considered that application took into account the deliberations of an Inspector from a previous scheme on the Business Park in relation to the height and permitted locations of 2/3 storey buildings. The writer also states that he requested a copy of plan which was tabled at the Public Inquiry, however, this has not been found.

The writer reiterates that that the Dumbah Association does not consider that all the buildings should be 3 storey and submit that Councillors were not properly informed of all the facts in the previous scheme. The writer considers

that the Inspectors conditions on the previous appeal in relation to the heights of buildings were ignored. The plan which was tabled at the Public Inquiry stated that: - "A maximum development of two storeys in height shall be constructed around the periphery of the site with three-storey developments being located within central parts of the site only", and, "the maximum height of buildings shall be 10 meters for 2 storey and 13-metres for 3 storeys". The writer believes that the previous senior management created a precedent in breaking an orange no go zone by allowing all the development to be over 2 storey high.

The writer points out that residents, at the southern end of Tytherington Lane, were genuinely expecting a road re-configuration that would, according to the *Development Brief*, include a landscape area. Instead, they now get a gigantic 3-storey hotel. This hotel is over twice the size of the existing Orbit hotel at the northern entrance to the Business Park. There previous letter, also informed Members that: a) MBC had ownership of this parcel of land; b) sold it for significant profit; c) could have retained this land for the purposes of reconfiguration; c) or, alternatively, could have placed a codicil to ensure the purposes of reconfiguration.

APPLICANT'S SUPPORTING INFORMATION

A supporting letter and an Ecological Report have been submitted to accompany the extension of time application. The updated Ecology Report confirms that the findings and recommendations originally submitted are still valid. There are no new or improved habitats on the site. The letter states that the previous applicant / developer went into administration in mid July 2010 and the company's assets were subsequently then assessed by the bank. It was considered important to extend the time limit for implementation of the development simply to retain the consent and the principle of development on the site. The timing of the administration resulted in submission of the current application close to the expiry of the 2007 consent.

One policy issue relates to the introduction of PPS 4 'Planning for Sustainable Economic Growth' in place of PPS 6 'Planning for Town Centres' which was relevant at the time of the previous consent. This change in national guidance is not considered to have introduced any significant material changes in policy that would prevent the approval of the extension of time application. Both PPS6 and PPS4 consider hotels to be a town centre use and as such the guidance set out in the two documents regarding the principle of such developments remains essentially unchanged. If anything the guidance set out in PPS6 was more onerous in terms of the need to demonstrate need for such development, its impact, the appropriateness of its scale, its accessibility and overall impact. PPS4 is more supportive of hotel development with the use considered to fall within the definition of economic development as they provide employment opportunities (paragraph 4 PPS4). Furthermore Policy EC10 of PPS4 actively encourages Local Planning Authorities to adopt a positive and constructive approach towards planning applications for economic development. Policies EC15 and EC16 regarding sequential and impact assessments respectively are essentially the same as those set out in PPS6.

Whilst the national guidance relating to economic development may have changed in terms of number / title (that is PPS4 replacing PPS6) the guidance and advice set out essentially remains the same, albeit PPS4 is now more positive in encouraging economic development. In terms of any material change in circumstances since the previous consent it is considered there have been no such changes in terms of site conditions or planning policy.

OFFICER APPRAISAL

MATERIAL CHANGES IN POLICY/CIRCUMSTANCES SINCE PREVIOUS APPLICATION

There are not considered to be fundamental changes in policy or other important material considerations since the original application was determined in 2007. The applicant's assessment of policy in relation to PPS4 is accepted in relation to this proposal.

IMPACT UPON PROTECTED SPECIES AND MATERIAL CHANGES IN CIRCUMSTANCES SINCE THE SCHEME WAS ORIGINALLY GRANTED PERMISSION

Ecological surveys and assessment reports were provided in respect of the 2007 application. These were considered to be out of date and as a result further surveys were requested which included an Extended Phase 1 Habitat Survey, mitigation proposals, Great Crested newt Surveys and Breeding/wintering Bird Assessment. Following this request, updated ecological assessments have been submitted. The Nature Conservation Officer is satisfied that an acceptable level of survey has been undertaken in respect of roosting bats. No evidence of roosting bats was recorded; therefore no further action is required. With regards to badgers, no currently active setts were recorded on site during the latest survey. An acceptable badger mitigation method statement has been submitted that indicates the retention of the setts and the supervision of the works by a suitably qualified ecologist together with the provision of badger underpasses.

OTHER CONSIDERATIONS

The comments from the Dumbah Association and residents are noted. These comments were addressed in the committee report under the 2007 application and therefore, it is evident that the comments made by the Dumbah Association and residents were given proper consideration in 2007, where the sites planning history and context was clearly presented to the Committee Members. The scheme which was approved under application 07/1041P was considered to be acceptable on its merits and that full consideration to the heights and location of buildings was given.

It is not considered that it would be appropriate to re-open the debate about the principles of the proposal as material circumstances do not appear to have significantly changed.

One further letter has been received from a resident of Manchester Road concerning a drain from their septic tank. This issue was raised during the 2007 consideration of the scheme and such matters are considered be a private matter to be resolved between the applicants and affected resident should planning permission be granted.

It should be noted that condition 17 of 07/1041P requires details of existing and proposed ground levels to be submitted before any development on site commences.

The comments from consultees are noted. No objections have been raised from the Strategic Highways Engineer, Environment Agency, or Manchester Airport. The comments from the Community Fire Protection Officer can be addressed by an informative.

HEADS OF TERMS FOR A S106 AGREEMENT

Permission was originally granted for the application under consideration subject to a S106 Agreement which will provide the following: -

a) Requirement to link up the proposed spine road with the spine road that runs through the adjacent business park site Springwood Way as soon as can be achieved and for it to be available for use.

b) Requirement for the developer (and any successors) to produce a single Travel Plan for the site, and associated initiatives, in accordance with local and national standards, guidance and best practice and to require its operation at all times while the development is occupied, including the requirement for all occupiers to be required to take part in its operation and the requirement to link with other travel plans that operate in the area. Such a Travel Plan will include procedures for monitoring, review and remedial action.

c) The requirement for developer (and any successors) to develop and operate a package of public / passenger transport measures from first occupation to meet the development's public/ passenger transport requirements and to allow the site's Travel Plan aims and objectives to be met (which will be based on a package of measures that have previously been approved by the Highway Authority).

d) The requirement for a car parking management regime to be developed for the site, which include the provision of Traffic Regulation Orders on the spine road and other roads within the vicinity of the site if required to allow the aims and objectives of the Travel Plan to be met.

e) The roundabout of the A523 / Tytherington Lane to be upgraded in accordance with a scheme of details prior to the occupation of any part of the development and with a funding regime to enable this to occur.

f) The footpath / cycleway link between Manchester Road and the Middlewood Way and the associated recreation area to be handed over to the Borough Council following an appropriate implementation period. The

timescales for the implementation of these works and commuted sums for ongoing maintenance should also be agreed.

g) A landscape management plan to be submitted for approval, including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas, for a period of 15 years.

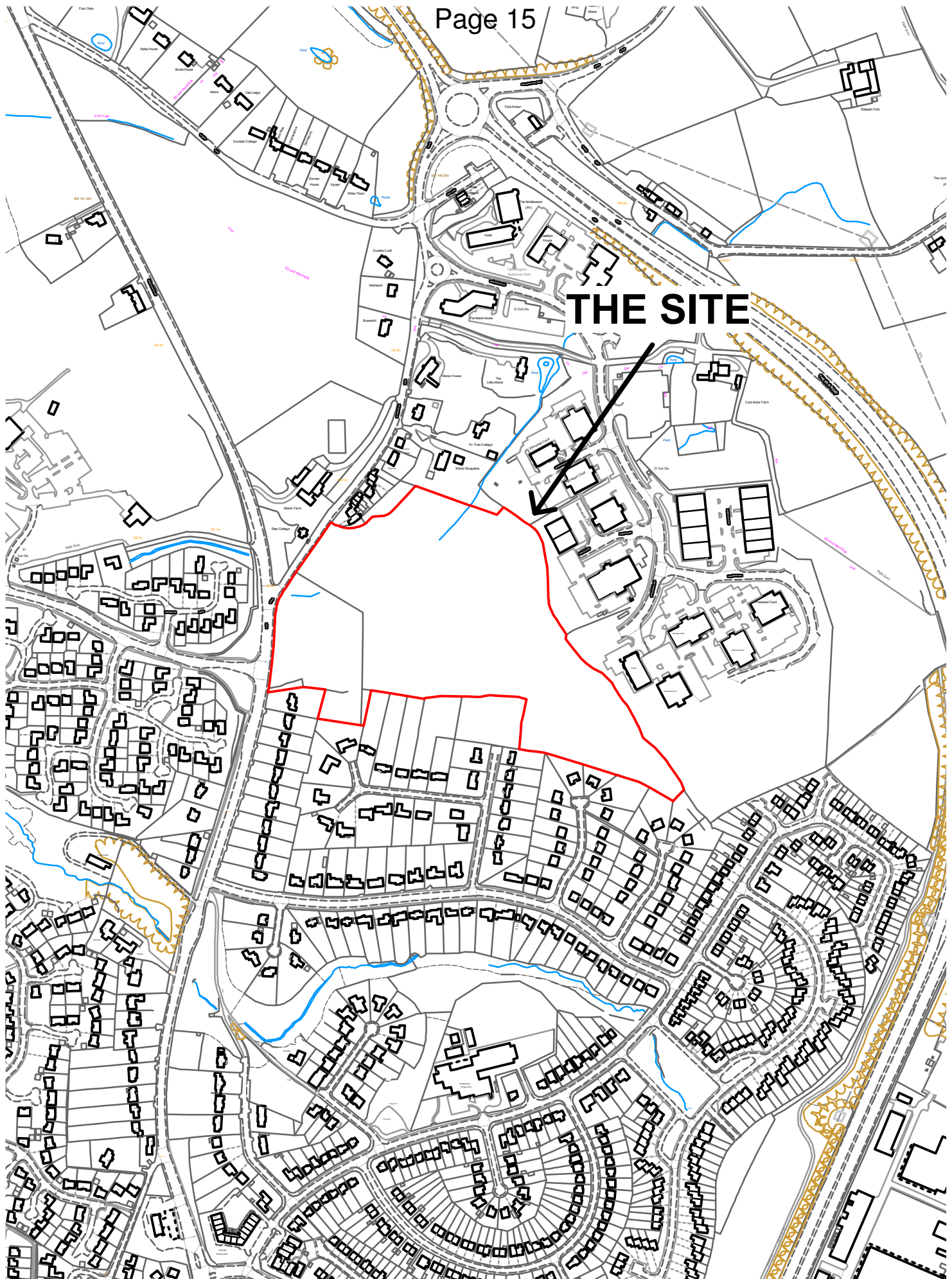
In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010, it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

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

In this instance, requirements (a)-(f) relate to traffic and highway safety, sustainability and requirement (g) relates to landscaping. Given the scale of the scheme and its associated impact, it is considered that the measures prescribed are necessary to deliver the scheme in a safe and sustainable way, which relate to relevant planning policies. It is considered, in respect of points a-c, that the requirements stipulated are necessary, directly related to the development and are fair and reasonable in relation to the scale and kind of development proposed.

CONCLUSIONS

There are no objections to an extension of time for the implementation of this permission for a further three years. The site is to be used for business purposes on a business park, which complies with the allocation in the Macclesfield Borough Local Plan, the Development Brief and previous permissions for the site. The site is sustainably located in relation to public transport, walking and cycling. There have been no material changes in circumstances since the 2007 permission was granted which would warrant a refusal of this application for an extension in time for the implementation of the permission. A recommendation of approval subject to conditions is therefore made.



10/3139M LAND AT TYTHERINGTON BUSINESS PARK, MANCHESTER ROAD, TYTHERINGTON, MACCLESFIELD
NGR- 391,819:376,022



Application for **Extension to Time Limit**

RECOMMENDATION : Approve subject to following conditions

1. A03FP - Commencement of development (3 years)
2. A05EX - Details of materials to be submitted
3. A02MC - Air conditioning equipment
4. A03MC - Cooking odour extraction equipment
5. A12MC - No lighting
6. A01TR - Tree retention
7. A02TR - Tree protection
8. A04TR - Tree pruning / felling specification
9. A14TR - Protection of existing hedges
- 10.A01LS - Landscaping - submission of details
- 11.A04RM - Details of ground levels to be submitted
- 12.A14HA - Construction of highways
- 13.A15HA - Construction of highways - submission of details
- 14.A30HA - Protection of highway from mud and debris
- 15.A32HA - Submission of details re: construction
- 16.A05HP - Provision of shower, changing, locker and drying facilities
- 17.A07HP - Drainage and surfacing of hardstanding areas
- 18.A09HP - Pedestrian visibility within car parks etc
- 19.A22GR - Protection from noise during construction (limit on hours of construction works)
- 20.A30HA_1 - Protection of highway from mud and debris
- 21.submission of biodiversity enhancements
- 22.Badger Survey
- 23.detailed survey re: bird nesting
- 24.earthworks and landscaping works
- 25.survey of culvert
- 26.Implementation of surface water regulation system
- 27.Climate change in flood level
- 28.Surface water drainage
- 29.signal controlled junction.
- 30.roundabout on A523

- 31. Turning Head
- 32. Visibility Splays
- 33. Obstructions
- 34. Lighting of footpath and cycleway
- 35. Bus stops
- 36. Turning facilities
- 37. Parking facilities
- 38. short stay and long stay parking for cycles, motorcycles, mopeds and scooters
- 39. Pedstrian crossing facilities at the junction of Marlborough Drive and Brockleshurst way
- 40. Footways and Cycleways thresholds
- 41. Signage details
- 42. Details of surface water storage scheme
- 43. Revised plan showing outstanding Highway and Transport issues.
- 44. Protection of Pool End Road and Pool End Close
- 45. Spine Road
- 46. non standard

Town and Country Planning Act 1990

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Planning Reference No:	10/3239M
Application Address:	COLD STORAGE, KNUTSFORD ROAD, CHELFORD, SK11 9AS
Proposal:	RE-DEVELOPMENT OF DEPOT FOR RESIDENTIAL DEVELOPMENT (MAXIMUM 50 DWELLINGS)
Applicant:	MR GREG WILLIAMS, EDDIE STOBART GROUP LTD
Application Type:	OUTLINE
Grid Reference:	8121 7471
Ward:	BUCKLOW
Earliest Determination Date:	24 November 2010
Expiry Date:	1 November 2010
Date of Officer's Site Visit:	12 October 2010
Date Report prepared:	26 November 2010
Constraints:	Manchester airport safeguarding 90m+ Existing Employment Area (MBLP) Green Belt (MBLP) Tree Preservation Order Wind Turbine Dev consultation area All apps for dev likely to attract birds

SUMMARY RECOMMENDATION

Approve, subject to conditions and the completion of a S.106 agreement

MAIN ISSUES

- Loss of an Existing Employment Area
- Loss of a Preferred Site (WM23) for a Waste Bulking or Materials Recycling Facility
- Need for additional housing/affordable housing in the area
- Sustainability of the site and links between the site and Chelford Village
- Noise issues from the railway line and Knutsford Road
- Impact on landscape, trees and ecology
- Design, layout and density
- Redevelopment benefits

REASON FOR REPORT

This application is brought before Members, in line with the Council's Constitution, since any development in excess of 10 dwellings should be determined by Committee. The application seeks consent for 50 dwellings.

