

# Strategic Planning Board

## Agenda

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<b>Date:</b>	<b>Wednesday, 8th February, 2012</b>
<b>Time:</b>	<b>10.30 am – PLEASE NOTE THAT THIS IS A CHANGE OF START TIME FROM THE ORIGINALLY ADVERTISED TIME OF 2.00 PM</b>
<b>Venue:</b>	<b>Meeting Room, Macclesfield Library, Jordangate, Macclesfield SK10 1EE</b>

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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**

## **Morning Session**

#### **1. Apologies for Absence**

To receive any apologies for absence.

#### **2. Declarations of Interest**

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

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

**Contact:** Gaynor Hawthornthwaite  
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3. **Minutes of the Previous Meeting** (Pages 1 - 4)

To approve the minutes of the meetings held on 18<sup>th</sup> January 2012 as a correct record.

4. **Public Speaking**

A total period of 5 minutes is allocated for each of the planning applications for Ward Councillors who are not members of the Planning Committee.

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

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

5. **10/3214M - Butley Hall, Scott Road, Prestbury SK10 4DN - Refurbishment, Conversion and Extension of Butley Hall to Provide Seven Apartments: This work includes partial demolition of later parts of the listed building. Construction of three new three storey townhouses to the rear of Butley Hall. External works to create new ramped access drive to new car parking area between Butley Hall and the new townhouses together with construction of ten garage spaces and a bin storage room built below the** (Pages 5 - 22)

To consider the above planning application.

6. **11/2818N - Land on Sheppenhall Lane, Aston - Erection of 43 Dwelling Houses (Including 5 Affordable Dwellings), Creation of New Access to Sheppenhall Lane** (Pages 23 - 86)

To consider the above planning application.

**A break for lunch will be taken here and the meeting will resume at 2.00 pm for the following items:**

## **Afternoon Session**

7. **10/2647C - Land North of Twemlow Lane, Twemlow Green - Erection of 13 No Affordable Houses, Associated Parking and Landscaping and New Vehicular Access** (Pages 87 - 104)

To consider the above planning application.

8. **11/3065C - Land to the South of Middlewich Road and West of Broad lane, Holmes Chapel - Importing of Waste to Fill a Hollow in the Agricultural Field. Raising the Level of the Hollow will improve the pasture land for Mr R Arnold** (Pages 105 - 114)

To consider the above planning application.

9. **11/3956C - The Former Fodens Factory, Land Off Moss Lane, Sandbach CW11 3JN - Proposed Residential Development of Land off Moss Lane, The Former Fodens Factory Site for 269 Dwellings and Associated Works for Mr S J Ward, BDW Trading Ltd and Hurstwood Landbank** (Pages 115 - 138)

To consider the above planning application.

10. **11/3569C - Former Fodens Factory and Test Track Sites, Moss lane, Sandbach - Site Preparation, Bulk Earthworks and Infilling Operations to enable the Future Development of the Sites for Residential-Led Purposes for Mr R Lever, Encia Ltd** (Pages 139 - 152)

To consider the above planning application.

11. **Appeals Record in 2011** (Pages 153 - 158)

To consider a report on the the appeals performance for 2011

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**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Strategic Planning Board**  
held on Wednesday, 18th January, 2012 at Meeting Room, Macclesfield  
Library, Jordangate, Macclesfield

**PRESENT**

Councillor H Davenport (Chairman)

Councillors Rachel Bailey, D Brown, J Hammond, D Hough, J Jackson,  
J Macrae, B Murphy, C G Thorley, G M Walton, R West, S Wilkinson and  
J Wray

**OFFICERS IN ATTENDANCE**

Philippa Cockroft (Senior Planning Officer)  
Sheila Dillon (Senior Lawyer)  
Adrian Fisher (Strategic Planning and Housing Manager)  
Jan Gomulski (Principal Landscape Architect)  
Stephen Irvine (Planning and Development Manager)  
Neil Jones (Principal Development Officer)  
Conal Kearney (Principal Regeneration Officer)  
Lauren Thompson (Planning Officer)  
Emma Williams (Planning Officer)  
Julie Zientek (Democratic Services Officer)

**Apologies**

Councillors P Edwards, C G Thorley (afternoon session), J Wray (afternoon session)

**100 DECLARATIONS OF INTEREST**

Councillor J Hammond declared a personal interest in respect of application number 11/4242W on the grounds that he was a member of the Cheshire Wildlife Trust, which had been consulted on the proposed development. In accordance with the code of conduct, he remained in the meeting during consideration of this item.

Councillors Rachel Bailey, D Brown and J Macrae declared that, as Cabinet Members, they had considered strategic waste issues at a meeting on 14 March 2011, but that the site on London Road, Lyme Green had not been discussed. In accordance with the code of conduct, they remained in the meeting during consideration of this item.

Councillor Bailey also declared a personal interest in respect of application number 11/4242W, on the grounds that a member of her family lived on Gaw End Lane. In accordance with the code of conduct, she remained in the meeting during consideration of this item.

101 **MINUTES OF THE PREVIOUS MEETINGS**

RESOLVED – That the minutes of the meetings held on 21 December 2011 and 5 January 2012 be approved as a correct record and signed by the Chairman.

102 **PUBLIC SPEAKING**

RESOLVED – That the public speaking procedure be noted.

103 **11/4242W - CHESHIRE EAST COUNCIL, LONDON ROAD, LYME GREEN SK11 0JX: WORKS ASSOCIATED WITH THE CONSTRUCTION AND OPERATION OF A WASTE TRANSFER STATION FOR CHESHIRE EAST COUNCIL**

Note: Councillor H Gaddum (Ward Councillor), Councillor P Raynes (a Member who was neither a member of the Planning Committee nor the Ward Member), Councillor Mrs C Eyre (on behalf of Sutton Parish Council), Mr P Yates (on behalf of Lyme Green Residents Group), Ms C Davies (objector), and Mr P Shuker and Mr P Broughton (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application, a written update and an oral report of the site inspection.

RESOLVED – That the application be DEFERRED to enable officers to provide the following:

- Further information with respect to alternative sites.
- Further information with respect to the access to the site and highway safety.
- Further information with respect to noise levels and mitigation measures

and to enable officers to request the applicant to reconsider the design of the building.

Note: Following consideration of this item, the meeting was adjourned until 2.00 pm.

104 **11/3508M - CONNECT 656 SWINEYARD LANE, HIGH LEGH: CHANGE OF USE FROM B8 WAREHOUSING TO B1(B), B1(C), B2 AND B8 USE**

Note: Prior to consideration of this item, Councillors C Thorley and J Wray left the meeting and did not return.

Note: Mr G Wade (agent representing the applicant) had registered his intention to address the Committee on this matter but did not attend the meeting.

The Committee considered a report regarding the above planning application.

RESOLVED – That the application be APPROVED subject to:

(a) the following conditions:

1. Standard Three Year Time Limit
2. Approved Plans
3. No Additional External 'Open Air' Storage/ Activities at the Site
4. Details of Car Parking and Additional Landscaping

(b) the addition of an informative confirming that the decision is subject to the existing legal agreement relating to the site.

105 **STRATEGIC HOUSING LAND AVAILABILITY ASSESSMENT**

The Committee considered a report regarding the purpose and requirements of the Strategic Housing Land Availability Assessment. The report also explained how the Strategic Housing Land Availability Assessment contributed to the Cheshire East Local Development Framework and the decision-making process for planning applications.

RESOLVED - That the report be noted.

The meeting commenced at 10.30 am and concluded at 3.05 pm

Councillor H Davenport (Chairman)

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<b>Planning Reference No:</b>	<b>10/3214M</b>
<b>Application Address:</b>	<b>BUTLEY HALL, SCOTT ROAD, PRESTBURY, SK10 4DN</b>
<b>Proposal:</b>	<b>REFURBISHMENT, CONVERSION AND EXTENSION OF BUTLEY HALL TO PROVIDE SEVEN APARTMENTS: THIS WORK INCLUDES PARTIAL DEMOLITION OF LATER PARTS OF THE LISTED BUILDING. CONSTRUCTION OF THREE NEW THREE STOREY TOWNHOUSES TO THE REAR OF BUTLEY HALL. EXTERNAL WORKS TO CREATE NEW RAMPED ACCESS DRIVE TO NEW CAR PARKING AREA BETWEEN BUTLEY HALL AND THE NEW TOWNHOUSES TOGETHER WITH CONSTRUCTION OF TEN GARAGE SPACES AND A BIN STORAGE ROOM BUILT BELOW THE EXISTING GARDEN LEVEL AT THE REAR OF THE EXISTING BUILDING. CREATION OF A FOOTPATH LINK FROM THE SITE TO SPRINGFIELDS. SOFT LANDSCAPING TO THE REMAINING AREAS OF THE SITE.</b>
<b>Applicant:</b>	<b>MR &amp; MRS LOCK AND PH PROPERTY HOLDINGS</b>
<b>Application Type:</b>	<b>LISTED BUILDING CONSENT</b>
<b>Grid Reference:</b>	<b>390155 377225</b>
<b>Ward:</b>	<b>PRESTBURY</b>

**SUMMARY RECOMMENDATION:**

Approve subject to conditions

**MAIN ISSUES:**

- Impact on the Listed Building
- Impact on the setting of the Listed Building
- Scale, design, mass and materials of the extensions and alterations to the Hall and of the new dwellings

**REASON FOR REPORT**

The proposal is a major development as defined by The Town and Country Planning (Development Management Procedure) Order 2010. Under the Council's constitution such applications are required to be considered by the committee.

This application and the associated Full Planning Permission were considered by the Members of the Northern Planning Committee on 8<sup>th</sup> June 2011. Members made a resolution to grant Full Planning Permission and Listed Building Consent. The Full application was determined accordingly.

Following committee, it came to light that Amenity Societies had not been notified about the application (A statutory requirement on a grade II Listed Buildings). The Amenity Societies have now been notified and we have received responses from two of the Societies, whose comments are summarised below.

The Listed Building Consent application has to be reconsidered in the light of those comments.

### **DESCRIPTION OF SITE AND CONTEXT**

Butley Hall is a grade II listed building (listed in 1967) and dates from the late 17<sup>th</sup> Century (C17). It has undergone some cosmetic change over its life with a new facade dated 1777 and with C19 addition to north and C20 alterations to flats.

It is fabricated in coursed, squared, buff sandstone rubble with ashlar dressings, with a Kerridge stone-slate roof, stone ridge and 5 brick chimneys. The main portion of original house has a 3-storey, 7-bay front (2:3:2 formation). The central 3 bays step forward slightly under a triangular pediment.

The property is situated within a predominantly residential area within the Village of Prestbury. Prestbury Conservation Area abuts the south western corner of the site.

Part of the site is flat where the Hall is positioned. Beyond the Hall the site slopes steeply in a north east to south west direction towards Springfields which forms part of the western boundary.

The Hall was originally used as a single dwelling until it was converted into seven flats in the 1970s. The building itself has a total floor area of approximately 865 square metres over three floors and is currently vacant and in a poor state of repair. It has deteriorated significantly in recent years.

The application site is accessed off Scott Road to the east of the site, the private road is shared between the 5 other neighbouring properties.

There is a detached double garage to the south of the Hall and adjacent to the southern boundary.

The grounds of the property have recently been cleared of trees and vegetation, giving it a stark appearance. There is a concreted area to the north of the building, which was previously used for car parking.

## **DETAILS OF PROPOSAL**

This application seeks Listed Building Consent for partial demolition and extensions to the original Hall to provide 7 No. apartments together with the erection of 3 No. three-storey mews houses (with a total floor area of approximately 546 square metres) which will be located within a courtyard to the rear of the Hall.

The applicant has confirmed the development of the mews houses are required in order to create a viable scheme, although no figures have been submitted to justify this, and they have not submitted an "Enabling Development" argument.

The demolition involves a three storey rear extension extending west beyond the original building to the north, an attached single storey garage extension to the south of the original building and the detached double garage adjacent to the southern boundary. The demolition of the garage will facilitate a replacement double garage, which will be integrated into the new three storey extension proposed to the south of the Hall.

There are two extensions proposed to the north and south of the Hall, of a traditional design, which will give the Hall a symmetrical appearance and maintain its height.

The proposed demolitions remove only the latter additions to the Hall which are of poor quality. The removal of these additions is considered to be the only viable option in order to allow for proper internal arrangements.

Vehicular access to the development will be gained via a passageway (through the northern extension) to a private courtyard car park to the rear of the Hall. Ten under-croft garages are proposed with the rear extension to accommodate resident's cars. Six additional car parking spaces will be provided on the western side of the courtyard for use by residents and visitors. The mews houses will have their own dedicated parking. The applicant has designed the car parking spaces larger than the local standard in order to incorporate landscaping features.

Pedestrian access to Prestbury Village will be provided via a path located to the south east of the site, from the courtyard down to Springfields. The path will be constructed using a combination of level gravel paths and steps with grit stone risers.

Due to the topography of the site, in order to achieve the proposed levels and car parking facilities, retaining walls will be required. Climbers are proposed to be planted at the base of these walls.

The existing detached double garage will be demolished and replaced with a new double garage integrated into the extension, for use by the occupier of Butley Hall Green. The overall size of the garage door openings are intended

to be of similar size to the vehicle access way through the proposed extension.

The new extensions are of traditional design, to blend in with the existing architectural features of the Hall. The front and west elevations (those most visible from public vantage points) will be fabricated in natural stone with matching string courses, window heads/cills and cornice detailing. The rear and east side elevations will be rendered, to tie together the various architectural styles found on these elevations.

The extensions are to be setback from the original building frontage by 2.5 metres, to give them a subservient appearance. The extensions will be proud of the existing rear walls. The fenestration detailing has been designed in an attempt to respect and acknowledge the size and pattern of the existing openings.

The proposed new mews houses have been designed in a Georgian style to compliment the Hall, using a similar palette of materials including rendered walls, slate roof tiles and painted timber joinery.

The mews houses are considerably smaller than the Hall. The block measures 25 metres in width, and 10.4 metres in depth. There is a distance of 16.9 metres between the rear of the Hall and the front of the dwellings. The dwellings are three storeys high, however, due to the topography of the site and ground levels, the dwellings will be set at basement level to the Hall itself. In effect, this means that only the first and second floor (contained within the mansard roof) will be visible from the adjoining properties. The properties measure 6.5 metres above existing ground level, or 8.6 metres from the proposed ground level, following excavation works to flatten the sloping site. This is demonstrated on the sectional drawings submitted with the application.

### **RELEVANT HISTORY**

08/2672P – Restoration and extension of Hall to provide 12no. apartments, creation of basement car parking, new access and landscaping. Approved - 23/3/2009. (Modern design, extant consent).

08/2762P – Listed Building Consent. Restoration and extension of Hall to provide 12no. apartments, creation of basement car parking, new access and landscaping. Approved - 23/3/2009.

08/0003T – Prune Beech Tree. Consent for works 28/1/2008.

20671P – Conversion of garage into a study and proposed new garage. Approve 19/12/1979.

### **POLICIES**

#### **Regional Spatial Strategy**

- DP1 Spatial Principles
- DP7 Promoting Environmental Quality
- EM1 Integrated Enhancement and Protection of the Region's Environmental Assets

### **Local Plan Policy**

Macclesfield Borough Council Local Plan (2004) Policies:

- BE1 – Design  
Development should reflect local character
- BE2 – Historic Fabric  
Development should seek to “preserve or enhance” historic fabric
- BE15 - Listed Buildings  
Policy seeks to encourage the repair of historic fabric
- BE16 – Setting of Listed Buildings  
This policy only permits development that does not adversely affect the setting of a Listed Building
- BE17- Preservation of Listed Buildings  
Advises that permission is not normally granted for the demolition of a Listed Building
- BE18 - Design Criteria of Listed Buildings  
Relates to preserving architectural integrity of the heritage asset

### **OTHER MATERIAL CONSIDERATIONS.**

- Prestbury Village Design Statement
- PPS1 Delivering Sustainable Development
- PPS5 Planning for the Historic Environment

### **Consideration of PPS5**

Policy HE1 from PPS5 promotes the reuse of existing heritage assets to mitigate the effects on climate change.

Policy HE6 from PPS5 sets out the requirements for information required for this proposal which affects the setting and significance of this building.

Policy HE7 from PPS5 requires local authorities to take account of submitted evidence both from the applicant and consultation responses relating to the setting and significance of the heritage asset. A number of letters of objection have been received from local residents; representations have also been submitted by Pannone LLP, on behalf of the owner of Beverley Cottage (including a Heritage Assessment by Mr Wools). In addition, two amenity

societies: The Ancient Monuments Society and The Council for British Archaeology have commented on the proposals. All of these representations need to be taken into consideration.

The assessment necessary under HE9 of PPS5 implies a presumption in favour of the conservation of the designated heritage asset, and requires local authorities to assess the harm any proposed development may have to the significance and setting of the heritage asset.

Policy HE10 relates to preserving the setting and contributions to significance of the heritage asset.

### **REPRESENTATIONS**

Objections have been received from, or on behalf of the occupiers of Butley Close, Butley Hall Green, The Gate House, Beverley Cottage, and behalf of the owners of the plot adjacent to No.1 Springfields.

It should be noted that the objection from Beverley Cottage was accompanied by a Heritage Assessment.

The majority of the letters also refer to application 10/3175M, (Full planning application), which has already been approved by the Council.

The following comments (which are in summary form and not intended to be a precise or exhaustive exposition all of the comments received) are considered relevant to this application for Listed Building Consent:

#### **Impact on the Listed Building**

- Front façade of listed building will be elongated by addition of two side extensions which will add to congestion and have an adverse impact on the Hall
- The majority of the buildings on site will be new and this will unbalance the special architectural and historic interest the Hall possesses
- The Special interest of the building is subsumed by the proposal such that it would cause significant harm
- As a grade II listed building (Butley Hall) is an important within Prestbury as one of only a few listed buildings within the Village
- Cumulative change might add layers on considerable interest to the history of a property which reflects its social and economic history
- Intrinsic character and appearance would be irrevocably changed and eroded by this proposed development leading to possible de-listing

#### **Impact on the setting of the Listed Building**

- Adverse impact on Listed Building, due to loss of garden area and woodland
- 20<sup>th</sup> century development has encroached upon its land with some loss to its landscape setting, however, the truncated grounds do still provide a suitable setting for the house
- The garaging and parking along with the new townhouses introduces a major impact within the setting of the building
- The proposed development will subsume the Hall and adversely affect it and its setting

### **Scale**

- The extensions within the 2009 scheme were considered proportionate. The two extensions proposed have both a different mass and scale and will not be proportionate
- The scale overwhelms the original building and it is considered the side extensions of such massive scale will detract from the features of original architecture
- Increase in frontage length from 23.5 metres (*actually 30.3m*) original to 44.4 metres (*actually 44.6m*) proposed, compared with 37.8 metres frontage on the 2008 application
- The proposed development fills the site from North to South and creates a “Solid” frontage
- The height of the proposed wings should be reduced so as not to subsume the listed building

### **Policy Objections**

- BE18 states “extensions must respect the character and scale of the original building and not be allowed to dominate it.” The development proposed is in direct contravention of this policy as both the extensions and the townhouses will dominate and detract from the original building
- Policy HE10 of PPS5 requires a Local Planning Authority to assess the balance of public benefit against any harm to the heritage asset
- Assessment under PPS5 is not satisfactorily addressed

### **Objections to the Principle of the development**

- There has been no viability argument put forward by the applicant to demonstrate that the development is justified

- An assessment of the proposal needs to be made 'de nova' and not against the existing extant consent
- The correct tests were not carried out in the PPS5 Heritage Statement
- There is no public benefit that would outweigh any impact on the historic fabric, character and appearance of the Hall
- The photomontage is inaccurate, as it does not show the full extent of the development to the south of the site

## **CONSULTATION RESPONSES**

### **Ancient Monument Society**

The Ancient Monument Society welcome the refurbishment of Butley Hall for residential use. They also welcome the reduction of the number of flats from twelve to seven (2009 consent), even if this means the addition of three houses on the grounds of the property.

The Society feel reasonably reassured that the conservation of the existing building will be carried out in a sympathetic manner. However, concerns are raised about the scale and design of the proposed extensions, which are considered to be harmful to the building's predominant visual character, which is that of a Georgian house with extensions in character. Particular concern is raised in respect of the two side extensions being designed to facilitate the needs of the motorcar: garages on one side; access to car parking on the other.

They consider that the proposal is unsympathetic and over-scaled, and would constitute substantial harm to the listed building, and that the conditions listed under Policy HE9.2 of PPS5: Planning for the Historic Environment have not been met.

They do however, consider that this proposal is far less damaging to the listed building than the 2009 consent.

### **Council for British Archaeology**

The Council for British Archaeology consider the proposal represents overdevelopment of Butley Hall, due to the size of the extensions, and the incorporation of the new townhouses within the rear garden. They consider that the development will have a detrimental impact on the setting of the Listed Building, and the development will lead to an erosion of its character. They recommend that the scale be reconsidered.

If the application is approved, they recommend an archaeological watching brief for before and during works.

### **Cheshire County Council Archaeologist**

Cheshire County Council's Archaeologist raises no objection to the proposal, subject to a condition requiring a programme of archaeological work to be carried out in accordance with a written scheme of investigation.

## **English Heritage**

Do not wish to offer any comments on this occasion.

## **Prestbury Amenity Society**

- Consider the proposal is an overdevelopment of the site and suggest the extensions at both ends of the Hall are reduced in length.
- They recommend that chimney stacks are added to the townhouses.
- They recommend that all trees with TPO's are retained

## **Prestbury Parish Council**

The Committee feel that this application is an improvement on the previous application, although, it does not comply with BE18.

## **APPLICANTS SUBMISSION**

The following documents have been submitted in support of the application, which are available to view on the planning file, and online:

- Design and Access Statement
- Planning Justification Statement (Updated to reflect revised plans)
- PPS5 Heritage Statement

In response to the consultation response from the Ancient Monument Society, the following comments have been made on behalf of the applicant:

Over the years the building has been converted in a very unsympathetic manner. The extensions are inappropriate and unsightly with cement render, and the external fixtures detract from the character of the Hall. Structural defects in the southern gable have been inadequately propped by modern buttressing.

The proposed scheme will:

- Reverse the negative impacts and reinstate plan form of the hall;
- Uncover historical features;
- Repair degraded fabric;
- Open up the entrance hall and reinstate the 17<sup>th</sup> Century Oak staircase.

The extensions are required so that the unsympathetic internal subdivision of the Hall can be removed. The extensions will provide an enhanced layout,

restoring an appropriate quality to the interior and revealing its historic character.

The proposal will restore symmetry to the Hall. The proportions will exactly match the existing front elevation at first and second floor level. The extensions will be deeply recessed behind the frontage line, so as to allow the original building (in its restored form) to read as a historic entity.

The ground floor, of necessity, has been treated differently. Because of the past sale of land for housing development during the mid-20<sup>th</sup> century and the consequent lack of any remaining curtilage on the east side of the Hall, car parking must be accommodated on the western side of the site. The only practical means of access to this area is from the north east corner of the site, where land is severely constrained. The width of the carriageway has to meet acceptable highway safety standards, which leaves no realistic alternative to the proposed solution. Although the proportions of the carriageway opening do not follow Georgian precedent, the honest approach requires that the motor car has to be accommodated in a practical fashion, and viewed overall the effect will not be discordant in what is intended to read as a modern extension.

Steel or concrete will be required to support the structure above, but this will be detailed in such a way that it does not appear assertive or incongruous. As with all other detailed matters, the applicant would expect to submit full design details and materials for approval by condition of planning approval.

The east elevations of both the northern and southern extensions will be entirely faced in stone to match the existing facade, as will be the north elevation of the northern extension. Only the west and south elevations will be rendered. Although the existing north elevation is rendered, it was felt important to face the extension in stone, as this will be visible on the approach to the Hall. This will be a significant improvement to the appearance of the building.

The Hall has lacked investment for a long period and requires a comprehensive scheme of conservation and refurbishment to give it a sustainable future. The additional development (which is the minimum required to fund the conservation) is considerably less than the existing approved scheme and offers a more sympathetic response to the significance of the building. As such, the works of repair and refurbishment will have an overall beneficial impact and provide the building with a long term sustainable future.

## **KEY ISSUES**

This application seeks Listed Building Consent for the restoration and extension of Butley Hall to provide 7 No. apartments, which includes partial demolition of certain parts of the Hall and the construction of three mews houses to the rear of the Hall with associated landscaping, access ways and car parking.

Butley Hall is within a group of 5 dwellings, all accessed off Scott Road. Although the Hall is now vacant, the Hall was previously in use as seven two & three bedroom apartments.

The key issues to be considered are:

- Impact on the Listed Building
- Impact on the setting of the Listed Building
- Scale, design, mass and materials of the extensions and alterations of the Hall and of the new dwellings

### **Principle of Development**

The principle of extensions to the Hall has already been accepted in 2009, when Full Planning Permission and Listed Building Consent were granted for three storey side extensions either side of the Hall, with split level wings to the rear, to increase the number of apartments from 7 to 12, with underground car parking to the rear, and vehicular access taken off Springfields. There is no obvious reason to reverse or depart from this position now. However, it was a very ambitious scheme, which proved technically challenging, due to the large volume of excavation required, which potentially could destabilise the listed building. For these reasons, the applicant has sought to re-design the proposals.

The 2009 approval was of a contemporary design (which drew distinct differences between the old and new parts of the building), which is in contrast to the more traditional approach sought in this proposal. On balance the more traditional approach is considered to be a more appropriate solution.

The current development seeks to retain 7 apartments within the Hall, albeit with larger proportions, and create 3 mews houses to the rear of the Hall, behind a shared courtyard.

It is not considered that the 2009 permission is likely to be built if this application is unsuccessful. As such, it cannot be considered a realistic fallback position. It is, however, material to this application, in the sense that it was a clear indication of what the Council considered to be appropriate in terms of redeveloping Butley Hall, and only a relatively short time ago. Any change to that position would need to be robustly justified. There are no changes in circumstances justifying a change in approach, and for that reason it is considered that, whilst not a fallback, the 2009 permission is a relevant matter to be taken into account when assessing the present application.

### **Design**

The proposed extensions have been designed to mimic the original symmetry of the Hall. Similarly, the three mews houses to the rear have been designed in a Georgian style to reflect the architectural style of the Hall.

Whilst the 2009 approval may be technically challenging to implement, it remains an extant consent, and therefore consideration must be given to the scale and bulk of development approved, in comparison to this application. Unlike the 2009 approval, the current proposal does not seek to extend the Hall to the rear, which results in an overall reduction in floor space, however, the side extensions are substantial. They seek to increase the width of the Hall from 30.3 metres to 44.6 metres (the 2009 secured an increase in width to 37.8 metres). The current proposal would increase the width of the Hall by a further 6.8 metres.

The distinct difference between the current proposals and those approved in 2009 is that the existing double garage located to the left of the Hall is to be demolished, and then incorporated into the ground floor of the three storey side extension to the Hall, for exclusive use by the occupiers of Butley Hall Green.

Both end extensions are to be setback 2.5 metres from the front façade, making them appear subservient to the Hall, to respect its historic integrity. As a result, this will mean that the whole building will only be visible from certain vantage points directly opposite the Hall, rather than from the only approach to it, off Scott Road.

Due to concerns raised by the Case Officer in respect of residential amenity issues, the mews houses have been redesigned and repositioned 5 metres away from the southern boundary. As a result, the pedestrian footpath has been relocated from the northern to the southern boundary. (These alterations were re-advertised).

The mews houses have been designed to sit within the sloping ground levels (sloping from the site down towards Springfields). The roof of the mews houses has been changed to a mansard roof to reduce its scale and bulk.

### **Conservation considerations**

It is recognised by all parties that there has been intervention during the life of this building. The original building dates from the 17th century and may well have been of timber construction (evidence of this still remains within the internal layout of the building). To the North and South of the property 18<sup>th</sup> and 19<sup>th</sup> century extensions were added giving the building its present appearance. There is also photographic and historical map evidence that the footprint of hall has been of a variable width throughout its life particularly to the North. This current proposal does not deviate from the historical development of the past.

More recently, the Hall was converted into apartments in the 1960's prior to it becoming a listed building. There has been a gradual loss of the land in which this building sits, notably the loss of curtilage to the North, South and East (front) of the hall for 20<sup>th</sup> century housing and garaging. This has further compromised the setting of the Hall. The rear garden is a shadow of its former

self, which has left a poor outlook from the rear of the Hall. All of which has helped to erode the significance of the setting of this building.

The Hall currently retains some of its timber core, which is arguably the most significant historic built element left. The current asymmetrical appearance of the building when seen from the East (front) is marred by the presence of garages to the South, together with car parking to both the front and the North.

There has also been some unfortunate cement rendering of the North, South and West (rear) elevations, together with structural bracing to the South in the form of two brick buttress walls. All this work has detracted from the historic, architectural interest of the building. This has had the effect of confining the historic, architectural, cultural significance to the original core of the Hall.

Butley Hall has historic association with Prestbury and its people which predates the current building. This, together with the architectural history, defines the significance of the building. The current building has been remodelled probably starting in 1770's with the stone fronting of the original timber framed building - the oldest surviving part of the house (central core) which has timber frames with infill panels of wattle and daub. Other principle elements still remaining of the historic fabric are the Oak floors and roof timbers and the C17th Oak staircase. Other elements, like the C17th, C18th and C19th windows have also survived, all of which are contained within the central part of the building. This central part of the property remains largely unaffected by the current proposals. Later additions like the C20th conversion to apartments have left the interior of the hall damaged by unsympathetic works, and their removal is encouraged. The C19th Victorian extension on the northern elevation is of less value than the core, allowing for its removal, without affecting the overall significance of the Hall.

The current proposal seeks to retain and refurbish the historic core of this property. It also seeks to extend both to the North and South with new and complimentary extensions which will be set back from the core face, making them appear subservient to the Hall, thereby respecting the historic integrity of the building.

The special interest of Butley Hall has been defined within both the Design and Access statement and the PPS5 historic statement submitted with this application. These recognise the value of the Hall (in particular the original core) and propose extensions which have been designed to reflect the original symmetry of the Hall. The principle of causing limited harm to the building has already been accepted in a previous consent, and this revised application does not increase this. It is considered that the benefit to the building and its future outweighs the limited harm occasioned by this proposed remodelling and extension.

In response to concerns raised by the Council for British Archaeology, an archaeological survey and site supervision can be carried out during the construction phase to ensure that any archaeological evidence uncovered during the works is recorded. This can be secured by condition.

It is recognised that Butley Hall is an important heritage asset within Prestbury, predating much of the Village. Butley Hall combined with the other 36 listed structures within the immediate Prestbury area does make Prestbury rich in recognised historic assets, and within that context the rejuvenated Butley Hall will continue to make its contribution to the cultural, architectural and historical interest of the Village.

Historic buildings have and continue to be developed and adapted to the requirements of “current” technology and “style”. Butley Hall has not been exempt from these changes over the years, notably:

- The stone fronting in 1777
- The addition of two further bays on each side of the main Hall
- The Victorian extension to the North
- Adaption to apartments in the 1960's
- Internal alterations to accept gas & electricity.

External modifications would also have taken place with the move from horse and carriage to the car. Some of the additions and interventions have had an unfortunate effect upon internal layout, the building's stability and external appearance: notably the asymmetrical appearance as seen today. All these modifications and adaptations have used materials “of their time” as technology has advanced. The rear of the Hall is a case in point with the use of cement render – quite inappropriate (and harmful) in this case. This application seeks to address all these issues and bring some uniformity and symmetry back to the Hall, thus prolonging both the status of the Hall and its longevity – while at the same time preserving the original core of the Hall, which is the part with most historical and heritage significance.

The current proposal seeks to restore symmetry to the Hall by building up the existing single storey frontage wall to form a full depth three storey extension to the South – solving the particular issue of the asymmetry of the Hall in its present form. To the North, the poor quality Victorian extension will be demolished to be replaced by a new three storey extension which will be built incorporating access for cars to the rear of the property for parking. This proposal seeks to assign symmetry to the existing structure but by virtue of “setting back” which will still give the existing building prominence, and reducing perceived mass of the extensions. The materials have been designed to match the existing building.

The changes should be read as interventions from a new century, thus adding to the rich interest that reflect the social and economic changes that take place with time. English Heritage guidance on this acknowledges cumulative change might add interest to the history of a property and its new setting – a description which is particularly apt here.

The current Hall, when adapted to apartments in the 1960's, had no regard to any parking provision; this had the effect of introducing non-controlled parking to the front of the Hall, thus compromising the setting of the Hall. This

application seeks to control parking and remove resident (and visitor) parking to the rear of the Hall in new lower level garages. This re-ordering of the parking provision will enhance the setting of the Hall, particularly when viewed from the front.

This property currently enjoys extant consent for extensions and remodelling, and, for the reasons set out above, it is appropriate to take this into consideration when considering the current proposals.

This application seeks to continue the current architectural lines of the Hall in both scale and mass with the introduction of new extensions both to the North and South of the main Hall, thus consolidating the symmetry of the building in a "3:2:3:2:3" bay configuration. This combined with the proposed setback of 2.5 metres of the new build elements, will allow the main Hall to be read as being built in a different period from the proposed development, allowing the historic integrity of the structure to be retained.

This application seeks to retain the intrinsic character and appearance of the building by carefully removing inappropriate internal alterations and highlighting architectural details of note (i.e. the retention and restoration of the Jacobean staircase, the internal timber framing with the wattle and daub infill), all of which contribute to the historical, architectural and artistic interest of the building.

The principle of alteration and reuse of listed buildings is recognised by primary legislation (Listed Buildings and Conservation Areas) Act 1990 and national policy in the form of Planning Policy Statement 5 (PPS5), additionally local plan policy relating to the historic environment needs to be taken into consideration when assessing works to a Listed Building.

In respect of the 3 No. mews houses to the rear of the Hall, they have been designed to sit within the sloping ground levels to reduce their impact on the setting of the Listed Building. During the life of this application, they have also been re-designed with mansard roofs, to reduce their height and general bulk. The buildings have been repositioned for amenity reasons, which results in them being positioned directly to the rear of the Hall.

The alterations to the design of the dwellings together with the landscaping scheme will not interfere with the setting of the Hall nor views from the nearby Prestbury Conservation Area. They further mitigate any limited harm occasioned to the Hall by this application.

A further issue is that whilst the Hall is currently weather proof, it is starting to suffer from the severe winters of recent years, and it is accepted that the additions and alterations proposed will give this building new life and secure its future well into this century.

Policy HE1 from PPS5 promotes the reuse of existing heritage assets to mitigate the effects on climate change. This proposal is in line with that objective and, as such, is to be encouraged.

Policy HE6 from PPS5 sets out the requirements for information required for this proposal which affects the setting and significance of this building. The information supplied in the design and access statement, and the PPS5 Statement, satisfies this requirement. This design and access statement also satisfies policy HE7.

In terms of the assessment necessary under HE9 of PPS5, there would be some limited harm but this would be justified by the benefits to the building.

## **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The proposed development will bring significant heritage benefits, and causes only limited harm to the Hall in that it maintains and preserves those parts of the building that are significant in heritage terms. It solves some obviously inappropriate issues that have arisen by the piecemeal alterations to the Hall over the years. The Conservation Officer raises no objection to the scale and design of the proposed extensions or mews houses (having regard to the setting of the building), and advises that the proposal complies with Planning Policy Statement 5 (Planning and the Historic Environment). It is considered that the additions and alterations proposed will give this building new life and secure its future well into this century, which is of public benefit as it is a Statutory Listed Building of National Significance.

## **RECOMMENDATION**

On the basis of the above information, a recommendation of approval is made, subject to conditions listed below:

## **CONDITIONS**

1. The development and / or works to which this consent relates shall commence within three years of the date of this consent.  
Reason: To comply with the requirements of Section 18 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. The development/works hereby permitted shall be carried out in accordance with the revised plans, received by the Borough Council on 31.03.11, numbered M1891.01D, M1891.02 A, M1891.03 A, M1891.04 A, 7077(04) 001 B, 7077(04) 002 C, 7077(04) 003 B, 7077(04) 004, 7077 (05) 002C, 7077(05) 003 A, 7077(05) 001 D, 7077(06) 001 D, 7077(06) 002 A, 7077(06) 003 A and the location plan numbered 7077(01) 000 received by the Council on 12.08.10.  
Reason: For the avoidance of doubt because revised plans were submitted in respect of the proposed development.
3. No development involving the use of any facing or roofing materials shall take place until details of all such materials have been submitted to and approved in writing by the Local Planning Authority.  
Development shall be carried out in accordance with the approved details.

Reason: To ensure that the external appearance of the building/structure is acceptable and to comply with policies BE1, BE2 & BE18 of the Macclesfield Borough Local Plan 2004.

4. The material and colour of all rainwater goods shall be in cast iron, painted black.

Reason: To ensure that the external appearance of the building/structure is acceptable and to comply with policies BE1, BE2 & BE18 of the Macclesfield Borough Local Plan 2004.

5. The roof of the proposed development shall be covered in Welsh Blue Slate and shall be retained in such a form thereafter.

Reason: To ensure that the external appearance of the building/structure is acceptable and to comply with policies BE1, BE2 & BE18 of the Macclesfield Borough Local Plan 2004.

6. All of the windows in the original Hall elevations shall be fabricated in timber and shall be retained in such a form thereafter.

Reason: To ensure that the external appearance of the building/structure is acceptable and to comply with policies BE1, BE2 & BE18 of the Macclesfield Borough Local Plan 2004.

7. Prior to the installation of any fenestration as part of the development hereby approved, drawings indicating details of all windows and external doors, including cross sections of glazing bars, to a scale of not less than 1:20 shall be submitted to and approved in writing by the Local Planning Authority. The details which are approved shall be carried out in full and shall be retained in accordance with the approved details thereafter.

Reason: To ensure that the external appearance of the building/structure is acceptable and to comply with policies BE1, BE2 & BE18 of the Macclesfield Borough Local Plan 2004.

8. All garage doors shall be constructed in timber, vertically boarded and shall be retained in such a form thereafter.

Reason: To ensure that the external appearance of the building/structure is acceptable and to comply with policies BE1, BE2 & BE18 of the Macclesfield Borough Local Plan 2004.