DESCRIPTION OF SITE AND CONTEXT

The application site comprises the former Irlams Depot. The site was purchased from James Irlams and Sons in 2008, by the Eddie Stobart Group Limited. They are operating a haulage business from the site on a temporary basis whilst the group establishes a network of depots in closer proximity to the motorway network. The company intends on relocating the Chelford employees to other Stobart sites at Warrington and Stoke-on-Trent, leaving the site redundant in the near future.

The site is bounded by Knutsford Road to the north, the railway line to the east, a woodland area and bridle path to the south, and the Cattle Market overflow car park, bowling green and Dixon Court apartments to the west.

The application site measures 2.5 hectares, and is predominantly hard surfaced. There are a number of storage and office buildings on site. Around the perimeter of the site there are a number of trees. The trees along Knutsford Road frontage are protected by a Tree Preservation Order.

Within the Macclesfield Borough Local Plan (2004), the majority of the site is allocated as an Existing Employment Area. The land to the rear of the site, falls within the Green Belt.

DETAILS OF PROPOSAL

Outline Planning permission is sought for the redevelopment of the site for residential purposes – a maximum of 50 dwellings, including 13 affordable dwellings.

Access to the site is to be determined at this stage, whilst matters of appearance, landscaping layout and scale are reserved for subsequent approval.

Following advice from Officers, during the life of the application revised plans have been submitted to omit 10 dwellings from the rear of the site, which fell within the Green Belt, replace the bridleway with a footpath and omit the Local Area of Play (LAP) for safety reasons.

RELEVANT HISTORY

10/3267M B1 Employment development (maximum 603 Square metres)
Current application – to be tied through a legal agreement to this application

POLICIES

Regional Spatial Strategy for the North West to 2021

DP1- Spatial Principles, promoting sustainable development

DP2- Promote Sustainable Communities
DP5- Manage Travel Demand
EM2- Remediating Contaminated Land
EM18 – Decentralised Energy Supply
W3- Supply of Employment land
W4- Release of Allocated Employment Land

Macclesfield Borough Local Plan (2004)

Development Control

DC1 – New Build
DC3 –Amenity
DC5- Natural Surveillance
DC6- Circulation and Access
DC36- Road Layouts and Circulation
DC37- Landscaping
DC38- Space Light and Privacy
DC40 – Children’s Play Provision and Amenity Space
DC41 – Infill Housing Development

Employment

E1- Retention of Employment Land
E4- General Industrial Development
E14- Relocation of unneighbourly businesses

Environment

NE17- Nature Conservation in Major Developments

Housing

H1- Phasing policy
H2- Environmental Quality in Housing Developments
H5- Windfall Housing
H8 – Provision of Affordable Housing
H9- Occupation of Affordable Housing
H13- Protecting Residential Areas

Recreation and Tourism

RT5- Open Space

Implementation

IMP1- Development Sites
IMP2- Transport Measures
IMP4- Environmental Improvements in Town Centres

Cheshire Waste Local Plan (2007)

Policy 4 – Preferred Sites for Waste Management Facilities

Policy 5 – Other sites for Waste Management Facilities

Appendix 4 - Site Profiles - Preferred site WM23 -Chelford Depot

CONSULTATIONS

Environment Agency:

No objection, subject to conditions and informatives.

Environmental Health:

No objections, subject to conditions.

Cheshire Fire Authority:

Recommendations only.

Design Officer:

No objections raised. The following comments were made in respect of the layout, which have influenced the revised plans.

Further recommendations:

- Financial contributions should go towards existing community facilities, such as Mere Court, and the Village Hall rather than building a new Community Centre
- Dispersal of affordable housing throughout the site
- Energy efficiency measures
- Character assessment to be submitted at Reserved Matters Stage to determine whether 3 storey units are appropriate in area 1, and to establish appropriate materials

Forestry:

The development proposals can be implemented with the removal of a limited number of low and moderate value trees, the loss of which will have a minor impact on the amenity of the area when viewed from public vantage points. Therefore, no objections raised, subject to a condition ensuring this.

Greenspaces:

Recommend the footpath be upgraded to a bridleway

(Please note that Highways objected to such a bridleway due to safety issues arising from horses joining Knutsford Road from the bridleway)

Highways:

No objections, subject to conditions and a legal agreement to undertake off-site highway improvements.

Housing:

Recommend 30% affordable housing with the tenure to be split 50% social rented, 50% intermediate tenure.

Landscaping:

No objection, subject to conditions.

Leisure:

A financial contribution is required in lieu of Public Open Space (POS) / off site play & amenity facilities / recreation and outdoor sport.

The POS commuted sum based on 50 units is £150,000

The Recreation / Sport commuted sum on 50 units is £50,000

The reduction to the Recreation / Sport commuted sum for the affordable units presuming there are 13 units is £13,000.

The total commuted sum is therefore £187,000, (in accordance with the SPG on S.106 agreements) to be spent on;

The sites where POS improvements will be made are:

- Mere Court open space and play area
- Amenity Open Space Dixon Drive
- Chelford Village hall open space and children's play area
- Footpath link from Chelford Village Hall to Chelford Village

The sites where the Community Centres and Facilities improvements, additional services and opportunities will be made include (Subject of consultations with the public)

- the Chelford Village hall
- possibly the Astle Court Community Room [a CPP facility] a village centre location
- possibly the Scout Hut, located adjacent to the Village Hall
- possibly the Chelford School [community uses only], within major housing areas

Local Plans:

The following objections are raised:

1. The site is identified within the Cheshire Waste Local Plan (2007) as one of five preferred site for waste, either as a bulking facility or as a materials recycling facility.
2. Loss of employment land in a rural location, which would prevent sustainable employment development in the future.
3. In accordance with the Council's Interim Planning Policy Statement on the Release of Housing Land, the development should be Employment rather than Residential led.

Nature Conservation Officer:

No objection raised to the updated ecological survey, subject to conditions.

School Organisation and Capital Strategy:

The local area catchment school for this development is Chelford CE Primary School which has a net capacity of 60 places and 39 pupils on roll (expected to be 42 by January 2011).

The proposed development of 50 dwellings on the Stobarts site would generate approximately 9 pupils of primary school age. Providing all those pupils are not in Key Stage 1 they should be able to be accommodated within the existing school. However, if the proposed development of the Agricultural Centre is also approved (79 dwellings excluding 2 bed apartments) then this would generate a further 15 pupils of primary school age which could not be accommodated without extending the existing school.

It has to be assumed that both schemes will come forward, resulting in inadequate space at the school, by at least 6 spaces. To accommodate the additional children, a new classroom will be required.

The comments of the Capital Development Manager in relation to the School Organisation and Capital Strategy are noted. The figures supplied by the Capital Development Manager are based on methodology adopted by the former Cheshire County Council, and now utilised (since LGR) by Children and Families within Cheshire East. However, it is considered that when a contribution is required, it should be calculated in relation to the policies specific to the area, namely in this case the Macclesfield Borough Council Supplementary Planning Guidance on S106 Agreements and be relevant to the development in question. In this instance, the SPG requires a contribution of £9000 per place at a primary school. This is based on January 2003 price levels and this should be updated in line with BCIS (Building Cost Information Service) all in tender price index to £10, 000. Therefore, in accordance with the SPG, the contribution towards new facilities at the school should be £60, 000, based on 6 spaces.

It is considered that £60,000 will not cover the cost of a new classroom, which will be required to accommodate the additional children. We are still discussions with the Capital Development Manager in respect of this, and an update report will provided to Members on this point.

It should be noted, that the applicant had agreed to the original figure of £91,745.

Public Rights of Way:

No objection.

United Utilities:

No objection, subject to a condition.

VIEWS OF THE PARISH COUNCILS

Chelford Parish Council fully supports the proposal for residential development and the provision of an element of affordable housing sensitively spread through the site as a whole.

The Chelford Parish Plan clearly demonstrates a strong local need for a pedestrian crossing at some point along the main road.

In respect of the provision of Community Facilities, the Parish Council wish to be fully involved in the decision making process.

There is a requirement for 36 affordable dwellings in the village; this figure should not be exceeded.

(Please note that 13 affordable houses are proposed at this site, and 22 are proposed at the Agricultural Centre site, giving a total of 35)

Snelson Parish Council raise no objection to the proposal.

OTHER REPRESENTATIONS

One letter of objection has been received from the occupier of 13 Station Road, which is located opposite the application site. The following objections are raised:

- The site should be retained as an Employment site to provide jobs in the area
- To the rear of the site is a wooded area with mature trees, and a badger sett, which would be affected by the development
- The proposal may damage protected trees at the front of the site
- A housing project on this site would increase traffic entering and leaving Knutsford Road at peak times causing an increased risk of serious road accidents on an already busy road.

- A development such as this would bring little benefit to the village and there has been no proof of need for more housing.
- There would be an adverse effect on existing residents who are adjacent to the site.
- Some of the units are said to provide "low cost housing" the term low cost is very subjective as no development within Chelford could be classed as low cost and in truth there would be very little if any property available to Chelford residents who really need it, at a price that they could afford.
- There would be an unacceptable strain put on local services such as the doctors, through an increased patient list.
- Little benefit would be felt by local businesses as generally people buying on new estates such as the proposed development, shop away from the area.

APPLICANT'S SUPPORTING INFORMATION

The following information has been submitted in support of the application, which is available to view online, or on the planning file:

- Design and Access Statement
- Planning Statement with Addendum
- Affordable Housing Statement
- PPS3 Housing Checklist
- Schedule of Units (Maximum ridge height 8 metres)
- Draft Heads of Terms
- Transport Assessment
- Noise Impact Assessment & Addendum
- Air Quality Assessment
- Site Waste Management Plan
- Ecological Assessment and Update report
- Environmental Investigation Report Phase I & II
- Flood Risk Assessment
- Arboricultural Statement
- GVA Grimley responses to Local Plans & Waste objections
- Counsel advice in respect of development in the Green Belt (now omitted)

OFFICER APPRAISAL

Loss of Employment land

The application site is designated for employment uses within the Local Plan. Policy E1 seeks to retain employment land for employment purposes, however, the site is not considered to be well located for employment uses.

The site is positioned at the entrance to Chelford Village, with a number of residential properties located immediately west of the site within Dixon Court, and other residential properties directly opposite the site entrance on Station Road and Knutsford Road. The use of the site by a haulage business is considered to be unneighbourly, as the only access to the site by Heavy Goods Vehicles is off Knutsford Road, where a number of residential properties are located.

Policy E14 of the Local Plan advises that the Borough Council will encourage the relocation of businesses which create an unacceptable level of nuisance to neighbouring dwellings arising from noise, smell, safety or traffic generation. Infill housing will be encouraged on such sites. It is considered that the haulage business creates significant nuisance to neighbouring dwellings due to the volume and type of traffic generated, and therefore the relocation of the haulage business is encouraged.

An Employment Land and Market Overview report from GVA Grimley was submitted with the application.

In conclusion, the report advises:

- The existing industrial and warehouse buildings are outdated and are uneconomic to refurbish.
- The offices are not built to current standards. They are bespoke headquarters and are not economic to refurbish.
- The location of the buildings within an industrial/distribution site means they would be difficult to let.
- The redevelopment of the site for employment purposes is not feasible in today's market due to depressed rentals/capital values and the banks reluctance to lend.
- The site is remote from motorways and therefore unattractive for industrial uses or distribution businesses.
- The site is not suitable for waste transfer/waste recycling given the close proximity to Chelford Village.
- The proposed B1 office development will generate 50 jobs on a size and scale appropriate to the locality.
- There is a 30 year employment land supply in Cheshire East, and a 33 year supply in the Macclesfield District.
- The site does not provide an important contribution to the local area in terms of employment land and that there is already an adequate supply of Employment land in Cheshire East.

A number of the points made in the Employment Land and Market Overview report are considered to be valid. The site's location is poor at the entrance to the Village, some distance from the Motorway network in either Knutsford or Holmes Chapel, which would make the site very difficult to market. The site and buildings have design specifically for haulage purposes, limiting the market for future users, and the buildings are fairly old, making conversion/refurbishment works unviable.

As compensation for the loss of the employment use on site, a B1 office building with a floorspace of 604m² is proposed on land to the rear of Chelford Farm Supplies, adjacent to the application site, (current application No 10/3294M). The applicant considers that the proposed offices will generate 50 jobs, which is similar to the number of jobs currently at the application site. Furthermore, it is argued that the proposed office units will meet the needs of the local businesses and will be more compatible use within this residential area. No objection is raised to these proposals, and if this application is approved, it is recommended that the applications be tied through a legal agreement, to ensure the Employment Development is implemented.

Cheshire East's Annual Monitoring Report 2009

Section 5.3 of the 2008-2009 Annual Monitoring Report indicates there is 308.64 hectares of Employment land in Cheshire East, of this 24 ha is committed for non-employment uses, leaving 284.64 ha. Approximately 71ha is located within the former Macclesfield Borough. During this period, the annual take up rate was 2.7 ha per year. Using the same take-up rate it is assumed that there is a 26.35 year supply across the former Macclesfield Borough.

The key consideration for this application is whether there is sufficient Employment land with the local area, to meet current needs. The Employment overview carried out by GVA Grimley provides a summary of large employment sites in the former Macclesfield Borough and identifies Employment land available in the following areas:

- Tytherington Business Park
- Lyme Green Retail and Business Park
- Hurdsfield Industrial Estate
- **Adlington Park**
- **Poynton Industrial Estate**
- **Stanley Green Industrial Estate, Handforth**
- **Parkgate Industrial Estate, Knutsford**
- South Macclesfield Development Area

The sites highlighted, are those closest to the application site, with Parkgate Industrial Estate being less than 5 miles away.

The Council is in the process of preparing an Employment Land Review, which upon completion will identify the nature and scale of employment land needed in Cheshire East to meet its sub-regional policy requirement and local business needs.

At this juncture, it is considered that there is adequate Employment Land available across the District, and the loss of this site will not lead to an inadequate supply in this area. Moreover, Members should be mindful of the proposal for two employment buildings on the adjacent site, which would provide a similar number of jobs.

Loss of a Preferred Site (WM23) for a Waste Bulking or Materials Recycling Facility

Within the Cheshire Waste Local Plan (2007), the application site has been identified as one of five preferred sites within the North of the District for either a Waste Bulking Facility or a Materials Recycling Facility. The other sites identified are:

1. Adlington Industrial Estate, Adlington (WM1)
2. *Hurdsfield Industrial Estate, Hulley Road, Macclesfield (WM10)*
3. Lyme Green, Macclesfield (WM13)
4. Parkgate Industrial Estate, Knutsford (WM15)

The site at Hurdsfield Industrial Estate has now been discounted, due to an unsuccessful application made by the Council last year. Therefore, 3 alternative sites are available.

A waste bulking or materials recycling facility is required within the North of the District, to reduce both vehicle miles and the carbon impact. There is a landfill site at Danes Moss, near Lyme Green in Macclesfield.

Whilst the application site is the appropriate size for waste bulking or materials recycling, it has to be questioned whether this is in an appropriate location. As described above, the site is within Chelford Village, and there are a number of residential properties within close proximity to the site. The use of the site for waste purposes would result in frequent trips by bin wagons to deposit waste. The wagons would access the site through the village, which may give rise to highway safety issues.

The existing haulage use may be considered unneighbourly, due to the daily coming and going of Heavy Goods Vehicles; however, it is considered that a Waste facility would have a more serious impact on residential amenity.

The three alternative sites are considered to be in more appropriate locations; on industrial estates, with commercial and industrial uses as neighbours, with better access to highway networks. The site at Lyme Green (WM13) is immediately adjacent to Danes Moss landfill site, and may be considered a more appropriate location to the application site.

Overall, whilst Members need to carefully consider whether the loss of the site for waste purposes would jeopardise the Council's ability to process waste appropriately, Officers are of the opinion, that this is not the site suitable for such a facility.

Need for additional housing/affordable housing in the area

Planning Policy Statement 3 'Housing' requires local planning authorities to monitor and manage the release of housing land to ensure that there is a five years supply of deliverable sites.

The Annual Monitoring Report 2009 calculated the Council's five year supply of housing land at 1 April 2009 as 5.14 years, based on the RSS figure. Since then, a full review of potential sites has been carried out in parallel with the preparation of a Strategic Housing Land Availability Assessment for the whole of Cheshire East. The latest assessment indicates a supply of **4.58 years** at 1 April 2010.

The failure to be able to demonstrate a five year supply of available housing land has implications for the Council. PPS3 states that

“where local planning authorities cannot demonstrate an up to date five year supply of deliverable sites ...they should consider favourably planning applications for housing, having regard to the policies in this PPS”.

The inability of the Council to demonstrate a five year supply of housing land carries a high risk that land owners/developers will submit speculative planning applications for their development outside settlement boundaries. In the case of a refusal of planning permission, appeals may be upheld on the grounds that there is not a 5 years housing land supply. Nevertheless, whilst there is less than a 5 year supply of deliverable housing sites, there is a high degree of risk that planning permission may be granted on appeal for housing on greenfield sites outside settlement boundaries, in conflict with the policies of the three Local Plans. Such decisions would also prejudice the preparation of the Local Development Framework and affect the Council's ability to objectively determine the most appropriate strategy and sites for future housing development.

To ensure a five year supply is available, an interim policy has been drafted which will facilitate the release of a limited number of housing sites on the edge of Crewe outside the green gap. The policy was approved by Cabinet on 18 October, and is out for consultation until 17 December 2010.

It should be noted that the application site is Previously Developed Land, within a settlement boundary, and therefore should be prioritised over Green Gap/Green Belt land.

The Strategic Housing Market Assessment (SHMA September 2010) indicates that there is a need for 1417 new dwellings per year in the former Macclesfield Borough, of this approximately 500 affordable houses per year.

This is further split into sub-areas and shows that there is a need for 31 affordable dwellings per annum in the Knutsford Rural Area, and 22 in the Macclesfield Rural Area. The priority is therefore for the provision of affordable housing.

The Plumley and Nearby Parishes Rural Housing Needs Survey Assessment (2008) indicates that there are 35 hidden households in Chelford. In addition there are a total of 21 people who have moved out of Chelford within the

previous 5 years because they could not afford to buy or rent a home in the area and who would wish to return. Some caution has to be taken in respect of this survey as it is now 2 years out of date.

Chelford Parish Council have carried out their own Affordable Housing Needs Survey, and they conclude that there is a need for 36 additional affordable houses in Chelford at present.

13 affordable dwellings are proposed in this application, and 22 are proposed at the Agricultural Centre. Therefore if both applications were approved, 35 affordable dwellings would be provided which would roughly meet Chelford's Affordable Housing need.

PPS3 indicates on sites of 15 or more, a proportion of affordable housing is required. The SHMA sets a new target of 30-35% affordable housing on qualifying sites. The SHMA was published in September 2010, one month after the application was registered. It is considered unreasonable to apply a higher level of affordable housing to this scheme, as it was prepared well in advance of the SHMA, and the applicant could not reasonably have guessed its outcome. Moreover, if 30 or 35% affordable housing was requested on this site and the Agricultural Centre site, there would be an oversupply of Affordable Housing in Chelford.

The application site is identified in the Cheshire East's Strategic Housing Land Availability Assessment (SHLAA 2010) as a suitable, achievable, available, deliverable brownfield site with a capacity for 51 dwellings, which could come forward within 1-5 years.

The identification of this site within the SHLAA indicates that the Council considers that the site may be suitable for housing. On the indicative layout plan, 50 dwellings are proposed, which is similar to the level anticipated in the SHLAA.

Sustainability of the site and links between the site and Chelford Village

The application site is considered to be in a sustainable location, with good access to a variety of public transport links. The train station is opposite the application site, whilst there are bus stops in both directions on Knutsford Road. The site is within easy walking distance of Chelford Village, which hosts local services such as a local shop, Chelford Farm Supplies and Equestrian Centre and other businesses. Just outside the Village is The Egerton Arms Public House, the Shell Petrol Station, the Post Office and a Picture Framing Shop.

Noise issues from the railway line and Knutsford Road

The Environmental Health Officer initially raised concerns in respect of the combined noise generated from the railway line and Knutsford Road at the South East corner of the site. The applicant's acoustic engineer has re-examined this issue and produced supplementary acoustic reports with

mitigation measures such as an acoustic fence along the affected boundaries to overcome this issue. The Council's Environmental Health Officer considers that the mitigation measures are feasible. However, the detail of the mitigation required would depend on the final site layout and design of the properties, and the mitigation measures proposed.

Impact on landscape, trees and ecology

The Forestry Office considers that the development proposals can be implemented with the removal of a limited number of low and moderate value trees, the loss of which will have a minor impact on the amenity of the area when viewed from public vantage points. All the important high value trees and retained boundary planting can be retained and protected in accordance with current best practice BS5837:2005.

The Landscape Officer advises that no objection is raised to the proposed development as shown on Site Layout plan M1824.07F. If the industrial buildings and haulage yard were replaced with houses within a landscape setting, the site would be enhanced and its visual impact on the Green Belt would be reduced.

The proposed footpath at the southern end of the site would form a link with the footpath/bridleway network which would improve countryside access for the new residents and the village as a whole

There is currently a tall, well maintained leylandii hedge along most of the eastern boundary that effectively screens the trains. This should ideally be retained until the proposed new broadleaved planting matures. The ongoing maintenance of this hedge would need to be considered.

The Nature Conservation Officer raises no objection to the updated Ecological Assessment. Conditions are recommended in respect of breeding birds. In respect of potential badgers he advises:

A potential outlying badger sett was recorded in close proximity to the proposed footpath link. I have visited the site this morning and the 'sett' currently appears to be occupied by rabbits. At present there is no significant evidence that the identified 'sett' has recently been occupied by badgers. The 'sett' is located a number of meters from the proposed footpath and is unlikely to be directly affected by the construction of the footpath.

The submitted survey report recommends a number of precautionary measures and recommends an additional badger survey prior to the commencement of the works.

Considering the presence of badgers in the general locality of the site the possibility that badgers could construct a new sett or take over one of the many rabbit burrows prior to works commencing these seem a wise precaution.

Design, layout and density

The site is to be developed at a density of 43 dwellings per hectare, which is considered to be appropriate in this location.

A good mix of house types is proposed comprising:

- No.10 two bed terraced houses
- No.13 three bed terraced houses
- No. 7 three bed three storey houses
- No. 17 Detached/Corner Turner 3 bed houses
- No. 3 Detached 4 bed houses

43 of the dwellings will be two storey with a maximum ridge height of 8 metres. 7 three storey properties are proposed, with a maximum ridge height of 9 metres.

The mix of housing proposed is considered to be acceptable on this site. However, as this application is only seeking Outline approval, matters such as the layout, scale and external appearance of the buildings cannot be considered at this stage.

Redevelopment benefits

The scheme would provide a number of benefits to Chelford.

- A new stock of houses would come forward, including the provision of 13 affordable dwellings.
- The scheme would replace an unneighbourly employment use, (removing haulage vehicles from the village) with a more appropriate residential scheme, with B1 Offices on the adjoining site.
- The redevelopment will result in the removal of a number of large warehouse and office buildings, which will improve the visual amenity of the site through the reduction in height, and the proposal will bring a number of environmental benefits through the decontamination of the land, and the landscaping of the site.
- A Public Footpath is proposed along the western boundary, which would provide a safe pedestrian link to the Village and to the existing Bridle way.
- A Puffin Crossing (Pedestrian User-friendly intelligent Crossing) is proposed across Knutsford Road, which will provide a safe crossing place for Villagers to access the train station, shops, businesses and the school.

- A significant financial contribution of £30,000 is also made towards the existing community facilities in Chelford. The Parish Council in conjunction with the Local Authority will decide how these funds will be spent.

CONCLUSIONS AND REASON(S) FOR THE DECISION

The application site comprises previously developed land in a sustainable location, with access to local services, including shops, a post office, a school and excellent public transport links.

The site is identified in the Cheshire East's Strategic Housing Land Availability Assessment (SHLAA 2010) as a suitable, achievable, available, deliverable brownfield site with a capacity for 51 dwellings, which could come forward within 1-5 years.

The proposed development comprises a maximum of 50 dwellings, including 13 affordable dwellings. A good mix of house types and sizes are proposed.

Two office buildings with a floorspace of 604 m² are proposed on the adjacent site, generating 50 jobs, which is similar to the number of employees that Stobarts employ in Chelford. The scale and type of replacement employment facilities is considered to be more appropriate to Chelford.

The relocation of the haulage business from the Village will be beneficial to local residents, and would bring environmental improvements by remediating contaminated land, and by introducing additional landscaping.

Significant improvements to Highway Safety are proposed, by introducing a Puffin Crossing across Knutsford Road, a busy road through the centre of the Village. This will link the housing development with the Village.

The proposed development is considered to be beneficial to Chelford, providing a range of housing and employment development within a sustainable setting.

On the basis of the information above, a recommendation of approval is made, subject to the completion of a legal agreement.

LEGAL AGREEMENT HEADS OF TERMS

- The Employment element as proposed under application 10/3267M shall be substantially complete within 3 years of the commencement of the residential scheme unless another scheme is approved in writing with the Local Planning Authority
- 25% Affordable Housing = 13 units split as 50% social rent, 50% intermediate tenure
- Provision of a Puffin Crossing on Knutsford Road (A537)
- Provision of public footpath, linking the existing bridle path to Knutsford Road

- Education contribution of £91,745 towards extending Chelford CE Primary School, to accommodate additional school children generated by the development
- Commuted sum of £187,000 in lieu of Public Open Space /off site play & amenity facilities/recreation and outdoor sport
- Financial contribution towards community facilities £30,000

Community Infrastructure Levy (CIL) Regulations

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010, it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the s106 satisfy the following:

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

In this case, it is considered necessary, fair and reasonable to require the employment development to be substantially completed within 3 years of the commencement of the residential development, to ensure the employment development comes forward. Without the Employment Development, Chelford would be left with little employment land/prospects for local jobs.

The provision of 25% affordable housing is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

The Public Footpath and Pedestrian Crossing are necessary, fair and reasonable to link the development with Chelford Village, and provide inclusive design, in accordance with National Planning Policy.

The commuted sum for Education is necessary, fair and reasonable to build and fit out a new classroom at the local primary school, as the combination of this application and the Agricultural Centre will generate 24 additional pupils, which cannot be accommodated within the existing school.

The commuted sum in lieu of Public Open Space is necessary, fair and reasonable, as the proposed development will provide 50 dwellings, the occupiers of which will use local facilities as there is no open space on site. As such, there is a need to upgrade/enhance existing facilities. The contribution is in accordance with the Council's Supplementary Planning Guidance.

The financial contribution towards community facilities is necessary, fair and reasonable, as the additional number of residents to the Village would put pressure on the existing facilities, and as a result these facilities will need to be upgraded/replaced to meet growing demands.

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development.

Application for **Outline Planning**

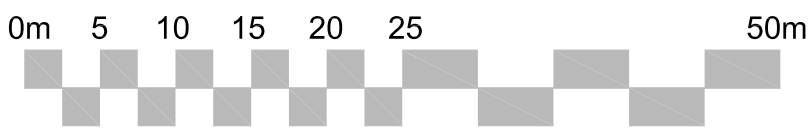
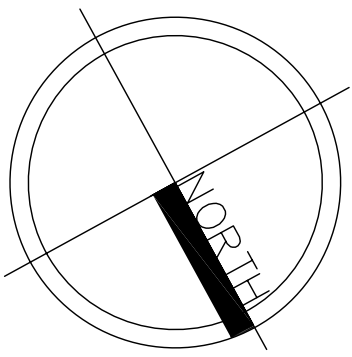
RECOMMENDATION : Approve subject to a Section 106 Agreement and the following conditions

1. A06OP - Commencement of development
2. A03OP - Time limit for submission of reserved matters (within 3 years)
3. A01OP - Submission of reserved matters
4. A02OP_1 - Implementation of reserved matters
5. A09OP - Compliance with parameter plans
6. A10OP_1 - Details to be submitted -layout
7. A12OP - Full details approved as part of outline consent - Access
8. A08OP - Ground levels to be submitted
9. A01LS - Landscape Masterplan - submission of details
10. A04LS - Landscaping (implementation)
11. A01GR - Removal of permitted development rights
12. A02HA - Construction of access
13. A04HA - Vehicular visibility at access to be approved
14. A32HA - Submission of construction method statement
15. A19MC - Refuse storage facilities to be approved
16. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources
17. Phasing of landscaping works - along railway line first
18. Submission of a landscape management scheme to be submitted with the Reserved Matters application
19. The landscaping scheme shall incorporate details of boundary treatment
20. Protection of breeding birds
21. Provision of bird boxes
22. All arboricultural works shall be carried out in accordance with Cheshire Woodlands Arboricultural Statement
23. Details of lighting to be approved
24. Development in strict accordance with the updated ecological survey