9. Prior to the commencement of the development a schedule showing the retention and protection of the Jacobean staircase during building works shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure the special character, architectural interest and integrity of the building is preserved, in accordance with policies BE1, BE2 & BE18 of the Macclesfield Borough Local Plan 2004.

10. No new plumbing, pipes, soil stacks, flues, vents, ductwork grilles, security alarms, lighting, cameras or other fixtures shall be attached to the external faces of the building other than those shown on the

approved drawings or otherwise first approved in writing by the Local Planning Authority.

Reason: To ensure the special character, architectural interest and integrity of the building is preserved, in accordance with policies BE1, BE2 & BE18 of the Macclesfield Borough Local Plan 2004.

11. Prior to the commencement of development, a method statement shall be submitted to and approved in writing by the Local Planning Authority. This shall demonstrate a means of ensuring the safety and structural stability of the building throughout the period of the approved works to the Hall being undertaken. The relevant work shall be carried out in strict accordance with the approved details.

Reason: To ensure the special character, architectural interest and integrity of the building is preserved, in accordance with policies BE1, BE2 & BE18 of the Macclesfield Borough Local Plan 2004.

12. No development shall take place until the applicant, or his agent or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved by the planning authority.

Reason: To ensure the historical integrity of the site is maintained, in accordance with policy BE21 of the Local Plan.

Application No: 11/2818N  
Location: LAND ON SHEPPENHALL LANE, ASTON  
Proposal: ERECTION OF 43 DWELLING HOUSES (INCLUDING 5 AFFORDABLE DWELLINGS), CREATION OF NEW ACCESS TO SHEPPENHALL LANE  
Applicant: NEWLYN HOMES LTD  
Expiry Date: 15-Nov-2011

### **MAIN ISSUES**

**The main issues are:-**

- **The principle of enabling development**
- **Housing land supply**
- **Affordable housing**
- **Highway safety and traffic generation**
- **Contaminated land**
- **Noise Impact**
- **Landscape Impact**
- **Hedge and Tree Matters**
- **Ecology**
- **Design**
- **Amenity**
- **Drainage and flooding**
- **Sustainability**
- **Infrastructure**
- **Legal Position.**

### **SUMMARY RECOMMENDATION:**

**APPROVE** subject to conditions and completion of a S106 Agreement.

### **REFERRAL**

This application is to be determined by Strategic Planning Board because it is a departure from the development plan.

### **1. SITE DESCRIPTION AND DETAILS OF PROPOSAL**

The site, which is the subject of this application, comprises some 2ha of open farmland on the southern edge of the village of Aston. It is part of a larger field which stretches to the south for a

further 175m. The field is generally level with a mature hedge, interspersed with individual trees, along its eastern boundary with Sheppenhall Lane and along its western boundary with the farmland beyond.

To the north, the site wraps around the rear of two pairs of semi-detached houses and a detached bungalow which front Sheppenhall Lane beyond a 4m open grassed verge. The boundary between these properties and the application site comprises a low stock proof fence and hedging.

Beyond Sheppenhall Lane to the east of the site are four detached properties of varying age and design. Two are relatively modern detached bungalows, whilst the other two are older detached houses.

The village of Aston has seen various phases of growth over many years, with the result that it has properties of a variety of ages and designs. It includes modern bungalows and houses as well as the older, original properties of the settlement. It stands on the junction of the A530, Whitchurch Road, and Sheppenhall Lane/Wrenbury Road, although the majority of the village lies to the south of Whitchurch Road, including the more recent development on Sheppenhall Grove.

Full planning permission is sought for the erection of 43 dwellings including 5 affordable dwellings on the site. The scheme is intended to be an “enabling development” which would provide funds for the restoration of the north wing of Combermere Abbey, a Grade 1 Listed Building which is in Priority Category A on the English Heritage Register of Buildings at Risk.

Combermere Abbey is thought to have originated in 1133 as a Cistercian monastery, but nothing of this survives. In 1774, it was recorded as largely timber framed but alterations took place in 1795 and after 1814, including the addition of new service wings.

The abbey is set in its own extensive grounds next to a mere, with service ranges, a sundial and game larder close by to the south and an ice house and stables to the north east, all set within the open countryside.

The north wing is disused and semi–derelict and appears on the English Heritage register of Buildings at Risk, as a building in the priority category being in immediate risk of further rapid deterioration or loss of fabric with no way forward agreed.

The proposed works, which the enabling development is intended to fund, are the conversion of The North Wing to form a dwelling involving its repair, alteration and refurbishment on the ground and first floor and remodeling and simplifying its roof structure attics.

These proposals were the subject of previous approvals in 2002. (Listed building application P02/0663 and planning application P02/0706 refer). The applications were supported by the findings of an English Heritage funded pre-application study. Both consents were renewed in 2007 and 2008 respectively. (Applications P08/0124 and P07/1325 refer).

## **2. RELEVANT PLANNING HISTORY**

The site which is the subject of the application for housing has no planning history relevant to the consideration of the application.

However, the need to ensure the long term future of Combermere Abbey has been the subject of considerable debate.

In 2005, enabling development proposals were put forward to the then Crewe and Nantwich Borough Council for a much larger scheme of comprising a new village of 100 houses plus roads and facilities to fund the repairs. The scheme was refused and subsequently the decision was appealed.

The Secretary of State concluded that this scale of development would jeopardise the achievement of strategic regional policy, was not in accordance with English Heritage policy and that the disbenefits would outweigh the benefits. The Appeal decision states that:

*“the contravention in this case is not just against the letter and broad aims of certain policies; it would jeopardise the achievement of strategic regional aims. It would, in my judgement, adversely affect the economic and social regeneration of urban areas. It is my judgement that the development of 100 dwellings in a poorly accessible, greenfield, countryside location, with harm to the parkland and the main road frontage, in an area of housing restraint, where that which is developed should be aimed at the regeneration of towns, and with little public consensus, is too high a price to pay for the benefits that this scheme brings.”*

### **3. PLANNING POLICIES**

#### **Regional Spatial Strategy**

- Policy DP 1 Spatial Principles
- Policy DP 2 Promote Sustainable Communities
- Policy DP 4 Make the Best Use of Existing Resources and Infrastructure
- Policy DP 5 Manage Travel Demand; Reduce the Need to Travel, and Increase Accessibility
- Policy DP 7 Promote Environmental Quality
- Policy DP 9 Reduce Emissions and Adapt to Climate Change
- Policy RDF 1 Spatial Priorities
- Policy RDF 2 Rural Areas
- Policy L 1 Health, Sport, Recreation, Cultural and Education Services Provision
- Policy L 2 Understanding Housing Markets
- Policy L 5 Affordable Housing
- Policy RT 2 Managing Travel Demand
- Policy RT 3 Public Transport Framework
- Policy RT 4 Management of the Highway Network
- Policy RT 9 Walking and Cycling
- Policy EM 15 A Framework For Sustainable Energy In The North West
- Policy EM 16 Energy Conservation & Efficiency
- Policy EM 17 Renewable Energy
- Policy MCR 4 South Cheshire

#### **Policies in the Local Plan**

- NE.2 (Open countryside)
- NE.5 (Nature Conservation and Habitats)

- NE.9: (Protected Species)
- NE.20 (Flood Prevention)
- NE.21 (Land Fill Sites)
- BE.1 (Amenity)
- BE.2 (Design Standards)
- BE.3 (Access and Parking)
- BE.4 (Drainage, Utilities and Resources)
- RES.5 (Housing In The Open Countryside)
- RT.6 (Recreational Uses on the Open Countryside)
- TRAN.3 (Pedestrians)
- TRAN.5 (Cycling)

**Other relevant planning guidance:**

- PPS1 (Delivering Sustainable Development)
- PPS3 (Housing)
- PPS4 (Planning for Sustainable Economic Development)
- PPS5 (Planning Policy Statement 5: Planning for the Historic Environment)
- PPS7 (Sustainable Development in Rural Areas)
- PPS9 (Biodiversity and Geological Conservation)
- PPG13 (Transport)
- PPG17 (Open Space Sport and Outdoor Recreation)
- PPS25 (Development and Flood Risk)

**4. OBSERVATIONS OF CONSULTEES**

**Highway Authority**

- In principle and subject to the completion of a section 278 and section 38 agreements, the highways authority has no objections to this proposal. Not all of this site shall be adopted and this will be dealt within the section 38 agreement.
- A section of new footpath will be required before the highways authority can support this application. This new length of footway shall link this development to the footpath network to the left and towards the A530 and will be subject to a section 278 agreement. There is not a complete footpath link towards the A530 at Aston and this additional length will only add another short section as there is not enough room to construct a full footway link due to width constraints. However it is important that this new section of footpath be implemented to protect pedestrian movement at this location and link the new development to the centre of the village.
- An amended drawing must be provided for approval by the highways authority and conditioned accordingly.
- Subject to the completion of the above, there are no highways objections.

**English Heritage**

- The development is contrary to policies NE2, NE12 and RES5 in the Borough of Crewe and Nantwich Replacement Local Plan, which does not allow new residential development in the open countryside.

- The applicant's justification for the breach of policy is that the proposed development will enable the repair of the North Wing of Combermere Abbey, Grade I listed and of outstanding national significance. The North Wing is in an exceptionally poor state of repair and has been on English Heritage's Heritage at Risk register since its introduction in 1998. As the proposed housing development is contrary to planning policy it should be regarded as enabling development.
- English Heritage's advice is based on policies found in PPS5 and the guidance in English Heritage's 2008 publication *Enabling Development and the Conservation of Significant Places*.
- English Heritage believes that the proposed development satisfies fully the tests set out in PPS 5 and the English Heritage guidance.
- Establishing where the balance of public benefit lies is clearly a matter for Cheshire East in its role as planning authority with an overview of all relevant planning considerations.
- English Heritage are convinced of the outstanding historic and architectural significance of Combermere Abbey and of the need to keep the collection with the estate in order to sustain this significance. This has clear and distinct heritage benefits that will be lost forever were sale of the estate to be forced.
- The new enabling development scheme, properly secured through a Section 106 agreement, could keep the collection in place, see the repair of the important North Wing and leave the management of the estate in the hands of the current owner, who has demonstrated herself to be committed to the conservation of the estate and to opening it up to public access in a way that is compatible with the running of the businesses that sustain it.
- English Heritage believe very significant weight ought to be attached to the heritage merits of the application and, subject to a satisfactory Section 106 agreement, we strongly recommend that The Council approve it.
- While it will be for Cheshire East Council to weigh the benefits of the scheme, English Heritage strongly recommend that the application should be approved, subject to a Section 106 agreement to ensure that the money generated by the new development is used to repair the North Wing of Combermere Abbey and to guarantee its removal from the Heritage at Risk Register.

### **Environmental Health**

Recommend the following conditions:-

1. Due to the potential for noise disturbance to local residents, the development should be subject to the following hours of operation restrictions;  
Monday – Friday           08:00hrs – 18:00hrs  
Saturday                    09:00hrs – 14:00hrs  
With no Sunday or Bank Holiday working
2. No development shall commence until an assessment of traffic noise from the A530 Nantwich to Whitchurch Road, which is less than 100m away, has been submitted to and approved in writing by the Local Planning Authority. The recommendations in the report, to protect the proposed dwellings from traffic noise, shall be implemented and completed in accordance with the approved details prior to first occupation.
3. Should there be a requirement to undertake foundation or other piling on site it is recommended that these operations are restricted to:  
Monday – Friday 08:30hrs – 17:30hrs  
Saturday            09:30hrs – 14:00hrs

Sunday Nil

- Should there be a requirement to undertake “floor floating” the process of mechanical smoothing of concrete to a floor area these operations are restricted to:  
Monday – Friday 07:30hrs – 20:00hrs  
Saturday 08:30hrs – 14:00hrs  
Sunday Nil
- Any external lighting of the proposed development shall be submitted to, and approved in writing by the Borough Council before it is installed, in order to protect the amenity of local residents.

The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. The reports submitted in support of the planning application recommend that a watching brief is maintained during the site works. As such, and in accordance with PPS23, Environmental Health recommends that the standard contaminated land conditions, reasons and notes be attached should planning permission be granted.

### **United Utilities**

No objection to the proposal provided that the following conditions are met: -

- A public sewer crosses the site and therefore a diversion of the affected public sewer at the applicant's expense will be necessary. Deep rooted shrubs and trees should not be planted in the vicinity of the public sewer and overflow systems. The applicant will need to enter in to a S185 legal agreement with United Utilities before the respective condition can be removed.
- This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to soakaway/watercourse and may require the consent of the Environment Agency. No surface water is allowed to discharge in to the public sewerage system.
- Land drainage or subsoil drainage water must not be connected into the public sewer system directly or by way of private drainage pipes. It is the developer's responsibility to provide adequate land drainage without recourse to the use of the public sewer system.
- A water supply can be made available to the proposed development.
- Any necessary disconnection or diversion required as a result of any development will be carried out at the developer's expense.
- The level of cover to the water mains and sewers must not be compromised either during or after construction.
- United Utilities encourages the use of water efficient designs and development wherever this is possible. For example, installing the latest water efficient products, minimising run lengths of hot and cold water pipes from storage to tap/shower areas, utilising drought resistant varieties of trees, plants and grasses when landscaping.

### **Sustrans**

- This site lies adjacent to the National Cycle Network Regional Route 75.
- If this land use is approved by the council's planning committee Sustrans would like to see the development make a contribution towards improving the adjacent pedestrian/cycle network, particularly in the Audlem area.

## Environment Agency

No objection in principle to the proposed development but wishes to make the following comments:-

- The discharge of surface water from the proposed development is to mimic that which discharges from the existing site. If a single rate of discharge is proposed, this is to be the mean annual run-off ( $Q_{bar}$ ) from the existing undeveloped greenfield site. The submitted Flood Risk Assessment explains that surface water from the proposed development is to discharge by infiltration/soakaway, which is acceptable in principle. Attenuation will be required for up to the 1% annual probability event, including allowances for climate change. Therefore the proposed development will only be acceptable if the following planning condition is imposed:
  - The development hereby permitted shall not be commenced until such time as; a scheme to limit the surface water run-off generated by the proposed development, has been submitted to and approved in writing by the local planning authority.
- During times of severe rainfall overland flow of surface water could cause a flooding problem. The site layout is to be designed to contain any such flooding within the site, to ensure that existing and new buildings are not affected and that safe access and egress is provided. Therefore we request that the following condition is included on any planning approval.
  - The development hereby permitted shall not be commenced until such time as; a scheme to manage the risk of flooding from overland flow of surface water, has been submitted to and approved in writing by the local planning authority
- Published maps of the BGS show that the site is underlain by the Branscombe Mudstone Formation (Secondary B Aquifer) at Rockhead. This is shown to be overlain by superficial deposits with glaciofluvial sands and gravels (Secondary A Aquifer) shown to occur at the surface.
- Typically in this type of setting there are no objections in principle to the discharge of surface water run-off to ground from roadways and hardstanding areas, however, any system will need to comply with the guidance provided in the following documents:
  - Environment Agency PPG3
  - CIRIA C522 document Sustainable Drainage Systems-design manual for England and Wales
  - CIRIA C697 document SUDS manual
  - the Interim Code of Practice for Sustainable Drainage Systems.
- The SUDS Manual indicates that for drainage from residential roads and parking areas, 2 treatment components would be required, assuming that effective pre treatment is in place to remove silt and sediment.
- It will also need to be ensured that the base of any infiltration device maintains at least a one metre unsaturated zone above any water table, this includes perched water tables within the superficial deposits. Shallow infiltration devices are the most ideal as

they increase the depth of the saturated zone and utilise the natural biological attenuation that is anticipated to occur within the soil zone.

- Approved Document Part H of the Building Regulations 2000 establishes a hierarchy for surface water disposal, which encourages a SUDS approach. Under Approved Document Part H the first option for surface water disposal should be the use of SUDS, which encourage infiltration such as soakaways or infiltration trenches. In all cases, it must be established that these options are feasible, can be adopted and properly maintained and would not lead to any other environmental problems. For example, using soakaways or other infiltration methods on contaminated land carries groundwater pollution risks and may not work in areas with a high water table. Where the intention is to dispose to soakaway, these should be shown to work through an appropriate assessment carried out under Building Research Establishment (BRE) Digest 365.

### **Education Officer**

- The development of 43 dwellings with 2+ bedrooms will generate 7 primary and 6 secondary aged pupils.
- There are two primary schools which come within a 2 mile walking distance of this site, Wrenbury Primary and Sound and District Primary School. There are no secondary schools within the 3 mile distance.
- The situation has changed a little since the advice was given in 2010 and projections show that the schools will be oversubscribed from 2016, without considering this development.
- On this basis could we therefore seek a contribution for these 7 pupils
- $7 \times 11,919 \times 0.91 = \text{£}75,924$

## **5. VIEWS OF THE PARISH / TOWN COUNCIL**

### **Newhall Parish Council**

Further to meetings and extensive work by Newhall Parish Council, in conjunction with residents, the Parish Council wish to register their considerable objection to the above application. The Parish Council ask that the following points be given due consideration in the decision making:

#### Contrary to Policy

- There is a Tree Preservation Order on the oak tree currently shown as being removed for the new main entrance to the development
- For any development the views of the parishioners and those with interests must be taken into account
- Policy GEN1 of the Cheshire Replacement Structure Plan 2011 states that Local Plans should ensure that all new developments are guided to sites which are primarily within towns or to sites on the edges of selected suitable towns.
- Regional Planning Guidance calls for new development to be steered to locations which can assist in reducing the need to travel, maximize the use of public transport and encourage more walking and cycling. This site will clearly require all householders to use a car to travel as Aston is served with a very poor and infrequent public transport, and no bus route passes

the site. What facilities the village has, Chapel and Public House are both on the other side of the A530 with no footpaths until the junction of Sandy Lane and Wrenbury Road.