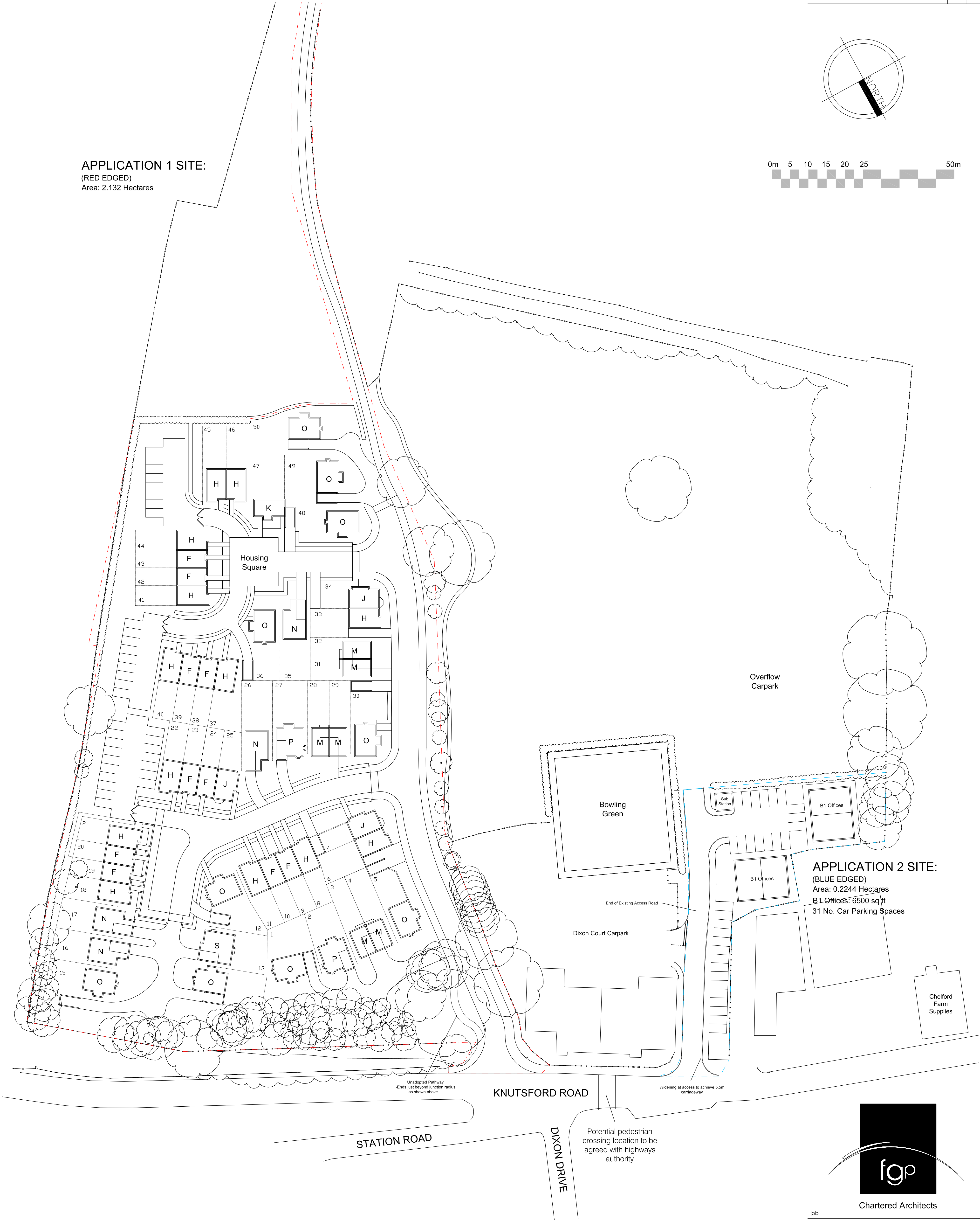
25. Submission of further acoustic assessment showing acoustic mitigation as part of Reserved Matters application
26. Submission of acoustic report including a revised assessment of noise levels at the North East corner
27. Submission of specifications of acoustic glazing ventilation systems
28. Hours of construction/noise generative works
29. Submission of revised air quality assessment
30. Submission of a drainage scheme including details in respect of surface water run-off
31. Submission of a scheme to manage the risk of flooding to be submitted
32. Submission of a Character Assessment justifying scale, layout and materials as part of the Reserved Matters application

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CONSTRUCTION DRAWINGS			
All drawings are to be checked by the main contractor and any discrepancies reported to FGP Ltd for resolution before any further work is executed. This drawing is to be read in conjunction with all other relevant architects or consultants details and specifications			
date	revision	by	no.



APPLICATION 1 SITE:
(RED EDGED)
Area: 2.132 Hectares



job			
Former Ilams Depot, Chelford for The Stobart Group			
drawing			
Site Plan			
Outline Application for Site 1 & 2			
drawn	checked	date	
DJN	FGP	25 NOV 10	
scale @ A3	scale @ A1	status	
1:1000	1:500	Planning	
job no.	dwg no.	rev no.	
08-051	P-02	D	

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Planning Reference No:	10/3448M
Application Address:	Chelford Agricultural Centre, Dixon Drive, Chelford, SK11 9AX
Proposal:	Outline planning application for the erection of a mixed use development comprising residential, community and employment uses set in high quality landscaping and attractive new public realm
Applicant:	Trustees of Chelford Agricultural Centre
Application Type:	Outline
Grid Reference:	381 375
Ward:	Bucklow
Earliest Determination Date:	13 th October 2010
Expiry Date:	1 st December 2010
Date of Officer's Site Visit:	21 st October 2010
Date Report prepared:	29 th November 2010
Constraints:	Manchester Airport Safeguarding Woodford Safeguarding Tree Preservation Order Existing Car Park Existing Employment Area Development Brief Existing Employment Area Locally Listed Building Contaminated Land

SUMMARY RECOMMENDATION

Approve, subject to conditions and the completion of a S106 agreement

MAIN ISSUES

- Loss of a site allocated as a Public Car Park
- Housing policy and supply
- Provision of affordable housing
- Design, layout and density
- The scale of the proposal – impact of height, mass, bulk, character and appearance of the area
- Impact on residential amenity
- Noise issues from the railway line
- Sustainability of the site
- Environmental issues
- Impact on landscape, trees and ecology
- Impact on highway safety
- Redevelopment benefits
- Heads of Terms for a Legal Agreement

REASON FOR REPORT

This application is brought before Members in line with the Council's Constitution, any development in excess of 10 dwellings should be determined by Committee. The application seeks outline consent for 85 dwellings and is considered to be of strategic importance.

DESCRIPTION OF SITE AND CONTEXT

The site is located in the village of Chelford. The site is bounded by the A537 (Knutsford Road) to the south, the Manchester to Crewe main railway line to the east, and residential development (on Dixon Drive and Chapel Croft) to the west and north.

The site comprises Frank Marshall's livestock, horticultural and machinery auctioneering business. FRM lease the land, partly from the Trustees of the site and partly from Cheshire East Council. Frank Marshall is currently operating from the site. However, they are actively seeking an alternative site, which would be more accessible for its users.

The application site measures 3.3 hectares. It is flat, and is broadly rectangular in shape. The southern (Knutsford Road) part of the site consists of some large buildings. The Chelford Agricultural Centre administration building is located to the west of the site (off Dixon Drive). To the north and east of this building there are large sheds, constructed from concrete block and corrugated iron with sheet metal and fibre cement roofs. The northern portion of the site comprises a large area of hardstanding which is used for car parking for visitors to the markets and traders. This area is accessed from two points on Dixon Drive.

There are a number of trees around the perimeter of the site and a Tree Preservation Order bisects the site. The trees were removed (following consent from the Council) and will be replanted following the outcome of this application.

Within the Macclesfield Borough Local Plan (2004), just over half the site was originally allocated as 'Chelford Market' under policy E17. This policy was not saved in the review of the MBLP in 2007. The reason for the policy not being saved is that it is covered by Policy E1 as an Existing Employment Area. The northern most part of the site, falls within MBLP policy T13, which seeks to retain existing public car parks.

DETAILS OF PROPOSAL

Outline Planning permission is sought for the redevelopment of the site for residential development – a maximum of 85 dwellings comprising the following: -

- | | | |
|-----------------------------|---|----|
| - 2 bed semi-terraced house | x | 20 |
| - 3 bed semi | x | 14 |
| - 4 bed 3 storey town house | x | 20 |
| - 3 bed 2 storey | x | 14 |
| - 4 bed detached | x | 11 |

- 2 bed apartment x 6

Access to the site is to be determined at this stage, whilst matters of appearance, landscaping, layout and scale are reserved for subsequent approval.

Following discussions with officers and the issues raised by Network Rail, revised plans are expected to be submitted which will update the ownership boundary line, moving the railway boundary slightly into the site. The landscape bund at the north eastern corner will be moved westwards to allow the retention of existing trees adjacent to the railway. This will result in the apartment block being moved south and its parking area reconfigured. It is also expected that the Community Building will be removed from the scheme.

RELEVANT HISTORY

Many applications have been received in relation to the site over the years. However, as they relate to the existing use as an auctioneers market, none are thought to be relevant to this application.

POLICIES

Regional Spatial Strategy for the North West to 2021

DP1- Spatial Principles, promoting sustainable development

DP2- Promote Sustainable Communities

DP5- Manage Travel Demand

EM2- Remediating Contaminated Land

EM18 – Decentralised Energy Supply

W3- Supply of Employment land

Macclesfield Borough Local Plan (2004)

Built Environment

BE1- Design Guidance

Development Control

DC1 – New Build

DC3 –Amenity

DC5- Natural Surveillance

DC6 – Circulation and Access

DC8 – Landscaping

DC9 – Tree Protection

DC36- Road Layouts and Circulation

DC37- Landscaping

DC38- Space Light and Privacy

DC40 – Children's Play Provision and Amenity Space

DC41 – Infill Housing Development

DC63 – Contaminated Land

Employment

E1- Retention of Employment Land

Transport

T13 – Existing Public Car Parks

Environment

NE17- Nature Conservation in Major Developments

Housing

H1- Phasing policy

H2- Environmental Quality in Housing Developments

H5- Windfall Housing

H8 – Provision of Affordable Housing

H9 - Occupation of Affordable Housing

H13- Protecting Residential Areas

Recreation and Tourism

RT5- Open Space

Implementation

IMP1- Development Sites

IMP2- Transport Measures

IMP4- Environmental Improvements in Town Centres

Other Material Considerations

Planning Policy Statement 1: Delivering Sustainable Development

Planning Policy Statement 3: Housing

Planning Policy Statement 13: Transport

Planning Policy Statement 25: Development and Flood Risk

‘PPS3 Housing and Saved Policies Advice Note’ and the associated ‘PPS3 Housing Self Assessment Checklist’.

CONSULTATIONS

Highways:

No objection. However, a Section 106 will be required towards the investigation of the removal of traffic regulation orders, footpath improvements along Dixon Drive, the removal of the no through road for vehicles along Dixon Drive and junction improvements at Knutsford Road junction with Station Road and Dixon Drive. There are no capacity issues from the development since the existing traffic produced by access to the market will be replaced by residential traffic on the same site.

Environmental Health:

The Environmental Health Officer has assessed the application in relation to noise and vibration, air quality and contaminated land.

Noise and Vibration -

The site is in close proximity to the West Coast Main Line which carries intercity and local rail traffic together with freight trains. There is potential that noise and vibration from the railway would adversely impact the amenity of

future occupiers on the development. In addition, there is potential in such a mixed use development that noise from fixed plant and equipment associated with non-residential uses (air conditioning condensers etc) can cause a loss of amenity to residential receptors.

An assessment of the noise and vibration has been submitted in accordance with PPG24 (Planning Policy Guidance 24). The report is considered acceptable. In addition, suitable engineering mitigation is suggested to achieve acceptable internal noise levels in accordance with BS8233: 1999 (Sound Insulation and Noise Reduction for Buildings).

Air Quality -

Whilst the site does not lie within an Air Quality Management Area, there is concern that an increase in the number of vehicles as a result of this development, combined with other proposed developments in the area could give rise to levels of nitrogen dioxide above the Air Quality Objective at relevant receptors.

It is suggested that a detailed air quality impact assessment shall be submitted to and approved by the planning authority, prior to the development commencing.

Contaminated Land -

This site currently includes fuel tanks and made ground and therefore, there is the potential for contamination of the site and the wider environment to have occurred. The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. The report submitted in support of the application recommends that further investigations are required. A Phase II investigation shall be submitted and approved in writing and any remediation works carried out as necessary.

Public Rights of Way:

Cheshire East's Public Rights of Way Team comments that there is no conflict with the existing public rights of way.

Environment Agency:

The Environment Agency raises no objections to the application.

United Utilities:

Raise no objection to the proposal provided that the Flood Risk Assessment details submitted are adhered to rigidly.

Greenspaces:

The Councils Country and Access Development Officer raises no objections to the development. However, concern is raised that walking and cycling opportunities in the area could be improved. A contribution should be sought toward the off-road path between the residential area of the village and the facilities on Knutsford Road. Neither the Design and Access Statement nor the Transport Document refer to cyclist access provision to, from or within the development. The route between Dixon Drive and Public Footpath no.1 is not

on the definitive Map and Statement (legal rights of way). This route should be considered in the design and construction of the development.

Housing:

The Housing Strategy and Needs Manager raises no objection but the developer should provide social housing throughout and a designated RSL should become a signatory to the S106 agreement.

Leisure Services:

A financial contribution is required in lieu of Public Open Space (POS) / off site play and amenity facilities / recreation and outdoor sport. The POS commuted sum based on 85 units is £255 000 and the Recreation / Sport commuted sum would be £82 000. The reduction to the Recreation / Sport commuted sum for the affordable units is £3 000 for the affordable apartments and £16 000 for the family dwellings (total reduction of £19 000). The total commuted sum is therefore £318 000. This sum is in accordance with the Supplementary Planning Guidance on S106 Agreements.

School Organisation and Capital Strategy:

The Capital Development Manager has commented with regard to the School Organisation and Capital Strategy. The local area catchment school for this development is Chelford CE Primary School which has a net capacity of 60 places and 39 pupils on roll (expected to be 42 by January 2011).

The proposed development of 50 dwellings on the Stobarts site would generate approximately 9 pupils of primary school age. Providing all those pupils are not in Key Stage 1 they should be able to be accommodated within the existing school.

However if the proposed development of the Agricultural Centre is also approved (79 dwellings excluding 2 bed apartments) then this would generate a further 15 pupils of primary school age which could not be accommodated without extending the existing school buildings.

The Capital Development Manager has therefore requested a Section 106 Developer Contribution as follows:

Stobarts site - £91,745 (50 dwellings X pupil yield factor of 0.182=9.1 X school extension cost multiplier £11,079 X regional weighting 0.91)

Agricultural site - £144,957.40 (79 dwellings X pupil yield factor of 0.182=10.92 X school extension cost multiplier £11,079 X regional weighting 0.91).

Comments are awaited from the Cheshire Fire Authority.

VIEWS OF THE PARISH COUNCIL

Chelford Parish Council support the proposal. Affordable housing should be distributed 'sensitively' throughout the development. The PC are in favour of designating an employment area within the development. Concern is raised over the potential negative impact of the highways proposals on the News Agent business situated on Station Road (access). Concern is raised over traffic management and the possible impact of this development and the Stobarts one. Provision of a pedestrian crossing should be sought.

Contributions should be made to improving village social/leisure facilities. 36 affordable housing units should be provided across both the Chelford Market and Stobarts sites (15 at Stobart and 25 at Marshalls). Funding should be provided to accommodate extra pressure on Chelford Primary and pre-school and Medical Centre.

OTHER REPRESENTATIONS

7 letters have been received in relation to the application. The letters are available on the application file, however, the comments are summarised as follows: -

Land use

- Should be no opportunity to continue Sunday car boot sales on the recreational ground.
- Proposed community space is not big enough and there are no details of associated traffic impact.
- Concern over extension of planning permission from three to five years.

Trees

- Concern that trees should be left in-tact (particularly on Dixon Drive) for provision of privacy, beauty and environmental asset.

Impact on amenity/design

- Concern over impact of three storey buildings on residential amenity
- Lack of detail in the application.
- Three storey buildings are out of character with the existing area.

Traffic

- Retain existing traffic bollards restricting access to Dixon Drive.
- There should be Parking restrictions on local roads.
- Concern raised over increased congestion.
- Closure of Station Road (presumably due to construction) will be a problem.
- Development should provide direct access to Chelford Station for pedestrians and cyclists (to avoid busy roads).
- Provision of 'Sheffield' bike racks at Chelford Station.
- Developers should contribute to traffic management/calming and cycle provision.