- The development falls outside the settlement boundary and contravenes the Village Design Statement drawn up by the Parish Council and submitted to the local authority.
- 43 houses constitutes an approx increase of 15% in properties in Newhall Parish and 30% in the village of Aston, this is a severe impact and far greater than other communities/towns have had to endure.
- Further, the Parish Council are now aware of an application for housing to be built at Station Yard, Wrenbury, and this site would be a far better alternative for building. Also, the application for affordable housing in New Road, Wrenbury which was refused by Cheshire East has now been passed on Appeal. These three sites in conjunction with one another would have a devastating effect on the village of Aston, and it is completely unviable to now have towards 100 houses on the market within 2 miles of each other, and the number of affordable houses is completely in excess of the demand required for the area.
- According to the Local Plan general market housing or mixed developments of high value housing used to cross subsidise affordable housing on the same site will not be allowed.
- The development contravenes English Heritage's own policy statement on enabling development and is therefore unacceptable namely:
  - o The application contains conflicting statements from Arrol and Snell Ltd, Architects and Surveyors written in July 2011 and from John Pridgeon and Partnerships (Quantity Surveyors) written in August 2011. Arrol and Snell state 'the existing scaffolding has been in place for more than 10 years. If this is true and detailed inspection is not possible, how can the quantity surveyors produce a detailed costing of exactly £1,608,823.65 when the facts above clearly state that a full and detailed survey is impossible.
  - o An application in 2005 for development on 14 acres at Combermere was submitted to raise the funding necessary to restore the north wing. Why can the required 4.3 acres not be found on Combermere land and how can 4.3 acres raise enough capital when previously 14 acres were required?
  - o How can only 43 homes raise sufficient funding when previously 100 homes were needed, especially after further deterioration of the fabric over the last 6 years?
  - o If land at Combermere were used for an enabling development there would be a considerable saving in cost which would reduce the amount of development needed to raise the same money.
  - o An alternative site adjacent to the Park View Business Centre would seem to have better characteristics than that at the Sheppenhall Lane site and would bring no or fewer disbenefits.
    - Adjacent to the A530 with an excellent safe access and sight line
    - Adjacent to residential housing plus the nearby development already at Goldsmith's Farm
    - A local high quality pub, church, Community Hall and dance school at Burleydam
    - 4 miles from main shopping centre in Whitchurch
    - Employment opportunities in the business centre
    - Residents of a development in this location would be in a more beautiful location next to the park and woodlands of the estate
    - Alternative funding could be raised through the use/sale of the Esatates own considerable assets

Highway Issues:

- Width of Sheppenhall Lane is already a current issue with the number of HGV's using the road to access grain storage/milling
- No of properties on Sheppenhall Lane = 77 = 105 vehicles
- 43 new houses @ 1.5 vehicles per house = 65 which is an unacceptable level of increase taking the other highway problems into account
- No footpaths in Sheppenhall Lane or Wrenbury Road despite requests from the Parish Council dating back to 2005
- Restricted visibility at x roads
- Density of housing on A530
- Road markings are in a poor state with the double white lines at x roads an issue for many years
- A530 is a red route main link to east and west
- Road safety partnership signs clearly indicate the danger of the A530
- No survey of roads or effect on roads in application
- Road risk assessment should be requested
- No input from highways or police.
- Speed review – Parish Council have campaigned long and hard for a reduced speed limit on the A530. Most recently it was reported on 8 Dec 2008 that this road was 5th on the County Collision Index, however new calculations, based on 'value for money' approach place it at 20th. 31st March 2009, letter from Bill Keddie, CCC Projects Consultant, gave the following proposals for the A530 – 400m west of Dodds Green Lane, to 100m west of the crossroads – 40mph. 100 m west of Wrenbury Road to River Weaver – 30 mph. From River Weaver to Newtown – 50 mph 22nd March 2010, letter from Clr R. Menlove, Portfolio Holder for Environmental Services confirmed that the Speed Limit Assessment of all A and B Roads has been completed, with a recommendation of a reduced speed limit through Sound, Aston and Newhall.
- The applicant's Transport Statement is limited and essentially inaccurate. If it is agreed that this development is similar in size to Sheppenhall Grove, it would be interesting to know how closely the traffic ingress and egress at busy times is in agreement with the estimates in the Transport Statement.

Sewerage:

- The present system is already totally inadequate with sewage discharging through gullies in Sheppenhall Grove on numerous occasions.
- An email of 17.09.2011 from Bob Godfrey (District Treatment Manager for the Crewe, Kidsgrove and Congleton Area of United Utilities) responding to an enquiry about the capacity of the Waste Water Treatment Plant serving Aston, which contains a technical statement from Paul Ashworth, his technical officer. This states, "I would be concerned if this proposal went ahead." (appendix 1)
- Further the whole site is some 1m above Sheppenhall Lane, which already experiences flooding whenever it rains, and has been the source of letters between the Parish Council and Cheshire East Highways for some considerable time, such a development with run off from drives and roads will make the situation impossible to rectify.

Ecology

- The triangle of land between the A530 and Sheppenhall Lane, south from the Aston crossroads, is not extensively grazed and represents a valuable wildlife habitat. As well as Harvest mice and 7 species of bats, a breeding colony of Great Crested Newts has been identified by the applicant's own ecologist, on land adjacent at Briarfields.
- Species Record; Sauce, Record, The Biodiversity Information System for Cheshire Survey conducted 5th September 2011. Area Proposed site and 1km around it. Of particular interest, Bats Newts Harvest Mice. 72 entries in report.
- No mention of Harvest Mice in application
- Applicants survey inadequate and incomplete

Services and facilities

- Education – Wrenbury and Sound Primary School must be able to show that they have the places available for an influx of new children
- Doctors – Audlem and Wrenbury Practices must be able to show that they can offer places to another 100 + patients
- Play Areas – there is no provision of any area for children to play, this in a village with currently zero space/facilities.

Consideration of Legal Position:

- as supplied by residents of the Parish:- Mr A.Leonard Murphy LLB(Hons)PgDpl(Bar) and Miss Jennifer Murphy LLB(Hons)PgDpl(Bar), and the Parish Council quote:-

*“The application has been made by Newlyn Homes Limited “the Applicant” to East Cheshire Council “the Council” to erect 43 dwellings houses in Aston. Nantwich.*

*The Council has been entrusted by Parliament with statutory powers to consider the application. Its power to do so is vested in section 70 Town and Country Planning Act 1990, “the Act”, which provides:-*

*s70; Determination of applications: general considerations*

*(1) Where an application is made to a local planning authority for planning permission –*

*(a) subject to sections 91 and 92, they may grant planning permission, either unconditionally or subject to such conditions as they think fit; or*

*(b) they may refuse planning permission.*

*(2) In dealing with such an application the authority shall have regard to the provisions of the development plan, so far as material to the application, and to any other material considerations.*

*Further, I understand that the Applicant has expressed a willingness to be bound by s106 the Act which provides:-*

*S106; Planning Obligations*

*(1) Any person interested in land in the area of a local planning authority may, by agreement or otherwise, enter into an obligation (referred to in this section and sections 106A and 106B as ‘a planning obligation’), enforceable to the extent mentioned in subsection (3) –*

*(a) restricting the development or use of the land in any specified way;*

*(b) requiring specified operations or activities to be carried out in, on, under or over the land;*

- (c) requiring the land to be used in any specified way; or
- (d) requiring a sum or sums to be paid to the authority.

*The obligation that has apparently been discussed is an obligation to provide the sum of £1.6million to the owner of Combermere Abbey to allow her to restore of part of her home, "the Red Herring".*

*The relevant part of the Council's power under s70(2) of the Act for the purposes of this objection is its regard "to any other material considerations" – the cash donation and the related off-site benefit of the restoration.*

*Whilst I would very much like to take the credit for defining what constitutes "any other considerations" the issue has already been the subject of a discussion amongst seven of the sharpest legal minds in the UK sitting in the Supreme Court. On 12th May 2010 judgment was handed down in R (on the application of Sainsbury's Supermarkets Ltd) (Appellant) v Wolverhampton City Council and another (Respondents) [2010] UKSC 20.*

*Albeit that the case concerned consideration of an "off site benefit" in a Compulsory Purchase Order setting, their Lordships and Lady Hale took advantage to fully rehearse the authorities and the law relating to the same consideration in a planning application setting. In particular their Lordships and Her Ladyship discussed "to what extent a local authority may take into account off-site benefits offered by a developer; and what offers (if any) made by a developer infringe the principle or policy that planning permissions may not be bought or sold".*

*Collins LJ recognised that "powers to grant planning permission [are] rooted in the deep seated respect for private property" and that planning control [are] "solely creatures of statute". He rehearsed the authorities including two Court of Appeal and one House of Lords decisions dealing with:- "what connection (if any) is required between the development site and off-site benefits for the purpose of material considerations".*

*In paragraph 65 of the judgment His Lordship quoted Lord Keith of Kinkel who said in Tesco Stores Ltd v Secretary of State for the Environment [1995] 1 WLR 759:- "An offered planning obligation which has nothing to do with the proposed development, apart from the fact that it is offered by the developer, will plainly not be a material consideration and could be regarded only as an attempt to buy planning permission. If it has some connection with the proposed development which is not de minimis, then regard must be had to it. But the extent, if any, to which it should affect the decision is a matter entirely within the discretion of the decision maker and in exercising that discretion he is entitled to have regard to his established policy."*

*I respectfully submit that the Applicant's obligation under s106 of the Act and any subsequent restoration of Combermere Abbey has nothing to do with the Sheppenhall Lane development, apart from the fact that it is offered by the Applicant and could thus only be regarded as an attempt to buy planning permission. This flies in the face of the axiom of Lloyd LJ in Bradford City Metropolitan Council v Secretary of State for the Environment [1986] 1 EGLR 199, 202G :- "planning permission cannot be bought and sold".*

*Lord Collins concluded his research of the law and authorities by stating unequivocally that:- "the question of what is a material (or relevant) consideration is a question of law, but the weight to be given to it is a matter for the decision maker...off-site benefits which are related*

*to or are connected with the development will be material...There must be a real connection between the benefits and the development.”*

*It is my respectful submission that the planning obligation offered by the Applicant has absolutely nothing to do with the proposed development, apart from the fact that it is offered by the Applicant and hence it will plainly not be a material consideration for the Council and must be regarded only as an attempt to buy planning permission.*

*Lady Hale, at paragraph 93 of the judgment rather astutely set the scene in layman’s terms:- “Acquiring the whole of the Raglan Street site would facilitate the development of that site...Persuading Tesco to carry out a wholly unrelated development upon another site elsewhere in the city, desirable though that may be for the City and people of Wolverhampton, does nothing to facilitate the development of the Raglan Street site. Rather, it is the other way round.”*

*Putting that in context and borrowing her Ladyship’s line of thought, I would respectfully submit that acquiring the Sheppenhall Lane site would facilitate the development of that site...Persuading Newlyn to fund a wholly unrelated restoration in another site elsewhere, desirable though that may be for the owners of Combermere Abbey, does nothing to facilitate the development of the Sheppenhall Lane. Rather, it is the other way round.*

*Phillips LJ ultimately dissented on the final judgment in the Sainsbury’s case on the law of compulsory purchase but he did agree with his colleagues on the issue relating to planning applications and s70(2) the Act. At paragraph 128 of the judgment he stated:- “I align myself with Lord Collins’ analysis. The passage from the judgment of Nicholls LJ, quoted by Lord Brown and Lord Collins at paras 169 and 56 of their respective judgments, and the passage from the judgment of Staughton LJ quoted by Lord Collins at para 57, demonstrate that each of those judges saw the need for a relationship between the undesirable and the desirable developments other than the simple fact that the one would subsidise the other...The relevant principle appears to me to be that a cross-subsidy between two developments cannot be considered unless there is some independent reason for considering the two developments together.”*

*At paragraph 137 His Lordship opined :- “My conclusion in relation to the effect of the authorities is as follows. When considering the merits of an application for planning permission for a development it is material for the planning authority to consider the impact on the community and the environment of every aspect of the development and of any benefits that have some relevance to that impact that is not de minimis that the developer is prepared to provide. An offer of benefits that have no relation to or connection with the development is not material, for it is no more than an attempt to buy planning permission, which is objectionable in principle.”*

*In my respectful submission therefore, there is a need for a relationship between the undesirable and the desirable developments other than the simple fact that the one would subsidise the other; the evidence is compelling that such a relationship is absent in this case. Further, I suggest that the cross-subsidy between Newlyn and Combermere Abbey cannot be considered as there is no evidence of some independent reason for considering the two developments together.*

*In addition, when the Council considers the merits of Newlyn's application it will be material to consider the impact on the community and the environment of every aspect of the development. As the evidence does not show any benefits that have some relevance to that impact let alone any that are not de minimis however, the Council should not have any regard to the off site benefit to Combermere Abbey as a material consideration.*

*It is has no relation to or connection with the Sheppenhall Lane development, is not material and is no more than an attempt to buy planning permission, which is objectionable in principle.*

*Lord Hope, at paragraph 152 of the judgment, provided us with the benefit of his legal knowledge and many years experience as one of the UK's most senior judges :- "The situation in this case is that there was no physical connection of any kind between the two sites. Development of the Royal Hospital site could not contribute anything to the carrying out of development on the Raglan Street site in any real sense at all. They were not part of the same land. There is no doubt that the development of the Royal Hospital site would bring well-being benefits to the Council's area of the kind that section 226(1A) refers to. But to fall within that subsection they had to be benefits that flowed from the Raglan Street development, not anywhere else. It follows that the Council were not entitled to conclude that the work which Tesco were willing to undertake on the Royal Hospital site would contribute to the well-being of the area resulting from its development of the site at Raglan Street..."*

*Borrowing from His Lordship's thinking, I respectfully submit that there is no physical connection of any kind between Sheppenhall Lane and Combermere Abbey. Further, there is no spiritual or community connection between the two. Restoration of the Abbey could not contribute anything to the carrying out of development in Sheppenhall Lane in any sense at all.*

*There is no doubt that the restoration of the Abbey would bring benefits to its owners but to fall within s70(2) the Act they have to be benefits that flowed from the Sheppenhall Lane development itself. It follows that the Council will not be entitled to conclude that the obligation on Newlyn to provide £1.6million to fund restoration at Comberemere Abbey will contribute to the well-being of the area resulting from its development of the site at Sheppenhall Lane.*

*As regards that obligation I respectfully submit that it fails to satisfy s106 of the Act in any event. Section106 lists the only types of planning obligations that may be considered as those:-*

- (a) restricting the development or use of the land in any specified way;*
- (b) requiring specified operations or activities to be carried out in, on, under or over the land;*
- (c) requiring the land to be used in any specified way; or*
- (d) requiring a sum or sums to be paid to the authority. (Bold added)*

*In my respectful submission, s106 does not allow for a cash donation to an owner of a private dwelling not matter how significant its heritage may be.*

### Conclusion

- Following the guidance of the Supreme Court as outlined above, unless the Applicant produces more than de minimis evidence of a link between it donating £1.6million to restore Combermere Abbey and the development in Sheppenhall Lane, Aston then, under s70(2) Town and Country Planning Act 1990, East Cheshire Council will be acting unlawfully if it has any regard to such a proposal whilst dealing with the above planning application”
- Aston is being asked to subsidise the development and upkeep of Combermere Abbey, which is outside our Parish and a private enterprise with public access not freely available nor any community involvement relevant to this Parish.
- The Parish Council dispute the claim that such a development will assist the Village of Aston to retain amenities and facilities as such amenities are already well supported, and the application will bring no benefit to the village.
- The residents of any new development would undoubtedly rely on cars for transport thus causing added danger to the local highways.
- As this Application is on a green field site, within open countryside and outside the settlement boundary it fails to meet current planning guidelines, and is totally opposite to Newhall Parish Council’s own Village Planning policy.
- The Applicant should be encouraged to generate funding for the restoration and business expansion through the assets of their own large estate.
- Having considered this Application thoroughly and taken notice of the opinions of our electorate Newhall P.C. urge the rejection of this application.
- The local community at Aston is being asked to make sacrifices whereas Combermere Abbey is making none. The applicant will get 100% of the benefit of this enabling scheme and is bearing none of the disbenefits, 100% which devolve to the community.
- Apart from the fact that this application is for 43 dwellings, which the Parish Council feel may not be enough to complete the work, it really is no different to the previous application in 2005 when the Inspector at the Public Inquiry concluded “that the cost to the community of providing the enabling development would be high and that the gain would be almost all private, with significant public loss”. The Secretary of State added “the disbenefits of the proposed enabling development outweigh the benefits”.

### **Dodcott-cum-Wilkesley Parish Council**

- The Parish Council feels that, on balance, the 'enabling' planning application fails to convincingly demonstrate that the benefits outweigh the disbenefits. This viewpoint considers the historic asset at Combermere Abbey but also considers all other relevant planning interests relevant to the application.
- Whilst the Parish Council fully understands the need to raise finance for the renovation of Combermere Abbey, it is still, ultimately, a private estate. As a result all other options should be sought and exhausted to raise the necessary finance before submitting an ‘Enabling Planning Application.’ The Parish Council does not feel that this has been done. Indeed the estate could sell off some of it’s own land to help raise some of the necessary renovation costs. However, the proposal is to pay £250,000 to another landowner to develop the Sheppenhall Lane site when the capital could have been used directly towards renovation costs.
- Public access to Combermere Abbey has diminished over the last 20 years with the nature of the businesses being run from the abbey being incompatible with open access . This is

despite the fact that an English Heritage grant was awarded several years ago towards scaffolding of the north wing on condition that access to the public was improved. Despite this the local community cannot, currently, visit Combermere to enjoy the splendours of the estate or Abbey. If the finance were raised for the renovation costs from this planning application the local community would still be unable to appreciate the architectural and historical benefits that renovation would bring. As far as the Parish Council is aware there are no future plans to open to the public should the application be approved.

- There is a lack of infrastructure necessary to support 43 houses on the site at Sheppenhall Lane. Specifically:-
  - o The development will put additional strain on existing highway provision. The Parish Council also state that the transport survey is flawed. The proposed development will overload an already dangerous junction where traffic emerging from Sheppenhall Lane has to move halfway into the carriageway in order to get a clear view of the main road.
  - o As public transport facilities are poor, this would result in a car dependant development which is at odds with a sustainable transport policy.
  - o The proposed development consists of predominantly larger 4 & 5 bed family homes. This will, undoubtedly put additional demands on the local educational establishments particularly at Sound which has already reached its pupil capacity. We know from the planning application that any financial contribution in respect of educational requirements has been waived which will only exacerbate the problem.
  - o The Parish Council does not agree with reducing the quota of affordable housing on the site to 5 units. If, despite the Parish Council's objections, the Planning application were to go ahead, then this would have at least given more local residents the opportunity to obtain affordable housing within the vicinity and continue to live in the local community.

## **6. OTHER REPRESENTATIONS**

### **Historic Houses Association**

- The Historic Houses Association supports Combermere Abbey's application for enabling development.
- The Historic Houses Association represents the interests of 1500 of Britain's historic houses and gardens that remain in private ownership for the benefit of the nation and future generations. The cost of maintaining them thereby preserving the heritage they represent and the associated industry they sustain is huge and met by private individuals.
- The importance of the survival of such buildings considered to be of outstanding architectural and historic interest, together with their setting is well recognised by government. Combermere Abbey is in the top echelon of those historic houses.
- Government has recognised the need to protect the whole entity of an historic house, its buildings and setting. The incentive for private owners to spend substantial sums of money and effort is in the long term public and national interest, but in some cases this becomes well beyond the financial resources of the private owner. A point can be reached when the owner is discouraged from pouring capital into its constant maintenance in the way that all such

buildings require. Combermere Abbey has reached that point where the Callander Beckett family need this application for enabling development to be approved, so that the necessary resources are released to undertake the repairs needed which are not disputed, and thereby safeguard the Abbey for the long term.

### **Council for the Protection of Rural England**

- Campaign to Protect Rural England (CPRE) regrets that it must once again object to Combermere Abbey's application for an enabling development to restore the ruined North Wing of the lakeside house on the site of the former Abbot's Lodging. In drafting the following comments we have borne in mind the judgement on the previous application which was refused on appeal in 2005, and the Policy Statement of English Heritage which makes it clear that there should be a presumption against such development. The applicant must convincingly demonstrate "that on balance, the benefits clearly outweigh any disbenefits, not only to the historic asset or its setting, but to any other relevant planning interests."
- The site adjacent to the parish of Aston is an unfortunate choice for the housing required to raise funds for the restoration. The sacrifice of a green field outside a settlement boundary, which would not under current planning policies receive permission for housing development, is not an unusual choice for an enabling development. However, with the exception of its popular public house, Aston has practically no amenities of the sort which make it suitable for sustainable expansion. Also, Sheppenhall Lane, fronting the site, is narrow, twisting and unsuitable for the additional traffic which would be generated by 43 new houses. Its junction with A530 is already hazardous due to limited visibility for vehicles emerging from the side roads and the high speed of traffic on A530. We also consider the amount of affordable housing offered is "token" and well below the normal proportion required. In any case there are more suitable sites for affordable housing in nearby Wrenbury on previously-developed land. The residents of Aston have shown themselves to be solidly opposed to this application.
- The Agricultural Land Classification of the field chosen has not, in breach of saved Policy NE.12, been declared.
- We now consider the all-important question of public benefit. If the grounds of the Combermere estate in the vicinity of the lakeside house were open to the public on, say, a regular weekly basis, as occurs with many other Cheshire historic houses, it would be easier to see some public benefit. However, the house and its grounds remain strictly private apart from occasional pre-arranged tours for parties of 20 or more. The only other visitors appear to be those attending weddings or renting the holiday cottages, but these activities are also private and take place in buildings other than that which is the subject of this application.
- We cannot find in the application documents any supporting submission from English Heritage, which we would have expected. Also, in view of the apparent growth in Combermere's private business activities since the previous application, we would have expected to see some contribution to the restoration from its own funds.
- In conclusion, we consider that if the application were to be approved, the public disbenefits would outweigh the benefits.

## **The Women's Institute**

- Aston and District Women's Institute would like to register their objection to the application. They are not in favour of green fields being taken for housing.

## **Petition**

A petition containing approximately 268 signatures has been submitted objecting on the following grounds:

- The proposed housing development is inappropriately located in the open countryside outside the Settlement Boundary of Aston.
- The infrastructure in Aston, in particular sewerage – already perennially problematic is insufficient to support such a development.
- The proposed housing estate will result in another car depended community and an unsustainable development.
- The proposal will generate a significant increase in traffic in a country lane already under volume and intensity pressure from grain lorries.
- The potential additional volume of traffic discharging onto the A530 at Aston Crossroads at peak times, without speed restriction or traffic lights there, increases the likelihood of collisions, casualties and deaths and is a matter of profound concern.
- Mrs Callender Beckett has still failed to engage the local community in finding alternative ways to fund the restoration of her Grade I listed home.

## **Objection**

Letters of objection have been received from the occupiers of Maida Vale, Cedar House, Whitehaven, Anniesland, 1, 2, 3, 15, 19, 32 and 42 Sheppenhall Gove; Moreton House, West View, Rowan Cottage, Workhouse Cottage, Rosemount, Eaton House, Middlefield Sheppenhall Lane; Rose Cottage, Briarfield, Yew Tree House, Sandford Cottage, Sandford Farm, "Carus", The Manse, Newhall Cross, and 97 Whitchurch Road: Rose Cottage, Whitmore Hall Cottage, Elm House, Briar Cottage, The Lilacs, Cloverley, Ballacraine, Moreton Croft, West View, Sheppenhall Lane; Withymoor Cottage, The Card House, Burleydam; Newhaven, "Brook Bank", Ashville, Wrenbury Road; Ashville, Burleydam; Kingswood Green Farm, Back Coole Lane; Eagle Hall Cottage, Pinsley Green Road, Wrenbury; making the following points:-

## **Assessment Against Policy**

- The application site lies outside the Settlement Boundary of Aston, a village where Policy RES.4 of the Borough of Crewe and Nantwich Replacement Local Plan would permit the development of land in the settlement commensurate with its character. Because the application site lies outside the settlement boundary it is subject to the requirements of Policies NE2, NE.12, RES.5 which treat the site as open countryside where residential development of the type proposed would normally be resisted.
- The Council cannot approve the application because it will be ignoring the above legislation.
- Residents suspect that the 'greater importance of preserving a so called national asset', (to which the public-local or otherwise, in general have little or no access), will prevail, and the committee will find a 'justifiable reason to ignore their own policy, to the planning committee's eternal shame if only for the reason that should it be rejected, it would involve the council and by implication, we the tax/ratepayers in extra and additional costs in this time of financial

- austerity, when the applicant appeals!
- In June 1999, English Heritage published a policy statement, *“Enabling Development and the Conservation of Heritage Assets”*, *advocating a presumption against enabling development unless it met specified criteria, the most important of which was that the benefits should clearly outweigh the disbenefits”*.
  - It states *“Enabling development that would secure the future of a significant place, but contravene other planning policy objectives, should be unacceptable unless”* and then goes on to add amongst other points..... *“the public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies”*
  - This is completely at odds with what is being proposed in Aston.
  - There never will be any public benefit to this community by this development, never mind a decisive one!
  - There are no benefits whatsoever for the renovation of Combermere Abbey for anyone living in Aston. Combermere Abbey is a private residence with very limited access by the general public.
  - The only beneficiaries to the proposed repair and restoration are Sarah Callander-Beckett, her family and heirs and English Heritage, who would be able to shorten their list of properties at risk by one.
  - Yet for the residents and wildlife of Aston there are considerable disbenefits as shown below.
  - Furthermore the guidance goes on to say enabling development should only be permitted *“if it is decided that a scheme of enabling development meets all these criteria, ....”* This proposal does NOT and never will meet all the criteria for the reasons set out above and below.

### ***Principle of Development***

- The site is outside the settlement boundary.
- The area is green belt and should not be built upon.
- Planning is killing off the green and pleasant countryside.
- The proposal contravenes the key principles of PPS7- Sustainable Development In Rural Areas.
- Stating that the development is the only way that the money can be raised to restore a Grade 1 listed property is an emotional blackmail. No evidence other than a previous planning application is given.
- The application would result in the loss of good grazing land.
- This is Greenbelt development by the back door.
- The cost of restoring the abbey is not a problem for the residents of Aston to solve.
- There are no advantages for the local population.
- Mrs Callander Beckett only wants houses out of her sight. Why should Aston have them?
- Mrs Callander Beckett has no interest in the local community at all and is only interested in her own situation.
- This is not the first time the applicant has tried to build locally in order to raise money for her Abbey. Never on her own land and nowhere near her house.
- In her letter to residents Mrs. Callander Beckett states that there is no element of profit in the Scheme for the Combermere Estate. There may not be in the short term but once the repairs are completed the house will be considerably more valuable, with no ties to prevent her from profiting from this development in the future.

- The scheme by people who do not live in the parish and will probably never see it, is selfish and unfair and will cause distress to innocent people.
- The owner of the land used to live next to it. If he was still living there would he like the prospect of housing being built?
- 11 or so years ago Crewe and Nantwich Borough Council refused an application by Linden Homes to build a similar sized development on the Cricket Pitch just off Sheppenhall Lane, close to the proposed site. The reasons for the refusal of the Linden Homes project are just as valid now as they were then.
- Has English Heritage submitted a report and does it express its views on its guidance criteria? Have these criteria been modified since 2004?
- Newhall Parish have submitted plans for the development of this area to the Local Council since 1999. They have not been amended by the Local Council during that time.
- If Aston residents if could not afford to repair their homes, would the Council grant them planning permission to sell their land for development?
- Cheshire East has well devised plans for housing provision and regeneration. This proposal would cause serious imbalance and could seriously affect future planning.
- The need for housing in the UK has been well publicised. However the proposed development on the outskirts of a very small village with no amenities is of minimal benefit. New homes should be built closer to shops, schools, places of employment and public transport links.
- This planning proposal is outrageous. What's happening to our rural community? Residents moved to South Cheshire because it is quiet with small communities. They enjoy cycling as much as possible. This will change if these numbers of houses are built.
- Aston is slowly being turned into a small town. Infilling is one thing, large development like this, quite another.
- Combermere Abbey has a long standing history of neglect (89 years it has always been the same). Why should Aston be spoilt because Combermere Abbey has been neglected?
- Mrs Callander Beckett's family have owned this property since 1991 and have never maintained it. A member of her family stored grain in the ballroom which caused the ballroom floor to collapse some years ago. That is how much they cared for it then.
- The long history of neglect to the house as evidenced by the fact that it is now estimated that it will now cost almost £2m to do the repairs does not reflect well on the family especially as she is now trying to raise the necessary money by trying to inflict an unwanted and unacceptable housing development on the residents of Aston and of Sheppenhall lane in particular.
- Why should the villagers of Aston have their environment spoiled to have a Victorian house renovated owing to the owners (who have many acres of land) who have allowed the house to fall into disrepair.
- English Heritage Enabling Policy and Guidance document. Paragraphs 1.2.2 – 1.2.4 inclusive discuss ways of reducing the need for enabling development. These paragraphs discuss how early intervention could reduce the need for situations such as this. They are relevant to this debate because had earlier action being taken, development on this scale would not have been required to fund the conservation deficit. For example if the owner had taken timely action to prevent or limit deterioration, or in default, the planning authority had used its statutory powers promptly; and/or the planning authority had adopted a supplementary planning document when it was clear that the problem would arise. PPG15, Planning and the Historic Environment (para 7.1) emphasises that 'regular maintenance and repair are the key to the preservation of historic buildings. Modest expenditure on repairs keeps a building weathertight and routine maintenance ... can prevent much more expensive work being

necessary at a later date. Major problems are very often the result of neglect, and, if tackled earlier, can be prevented or reduced in scale. Regular inspection is invaluable.' In Buildings at Risk – A New Strategy (1998), English Heritage stressed the importance of local planning authorities monitoring the condition of their listed building stock and taking preventative action as soon as a place shows significant signs of neglect, not waiting until it is in extremis.

- Can Mrs Callendar Beckett prove that she has done everything in her power to stop the deterioration of the building and keep it watertight?
- It is unfortunate that such an old buildings as Combermere Abbey is falling into disrepair and residents understand its great historical and architectural importance
- The need to maintain Combermere Abbey is not in dispute.
- Whilst appreciating the restoration of an interesting privately owned property requires funds, residents fail to see why this should involve adversely affecting an unconnected separate community and for whom the private Combermere Estate has little if any benefit being located over 2 miles away and rarely open to the public
- There is not one advantage for the local community like the previous enabling planning application except generating profit for the applicant and site owner at other peoples expense
- This fate of Combermere Abbey is not the concern of the people of Aston whose houses will be devalued and who would have to put up with the noise and mess involved in such a development.
- Aston residents find it extremely distasteful that proposals are being put forward to develop a greenfield site well away from the interested party's own property on the Cheshire/Shropshire border, so that the private owners of this smart country home, who presumably are unable to make ends meet with regard to the maintenance of their own property by traditional methods, can fund repair work to part of their home that has fallen into disrepair over a number of years.
- Neither the applicant nor the landowner live in Aston or even Newhall Parish.
- The applicant has no prior involvement or interest in this agricultural land.
- Not only would the scheme enable repairs at the house, (not the Abbey as this was demolished hundreds of years ago) it would also enable the landowner and developer to obtain a large financial gain.

### ***Alternative Means of Securing Finance***

- If the present owners cannot carry out the restoration from their own finances then they should consider selling the property to someone who can.
- This applies to a single occupant living in a one bedroom flat, or a family living in a country residence. Live within your means.
- Why do they not approach the National Trust to take it over as they have other places.
- Rise Hall in Yorkshire is being restored using the owners personal funds and through commercial activities and events. This is the way the restoration of Combermere should be funded, not through housing building application which will only benefit a few individuals and cause a lot of misery to many and the environment.
- The scheme is supposed to be a last resort when all other avenues have been exhausted and there do not seem to have been any attempts to raise funds like other local estates for example by opening to the public or raising funds from the estate itself. Even requests to use the grounds for local events for the community have been declined.
- This money could easily be raised by them if they sold off their 7 luxury holiday cottages, the Wedding Venue/Conference Centre, Park View Business Centre or some of their large estate.

- Has she fully explored the possibility of raising a loan secured on these assets? If so can she provide to CEC the proof that she has tried to do so and failed?
- Is this not something that the family should be maintaining themselves from the income they generate from weddings and holiday lets that they have been able to afford to develop.
- Many owners of large stately homes have had to diversify their activities in order to fund the ongoing maintenance of their homes, and Combermere Abbey is no exception to this. The recent development of the Abbey's business park is a clear example, and has in its own way impacted the locality, albeit not to the same levels as that proposed in this application. Income generation for the estate can and should be achieved without causing distress, disruption, pollution and nuisance to those individuals who choose to live in the surrounding areas, and who have no involvement with the Abbey other than by being its neighbour.
- If the building has any architectural value to Cheshire or the nation the money should be raised by lotteries, grants, or the heritage movement.
- A Parish Councillor stated at the meeting in September that approximately 30 years ago the National Trust had expressed an interest in buying the house and part of the estate. The family to retain the right to live in a wing of the house. This offer was refused by the family. Had the National Trust bought the property they would no doubt have restored and maintained it very well and it would also have been open to the public on a regular basis.

### ***Potential for Future Development***

- Should the renovators at the Beckett's home encounter unforeseen problems creating expense beyond the £2m it could mean houses on the remaining section of the horse pasture field. This could readily be the two hectare-thin-end of a 10 acre-residential-wedge!
- In 2005 an enabling application by Sarah Callander-Beckett for Crosby Homes to build 100 houses as part of a new village on 14 acres of land on the Combermere Estate was turned down at enquiry. If 100 houses were considered necessary six years ago to produce the funding for the repair work, how is it that now 43 houses are deemed sufficient to cover the costs? Are we likely to see a future application for further development to complete the work? Building projects are notorious for going over budget, particularly when renovation and repair are the main objectives. We have already shown that it has not been possible accurately to determine the full extent of the work required.
- The application to build on green belt land on the edge of Aston would open the flood gates to further green belt land being built on.

### ***Previous Appeal***

- The 2004/5 application was based on a claimed need for £3.6 million. At the time the appellant was said to own assets well in excess of that amount. But (p.13 clause 49) "it is the insistence of the present owner to maintain the current pattern of ownership that demands the enabling development and limits the proper consideration of alternatives". The sum involved is now £1.9m, suggesting that the applicants need for an enabling development is very much reduced.
- This conundrum at best casts doubts on the reliability of the repair and maintenance costings both then and now - at worst there is something residents have not been told (See above comments on future development).
- The first application evoked much ill feeling locally preserving one person's lifestyle at the expensive of many disbenefits to the community."

- The previous application proposed "variation of the scheme for the original many be necessary." That any variation might affect the extent of development is repellent. Is such a clause in the application? Would and could the planners countenance it?
- The CPRE case for refusal in 2005 states "the historic buildings architects evidence referred wholly to the library and to work carried out. Reference to the north wing was negligible but half of the total expenditure relates to that wing. Is that wing comprised wholly of listed ancient building?"
- In the case for local residents there was a claim that an alternative site could be found adjoining Crewe presumably owner by Mrs Beckett., the sale of which could meet the requirements. Has it been declared and considered this time. Such a site is close to jobs and facilities and national road and rail links.
- The CNBC case in 2004/5 states that the estate could be sold on the open market. Judging by advertisements in County magazines the demand is still there.
- The Inspector at the 2005 Public Enquiry into the planning application for 100 homes on Combermere Estate concluded that "the cost to the community of providing the enabling development would be high and that the gain would be almost all private, with significant public loss". The Secretary of State said that "the disbenefits of the proposed enabling development outweigh the benefits."
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### ***Amenity***

- The development seems to have squeezed 9 houses at the rear of Cloverley and the neighbouring property. The affect to will be abhorrent. Loss of privacy, creation of noise pollution, light pollution will have a detrimental bearing on the occupant's lifestyle. No consideration for anyone has been acknowledged.
- Residents living opposite the site are concerned about noise and light pollution from vehicles exiting and entering the development. Engines will be under load as they accelerate out of or into the development.
- Residents are also concerned about the construction noise and traffic noise / pollution while the houses and roads etc. are being built. This could go on for many years if the building is done in stages.

### ***Loss of Trees***

- The development will necessitate the removal of a tree that is in the region of 150 years old.
- There is a Tree Preservation Order in force for trees in Sheppenhall Lane Aston (CEC reference TPO 98-032 in force since 1975). The ancient oak tree which is scheduled for destruction under the application may be one mentioned in the Order along with others in the adjoining hedgerow.
- There is no reference to this in the Tree Report attached to the application - can CEC verify the situation regarding the TPO in Sheppenhall Lane Aston?

### ***Drainage***

- The drains in Sheppenhall Lane / Sheppenhall Grove are already unable to cope and endless problems are already well documented.
- Sheppenhall Lane is prone to flooding. More houses would make this worse.

- Residents have been regularly advised by the Council that the drainage system for the area is already overloaded.
- Residents already experience vile smells from the drains.
- Houses in Sheppenhall Grove have already been flooded because the drainage system is not sufficient to handle the number of houses within the area
- United Utilities are called on average once a month to remove blockages to the pipes and ground water systems.
- To add another 43 homes to an already failing sewage system would be asking for trouble.
- A responsible developer would have had the foresight to have implemented a reed bed system or at the very least septic tanks in the remainder of the field. The fact that it does not adds weight to the suspicion that even more houses are required to be built on the undesignated portion of the field.
- The capacity of the Waste Water Treatment plant at Woodcotthill Lane is also of concern if 43 more properties are to be discharging through this system. It is to be hoped that the Planning Committee would request a statement from United Utilities about this matter.
- The land on the opposite side of the road to Sheppenhall Grove is very prone to flooding.

### ***Community Exclusion***

- The local community has been progressively excluded from the Comberemere Estate since Mrs Callander Beckett took over its running.
- Comberemere Abbey is closed to the public. It is a private residence which is used to generate income in the form of a Wedding venue and Holiday Lets and is not open to the general public and is the private residence of the Beckett's.
- The only events that do take place are Bluebell Walks restricted to 2 or 4 weeks a year and the occasional wedding fair.
- The signs at the entrance to the Abbey at the start of a very long drive prohibit members of the public from entering.
- The Abbey does advertise as a venue for weddings but significantly, the Abbey itself is not the actual venue but rather marquees and/or a "glasshouse" constructed in the grounds of the Abbey.
- A local community group from Burleydam recently asked for permission to host a Queen's next Jubilee party in the Abbey grounds but were refused.
- The Abbey's historic reluctance to engage with the general public will continue even if the renovation works are completed under the enabling scheme notwithstanding any warranties or agreements that may be entered into.
- It would be interesting to conduct a poll of Aston residents to see if anyone has ever visited the Comberemere site.
- The house is not visible from the road so will not even have a visual benefit to the larger public.
- Residents object to the use of enabling legislation in this instance since it is being applied to a private residence that is on the whole inaccessible to the public.
- It is therefore not the local residents who would benefit and as such the balance referred to in the enabling legislation between the effect on and the proposed benefits of the project to the local community cannot be applied to Aston.
- This development is alienating the local community rather than including them.
- Mrs Callander-Beckett should be more inclusive to the local community and get them to assist with the problem of funding.