Impact on security of railway line

- Improved and adequate security for the proposed works and after completion to protect the railway and residential property

General considerations

- General concern over insufficient notification of residents
- Concern that drainage/flooding issues in existing market be addressed
- Residences should include storage for cycles and buggies

APPLICANT'S SUPPORTING INFORMATION

The following additional information has been submitted in support of the application: -

- A Supplementary Planning Statement
- A Design and Access Statement
- A Transport Assessment
- An Ecological Assessment
- A Flood Risk Assessment
- A Noise, Vibration and Air Quality Assessment
- An Arboricultural Impact Assessment
- A Preliminary Environmental Risk Assessment

Details of the above documents can be found on the application file.

OFFICER APPRAISAL

Principle of Development and Policy

The proposed development needs to be considered with regard to the Employment Policies contained within the Macclesfield Borough Local Plan, and policies contained within PPS1, PPS3 and PPS4. Part of the site falls within an existing employment area in the Local Plan, and although policy E17 has not been saved and no longer forms part of the Statutory Development Plan, it is considered that policy E1 does apply. Therefore, the initial presumption is that the site should be retained for employment purposes. The remainder of the site is allocated as a public car park (which serves the existing market business) and therefore, policy T13 is relevant. A proposal for a residential-led mixed use scheme on this site therefore constitutes a departure from the Development Plan. Planning decisions must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case, there are a number of relevant material considerations.

- The site is located within Chelford Village and is adjacent to a residential area.
- The existing buildings on site are largely designed for the existing market business and are generally in poor condition and unlikely to be suitable for modern business requirements.
- The market attracts a large number of visitors and although the site is adjacent to Chelford railway station, the nature of the business means that a significant number of visitors arrive by road, and this results in congestion and parking problems when the market is operating.
- Although the site is classified as an existing employment area, it is noted that the existing use does not fall into the B1, B2 or B8 use classes and is in fact a Sui Generis use. The current use supports 25 full-time equivalent jobs. The proposal is a predominantly residential scheme, but it does also include provision for 350 sq. m of light industrial starter units and 350 sq. m of B1 offices. Using both the 2001 English Partnerships Guide to Employment densities and the

2010 Roger Tym & Partners report on Setting Employment Land Targets produced for 4NW, it is evident that the employment element of the proposals would be able to support around 30 full-time equivalent jobs.

- These small scale offices and industrial starter units are considered to be appropriate in a rural location such as Chelford and are likely to provide future employment opportunities for local people.
- The indicative scheme provides a good mix of housing types and 25% of the units would be affordable.
- The proposal also initially included space for a community facility.

Although policy T13 requires that existing public car parks “*will normally be retained for car parking*”. In this case, the car park exists to serve the market business. Should this business cease to operate in the vicinity, the car park would be redundant.

The site is of poor environmental quality and the existing use is not ideal in this location given the current access and parking arrangements, and provides a low level of employment for the size of the site. There is also an identified need for affordable housing in the area and consequently, although contrary to the Development Plan, it is acknowledged that there are significant material considerations that indicate that the principle of a residential-led mixed-use development on this site could be acceptable. Consideration needs to be given as to whether the material considerations are such that the benefits of the proposal are sufficient to justify the development.

The provision of the employment units and the provision of community facilities clearly can be very important material considerations which may help to justify the development. As such, it is considered vital to ensure that they are delivered as part of the overall scheme and a mechanism will be required to ensure that the employment units are provided alongside the residential part of the scheme. If the application were to be approved, it is recommended that a condition will be required to ensure that the Employment Development is implemented.

Housing policy and supply

Detailed negotiations on the provision of the affordable housing element will take place prior to the submission of a Reserved Matters application, and it will be important to meet need by the provision of both social-rented and intermediate housing. Councillors will be aware that the emerging Interim Policy Statement on Affordable Housing states that in settlements of less than 3,000 population, the exact level of affordable provision will be determined by:

- local need,
- site characteristics,
- general location,
- site suitability,
- economics of provision,

- proximity to local services and facilities,
- other planning objectives,

and that, the general minimum proportion for any site will normally be 30%. However, as this application was registered prior to the introduction of this policy, and the applicant could not have foreseen its contents, it is considered reasonable that the affordable housing requirement should be based on the previous policy requirement of a 25% affordable housing contribution.

The housing needs survey also stated there is a shortage of 2 bed, 3 bed and 4 bed properties. There is also demand for properties as there are currently 51 applicants for properties registered on Cheshire Home Choice, the majority of these are for 2 bed properties. The SHMA carried out in 2010 stated that targets need to support a better mix of housing types in all locations. The SHMA 2010 shows that the largest proportion of additional affordable units needed in the former Macclesfield borough are required as rented properties. The definition of affordable housing in PPS3 includes social rented housing or intermediate affordable housing including shared equity schemes.

Affordable dwellings should be indistinguishable from the general market housing and be interspersed throughout the development. Due to Chelford being a rural parish, the affordable element of the development should be restricted to meeting local needs of the Parish before being cascaded to adjacent parishes, and kept affordable in perpetuity. In accordance with current planning policy, 21no. units should be provided as affordable housing: 11 of these for social rent and 10 as intermediate tenure. As the applicant is not a registered social landlord, planning permission may be granted for the whole scheme providing the applicant enters into a legal agreement whereby there are secure arrangements to ensure that the benefits of the affordable housing will be enjoyed by subsequent occupiers as well as the initial occupiers. It would be preferable for the developer to undertake to provide the social rented element through an RSL who would become a signatory to the Section 106 agreement.

It is considered that the proposal would contribute to the housing needs of the area and provide a reasonable mix of properties. The application site is considered to be in a sustainable brownfield location, with good access provided by bus, and the train station which is on the Manchester to Crewe railway line. Chelford has a small range of services such as a grocers shop, butchers, post office, a pub, a primary school, and a garage. In addition, the proposal seeks to add to employment accommodation and contribute to the community facilities. The density is approximately 35 dwellings per hectare, thereby making efficient use of land. The details of a reserved matters application could secure a scheme which is acceptable in respect of design/appearance, layout, landscaping, relationship with neighbouring properties and level of parking provision. Overall, the proposal accords with current housing policy.

Design, layout, density and impact on residential amenity

The current use does not employ large numbers of people. However, when the market is operational, it is considered that the use is unneighbourly, and it causes noise and disturbance to local residents within the vicinity of the site, by virtue of the number of visitors attracted to the site. The proposed development would change the nature of the site to a predominantly residential use. Only a small proportion of the site would be retained for employment purposes, and the use would be limited to B1 - Offices and Starter Units, which are considered to be more neighbourly than the current auctioneering facility.

The indicative layout illustrates that separation distances upwards of 32m can be achieved between the existing houses in the vicinity of the site and those proposed within the new development. It is considered that such separation distances comply with the requirements of Local Plan Policy DC36.

It is noted that the scale of the proposal is an aspect which is a reserved matter. The building parameters plan which has been submitted on the 'indicative height parameters plan' has been considered in the context of the surrounding area (i.e. existing buildings: dwellings, commercial buildings and station), and views from key public vantage points around the site (i.e. the bridge over the railway line, and Dixon Drive).

Scaled parameters

Bearing in mind: -

- a) the scale of the buildings that currently exist on site,
- b) the scale of the buildings within the vicinity of the site (particularly the dwellings on Dixon Drive and Station Road,
- c) factors such as distance standards, amenity and outlook (which will have to be satisfied on a reserved matters application),

it is considered that the scale of the buildings as outlined on the 'height parameters plan' can comfortably be accommodated within the site. It is considered that these scaled parameters would allow for a residential scheme to be designed that would be acceptable within the character and appearance of the area and the street scene of Dixon Drive, whilst also allowing for a satisfactory layout to be achieved in a reserved matters application in respect of distance standards, outdoor amenity space and outlook. It is considered that the two storey dwellings should have a maximum ridge height of 8 metres and the three storey dwellings should have a maximum ridge height of 9 metres.

Design

The Council's Design Officer has been consulted in relation to the proposal. In general, there are no objections to the mixed use development proposed for this site. However, it is considered that more thought should be given to the planting along the boundary between Dixon Drive and the development to ensure that there is a successful visual connection between Dixon Drive and the proposed new houses, which would integrate the new development with the village.

Access to Community facility & Business Area

On the indicative layout, the community facility, business area and the railway station cannot be accessed directly from the housing area. The layout should be revised to provide a route for pedestrians and cyclists- especially to the railway station.

Impact on Locally Listed Building

It is noted that the proposal will incorporate the demolition of The Coal Masters House which is a locally listed building. The local list was adopted on 14th October 2010. It is disappointing that this building cannot be retained on the scheme. However, after balancing up of the scheme as a whole and following consideration of the implications of retaining the building and how this would have serious implications on the proposed access to the employment area and how revising this access would have an impact on how the employment area, relates to the residential development in this area (causing a resultant reduction in residential amenity), it is considered, on balance, that there may be insufficient justification for the retention of the building in this instance. The developer has been asked to see if it is feasible to retain the building and further comments will be provided in an update report.

Further detailed design proposals would be required at the reserved matters stage.

Highway Safety (in respect of the proposed access and indicative parking arrangements)

The access is the only specific aspect of the proposal which has been applied for as part of the outline application. As noted above, the Strategic Highways Manager raises no objections in principle, subject to conditions, which will require the submission of further details in relation to the layout of the access and visibility splays, and also require all off site works to be completed prior to the occupation of the development. In addition, the Strategic Highways Engineer raises no objections with regard to the number of parking spaces provided on the 'indicative layout' submitted with the application.

A developer contribution will be required towards the following:

- an investigation for the removal of traffic regulation orders,
- footpath improvements along Dixon Drive,
- the removal of the no through road for vehicles along Dixon Drive
- and, junction improvements at the Knutsford Road junction with Station Road and Dixon Drive.

It is estimated that these costs will total approximately £16 300 and will cover the consultation with residents, traffic management costs and constructions costs.

Environmental Issues

The Environmental Health Officer raises no objection to the application, subject to conditions in relation to noise and vibration, air quality and contaminated land. A Phase II contaminated land investigation shall be required and any remediation required as necessary. The proposed residential use is a sensitive end use. A report submitted with the application identified potential contamination and recommends further investigation.

Landscape

The Landscape Officer raises no objections to the application. The application includes an indicative landscape masterplan. The landscape scheme proposes extensive native structure planting including a new hedgerow with trees across the centre of the site which would mitigate for the loss of the diseased, protected poplar trees that were recently felled (with the appropriate consent). The proposed mound and woodland planting along the eastern boundary would reduce the impact of the railway and would eventually screen the development from the Green Belt. The scheme also includes ornamental planting within front gardens to enhance the development.

If the application is approved, the following aspects should be reconsidered and the landscape masterplan revised accordingly: -

Dixon Drive Boundary

There is a tall hedge with trees along the Dixon Drive boundary which currently provides a good screen for the market buildings and the car park. Further native structure planting is proposed along this boundary to widen this belt. This would tend to create a barrier which would separate the new development from the rest of the village. The existing boundary hedge should be reduced to an appropriate height and thickened or gapped where necessary and the semi-mature hedgerow trees should also be selectively thinned out to allow the better specimens to flourish. This would create a visual connection between Dixon Drive and the proposed new houses and would integrate the new development with the village.

Railway Boundary

Two metre high mounds and acoustic fencing are proposed along the railway boundary for noise mitigation. Further details and cross sections through the mounds would be required to ensure that the gradients are acceptable. The details for the proposed structure planting on the mounds should also be submitted with the reserved matters application. Network Rail will be required to be involved with the proposed species and mature heights of the trees adjacent to their operational land to ensure that this aspect is acceptable to Network Rail. The future ownership and maintenance responsibility for the mounds and the acoustic fences should also be considered.

Business Area

On the indicative layout plan, the business area and the railway station cannot be accessed directly from the housing area. The layout should be revised to provide a route from the residential area for pedestrians and cyclists.

Landscape Masterplan

Revisions have been requested to the landscape masterplan to ensure the inclusion of indicative hard and soft landscape details plus planting species, sizes and numbers.

Landscape Management and Phasing

The future ownership and maintenance responsibility for any landscaped areas (including boundary structure planting), that are not within residential plots must be considered and a landscape management plan for an appropriate period should be agreed.

The phasing of the development and associated landscape works should also be considered. The noise mitigation works and structure planting along the railway boundary should ideally be implemented at the start of the development.

The above issues will be considered when a reserved matters application is submitted and assessed, and these comments are made at this stage to highlight what officers would expect to be incorporated in due course. In addition, it will be necessary for the landscape management and phasing details to be included at the reserved matters stage also.

Trees

The Arboricultural Officer raises no objections to the outline scheme in principle.

Concern has been raised in relation to the loss of a Horse Chestnut (T1) and a Sycamore (T38) and Beech (T39), which lie at the northwestern corner of the site. This has been proposed in order to construct the planting and acoustic bund which faces on to the railway. The three identified trees provide a reasonable degree of mature screening at present, which would take some considerable time to replicate should their removal and the identified bund planting proceed. It was also noted that the bund extends to within 4 metres of the rear elevation of the adjacent block, negating any meaningful utilizable space to the rear of the building. T38 has been identified as a category A tree by the applicants arboricultural consultant, therefore, high value which should be retained. One solution could be to retain T1, T38, and T39, reduce the extent of the bund outside the identified RPA's (Root Protection Areas) and away from the buildings.

The linear group of trees to the northern boundary of the site (identified as T2 to T15) would benefit from an amount of selective thinning in terms of numbers removing those specimens which are considered to be suppressed, allowing greater space to be established for the better specimens. A number of the trees have had a significant amount of rubbish and material tipped close to their stems.

It is considered appropriate to lose certain trees around the site due to their lack of vigor and vitality and long term viability. This includes T16 (on Dixon Drive), T33 (adjacent to the railway line), which has been extensively damaged by fire, T34, T35 and T36 (within the site), a Beech (G1) to the north

eastern corner of the site, and G4 and G5 (adjacent to Dixon Drive), which contribute little to the amenity of the area.

The two linear groups of Birch identified as G7 & G8 have all been heavily pruned away from the adjacent electrified lines by Rail Track under their statutory undertaker status, removing value in amenity terms. Their removal would not be contested.

The two groups of Hawthorn identified as G9 & G10 (adjacent to the existing Electrical Sub Station) both exhibit moderate signs of reduced vigor and vitality, as a result of hostile adjacent ground conditions. The proximity of the trees to the adjacent off site buildings and low amenity value, preclude any consideration for formal protection.

G11 consists of two Wych Elm located off site on Network Rail land. The species precludes consideration for long term retention, with the trees also subject of regular harsh pruning.

G12 forms part of the group of trees identified as T1, T38, and T39 identified for removal to construct the planting and acoustic bund. The loss of G12 is not considered significant, with the trees dominated by the adjacent mature Sycamore (T38).

In addition, it would be prudent to take an objective view of the group (T18 – T22, on the Dixon Drive boundary) selecting only those trees with significant long-term potential for retention.

The groups of trees identified as T23 – T26 (on the Dixon Drive boundary) are all relatively reasonable spaced. The loss of T25 is accepted by virtue of its condition, this will further increase space within the group which presents a number of structural flaws. The relationship of the trees to the adjacent build plots is considered acceptable.