- Under the guise of enabling development a 'free makeover' for the initiating person's own remotely-located, secretive private dwelling.
- Had key members of the community here been engaged at an early stage, the absurdity of Aston as a location would have revealed itself. This omission is a deep discourtesy to electors in Aston. This current furore could have been avoided.
- Local residents recall that some years ago Mrs Callandar Beckett's mother (who then owned Combermere Estate) successfully applied to have all the Public Footpaths which crossed Combermere Estate rerouted around the perimeter of the Estate, resulting in no public access. We believe a reference probably relating to the above is made in the London Gazette dated 11 November 1977, 28 April 1978 and 16 June 1978, under the headings Public Path Extinguishment Order and Notice of Public Path Creation Order. While this does not have direct relevance to the present application, it does, if correct, show the historical disregard for public benefit of the Callandar family. Ramblers and members of the local community who would enjoy walking through the no doubt beautiful Estate grounds are now not able to do so unless they pay a fee to Combermere Estate to go on the "Bluebell Walk" on one or two afternoons in May.
- Of recent years there has been some access for pre-booked groups of 20 or more for part of the year and more recently individual pre-booked tours on 3 mid week days. Residents wonder if this is to satisfy a funding arrangement.
- There are prominent notices stating "Closed to the Public" at the entrance gates.
- Mrs Callander Beckett does not engage with residents of Aston in any way and rarely are any locally organised events allowed to take place on the estate.
- By comparison, nearby Cholmondley Castle Estate is much more accessible and is visited and enjoyed frequently by local residents. It is open without pre-booking to the public at least 3 days a week between April and October and individuals are welcome to explore the beautiful gardens, parkland nature trails, play areas and tearoom. Many local events are held there including the Pageant of Power, Classic Car shows etc. It is also the venue for required charitable events, including for Hope House Children's Hospice and Help for Heroes. There is also a cricket club / pitch within the grounds.

### **Infrastructure**

- The infrastructure in Aston cannot support this application.
- All Aston has in the way of amenities is a pub and a chapel!
- To access these facilities the residents must cross the busy A530.
- Where are the jobs, schools doctors etc for all these people?
- In a letter to local residents Mrs Callander-Beckett pointed out the proposed development would bring *'more customers within easy reach of the local pubs, and bring customers, pupils and worshippers to the shop, school and church in Wrenbury.'* Wrenbury is a village 2 ½ miles away. I would therefore challenge the use of the term *'easy reach'*.
- The development would fall in the Sound school catchment area, not Wrenbury.
- It is only 2 years since Sound school was unable to accept siblings and although there are seven places available at present who can say there will be spaces when the houses are sold.
- Where are all the children going to go to school? Both local primary schools, Wrenbury and Sound are full with current waiting lists. Aston is a very small village with no facilities to offer. Apart from the cricket ground there is nowhere for the children to play it has no shops, no places of work, no schools or transport, it has only one pub and a chapel, it would therefore mean that each household would have to have at least 2 cars each.

- New residents would be unlikely to "increase the congregation" as Mrs Beckett says but would increase the level of crime and insurance premiums (from the so-called affordable housing)
- It would place further pressure on local water supply systems which are already at their limit.
- Sound Primary School is using a Portacabin for years 5 and 6.
- There are 6 places in Reception otherwise Sound is at capacity.
- Wrenbury Primary School, "not appropriate to this catchment area" - meaning there is no free transport for children, has only 7 places today mainly in Reception.
- Apparently the Education contribution is being waived in respect of this planning application. Residents find the waiver outrageous and would be prepared to withhold that element of their own Council Tax unless the Charge were reinstated.
- Whilst due process must be seen to take place, common sense must prevail and there must be a recognition of the blindingly obvious fact that the infrastructure in Aston is inadequate to support the development.
- The houses should be built near to Nantwich where there are adequate facilities, shops, schools and bus routes within walking distance.
- The resources are already stretched in terms power with regular power cuts being quite common.
- Further, as some residents of Aston already use the facilities of Audlem, Nantwich and Whitchurch the infrastructure of these areas will also become stretched with developments in those areas already. Concerns over the provision of emergency services in an age of cut backs.
- Poor ambulance response times are common and there has not been a permanent police presence in the area for many years.
- At present there is an excellent medical service at Wrenbury Health Centre with reasonably short waiting times for appointments. What effect would another 160 patients have on the practice?
- There are no play areas for children. The cricket club is private and padlocked.

### **Ecology**

- The location is grassland of the "agriculturally poor semi-improved" category which provides an opportunity for wildlife habitat in an area of intensively farmed land. That it should remain so is crucial to the overall ecology of this locality.
- This field shares a boundary with "Briarfields" where the owners have facilitated the development of a wildlife conservation area of woodland, wetland and grassland habitats extending to 10 acres.
- Neighbouring gardens in Aston run on wildlife friendly principles, (one has CWT's gold award and Pond 2 on the survey is on this property). Residents are aiming to create a corridor linking to another habitat triangle on the east of Sheppenhall Lane.
- The area is abundant with wildlife especially bats and slow worms and great crested newts.
- There are owl boxes up in the fields and there has been great success with the, barn owls which regularly hunt across the field in question.
- In 1997 a breeding colony of harvest mice (*Micromys minutus*) in Cocksfoot grass (*Dactylis glomeratus*) was discovered amongst newly planted woodland. This was verified by Cheshire Wildlife Trust who, in 1999 – 2000, conducted a county wide survey of the harvest mouse as a result of this find. The discovery of a breeding population of these small mammals was the first sighting of the species in Cheshire since the 1970s.

- Over a three year period with the Cheshire Bat Group using their Anabat Ultra-sonic Detection equipment, six species of bat were identified at Briarfields in addition to the Long-eared bat (*Plecotus auritus*) mentioned in 7.1.2 of Mike Freeman's bat survey for SDC Consultancy.
- There is a breeding population of Great Crested Newts (*Triturus cristatus*) in the larger of the two ponds at Briarfields. They have also been found stormwater drain gullies near the house and in some of our ditches. All these locations are within 250 metres of the proposed development site.
- The ecological consultant used an OS map to identify other sites in the area. It would appear that he was not aware of Briarfields ponds or the permanently wet ditches and so was not able to suspect the presence of great crested newts adjacent to the proposed development area.
- There is a breeding population of barn owls in a property on Heatley Lane and the adults are often seen feeding over our fields and those adjoining our property on the Sheppenhall side. There is less than 1.5 kms between the breeding site and the proposed development site in a straight line. This is well within the hunting range of barn owls, which are also very regular in their habits and will cross the same land night after night in the same pattern.
- Buzzards breed locally and feed over our land and the surrounding fields on a daily basis. Their young can be heard in the trees on our boundaries in late summer.
- Grass snakes have recently bred in local compost heaps and will almost certainly be present in the uncut grassland of the field boundaries.
- At Briarfields there are large populations of amphibians such as frogs and toads together with the moth, butterfly, dragonfly and damsel fly species usually associated with woodland, grassland and wetland habitats. There is a wide range of birds feeding and breeding in the woodland, hedges and hedgerow trees. These do not recognise ownership boundaries and will be using adjoining fields, trees and hedges as part of their natural habitat.
- There is an identifiable triangle of land between Sheppenhall Lane and the Whitchurch Road of which Briarfields is in the centre that has become an important habitat for local wildlife. Surrounded by intensely farmed land, this area of agriculturally poor semi-improved grassland has a key role to play. It is vital that its present integrity is preserved. The loss of 2 hectares to bricks, mortar and tarmac would represent an act of ecological vandalism which could never be reinstated.

### **Alternative Sites**

- There are far more suitable locations for building than the present site.
- There are brownfield sites available on the estate and at Wrenbury with safer access to the A530.
- Brownfield sites such as that close to Wrenbury Station should be looked into, rather than a greenfield site such as that on Sheppenhall Lane. The Wrenbury site has better transport links (not least with the railway line on its doorstep), and improved access to the facilities offered in Wrenbury village (shop, surgery, pubs, school, village hall, marina etc).
- The Combermere Estate would appear to have more than adequate options for fund raising development within their own boundaries as the estate farm appears to be being developed for other commercial uses.
- Would it not serve everybody's purposes to relocate the development to Combermere land?
- At the time of her 100 house village proposal, Sarah Callander-Beckett was prepared to use 14 acres of her own land.

- Relocate the current proposal on a mere 2 hectares of her own land near her smart new Park View Business Centre which was funded by more grants.
- This would require fewer houses because she does not have to buy the land. The impact locally of such a small development could be much less and the enabling schemes criteria could be met.
- Here residents of the affordable housing might find employment at Park View Business Centre converted from barns on the Combermere estate farm.
- Here there is already a degree of infrastructure. Moreover should the £2m prove insufficient when renovators encounter extra problems, as they invariably do, there would still be room for expansion to recoup any shortfall in restoration and maintenance funds.
- Here there would be the space to green-up her development by having independent ecological drainage SuDS together with a reedbed/wetland filtration system which would further enhance the already rich wildlife habitat on her own estate. A Geo-thermal Energy Bank there would reduce the heating costs and carbon footprint of every home.
- A little more thought and it could be a flagship development in Cheshire East for the 21<sup>st</sup> century.
- Residents request that when the Strategic Planning Board members make a site visit to Sheppenhall Lane, Aston, they also include a visit to the area around the Park View Business Centre on the Combermere Estate, with a view to considering it as a more suitable site for the proposed development.

### ***Accuracy of Application***

- There are conflicting statements from Arrol & Snell Ltd. (Architects and Surveyors) written in July 2011 and John Pidgeon Partnerships (Quantity Surveyors) written in August 2011.
- In their submission Arrol & Snell Ltd state: *The existing scaffolding has been in place for more than ten years and is not capable of being used to access or inspection purposes.*
- They further state: *Before any measured survey work can take place, it would be necessary to make sure there is safe access to all interiors ..... in order to be able to properly inspect it and measure it and also to verify its condition.*
- If this is true, how can the quantity surveyors reliably produce a detailed specification and costing for the repair of the building to be £1,608,823.65?

### ***Sustainability***

- The properties appear to have no green credentials.
- There are limited public transport links.
- Transport Statement point 10 refers to “The principal bus service” –this is the only bus service apart from a Wednesday.
- There are only 3 people in Aston that use the bus service.
- In theory it could serve a commute but only to a strictly 9.00 – 5.00 job and only in Nantwich. There one person in Aston who finds this bus service acceptable in terms of accessing his employment.
- Public transport services are not available at the junction of Whitchurch Road and Sheppenhall Lane because a bus stopping on the A530 even a safe distance from that junction would inconvenience other users on this busy, winding road causing a tailback. It is not a pick-up point.
- There is no bus stop signage, no bus timetable displayed nor any safe pick up point (i.e. road markings or lay-by)

- To travel by bus to Nantwich or Whitchurch residents must cross over the A530 to Wrenbury Road which is dangerous walk down Wrenbury Road where there is no footway wait in the drive of a bungalow and step out into the road as it is a "hail & ride" service so users need to be seen.
- The additional traffic will increase carbon emissions in the area.
- There are no jobs locally so residents would have to travel to other locations increasing pollution and harming the environment.
- The local shop health centre and school are 2 1/2 miles away at Wrenbury which would mean use of car to get there.
- This is not a development for the 21<sup>st</sup> Century in terms of building design. It offers no concession to low-carbon, low-energy living. I read nothing of rainwater harvesting, Solar-thermal panels, Photo-voltaic roof tiles, Geo-thermal Energy Bank or reed bed filtration system. The development is inappropriate for this age of global warming, carbon concern and "Peak Oil".
- 2 cars per family will be needed for everyday life to travel to large towns such as Crewe, Chester, Shrewsbury or Stoke-on-Trent to access employment.

### ***Affordable Housing Issues***

1. Out of 43 homes, five are to be affordable. In the current climate, that is very unlikely.
2. They will not be affordable after the first resale as no vendor is going to forego a profit on the housing market simply to make the house affordable for the next buyer. Indeed a low starting price might even attract property speculation. Affordable houses are not needed in Aston where there is no employment and a scant public transport system. They need to be built on brownfield sites with good transport links and a realistic chance of a job.
3. If the Borough Council wants to promote low cost housing, there has been a derelict Brownfield site at Wrenbury Station and also a plot of land on Lodmore Lane owned by the Council.

### ***Impact on the form of the Settlement***

- Historically, the centre of Aston, original Aston, is to the north of the A530. It was and remains moderately compact. Original Aston still has some good community-focusing features, including the Bhurtpore pub, the Chapel (and a graveyard). Original Aston has 2 junctions that ease light-traffic access/egress to/from the A530. The A530 in an earlier local authority document was likened to a by-pass, a beneficial feature for Aston at that time.
- Simple reference today to an Ordnance Survey map shows the practical relationship of the original Aston with the A530. Immediately evident to the eye is the present-day, striking anomaly to the south of the Aston cross-roads, the bulging, unbalancing outgrowth of the Sheppenhall Grove development.
- The Sheppenhall Grove development in the 1970's defied good policy and denies commonsense (it is also the subject of a deeper investigation into the background of such seemingly dubious 'planning').
- To the south there is only one junction with the A530 and Sheppenhall Lane and it already adds to the unwarranted confusion of local traffic at the Sheppenhall Lane/A530 cross-roads. It also ruinously divides the north/south community in terms of community coherence.

- Any further development spreading south of the Aston A530 cross-roads could defeat the present by-pass role of the A530 and lead to the need and the expense of a new Aston by-pass!
- Residents object to any further development to the south of the Aston A530 cross-roads and object to citation of Sheppenhall Grove in support of such development.
- Aston Village is split by the A530 and the southern half itself split by the single entry, un-integrated Sheppenhall Grove estate, which despite its maturity has no community spirit and sends no resident to the Parish Council. The proposed development will be of the same nature and as the product of a seriously resented imposition its residents even more at a social disadvantage.

### ***Highway Issues***

#### **Sheppenhall Lane**

- It is impossible to see oncoming traffic when turning right out of Sheppenhall Grove and now that the tractors are even larger it has become more dangerous.
- This development would be within the narrowest length of the whole lane.
- Mothers have difficulty keeping children safe.
- Sheppenhall Lane already experiences high volumes of HGV traffic from the Aston Mill, and also from Graham Heath Construction Ltd and lorries are getting bigger all the time.
- These HGV's also cause dangerous occurrences on the right angle corners through the village every day.
- These huge trucks and tractors have difficulty passing cars and it is dangerous for cyclists and pedestrians.
- At peak times the frequency of these vehicles between Aston Mill and Salesbrook Farm is almost industrial in volume.
- Traffic on Sheppenhall Lane was the subject of a heated Parish Council Meeting early this year and has yet to be resolved.
- The road needs repairs.
- Sheppenhall Lane is also congested with farm vehicles and is struggling to cope
- Most vehicles proceeding down Sheppenhall Lane have to stop and pull in when they pass opposite the bungalow known as Middlefield as it is impossible for two vehicles to pass making it impossible for pedestrians to walk with safety.
- Sheppenhall Lane has a dangerous bend where the estate is planned. This would be too dangerous for the proposed traffic.
- There is no continuous footpath along Sheppenhall Lane and no footpaths at all past Sheppenhall Grove.
- There is a national speed limit on Sheppenhall Lane which would make it too dangerous to have an estate there. (Fast cars driving past the proposed entrance, on a blind bend).
- There is particular concern for the safety of mothers with pushchairs, children, elderly people, horse riders and cyclists.
- It will not be safe to walk to the cricket ground.
- It has become increasingly dangerous pulling out onto Sheppenhall Lane from Sheppenhall Grove and residential drives.
- HGV's from building traffic would also make matters worse.
- Homes in Sheppenhall Lane are built on sand which transmits vibrations and houses shake whenever the 44 tonne trucks pass by. The lane was not constructed with its current level and type of traffic never mind adding a further 43 homes worth of traffic to it.

- Based on vehicle use in the adjacent Sheppenhall Grove, another 120 vehicles would be added onto the lane.
- Pedestrians between the proposed development and the crossroads must in practice use one side of the Lane only to allow intervisibility.
- Towards the crossroads pedestrians must deal with oncoming traffic, intermittent footway, narrow private verge of varying materials at house fronts and driveways and puddles and potholes at the lane edge. It is not for shopping trolleys or children's buggies.
- Walking towards the site there a bend in the lane on the right hand side means loss of intervisibility. This coincides with a higher, narrower grass verge so pedestrians cannot readily step into safety when a large tractor is coming. If two large vehicles meet the verge is mounted.
- The lane regularly floods opposite the proposed access points (there are no rainwater gullies / grids) and in the winter black ice forms.
- The lane is rarely gritted or salted in bad weather.

### A530

- A530 has the worst accident rate in Cheshire. There is no speed limit.
- It has transport department notices telling users of 7 casualties in 3 years, and 35 accidents in 3 years.
- There are many holdups caused by large HGV's milk tankers, tractors etc, cars, horses, pedestrians on the bad bend at the other end of the village.
- There are no services on the side of the A530 which will mean that more people will need to cross the road to go to the Doctors, School, Railway station that are all in Wrenbury.
- The main road is designated as a red route.
- This is the road that the locals have to use to get either to work or school each day.
- The A530, into either Nantwich or Whitchurch is so busy with many accidents each year.
- The new estate would increase the risk and further serious accidents would be inevitable. There would also be further deaths. It is a winding, unregulated road.
- The Parish Council has been trying to get a speed limit on the A530 for at least 25 years. There have not been enough accidents at the Crossroads to date and those that have taken place have not been serious enough to warrant a speed limit.
- More fatalities must occur before a speed limit can be imposed, which may well come about should the development go ahead.
- The A530 at the Nantwich end goes into a single carriage way controlled by traffic lights. The other exit road via Audlem by the Church is of a similar standard.

### Sheppenhall Lane / A530 junction

- The Sheppenhall Lane / A530 junction is already a notorious accident spot has no visibility whatsoever and is recognised as one of the most dangerous in the county. The junction is located on a blind corner onto a 60 MPH limit.
- An extra 100 + cars at 8.30 - 9.00 (the school run) would cause a serious problem at this junction.
- There are no plans for road improvements on the A530 / Sheppenhall Lane junctions e.g. traffic lights.
- This cross roads has seen a number of collisions over the years with the speed and increase of traffic.
- This junction is constantly having accidents occurring.

### Proposed Access

- Full and safe visibility would be difficult when exiting the site especially if the hedgerows are to be maintained as in the proposal (and to disturb the hedgerows would have detrimental effects on the fauna / flora.
- Larger vehicles (e.g. to supply the LPG tank or refuse vehicles) would have difficulty turning to and out of the development because the lane is so narrow.

### Traffic Generation

- It is ridiculous to suggest that 43 homes will generate only 17 traffic movements in peak hours for commuters.
- The transport statement says that traffic will only turn left out of the development towards the A530. This is an assumption without evidence. Local people know that Sheppenhall/Rookery Lane is a valuable short-cut between the A530 and the A525 towards Audlem and Woore. Therefore, some traffic will turn right towards Audlem and Market Drayton. This road is totally unsuitable for increased traffic especially as it is on the Cheshire Cycle Way.
- The vast majority of the 43 homes are family homes, and would at least have 2 cars per household and possibly more.
- Aston is a rural village with winding narrow lanes that is already having to cope with an increased level of traffic that is having a detrimental effect on people's homes and quality of life.
- Road transportation makes an important contribution to the national economy. Many thousands of commercial and other vehicles safely (on balance) use the important A530/A525 trunk roads and their links beyond Whitchurch and Nantwich. The application would lead to restriction to the present-day free-flow of such traffic.
- The route to Wrenbury from Aston has its own perils, in particular the sharp left-hand bend a short distance beyond The Bhurtpore.
- Wildlife including endangered species and domestic pets will be put at risk by increase in vehicles.