The three trees identified as T27 to T29 are all located an acceptable distance from the adjacent plots.

The proximity of the building plot located adjacent to trees numbered T10 to T12 (an Oak, Sycamore and Lime) is considered poor. The build footprint is located outside the identified trees RPA but there is an issue of dominance and shade. Consideration should be given to re-orientating the property, with a blank gable elevation facing the trees.

T30 is a large mature Oak located off site adjacent to a set of garages (adjacent to no. 8 Dixon drive). This tree, by virtue of its size will dominate its immediate area and those plots adjacent to the trees canopy. Consideration should be given to relationship issues, and a small amount of tree surgery may be required to reduce the trees overall lateral extension growth. Both T31 and 32 do provide a degree of screening to the adjacent garages but their form is restricted by the dominance of the adjacent T30.

The Sycamore identified as T37 (within the site) whilst not presenting visible signs of reduced vigor and vitality, exhibits extensive damage to its root system and is affected by alterations in ground levels. The tree has been identified for retention. However, removal is considered a more objective way forward.

The linear group of trees identified as G2 & G3 form part of an attractive feature which extends parallel to Dixon Drive. It appears that the trees have not received any maintenance since they were planted. Their canopies are now interlocking, forming more of a hedge than an evenly spaced group of trees. There are a number of poorly formed and suppressed trees within the two groups. These should be removed in order to benefit those specimens which can be retained through to maturity. The social proximity of the build plot to those trees identified as G2g – G2i is considered very poor, and should be re-designed. The two plots to the south of G3 are located in close proximity to the linear group; consideration should be given to the position of habitable rooms and increasing external utilizable space not affected by the trees.

A Leyland Cypress (identified as G6, to the rear of no 10. Dixon Drive) provides a landscape function in terms of screening the rear garden of the off site properties from the buildings associated with the market. This function will be transferred to the proposed new dwelling.

In February 2009 consent was given for the removal of 29 Poplars which extended in a linear group from Dixon Drive east towards the railway line. All the trees exhibited significant reduced vigor and vitality, and a stag-headed appearance. A condition of the removal was that they would be replaced with a linear replacement planting scheme which would contain a random mix of Beech, Lime, Ash and Maple to be planted every 10 metres, in close proximity to the felled trees. It appears from the site plan that the replacement linear group has been moved to the north of the original group, which is not a problem, but the proximity of the intended plots to trees which have a significant high canopy potential should be reflected in the layout. This can be addressed at the reserved matters stage.

It is understood that the applicant is taking into account the Arboricultural Officers comments and that a revised plan will be submitted which addresses the issues raised.

Ecology

The nature Conservation Officer raises no significant ecological issues in relation to the proposed development. Conditions are suggested to safeguard breeding birds and to ensure some additional roosting/nesting potential is provided as part of the proposed development.

Community facility and other benefits

Chelford Parish Plan highlights that it is the wish of the community to enhance the already existing facilities in the village, such as the grass playing fields at Mere Court and the children's play ground at the Village Hall. There is a

further desire to have additional recreation facilities within the village, such as tennis courts.

It has become apparent that although the applicants have shown a 'Community facility' on the layout plan, they are not seeking to actually build this out. The funds to construct and kit out the building would have to be found elsewhere.

As a result of the lack of funding to cover this, it is considered that an entirely new community centre would seem an inappropriate form of development. It should also be factored in that existing facilities in the area would benefit from improvements. Therefore, the applicants have been requested to remove the Community facility from the plan and make a contribution towards improving/extending existing community facilities, in accordance with the provisions of the Supplementary Planning Guidance on S106 Agreements. This would equate to a contribution of approximately £47 600 (subject to RPI). The following areas require improvements, however, consultation with the public will be required to ensure that the best value is provided for residents: - Chelford Village Hall, Astle Court Community Room (a CPP facility), the Scout Hut (located adjacent to the Village Hall) and possibly Chelford School (community uses only), and improvements could be provided within the major housing areas.

Access to local facilities also follows on from the comments above- The Chelford Parish Plan considers developing a scheme to provide an off-road path between the residential area of the village and village facilities. Linkages such as this could be considered as part of the development, rather than providing new facilities which might unintentionally segregate the existing and new communities within the village.

The scheme would provide a number of benefits to Chelford. A new stock of houses would come forward, including the provision of 22 Affordable Homes.

The scheme would replace a tired employment use, (which would not be suitable for a modern business), with a more appropriate mixed use scheme, including the provision of Employment Units, which with the provision made on the Stobarts site opposite, is considered to be sufficient to meet the long-term employment needs of Chelford.

The redevelopment will result in the removal of a number of large industrial buildings, which will improve the visual amenity of the site, and the proposal will bring a number of environmental benefits through the decontamination of the land, the provision of contribution towards Public Open Space in the area, and a contribution towards community facilities.

Chelford is currently deficient in the provision of Children's play space and also requires improvements to the quality of existing facilities and accessibility, and as a result the Leisure Services officer has requested a contribution towards improvements to public open space and towards

recreation and outdoor sports. Improvements to the quality of existing facilities and accessibility are required.

There is great need to improve facilities for children's play and provide for the full age range of Chelford residents and their differing needs. There are particular issues with older children's and youth provision but also sporting opportunities for all as well as supporting facilities and activities for older people. There is a need for facilities, activities and events which help bring the community together.

POS improvements will be made at the open space and play area at Mere Court, the amenity open space on Dixon Drive, Chelford Village Hall open space and children's play area and a footpath link should be provided from Chelford Village Hall to the village.

The Commuted Sum for Open Space (Formal and Informal Children's Play Space and Amenity POS) would be used for (but not restricted too) the following additions, improvements and enhancements: -

Mere Court – this area is in need of major improvement works and has the potential to provide a greater range of facilities for a greater range of the community. It is seen by residents as being ideally situated in the centre of the village. A detailed development plan would be drawn up using the Green Flag criteria and works would include amongst others a much improved children's play space, substantial pitch improvements, substantial landscape works including restoration of historical landscape features and structure planting, wildlife / habitat improvements, access and boundary improvements, improved connectivity with the school and creation of an informal activity area(s), routes throughout the site could be improved with new seating areas etc.

Dixon Drive - has a large quantity of amenity space and footpaths which provide important opportunities but fall short of being inclusive. Works to improve footpath surfaces, access and information / interpretation plus landscape structure works are required.

Chelford Village Hall - the play area is very limited and there is a recognised need to make substantial improvements to the play facilities both formal and informal. There are also opportunities and the need for amenity provision here.

Footpath link from the Village Hall to Chelford's centre. There is a Parish Plan proposal to address the safety issues and reluctance of some to travel to the Village Hall site along the main road.

The Commuted Sum for Recreation / Outdoor Sports (Pitches, Courts, Greens and Auxiliary facilities) would be used for (but not restricted too) the following additions, improvements and enhancements: -

Mere Court - as above substantial works are required and the football pitch works would be completed with the Recreation/Sport commuted sum. In addition, there is a serious need to address the lack of any other sporting / active recreational facilities and suitable supporting facilities in accordance with Sport England guidance. Mere Court may be a suitable location for some of these facilities. These would include green gym and exercise / jog trails and could be linked to local PCT initiatives.

Chelford Village Hall is a probable location for the provision of sporting facilities and to support this, substantial improvements to the changing and pavilion facilities will be required. This is in line with Sport England Guidance and is necessary to ensure inclusivity of the sports development.

The comments of the Capital Development Manager in relation to the School Organisation and Capital Strategy are noted. If both the Stobart's proposal and Chelford Market scheme are delivered, there would be a requirement for an additional 6 pupil places at the primary school. The figures supplied by the Capital Development Manager are based on methodology adopted by the former Cheshire County Council, and now utilised (since LGR) by Children and Families within Cheshire East. However, it is considered that if a contribution is required, it should be calculated in relation to the policies specific to the local area: - namely in this case the Macclesfield Borough Council Supplementary Planning Guidance on S106 Agreements - and be relevant to the development in question. In this instance, the SPG requires a contribution of £9 000 per place at a primary school. This is based on January 2003 price levels and this should be updated in line with BCIS (Building Cost Information Service) all in tender price index to £10 000. Therefore, the contribution towards new facilities at the school should be £60 000 – not the £144 957 originally requested.

It is considered that £60,000 will not cover the cost of a new classroom, which will be required to accommodate the additional children. Officers are still in discussions with the Capital Development Manager with regard to this, and an update report will be provided to Members on this point.

OTHER MATERIAL CONSIDERATIONS

The applicants have requested that if approved, permission be granted for a period of 5 years. It is considered, given the existing market conditions and that the Market will be seeking suitable accommodation elsewhere, that a 5 year consent be granted, and if required, the application could be renewed at a later stage. This is in line with Government advice which encourages local planning authorities to be flexible in this regard.

The comments provided by neighbours and the Chelford Parish Council in relation to land use, trees, impact on amenity and traffic are noted. It is considered that the majority of issues are covered in the report above.

It should be noted that, as the scheme is in outline form with all matters apart from access reserved for future consideration, there will be an opportunity to

consider the detail raised in some of the comments expressed, at the time of the reserved matters application.

The scheme would not allow an opportunity to continue Sunday car boot sales on the recreational ground.

Network Rail has been consulted in relation to the potential security measures and impact on the railway line and no objections are raised subject to conditions.

It should also be noted that Cheshire East Council own approximately one third of the land to the north of the site and that Cheshire East Councils Estates Department may have views on how this land is to be used. The land ownership issue is not considered to impact on the planning matters at this stage, however, it could affect the land value and result in viability issues which may require the matters contained within the S106 to be reconsidered in due course.

CONCLUSIONS AND REASON(S) FOR THE DECISION

- The site is adjacent to an existing residential area in a sustainable location.
- The existing buildings are unlikely to be suitable for modern business requirements.
- The impact of the proposed development would be considered to be less than the existing on current residents.
- The proposed B1 accommodation would provide for more jobs than the current facilities, and the size and nature of the offices and industrial starter units are considered appropriate to Chelford and are likely to provide future employment opportunities for local people. It is essential however, to ensure that the employment units are provided and that this element is conditioned. Without the employment development, Chelford would be left with little employment land/prospects for local jobs, and the scheme would not be considered as favourably in relation to both national and local sustainability objectives.
- The proposal would bring environmental improvements.
- The indicative layout and scale of the development would make efficient use of this brownfield site and provide a residential scheme that would contribute to the housing needs of the area. Although the layout and scale would be a reserved matter, the indicative details submitted would have an acceptable impact on the character of the area and it is considered that it would be possible to comply with the distance standards between properties contained within the Local Plan.
- It is considered that the extent to which the proposal would impact on neighbouring residential amenity would be acceptable.
- The access, as proposed, is considered to be acceptable.

In summary, for the reasons outlined, it is considered that the principle of residential use on the site is acceptable and although the proposal does not comply strictly with policy, there are sufficient material considerations which result in a recommendation of approval being made, subject to conditions and a S106 agreement.

HEADS OF TERMS

- 25% Affordable Housing = 21 units be 50% social rent, 50% intermediate tenure
- Leisure Services have stated that the commuted sum required for provision of Outdoor Space is £255 000; the figure required for Recreation / Outdoor Sport is £82 000 (which includes discount of £19 000 for the affordable housing based on the affordable apartments and family dwellings). Both the above commuted sums would be used to make improvements, additions and enhancements to the following facilities (subject to consultation with the public) at: - the Mere Court open space and play area, Amenity Open Space on Dixon Drive, Chelford Village Hall (open space and children's play area), provision of a footpath link from Chelford Village Hall to Chelford Village.
- The contribution towards a community facility would equate to approximately £47 600 (subject to RPI). This would be used (subject to consultation with the public) at: -Astle Court Community Room, the Scout Hut, Chelford School (community uses only), and within the major housing areas.
- A developer contribution will be required to towards the following: - an investigation for the removal of traffic regulation orders, footpath improvements along Dixon Drive, the removal of the no through road for vehicles along Dixon Drive and junction improvements at the Knutsford Road junction with Station Road and Dixon Drive. It is estimated that these costs will total approximately £16 300 and will cover the consultation with residents, traffic management costs and constructions costs.
- A developer contribution will be required towards additional school places at Chelford CE Primary School at a cost of £60 000.

It is noted that the commuted sums required for open space and outdoor recreation, contribution towards a community facility, highways improvements and the additional school places and affordable housing provision would form part of a S106 agreement.

Community Infrastructure Levy (CIL) Regulations

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

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

The provision of 25% affordable housing is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

The commuted sum for Education is necessary, fair and reasonable to build and fit out a new classroom at the local primary school, as the combination of this application and the Stobarts application will generate 24 additional pupils, which cannot be accommodated within the existing school.

The commuted sum in lieu of Public Open Space is necessary, fair and reasonable, as the proposed development will provide 85 dwellings, the occupiers of which will use local facilities as there is no open space on site, as such, there is a need to upgrade/enhance existing facilities. The contribution is in accordance with the Council's Supplementary Planning Guidance.

The financial contribution towards community facilities is necessary, fair and reasonable, as the additional number of residents to the Village would put pressure on the existing facilities, and as a result these facilities will need to be upgraded/replaced to meet growing demands.

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development.



10/3448M - CHELFORD AGRICULTURAL CENTRE, DIXON DRIVE, CHELFORD, SK11 9AX

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Application for **Outline Planning**

RECOMMENDATION : Approve subject to a Section 106 Agreement and the following conditions

1. A01OP - Submission of reserved matters
2. A02OP - Implementation of reserved matters
3. A03OP - Time limit for submission of reserved matters
4. A06OP - Commencement of development
5. A08OP - Ground levels to be submitted with reserved matters application
6. A09OP - Compliance with parameter plans
7. A01LS - Landscaping - submission of details
8. A04LS - Landscaping (implementation)
9. A02TR - Tree protection
10. A04TR - Tree pruning / felling specification
11. A07TR - Service / drainage layout
12. A01GR - Removal of permitted development rights
13. A04HA - Vehicular visibility at access to be approved
14. A32HA - Submission of construction method statement
15. A19MC - Refuse storage facilities to be approved
16. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources
17. Submission of a landscape management scheme to be submitted with the Reserved Matters application
18. Phasing of landscaping works
19. The landscaping scheme shall incorporate details of boundary treatment
20. Protection of breeding birds
21. Provision of bird boxes
22. Details of lighting to be approved
23. Submission of an air quality assessment
24. 12 metre buffer zone on the Eastern Boundary - adjacent to railway line
25. No residential façade shall be closer than 16 metres to the railway line
26. Acoustic mitigation to be detailed with site layout plan at reserved matters stage

27. Any changes to layout plan to reflect minimum Noise Exposure Categories
28. Details shall be submitted showing the floor plans, elevations and layout of the residential units closest to the railway line
29. Acoustic specification of fixed plant and equipment to be submitted
30. Contaminated Land
31. Submission of a drainage scheme including details in respect of surface water run-off
32. Submission of a Character Assessment justifying scale, layout and materials as part of the Reserved Matters application
33. Waste Management Plan

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Application No: 10/0346M

Location: WOODSIDE POULTRY FARM, STOCKS LANE, OVER PEOVER, KNUTSFORD, WA16 8TN

Proposal: ERECTION OF 15 NO. AFFORDABLE HOUSES

For DEAN JOHNSON FARMS LTD/ DANE HOUSING

Registered 02-Mar-2010

Policy Item No

Grid Reference 378108 373981

Date Report Prepared: 26 November 2010

SUMMARY RECOMMENDATION

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

MAIN ISSUES

- Whether the consultation on the amended plans raises any new issues that need to be considered
- The impact of the proposal on protected species

REASON FOR REPORT

On 15 September 2010, the Board delegated power to the Head of Policy & Planning to determine the above planning application after reconsultation regarding amended plans submitted at/just before the meeting. The amendments repositioned 6 houses 2m further from a boundary with neighbouring properties. There was an underlying understanding that the delegated decision would be based on the report recommendation plus consultation responses commenting on the repositioning. However, during the reconsultation period a new issue has arisen regarding Great Crested Newts. In these circumstances the Head of Planning and Housing is exercising his discretion to refer the application back to the Board for decision.

The background to the application is set out in the attached committee report and update report prepared for 15 September 2010.

DESCRIPTION OF SITE AND CONTEXT

See original report.

DETAILS OF PROPOSAL

See original report.

RELEVANT HISTORY

See original report.

POLICIES

See original report.

CONSULTATIONS (External to Planning)

The following consultations have been received in relation to the reconsultation on the amended plans.

Environment Agency – no objection subject to the imposition of a condition regarding potential contamination.

CEC Landscape – as previously, no objections to the proposal subject to conditions.

Housing – no comments.

Manchester University (Jodrell Bank) – would like to see the incorporation of materials to reduce electromagnetic interference.

OTHER REPRESENTATIONS

NO additional representations were received in relation to the amended plans.

APPLICANT'S SUPPORTING INFORMATION

See original report.

OFFICER APPRAISAL

It is not considered that the additional comments received from the landscape officer, the housing department or Manchester University raise any new issues that were not previously considered by Committee or were not covered by the conditions attached to the original recommendation.

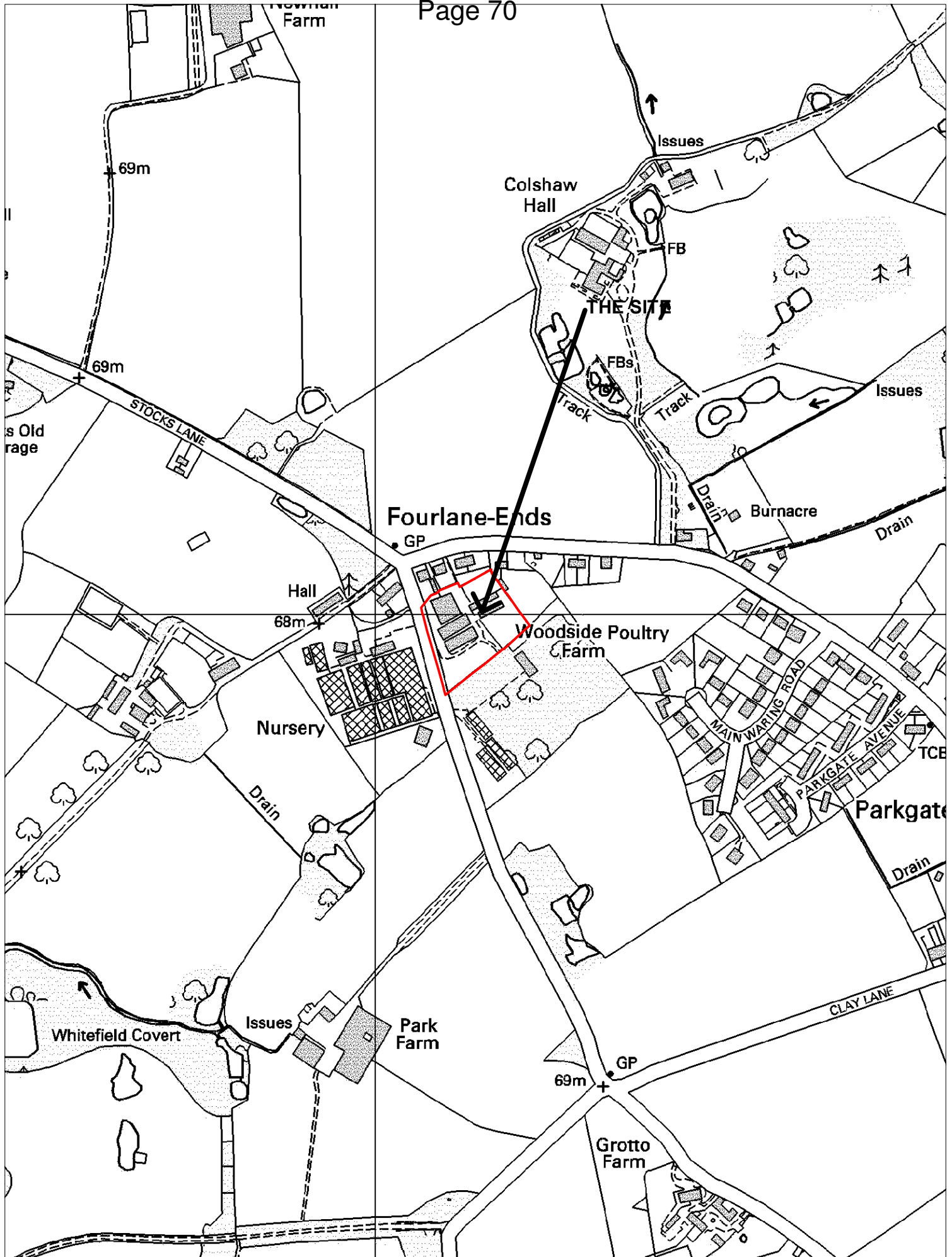
With regard to the comments received from the Environment Agency, these replicate those previously received in relation to the original scheme. Whilst the condition suggested by the Environment Agency was not attached to the original recommendation, a condition proposed by the Council's contaminated land officer was. This requires the submission of a Phase II Contamination report and would cover the requirements of the Environment Agency.

Another issue that has become apparent since the proposal was considered at committee is that whilst there were a number of conditions listed regarding nature conservation issues (provision of a bat loft, bat nesting boxes, protection and provision for breeding birds), no conditions were suggested regarding great crested newts which were recorded in garden ponds adjacent to the proposed development. In order to mitigate the risk of killing, injuring or disturbing any animals present on site, the applicant's ecologist has recommended the removal and exclusion of newts from the development site by means of amphibian fencing and pitfall trapping in association with Natural England guidelines. This is standard practice and is acceptable to the Council's Nature Conservation Officer. However, in order for this to be ensured, this would need to be covered by a condition which requires the development to be carried out in accordance with the submitted ecological reports. This additional condition has therefore been added to the list attached to the original report.

Heads of Terms

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

- dwellings will be retained as affordable housing in perpetuity and that occupation is restricted to those in genuine need who are employed locally or have local connection to the parish of Over Peover and then cascaded initially to adjoining parishes before being offered to residents of other areas of the Borough (it is likely that this would initially be Bucklow Ward, then former MBC, then wider CEC though the final details of this is to be agreed in consultation with Plus Dane Housing and the Parish Council)
- provision of off site ecological works and habitat management plan
- commuted sum of £45,000 to be paid to the Council to make additions, enhancements and improvements to the Local Parish play facility in Over Peover



WOODSIDE POULTRY FARM, STOCKS LANE, OVER PEOVER, KN

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Application for **Full Planning**

RECOMMENDATION : Approve subject to a Section 106 Agreement and the following conditions

1. A03FP - Commencement of development (3 years)
2. A01AP - Development in accord with approved plans
3. A05EX - Details of materials to be submitted
4. A10EX - Rainwater goods
5. A12EX - Fenestration to be set behind reveals
6. A20EX - Submission of details of windows/doors including materials and finish
7. A01GR - Removal of permitted development rights
8. A07GR - No windows to be inserted
9. A22GR - Protection from noise during construction (hours of construction)
10. A12HA - Closure of access
11. A07HA - No gates - new access
12. A01HP - Provision of car parking
13. A30HA - Protection of highway from mud and debris
14. A01LS - Landscaping - submission of details
15. A04LS - Landscaping (implementation)
16. A12LS - Landscaping to include details of boundary treatment
17. A04MC - Electromagnetic protection (Jodrell Bank)
18. A08MC - Lighting details to be approved
19. A17MC - Decontamination of land (Phase II Report required)
20. A19MC - Refuse storage facilities to be approved
21. A06NC - Protection for breeding birds
22. A01TR - Tree retention
23. A02TR - Tree protection
24. A05TR - Arboricultural method statement
25. A02NC - Implementation of ecological report
26. Construction of new junction prior to construction of any other part of the development
27. Construction of highways (manual for streets layout)
28. Provision of Bat Loft
29. Provision of Barn Owl Nesting Boxes
30. Provision of facilities for breeding birds
31. Prior to the occupation of the dwellings, in the absence of a scheme for redevelopment having been implemented, Building A shall be demolished

APPENDIX ONE

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

Date Report Prepared: 6 September 2010

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

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

REASON FOR REPORT

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

DESCRIPTION OF SITE AND CONTEXT

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

DETAILS OF PROPOSAL

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

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

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

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

RELEVANT HISTORY

02/2275P

Outline Planning

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

WOODSIDE POULTRY FARM STOCKS LANE PEOVER SUPERIOR CHESHIRE

refused 20021120

04/2630P

Full Planning

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

WOODSIDE POULTRY FARM STOCKS LANE OVER PEOVER KNUTSFORD WA168TN

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

POLICIES

Local Plan Policy

NE11 Nature Conservation

BE1 Design Guidance

GC1 New Buildings in the Green Belt

H1 Phasing Policy

H2 Environmental Quality in Housing Developments

H5 Windfall Housing Sites

H8 Provision of Affordable Housing

H9 Affordable Housing

H13 Protecting Residential Areas

T2 Integrated Transport Policy

DC1 New Build

DC3 Amenity

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

Other Material Considerations

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

CONSULTATIONS (External to Planning)

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

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

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

Environment Agency: no objection subject to conditions regarding contamination.

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

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

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

VIEWS OF THE PARISH / TOWN COUNCIL

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

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

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

OTHER REPRESENTATIONS

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

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

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

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

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

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

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

APPLICANT'S SUPPORTING INFORMATION

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

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

The Affordable Housing Statement concludes that:

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

OFFICER APPRAISAL

Principle of Affordable Housing in this location

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

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

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

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

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

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

Assessment of Need

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

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

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

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

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

Green Belt

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

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

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

Design & Visual Impact

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

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

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

Amenity

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

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

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

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

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

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

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

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

Highways

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

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

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

Trees/Landscaping

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

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

Ecology

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

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

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

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

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

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

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

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

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

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

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

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

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

Leisure Provision

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

The applicants have agreed to pay the amount requested.

Other Matters

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

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

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

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

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

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

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

Heads of Terms

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

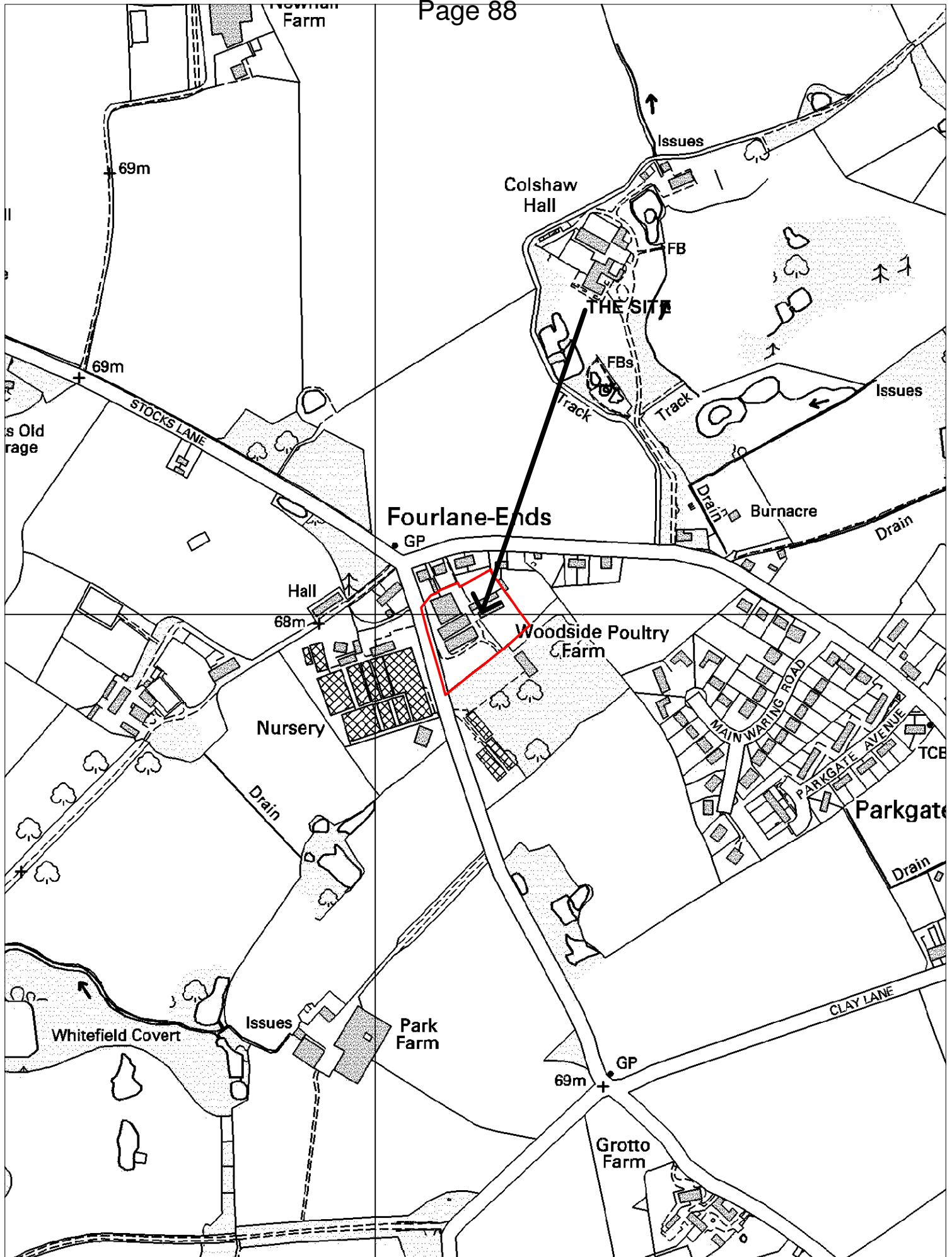
- dwellings will be retained as affordable housing in perpetuity and that occupation is restricted to those in genuine need who are employed locally or have local connection to the parish of Over Peover and then cascaded initially to adjoining parishes before being offered to residents of other areas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

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

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

CONCLUSIONS AND REASON(S) FOR THE DECISION

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



WOODSIDE POULTRY FARM, STOCKS LANE, OVER PEOVER, KN1

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Scale 1:10000

Application for **Full Planning**

RECOMMENDATION : Approve subject to following conditions

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

STRATEGIC PLANNING BOARD – 15 SEPTEMBER 2010

UPDATE TO AGENDA

APPLICATION NO: 10/0346M

LOCATION Woodside Poultry Farm, Stocks Lane, Over Peover

UPDATE PREPARED 13 September 2010

RELEVANT HISTORY

A planning application has now been received by the Council for the conversion of the building that it is proposed to retain on site. The application details are outlined below.