### **Other Matters**

- There are salt mining flashes nearby, contrary to the application details on local water. This also makes it unsuitable for building on.
- Yew Tree House is a Grade 2 listed building which already suffers from damage caused by traffic. Restrictions on this type of property means residents cannot protect it from the noise and vibrations from the road.
- No provision for children to play which will cause them to venture into fields and private land with the potential for injury.
- Many of the comments of support are general ones to help the Restoration many seeming unaware that the actual development is not at Combermere - possibly because most of these comments come from other parts of the country.
- It is important that councillors unfamiliar with the area are not misled by the "Abbey" designation. This does NOT indicate a onetime consecrated building for monastic worship. English Heritage terms the site "a landscape park associated with a country house", the said house "rebuilt by Richard Cotton in 1563". It is now the Becketts' private home.

- There has not been any Abbey at Combermere in living memory. It is not even known where the abbey stood and it is very misleading to ask for help to restore the abbey when in fact it is a Grade I listed privately owned house neglected by the Callender Becket family for the past 50 years.
- Are people whose houses will be severely devalued by this scheme going to receive compensation?
- Mrs Callander Beckett in an article in the Whitchurch Herald said that Combermere Abbey is a working dairy and arable farm. This is untrue, they have not milked cows at Combermere for some years now and the land is rented out to other farmers.
- All the applicant's friends have written in support of this development yet they live nowhere near it. (London and Scotland in some cases). If it was near their property they would be the first to be up in arms about it. Their comments should not even be considered. They have no idea the impact that this would have on the rural village of Aston.
- There are comments of support for this application but they are merely that, comments. They show no justification for the development of the site in Sheppenhall Lane, simply that the north wing of the 'Abbey' should be restored. Protecting our heritage and restoring Grade I listed buildings, is something that as a society we should support, but not at the expense of our countryside or rural communities. Supporting the restoration of a grade 1 listed building is not the same as supporting a development of 43 new houses on greenbelt land!
- This is neither good P.R. for Mrs Callander-Beckett, for English Heritage or for Cheshire East.
- The Parish Council have raised strong objections to this development.
- Should the application be successful, and should the funds from, the enabled planning be released to Mrs Callander-Beckett, what is to stop her selling her home in 5 years time and profiting from doing so?
- Would a development of 100 houses be allowed in Richmond Park to allow a wing of Buckingham Palace to be restored?
- The Abbey's own website has a page about the parlous state of the North Wing, with the comment that they have submitted plans for a housing development which "...involves the building of a number of homes to the north of the Abbey." This implies that the current proposal lodged with the council aims to see new houses (no mention of how many) built within the grounds of the estate, not several miles down the road from the property, on the doorsteps of others and well away from the Abbey's idyllic and tranquil setting, something which the owners make great play of in their marketing.
- The proposed structural work at the Abbey is nothing more than an attempt by the developer to purchase planning permission and to by-pass existing policies and established procedures.
- The notification on the Abbey website states that it needs £2million whereas the proposed plan will only generate £1.6million. The Council is requested to explore the finances of the proposed plan fully.
- Enquiries should be made to establish the truth in a local rumour that Mrs Callander-Beckett was offered restoration of the Abbey by English Heritage or the National trust but refused assistance on the grounds that she would have to allow public access to the Abbey itself.
- Further to all of the above English Heritage has a duty to conserve and protect the Green Belt just as much if not more than its duty to preserve places of significance.
- Mrs Callandar Beckett states in her letter to Aston residents that "English Heritage is fully backing this application". However residents have not seen any written confirmation from English Heritage that this is indeed the case, or any communication from them regarding justification for the merits of the proposal or why in their view the merits of the proposal exceed the considerable disbenefits to the local community. If Cheshire East Council is giving

so much credence to English Heritage "Enabling Scheme" criteria why are there no statements as referred to above?

- At an open Parish Council Meeting in September there were approximately 100 local residents objecting to the scheme.

### **Support**

- Letters of support have been received from the occupiers of: Hampton Bye, Malpas; Aston Grange, Aston-by-Stone; The Cliffe, Cliff Road, Acton Bridge, Northwich; Crewe Hill, Farndon, Chester; Tissington Hall, Ashbourne, Derbyshire; Willow Cottage, Huxley Lane, Huxley; Whitchurch Lodge, Old Woodhouses, Whitchurch; 25 Squarey Street, London; Haughton Hall, Tarporley; Ash Corner, Whitchurch; Bank Farm, Wrockwardine, Telford; Hamlet House, 63 High Street, Eccleshall; New House Farm, Breaden Heath; Fairfield, Brook Lane, Alderley Edge; Knockin Hall Farm, Knockin, Oswestry; School House, Burleydam; The Dower House, Kings Road, Wilmslow; Nook House, Cliff Road, Acton Bridge, Northwich; 2 Sunnybank, Yorton, Shrewsbury; The Woodlands, Calveley Hall Lane, Calveley; St. Andrew House, Priest Lane, Mottram St. Andrew; Massey's Lodge, Tarporley Road, Oakmere; Chillington Hall, South Staffordshire; The Butlands, Whitchurch Road, Spurstow; 33 Clonners Field, Stapeley, Nantwich; High Legh House, Nr Knutsford; 5 Brechin Place, London; Duddon Hall Barn, Duddon, Tarporley; Willow Field, Fords Heath, Shrewsbury; 21 Sheppenhall Grove, Aston; Twemlows Hall, Whitchurch; The Walks, Hall Lane, Haughton; Parme Farm, Jones Lane, Middlewich; The Old Hall, Cholmondeley; 36 Broad Street, Ludlow; Mona Cottage, Lightwood Green, Overton; Bolesworth Castle, Tattenhall; 4 The Monklands, Abbey Foregate; Carden Bank, Tilston, Malpas; Lodmore House, Lodmore Lane, Burleydam; 2 Abberley Hall Alderley Edge Cheshire; Brankelow Folly, Combermere; Hawthorn Farm, Marton Grange Myddle; 20 Tinkersfield Stapeley; Plas yn Grove, Ellesmere; Longmeadows, Prees; 16 York Drive, Mickle Trafford; 20 Linden Close, Bridgwater; The Grange, North Rode; 3 Beatty Road, Nantwich; 41 Sands Lane, Bridlington; Stokesay Court, Craven Arms; 15 Abbeyfields, Crewe; Woodend Cottage, Horsley Lane Beeston; 11 Shoplatch Shrewsbury; Flat 1a, 29 Clevedon Rd., Glasgow; making the following points:-

### ***Benefits of Housing***

- The housing development would be good for the local community on its own merits.
- It seems like a wonderful opportunity to enhance the neighbourhood.
- Aston requires inward investment to improve the value and vibrancy of the area. The value of this should be reflected in property prices and improvement to infrastructure.
- This is an ideal site for property as it has good access to a pub, church, and buses and ideal for some low cost houses.
- The UK needs new housing stock.
- The struggle to get the application through to protect the fate of Combermere Wing is amazing.
- There is no impact on other neighbours. The only problem will be if we lose the heritage.
- The plans look good and very reasonable.

### ***Benefits to Combermere Abbey***

- The Scheme would fund the restoration of the north wing of Combermere Abbey.

- The profit which would go towards an independently administered fund, secured by trustees for the development of the Abbey.
- At a time of economic cutbacks finances have to be prioritised, but it is hoped that this project will be supported.
- The proposal is fully supported by English Heritage.
- Historic houses once renovated can these days be relatively simply maintained, owing to advances in building techniques and new technology in general. Combermere Abbey is enormously important to our architectural heritage and it is a great shame that the owners have been unable to address its condition before now.
- Many public events are held at the Abbey to support general conservation of this place, but clearly much more work and many more funds will be needed to complete the work.

### ***Historical Significance of the Abbey***

- Combermere Abbey is Grade I listed and on the at risk register.
- It is of local, national and regional significance.
- It is one of the historic and architectural jewels in Cheshire's crown.
- The Abbey dates from 1133 and it is set in the context of a small rural estate which itself has great significance.
- It is one of the most beautiful buildings of its type in Cheshire in a stunning and unique setting.
- The north wing has been in a dire condition now for many years.
- Loss of any part of the Abbey would be a national travesty.
- Such a beautiful and historically important site is too precious to be allowed to become neglected.
- It is imperative that the work on the North Wing goes ahead for the conservation of the Abbey, and restoration is in the interest of Cheshire as a whole.
- The more one learns about the Abbey, the more one realises how special it is.
- The North Wing of Combermere Abbey has a history of almost 1000 years and is of interest to the local, regional and national arena, as this Grade 1 historical building played a large part in the social history of these borderlands.
- Even in the 1970's and 80's the North Wing was desperately in need of repair and looked as if it could collapse any day. The present owners have spent the last 20 years working incredibly hard to maintain and improve Combermere and they deserve all the support they can get.
- We must not let Britain's history crumble.
- This is such a beautiful building that it needs to be restored for future generations and for the nation to enjoy.
- It is plainly evident that the current owners have every wish to nurture and carry forward this history for generations to come, in all that they have achieved at the Abbey so far.
- There are very few examples left of the neogothic architecture of the early 19th century, such as Strawberry Hill, that Combermere Abbey must be rebuilt as it was then. Strawberry Hill has just been completely renovated for the same reasons.
- This building is intrinsically woven into not just Shropshire's history but that of Britain. Every hook, nook and cranny of this property is able to tell layer upon layer accounts of historical importance.
- It is disappointing that planning has been turned down in the past, and the building deserves to be preserved in its entirety.
- The saving of this historic building is long overdue.

- It is important to continue to remove buildings, especially those Listed Grade 1, from the Buildings at Risk Register.
- Combermere Abbey is one of the few Grade 1 list sites in the south of Cheshire and its restoration will be a benefit to the local economy as a local tourist attraction. There are very few houses of this period and with this type of history in Cheshire.
- Combermere Abbey is a very special country house in a stunning situation with historic 18th century Gothic features.
- It would be a great loss to our National Heritage if the North Wing was to be lost through lack of restoration and maintenance.
- The cost of this work is understandably beyond the means of the Applicants and an Enabling Scheme seems the only logical way forward.
- The present (amended) proposal is proportionate and realistic, bringing benefits for the local community as well as enabling the necessary works to the Abbey to proceed.
- Time is of the essence as the North Wing is now in a serious state of decay.
- Combermere Abbey - a jewel in Cheshire - at risk and it would be a travesty to allow any part to collapse.
- The owners absolutely should, be allowed, encouraged and supported to restore the North Wing.
- It is important to preserve heritage for future generations, particularly in this area and as part of such a beautiful site which is available for so many of the public to enjoy.
- It would be wonderful to see it fully restored and repaired after so many years being covered in scaffolding. The north wing is clearly in a poor state and it will only get worse unless this application is approved which will release the funds to do the work that is so urgently required.
- There is no doubt that Mr and Mrs Beckett will only enhance, improve and restore the North Wing to the best of their capabilities to ensure this Grade 1 part of the house will continue to survive for subsequent generations to enjoy.
- The current owners are to be congratulated for being prepared to undertake such an ambitious and expensive project as responsible guardians of such an important part of our national heritage.
- It is incumbent on the Local Authority to act equally responsibly and do everything within its power to encourage such initiatives by granting permission for the sensitive works proposed.
- A sensible planning permission should be granted to protect a Grade 1 building.

### ***Value of the Estate to the Local Community***

- Combermere has played a responsible part in the stewardship of this part of Cheshire for many years and the current application will ensure that not only is one of South Cheshire's most important historic buildings gets restored but also that it continues to play a beneficial part in the local community.
- The current owners have brought the estate to life and deserve support.
- In the last 10 years the estate has seen a surge in activity and has been an asset to the local community both in terms of employment direct and indirect.
- People appreciate the efforts the current owners have been making to restore such an impressive building to its former glory.
- Combermere Abbey is a great local asset with its brilliant holiday accommodation; local coarse fishing and other supporting amenities open to the public, its year round events and wonderful wedding facility.

- The Combermere Estate has been developing a business over the years that has not only created employment but supported local businesses and towns.
- We must keep these "old landed estates" intact for the benefit of future generations.
- The owners are committed to appropriate conservation and restoration of this Abbey and deserve the support of their scheme to save it.
- Members of the public have such frequent access there through a variety of events, it would be totally appropriate to support this application.
- Local groups have been holding charity events at Combermere Abbey over the past few years. Last year they held a Xmas event inside the Abbey which saw a huge number of local people attend just to have a chance of seeing the great rooms inside. With the work that desperately needs to be done on the building they can no longer have local people inside and are now not holding a charity fair there this year. This is a great sadness and a loss to a local charity.
- Combermere is run by a family and a business team that are clearly passionate about its heritage and restoration.
- The estate and house are a place of great tranquillity and history. They must be seen to be believed. The restoration of the North Wing will only add to this and will make the location even more of a visitor attraction than it already is, contributing to the economy of the region.
- Mrs Callander-Beckett is not responsible for "the sins of the fathers" which left her to deal with a long-neglected, crumbling country house. She has barely been in charge for 20 years. And she is to be admired for the way in which she has created a business which has breathed restorative life back into a truly lovely estate.

## **7. APPLICANT'S SUPPORTING INFORMATION:**

- Tree Survey Report
- Transport Statement
- Ground Investigation
- Habitat Survey
- Bat Survey
- Newt Survey
- Justification Statement
- Methodology
- Development Appraisal
- Design and Access Statement
- Planning Statement
- Flood Risk Assessment

## **8. OFFICER APPRAISAL**

### **Principle of Development.**

The site is located within the Open Countryside, as defined in the Replacement Local Plan, where there is normally strictly control over new development. However, exceptions can be made to the general policy of restraint for "enabling development".

### ***The Concept of Enabling Development.***

Enabling Development is that which would normally be rejected as clearly contrary to other objectives of national, regional or local planning policy, but is permitted on the grounds that it would achieve a significant benefit to a heritage asset. Such proposals are put forward on the basis that the benefit to the community of conserving the heritage asset would outweigh the harm to other material interests. Therefore the essence of a scheme of enabling development is that the public accepts some disbenefit as a result of planning permission being granted for development which would not otherwise gain consent, in return for a benefit funded from the value added to the land by that consent.

In this case the 43 new dwellings that are proposed are contrary to planning policies because they would constitute development within the Open Countryside, where there is a general presumption against new residential development. Accordingly, the application has been advertised as a departure. The case for enabling development is that the funds that would be generated by the development of these 43 units would enable the Abbey to be restored in the most appropriate manner.

English Heritage's 2008 publication *Enabling Development and the Conservation of Significant Places* provides guidance on the issues that should be considered in reaching planning decisions on schemes where such development is proposed. Although this guidance is not statutory it has been widely used in planning decisions on cases of this type, including those that have been determined by the Secretary of State following a public inquiry. Policy HE11 of PPS5 relates to enabling development and sets out the factors to be taking into account by the local planning authorities. The policy follows on from the English Heritage guidance referred to earlier.

In determining this application, 3 issues must be addressed. The first question is whether or not the Abbey, as a heritage asset, is sufficiently significant as a heritage asset, to warrant consideration of enabling development. The second question is, whether the enabling development is necessary to secure the restoration of the Abbey having regard to its structural condition and the availability of alternative means of securing the necessary funding. Thirdly a judgement must be made as to whether the benefits of an application for enabling development to secure the future conservation of a heritage asset outweigh the disbenefits of departing from the development plan, having regard, not only to the heritage considerations, but also to all relevant planning considerations such as the character and appearance of the open countryside, highway safety, drainage and ecology.

### ***Significance of Combermere Abbey as a Heritage Asset***

According to English Heritage, Combermere Abbey is a complex building of many historical layers. A Cistercian abbey was founded in 1133. It was granted at the dissolution of the monasteries to Sir George Cotton, who demolished the abbey church and converted the early 16<sup>th</sup> century Abbot's Lodgings to his primary residence. New half timbered wings were added in the mid 16<sup>th</sup> century, and further remodelling for the Cotton family was done in the 17<sup>th</sup>, 18<sup>th</sup>, and 19<sup>th</sup> centuries.

From 1799 to 1865 it was the seat of Sir Robert Stapleton Cotton, later Viscount Combermere, who served with distinction under Wellington in the Peninsula War, became Field Marshall and was Commander in Chief in the East Indies. In 1919, the estate was purchased by Sir Kenneth Crossley, in whose family it remains today.

The first floor hall that forms the library is part of the Abbot's dwelling dating from 1502 and has one of the finest late medieval open hall roofs in the country that is concealed by the ceiling inserted in 1539. An outstanding screen from 1580 reflects early renaissance work and contains contemporary portraits of two members of the Cotton family. The chimney breast and ornamental plasterwork date

from 1563 and incorporate heraldry and portraiture. While it is this sole surviving element of the abbey that forms the heart of the house, the later extensions were architecturally ambitious. A large oil painting from the 1720s and a print by the Buck brothers from the same period show the survival of medieval masonry at that time, including the traces of a cloister. The origins of the ambitious designed landscape spreading into the park can also be seen in the oil painting. Paintings in the library, together with a range of fixtures and fittings, also illustrate some of the main phases in the historical development of the abbey and its landscape.

There are a number of phases of gothicisation, with interior treatment from 1795-7 and the addition of cladding and battlemented parapets and finials to the exterior in the 1820s. Further waves of gothic ornament unified the various elements of the abbey, including the late 18<sup>th</sup> century service wing. The stable blocks were built in 1837 to the design of Edward Blore.

The North Wing was built in the 17<sup>th</sup> century and remodelled in 1820 in advance of a visit by the Duke of Wellington. It is a significant part of the development of Combermere and is a prominent element in providing balance to both the principal elevations of the house

The parkland, which was redesigned and enlarged in 1830 by John Webb includes a mere, (said to be the largest stretch of open water of any park in England), lodges, an early 19<sup>th</sup> century walled kitchen garden, and the obelisk commemorating the death of the first Lord Combermere.

The present owner's family have occupied the house since 1919. They acquired from the Cotton family two important pictures - the 1720s oil painting of the abbey and a large painting of Lord Combermere's triumph at Bhurtpore in 1825, together with other paintings in the library and a chest, that come from the original Cotton inventory. There are also some fine individual items of furniture that have been in the house for over 50 years, including a Jacobean refectory table and good quality Regency Gothic furniture.

More recently the present owners have added to this collection.

The Abbey and service wing are listed in grade I, the game larder is grade II\*, the stable block and other estate buildings are grade II, and the park is registered in grade II. Taken as a whole, the buildings and park display a very high level of heritage value and significance.

The estate currently comprises 540 acres of farmland and 280 acres of woodland: The mere is a sheet of water that covers an area of 160 acres.

### ***The Necessity of the Enabling Development.***

The Abbey was included in the first English Heritage register of buildings at risk in 1998. The North Wing is in category A, the highest priority for remedial action. It is in exceptionally poor condition and survives largely by merit of the scaffold and temporary covering introduced by the present owner. Its physical attachment to the earlier part of the abbey also poses a risk to this main part of the house as a result of the structural connections between the two.