10/3506M

Conversion of Barn A into offices (Use Class B1) together with associated parking.

The application was received on 1 September. It has not yet been registered as it is currently being validated.

The submitted plans indicate that the area of land to the side of proposed dwelling 15 is proposed to be used as car parking in association with the proposed office use.

APPLICANTS SUBMISSION

Following the Committee site visit on 10 September 2010, the applicant's agent has confirmed that an existing Lime tree located to the rear of the site is to be retained. This matter would be controlled by the proposed tree protection condition.

OFFICER APPRAISAL

As there are no significant new issues that have arisen since the original report was drafted, the original recommendation of approval subject to a S106 and conditions remains.

STRATEGIC PLANNING BOARD

Date of meeting: 8 December 2010
Report of: Head of Planning and Housing
Title: Broadheath House, Slade Lane, Over Alderley, Alderley Edge - Judicial Review of decision to grant planning permission

1.0 Purpose of Report

- 1.1 To notify members of the result of the Judicial Review proceedings brought against the decision of the Council to grant planning permission for the development at Broad Heath House, Slade Lane, Over Alderley, Alderley Edge, the Judicial Review application was successful and therefore the Planning Permission that had been granted was quashed by the Court.

2.0 Decision Required

- 2.1 To note

- (1) the decision of the High Court to quash the grant of planning permission
- (2) that a report on re-determination will be presented to the Strategic Planning Board which takes into account the judgment and the views expressed by Mr Justice Langstaff
- (3) the implications for future decisions that will be taken based on the judgment and views expressed by Mr Justice Langstaff

3.0 Financial Implications for Transition Costs

- 3.1 The Council will be required to meet its own external costs of defending this action in an amount of £12,929.95, and will also be required to meet the Claimants costs which have been agreed at £32,987.50.

4.0 Legal Implications

- 4.1 The decision of the High Court quashes the Planning Permission that was granted on 8 April 2009. The application therefore currently stands undetermined and will need to be re-determined having regard to the judgment.

5.0 Risk Assessment

- 5.1 Determination of applications for replacement dwellings in the Green Belt will need to be subject to a review, and guidance on whether proposed replacement dwellings are “materially larger” will need to be given to

Planning Officers. Such a review and guidance will minimize the likelihood of further challenge to decisions on such applications.

- 5.2 The possibility of the introduction of a Supplementary Planning Document to assist in the determination of applications that propose a replacement dwelling in the Green Belt needs to be considered.

6.0 Background and Issues

- 6.1 It is relevant to set out some details of the Judicial Review process. This is a process which focuses on the way in which a decision is taken by a public body. It is not a way of challenging a decision on the planning merits.

- 6.2 The challenge will usually be on one or more of the following grounds:
- That there has been a failure to apply the law
 - That there has been a misinterpretation of the law.
 - That a relevant consideration has not been taken into account or an irrelevant one has been
 - That the decision is perverse.

- 6.3 The procedure which governs a claim for Judicial Review is as follows:
- The Claimant sends what is called a pre-action protocol letter to the Council. This sets out the nature of the concerns and the Council has 14 days to respond. The intention of this early step is to allow the Council to produce arguments which either resolve the Claimant's concerns or convinces the Claimant that the claim will not succeed.
 - If the Claimant decides to continue a claim is issued in the Administrative Court which sets out the detailed statement of grounds on which the case is based.
 - The Council must serve an Acknowledgement of Service within 21 days if it wishes to defend the case and must set out summary grounds of defence.
 - The case does not automatically then proceed to a hearing. Rather the claimant has to obtain Permission from the Court. This is a step which allows the Court to filter out hopeless cases. The threshold which the Claimant has to cross is, however, set quite low. Ordinarily the Court decides whether to grant Permission on the basis of the written documents which have been submitted by the parties. If, however, Permission is refused at this stage, the Claimant can require an oral hearing at which the parties attend and where the Claimant tries to convince the Court that Permission should in fact be granted.
 - If Permission is granted the Council then has 35 days to submit its evidence and any further defence it wishes to argue. The case then comes on for hearing.

- 6.4 This case concerned a planning application [09/0842M] which was for the replacement of a dwelling in the Green Belt. The application was

received by Macclesfield Borough on 2 February 2009, but determined by Cheshire East on 8 April 2009. The replacement dwelling included a large entirely subterranean basement which had the effect of significantly increasing the volume and gross floor area of the replacement dwelling as compared to the original but with much smaller increases in height and footprint.

6.5 The application had to be determined taking into account the guidance in Planning Policy Guidance 2 Green Belts and particularly paragraph 3.6 thereof. That Guidance indicates that a replacement dwelling may not be inappropriate development provided that it is not “materially larger” than the dwelling it replaces. That requirement has previously been considered by the Court of Appeal and this case centred on whether the Council, in granting planning permission, had applied the right test.

6.6 The challenge was two-fold:

6.6.1 that the Council had failed to show that it had properly taken into account the extent and effect of the basement. While the officer’s report, which recommended that the Committee should approve the application, mentioned the basement it was alleged that this was solely to do with issues of visual impact and not (as other case law provided) in order to make an objective size comparison.

6.6.2 that, even if the Council had properly taken account of the basement as required by the case law, the decision was flawed because it would be perverse for a local authority to conclude that, on the facts here, the replacement dwelling was not “materially larger”.

6.7 Permission to proceed with the Judicial Review application, at first instance, was in fact not granted on a consideration of the papers by Mr Justice Pelling. He concluded that the officer report showed that the correct question had been asked and that the Council had taken into account that which it was required to take into account.

6.8 Following this initial decision, the Claimant then asked for an oral review hearing at which Mr Justice Foskett granted Permission to continue. He indicated that, while he could see the force in Mr Justice Pelling’s conclusion and while his mind had wavered whilst considering the matter, he would allow the case to go forward although he expressly recognised that the arguments which had found favour with Judge Pelling might prevail.

6.9 The full hearing took place on 11 May 2010 before Mr Justice Langstaff. Both parties were represented by Counsel. The Judge decided that he could not be certain from the documentary evidence that the Council had properly considered the basement in determining if the replacement dwelling was “materially larger” and so quashed the grant of planning permission on that basis. He also ruled that the Council should pay the

Claimant's costs (the normal outcome when a Claimant succeeds). He did not however accede to the argument that the decision would have been perverse and, unusually, gave quite substantial guidance on how such applications should be dealt with in the future.

- 6.10 The following extract from the judgment indicates how the Council will need to approach the re-determination of the planning application and future applications for replacement dwellings in the Green Belt:

“ 30. ...Here, I conclude that all necessarily depends in an assessment of “materially larger” upon the particular facts and circumstances of a case. It can be said, usually, whether one building is or is not larger than another; though reference may need to be had to particular measurements in respect of which it is said to be larger than the other. Whether it is “materially larger” has to be answered in accordance with the guidance given by the Court of Appeal; that is, primarily as a question of size. But it is not exclusively a question of size...

31. The expression “materially” invites a consideration of size in context; what is the relevant context? The relevant context necessarily has to be the object of and policies relating to establishing a Green Belt. It is possible to give several examples which may illustrate this, and may demonstrate that it is not a sufficient answer to suggest that a qualitative analysis is only relevant within very small increases in size. The first example was that given in the Surrey Homes case. There, the Deputy Judge pointed out that a building might have a much smaller footprint, and have the same overall floorspace, because it was built as a tower; yet if a tower replaced a bungalow, it is not difficult to see how the relevant considerations of size would have nothing to do with footprint, and nothing to do with floorspace, but everything to do with height. In the context of affecting the openness which green belt policy emphasises, the tower might be said to have much greater impact than the bungalow.

32. It is equally not difficult to see that some buildings may have a much larger floorspace as newly-built than those than they replaced, without altering in any way the external dimensions and footprint of the original building. For instance, where a large barn is converted or rebuilt; where a high-ceilinged building is replaced by one with more floors, and therefore more floorspace, but with no change to exterior dimensions. Similarly, it is not difficult to see how, if one replaced a bungalow with a two-storey building on a narrower footprint, the planning considerations relevant to a determination of material largeness would not depend at all upon floorspace or footprint, but in that case upon height and depth of the building.

33. The dictum of Carnwath LJ at the end of paragraph 36 made the point that if an extension were three times the size of the original - and I note that would mean a building four times the size of the

original, being the original plus the extension - it could not be regarded as proportionate. When looking at a replacement building, the test is not what is "proportionate", though material largeness is to be read in the same spirit. But that is very different, as it seems to me, from the situation here. It seems to me that, in this particular case, a very important fact and issue to which the local planning authority will wish to have regard in attributing whatever weight it thinks is appropriate to the size of the basement is the fact that, as part of the dwelling, that basement is intended to be entirely below ground level.

34. *I could not, in short, have said that it would necessarily and obviously have been perverse for the local authority in this case to have concluded, if it did so having had regard to all proper considerations, that the replacement building was not materially larger than the existing. Providing it did not lose sight of the overall size and floorspace of the basement, the authority would be entitled, in my view, to come to a conclusion that the building above ground was such, and the basement such, that overall, the building, in the contexts to which I have referred, was not materially larger. Indeed, it is plain from (the Officer's statement) that they did not regard that conclusion as being to them, as an experienced planning officer, necessarily perverse.*
35. *But it does not follow that I can say that the decision to be reached by the local authority will necessarily be the same if it has regard to the matters to which it should properly have regard as that it actually reached which is the subject of this litigation...It seems to me that the size of the basement is significant. As a matter of sheer size, the issue of how that affects a conclusion as to whether it is or is not such as to make the building as a whole materially larger than that which it replaces, is not one which I can say necessarily should be determined one way or the other.*
36. *Although this last part of my decision, from paragraph 30 onward, is necessarily obiter, I hope that those observations are of assistance to the parties."*

6.11 As a general comment, it is clear from Mr Justice Langstaff's decision that the Local Planning Authority are entitled to take the view that in a given set of circumstances a proposed replacement dwelling that has a basement is not necessarily materially larger in the context of PPG2, and therefore not inappropriate development. This will, however, essentially involve a comparison of size, and the provision of a basement may well be a determining factor in reaching a decision that a replacement dwelling is materially larger, but there will need to be a judgment made on the circumstances of each case. Whatever decision is reached, there needs to be a clear and comprehensive assessment of the existing dwelling and the proposed replacement dwelling, within either the Committee report or the delegated report, that is explicit regarding what

has been included in that assessment and why. It is not sufficient for the Officer to have considered the matter without explaining that reasoning fully and comprehensively in their report, and the decision maker must then take account of that assessment in making their decision.

- 6.12 Clearly in this case, while the Officer's report was approved by a number of Officer's prior to reaching the Committee, the Judge was of the view that the basement issue was not clearly covered within the report, and therefore had not been clearly in the minds of members when they were making the decision. As such he was not able to determine whether proper regard had been had to the required points and if those points had been dealt with, that a different decision would not have been reached.

7.0 Reasons for Recommendation

- 7.1 To ensure that members of the Strategic Planning Board are aware of the decision of the High Court, are aware that this application will need to be re-determined, and of the comments in the judgment about that, and about the future determination of replacement dwelling applications in the Green Belt across Cheshire East. A similar report will be presented to subsequent meetings of the Northern and Southern Planning Committee's to ensure that those members are also aware of the impact of this decision.

For further information: Nicky Folan
Background papers:

Decision of Mr Justice Langstaff dated 11th May 2010

Portfolio Holder: Jamie Macrae
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Ref Number	Address	Description	Level of Decision Del/Cttee	Over turn Y/N	Rec and Decision	Appeal Decision
10/1920 C	7, THE MOORINGS, CONGLETON, CW12 3RF	Two Storey Side Extension	Delegated	n/a	Refused	Dismissed 9/11/2010
10/0235 N	1 RIVER BANK BARN, OAK TREE BARNS, POOLE HILL ROAD, POOLE, NANTWICH, CW5 6AH	Erection of Porch and Window Canopy	Delegated	n/a	Refused	Dismissed 9/11/2010
10/0390 C	MISTAL LOFT, VICARAGE LANE, BETCHTON, CW11 4TB	RETROSPECTIVE APPLICATION FOR THE CHANGE OF USE OF AGRICULTURAL LAND TO RESIDENTIAL CURTILAGE, INCLUDING THE ERECTION OF SHED AND WENDY HOUSE, CREATION OF PARKING AREA AND ENTRANCE AND ASSOCIATED LANDSCAPE WORKS.	Delegated	n/a	Refused	Dismissed 15/11/2010
10/2808 N	14, MARSH LANE, NANTWICH, CW5 5HH	Render to Side of Property Within the Nantwich Conservation Area	Delegated	n/a	Refused	Dismissed 16/11/2010
10/1421 M	1-3 Brook Sreet, Macclesfield	VARY THE HOURS OF OPENING OF AN A5 HOT FOOD TAKEAWAY	Delegated	n/a	Refused	Dismissed 15/11/2010
09/0695 M	(land off CoppiceWay, Handforth	DEVELOPMENT OF A CARE VILLAGE (SUI-GENERIS USE) COMPRISING 58-BEDROOM CARE HOME; 47 CLOSE CARE COTTAGES; 15 SHARED OWNERSHIP	SPB	y	Approve Refuse	Dismissed 28-Oct-2010

		AFFORDABLE DWELLINGS; AND ASSOCIATED ACCESS ROADS, PUBLIC OPEN SPACE, LANDSCAPING, CAR PARKING AND ANCILLARY DEVELOPMENT.				
09/0708 M	(LAND OFF COPPICEWAY , HANDFORTH	FORMATION OF NEW VEHICULAR ACCESS FROM COPPICE WAY & ENGINEERING WORKS	SPB	y	Approve Refuse	Dismissed 28-Oct-2010
09/3023 M	(land off CoppiceWay, Handforth	OUTLINE PLANNING APPLICATION WITH MEANS OF ACCESS, LAYOUT, SCALE AND APPEARANCE FOR CONSIDERATION AND LANDSCAPING RESERVED FOR SUBSEQUENT APPROVAL FOR THE DEVELOPMENT OF A CARE VILLAGE COMPRISING 55 BEDROOM CARE HOME, 36 CLOSE CARE COTTAGES; 6 SHARED OWNERSHIP AFFORDABLE DWELLINGS - ALL FOR THE OVER 55'S; AND ASSOCIATED ACCESS ROADS, PUBLIC OPEN SPACE, LANDSCAPING, CAR PARKING AND ANCILLARY DEVELOPMENT.	SPB	y	Approve Refuse	Dismissed 28-Oct-2010

09/3050 M	(land off CoppiceWay, Handforth	FORMATION OF NEW VEHICULAR ACCESS FROM COPPICE WAY AND ASSOCIATED ENGINEERING WORKS	SPB	y	Approve Refuse	Dismissed 28-Oct- 2010
09/3983 M	75 Macclesfield Road, Prestbury	ERECTION OF ONE FIVE- BEDROOM DETACHED DWELLING	delegated	n/a	Refuse	Dismissed 27 October 2010
09/4335 M	land off Cumberland Drive, Bollington	erection of 4 dwellings	Committee	y	Approve Refuse	Allowed Costs awarded against Council 25 Oct 2010

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