The current owner has worked exceptionally hard to reduce the level of risk to heritage assets on the estate and has developed businesses that help to sustain these assets.

This programme of repairs and improvements has removed the Game Larder from the at risk register, brought the stable complex into good repair and economically beneficial use as holiday accommodation, and conserved the roof and external wall of the west wing and library, as well as providing the temporary support and cover for the North Wing. The farming business has been significantly improved, and weddings and corporate events contribute revenue to the maintenance of the estate. In 1993 English Heritage offered £209,947 in grant aid to assist the owners with repairs and conservation work to the abbey and in 2000 a further grant of £157,528 was offered. This is focussed on repairs to the library. However there is a limit to how much funding English Heritage is able to contribute to the deficit between the cost of repair to Combermere Abbey and its value when restored to good condition. In cases such as this, English Heritage are able to contribute a proportion of the costs only, rather than the full amount.

Notwithstanding the excellent progress that has been made by the owner in bringing the historic assets at Combermere into good repair and sustainable use, the North Wing in particular remains at very high risk. A sum of £2m is needed to bring the structure into good repair and use.

In 2005, enabling development proposals put forward by the owner were considered at a Local Public Inquiry. These proposals were refused planning permission by the then Secretary of State in a decision letter dated 28 November 2005. Since then the owner has explored other ways of securing the investment needed to save the North Wing and has concluded that this cannot be achieved without enabling development. With the encouragement of the then Crewe and Nantwich Borough Council, the owner therefore undertook work to determine whether it was possible to devise a scheme that addressed the reasons for refusal set out in the decision letter and accompanying Inspector's report.

### ***Assessment of Benefits / Disbenefits***

According to Policy HE.11.1 of PPS5, Local Planning Authorities should assess whether the benefits of an application for enabling development to secure the future conservation of a heritage asset outweigh the disbenefits of departing from the development plan (having regard to the requirements of section 38(6) of the Planning and Compulsory Purchase Act taking into account whether:

- it will materially harm the significance of the heritage asset or its setting
- it will avoid detrimental fragmentation of management of the heritage asset
- it will secure the long term future of the heritage asset and, where applicable, its continued use for a purpose sympathetic to its conservation
- it is necessary to resolve problems arising from the inherent needs of the heritage asset, rather than the circumstances of the present owner, or the purchase price paid
- there is a source of funding that might support the heritage asset without the need for enabling development
- the level of development is the minimum necessary to secure the future conservation of the heritage asset and of a design and type that minimises harm to other public interests.

In the case of Combermere; the matters arising from the Inspector's report and Secretary of State's decision of 28 November 2005 also need to be taken into account. In order to address the above questions and to establish the benefits and disbenefits of the scheme in conservation terms, the advice of English Heritage has been sought. This forms the basis of the assessment below.

### ***Will it materially harm the significance of the heritage asset or its setting?***

The location of the proposed development, somewhat removed from the Combermere estate, avoids completely any harm to the heritage values of the historic buildings and designed landscape of Combermere.

The land at Sheppenhall Lane was selected by the applicant in response to the conclusions drawn by the Planning Inspector in his 2005 report (paragraph 89) that the proposed development's "entry arrangements would materially detract from the historic and landscape interest of the asset and would materially harm its setting". Bearing in mind that this location is the least sensitive in relation to the Grade II registered landscape and highly graded listed buildings, it is difficult to see how new development could be achieved at Combermere that did not damage the historic landscape. It is this that provides the justification for the "off site" location of the proposed development.

The location of the proposed development on land next to an existing settlement reduces the scale of what is needed in terms of infrastructure for housing and community facilities compared to an entirely new settlement in open countryside. This reduces the amount of development necessary to secure the future of Combermere Abbey, from what was previously proposed. The development at Sheppenhall Lane will not have a harmful effect on heritage assets, as there are no designated assets and no sites recorded in the Historic Environment Record in the immediate locality.

***Will it secure the long term future of the heritage asset and, where applicable, its continued use for a purpose sympathetic to its conservation?***

The owner has, over a long period, demonstrated that any building or structure on the estate, once put into good order, has been used successfully in ways that respect distinctive historic character and keep the building in continued good repair. There is every reason to believe that a fine historic structure, such as the North Wing will, once the capital costs of repair have been met, have a sustainable long term future.

The owner has a simple succession plan under the terms of which the Estate is held in trust for her son, who will inherit the abbey and estate on her death or retirement; the family commitment to Combermere should therefore remain.

Should this not be the case, the repair of the North Wing would allow the property to be sold as a going concern. The risk to the principal buildings of Combermere Abbey will therefore be removed in the long term, albeit harm would be caused to the historic entity, were some of the contents that are not fixtures or fittings and therefore not subject to listed building consent to be removed from the house following a sale.

***Will it avoid detrimental fragmentation of management of the heritage asset?***

The enabling development is critical to avoiding the fragmentation of the historic entity. If it does not go ahead it is very hard to see how the North Wing will be saved, and its loss could have implications for the main part of the house and the monastic fabric that it incorporates. One way of avoiding this loss would be if a new owner could be found who would be prepared to repair the building from his or her own resources. However if this happened there is a real risk, as noted above, that the essential components of the historic entity, for example the paintings and prints and landholdings that are an integral component of the Estate would be sold. The owner and her family

have demonstrated that they are committed to the long term future of the estate as a whole: this commitment could be further secured through the use of a Section 106 agreement.

***Is it necessary to resolve problems arising from the inherent needs of the heritage asset, rather than the circumstances of the present owner, or the purchase price paid?***

Central to the consideration of this issue is whether or not the Combermere estate is an historic entity in the terms set out in English Heritage's 2008 guidance. The reason why this is relevant is that an historic entity is likely to be harmed by sale and disposal.

The requirement to advertise the property on the open market, to establish if there is a more appropriate owner, should not be applied in such cases. The best interests of sustaining an historic entity as a whole are best served by retaining the existing ownership.

English Heritage have therefore used the tests set out in their guidance at paragraphs 4.9.6 to 4.9.12 inclusive to determine whether or not the Combermere Estate should be regarded as an historic entity. They have also taken account of the views of the Inquiry Inspector, as endorsed by the Secretary of State, in 2005, who did not consider the estate to be an historic entity, noting that their conclusions were reached prior to the detailed consideration given to this matter in the 2008 guidance.

Paragraph 4.9.6 requires the ensemble to be of outstanding importance in a national context and goes on to say "either the house or its historic landscape (often but not necessarily both) are included in the statutory list or landscape register at Grade I or II\*, and the collection must make a significant contribution to the significance of the entity" In addition 4.9.7 requires that "contents or other artefacts...are historically associated with the building or landscape, such that the significance of the whole is greater than the sum of the parts." As noted above, the Abbey and service wing is listed in grade I, the game larder is grade II\*, the stable block and other estate buildings are grade II and the park is registered in grade II. The large oil painting of the 1720s that shows the abbey as it was then in its landscape setting, as does the Buck brothers' print and the pictures in the library. All cast significant light on the historic development of the abbey and its landscape. The painting of Lord Combermere's triumph at Bhurtpore in 1825, and numerous fine items of furniture that have been in the house over 50 years all contribute to an understanding of the history of the abbey and the Cotton family. English Heritage believe that the tests in 4.9.6 and 4.9.7 are met on this basis.

Paragraph 4.9.8 refers to the need to have adequate succession planning in place in order to minimise the possibility of the ensemble subsequently being broken up and the value of the enabling development realised as a private gain. As noted above, the Estate is held in trust for the son of the current owner. He will inherit the Estate on the death or retirement of the current owner. There is every reason to suppose that the strenuous efforts that have been made over the last twenty years to retain the Estate as an historic entity and to bring all the historic assets into good repair will best be continued by a member of the family.

English Heritage suggest that the extent to which a Section 106 agreement could be used to secure the continuation of integrated management should be considered and will be happy to advise further on this point in terms of the detailed drafting of the agreement.

Many of the necessary provisions for public access required by 4.9.9 are already in place, but we advise that assurance on public access should also be secured in a Section 106 agreement. Care

will however be needed to ensure that the level of access is compatible with the business operations of the estate that are essential to its future wellbeing.

Paragraph 4.9.10 seeks to ensure that the estate, once subsidised, will be sustainable in revenue terms. In this particular case, it is reasonable to assume that that once the North Wing has been repaired and refurbished it will become a sustainable part of the estate as a whole and that there will be sufficient income to sustain it as part of a going concern. The current owner has a proven track record of making capital investment, for example in the stable block, pay in revenue terms and become self sustaining.

Paragraph 4.9.11 deals with the matter of whether enabling development can be legitimately used to provide a maintenance fund or endowment for subsequent maintenance of the property. The advice is that any such fund should not extend beyond exceptional costs related to the significance of the property. In this case, there is no intention to establish such a fund, so this particular test is satisfied.

Paragraph 4.9.12 requires consideration of whether any estate assets could be realised without harm to its significance or long term viability. The potential to find sites for enabling development within or close to the estate has already been dealt with above, and is not considered to be achievable. The sale of large areas of agricultural land that would be needed to generate sufficient resources without development would be likely to result in the fragmentation of the estate and pose a risk to its long term sustainability. Likewise, the sale of works of art or furniture would be harmful to the integrity of the historic entity.

In summary, it is considered that Combermere is an historic entity in the terms of our 2008 guidance. On this basis, it is clear that it is the needs of this entity, rather than the owner, that is driving the enabling development proposal

***Is there a source of funding that might support the heritage asset without the need for enabling development?***

English Heritage are satisfied that there are no other sources of funding that have not already been explored by the owner. The owner has raised money from charitable foundations, from English Heritage grants and from the businesses that she has established on the estate. These remain inadequate to tackle the problem of the North Wing.

English Heritage and Cheshire East Council, have jointly commissioned an independent financial appraisal of the proposed development off Sheppenhall Lane. The consultants report states that they have spoken with the Estate Administrator regarding current income generating activities and having undertaken an inspection of the Abbey we have considered a number of further potential revenue streams. However, these activities are unlikely to generate the capital needed to secure the future of the heritage asset, certainly not in the short term. The sale of part of the estate for agricultural use may generate a significant capital sum, as there is evidence of farm land in the area selling for in excess of £10,000 per acre. However, having regard to the need to maintain the estate as a single historic entity, as referred to above, English Heritage would object to the piecemeal sale of areas of land in order to fund the necessary works. Consequently, this is not considered to be a suitable option.

***Is the level of development the minimum necessary to secure the future conservation of the heritage asset and of a design that minimizes harm to other public interests?***

The most recent estimate of the repair liability for the historic assets across the Combermere Estate is £4.1m. The uplift in value from putting these assets into good repair is estimated at £1.9m, leaving a shortfall (known as a conservation deficit) of £2.2m. Within this it is the repair of the North Wing that is the most significant cost factor. As part of the application, the owner's conservation accredited architect has provided a schedule of the repairs needed to bring the North Wing back into good condition and use. The English Heritage Historic Buildings Architect has assessed this schedule and believes that it sets out clearly what is needed to achieve this objective. The costs of the work, estimated at £1,98m, have been assessed by our Quantity Surveyor who believes that these costs are in line with current market rates.

The independent consultants report showed that the scale of development is the minimum necessary to raise the £2m necessary to repair the North Wing and to reduce the overall conservation deficit on the Estate of £2.2m to a manageable amount. The report concludes:

*"We are of the opinion that the calculations regarding the amount of development necessary to meet the conservation deficit are realistic. We have spoken with the quantity surveyor who prepared the appraisal and referred to BCIS by way of cross check and are of the opinion that the adopted costs appear reasonable. There is a small variance in end values with a differential of 1.4% overall on the projected GDV.*

*A profit level of 22% to include the developers cost of finance does not appear unreasonable. The inherent risk in our opinion is quantifying the level of demand for 43 units in a small village location.*

*We are of the opinion that the amount of enabling development is the minimum necessary to secure the funding needed to secure the future of the heritage asset.*

*Compiling a development appraisal with our own assumptions and projected GDV actually produced a shortfall in the level of funding necessary which is largely attributable to the finance rate adopted which is in the order of 6%. We stress the sensitivity of a development appraisal approach and minor variations in costs and end values can have a significant impact on the resultant residual value."*

To address the point regarding the level of demand, the applicant's have been asked to provide evidence from local estate agents in order to establish the current market conditions in the area. It is acknowledged that, although allowance has been made for inflation in the development appraisal, tender prices can vary widely and therefore the development costs and costs to repair the north wing are subject to change. However, all development appraisals are like any other forecast and unforeseen changes in the circumstances can affect their accuracy. However, this does not mean that they are not a useful tool and should not be used or given weight in the determination of a planning application.

In summary, the independent consultant and English Heritage are both satisfied that the amount of enabling development proposed is indeed the minimum necessary to secure the future of the Combermere Abbey.

However, to ensure that the resources derived from the enabling development are used to repair the North Wing of Combermere Abbey and to bring it back into sustainable and financially viable new use, a Section 106 agreement should be reached between the Council and the parties concerned.

### **Conclusion**

From the English Heritage perspective, they are convinced of the outstanding historic and architectural significance of Combermere Abbey and of the need to keep the collection with the estate in order to sustain this significance. This has clear and distinct heritage benefits that will be lost forever were sale of the estate to be forced.

The new enabling development scheme, properly secured through a Section 106 agreement, could:

- keep the collection in place,
- see the repair of the important North Wing
- leave the management of the estate in the hands of the current owner, who has demonstrated herself to be committed to the conservation of the estate and to opening it up to public access in a way that is compatible with the running of the businesses that sustain it.

However, English Heritage have stated that the establishing where the balance of public benefit lies is clearly a matter for Cheshire East in its role as planning authority with an overview of all relevant planning considerations. These are considered in more detail below.

### **Other Relevant Planning Considerations**

Enabling development is, by definition, contrary to Planning Policy, which has been formulated to protect the public interest. Therefore, it is inevitable that some degree of harm will result from the development.

The nature and magnitude of the harm caused must be balanced against the benefit in terms of restoring the listed building. In considering the extent of any harm, regard must be given to the impact on the character and appearance of the surrounding open countryside and landscaping, including the impact on existing trees, hedgerows and ecology. Consideration must also be given to the suitability of the layout and design and the extent to which it will blend in visually with the existing settlement and its open countryside setting. Given that it is located in a rural area, the sustainability or otherwise of the site's location is also relevant. Any potentially adverse impact on neighbour amenity, highway safety, drainage and flooding, or infrastructure provision should also be considered. The contaminated land and noise implications of the development are also important.

However, it is also necessary to consider any other potential benefits arising from the scheme, which are also material considerations. These include affordable housing, as well as the contribution to housing land supply and economic growth. All of these issues are explored in more detail below.

### ***Impact on the Character and Appearance of the Open Countryside***

Planning Officers are of the view that it would be impossible to argue that the loss of such a large area of open agricultural land would not have some adverse visual impact on the character and appearance of the locality. This is particularly true when viewed from the existing village fringe and Sheppenhall Lane looking out towards open countryside. Where currently there are views of fields and trees, this would be replaced by views of urban development. However, the area does not

benefit from any special landscape designations. It is fairly flat and open farmland. It is therefore not in a visually prominent location. The surrounding land is also generally flat in nature and as a result the site is not especially visible from any surrounding vantage points. Surrounding field boundaries benefit from native hedgerows and hedgerow trees which will soften the visual impact, given the relatively low building heights proposed (up to 2.5 storeys).

When viewed from the open countryside, the development would be seen against the backdrop of the existing settlement.

Furthermore, the public dis-benefit that would result from the loss of open countryside must be weighed against the wider public interest in terms of restoring the listed building and housing delivery as well as economic growth, regeneration and recovery, which are discussed in more detail below. Therefore, on balance, it is considered that the negative visual impacts are acceptable.

### ***Landscape and Tree Issues***

The main features of the site are:

- a number of mature Ash and Oak trees situated along the eastern boundary, bordering Sheppenhall Lane,
- a small number of trees on the western boundary
- mature native hedgerows that are of both landscape and wildlife benefit to the west and east.

Several trees on the eastern boundary are subject to TPO protection under the Crewe and Nantwich Borough Council (Sheppenhall Lane, Aston) TPO 1975

The proposed development would involve removal of a section of hedgerow and a large mature Oak tree on the Sheppenhall Lane frontage, with an access road, areas of hard standing and services provision within the crown spread and root protection areas of the remaining trees on this boundary. The mature hedgerow with trees on the western boundary would form the rear boundaries to gardens and soak ways are indicated in this area.

The loss of the mature Oak tree and hedgerow on the Sheppenhall Road frontage and the introduction of buildings to the site would have immediate landscape impact. The removal of a prominent and mature TPO protected Oak tree, (graded Category A for retention by the applicants' arboricultural consultants) must be considered a significant loss. However, the proposed landscaping, which is discussed in more detail below, does present the opportunity for a considerable amount of additional tree planting both on the boundaries and within the site. This is discussed in more detail below.

In addition, the proposed layout route services and provides an access road, driveways and other significant areas of hard standing within the root protection areas of further trees, several of which are protected. Whilst details of drainage, tree protection measures and special construction techniques for hard surfacing could be required by condition, the risk of harm to the trees must be considered significant. The developer has been made aware of these concerns and an amended layout has been requested in order to address them. This was awaited at the time of report preparation.

The prominent tall and spreading hedgerow on the western boundary is an important feature of landscape and wildlife value. The applicants' arboricultural consultant has recommended that any development should consider means of maintaining the integrity of the hedgerow, and avoid possible fragmentation. The proposed layout would result in this hedge being the rear garden boundary for properties to the west with fragmented ownership and the likelihood of inconsistency of future management. In its present form, the hedge would extend some distance into the plots, and if retained as existing would reduce the usable area of private amenity space. In addition, the proposed location of soakaways, close to the hedge and trees, would be likely to have a detrimental impact on these features.

However, it is considered that conditions could be imposed requiring the retention of the hedgerow in perpetuity to prevent householders from removing and replacing it with an alternative boundary treatment and permitted development rights for gates, walls and fences could be removed. The private amenity spaces of the properties concerned are all considerably in excess of the recommended minimum of 65 square metres and therefore the reduction in the usable garden area is not considered to be problematic. Conditions can be imposed requiring details of soakaways to be provided to ensure that these are sympathetically sited where they will not adversely affect retained hedges or trees.

The site layout plan indicates that it would be necessary to remove some of the hedgerow on the Sheppenhall Lane frontage in order to accommodate the access to the proposed development.

Under the Hedgerow Regulations, the lengths of hedgerow proposed for removal must be checked against various archaeological, historic and ecological criteria to ascertain if it qualifies as 'Important'. The site ecological survey identifies that the eastern site boundary hedgerow is species rich and was found to be 'important', as defined by the Hedgerow Regulations 1997.

The main site entrance and visibility splay are positioned in an area partly occupied by an existing gateway and gappy area in the hedgerow. This will reduce the length of hedgerow that needs to be removed. Consequently, the proposed works would result in a relatively small loss of existing hedgerow. The woody species present within the entrance points and visibility splay hedge reduction areas are as follows:

- To the north of the main site entrance point: blackthorn, hawthorn, oak, sycamore, field maple and holly.
- To the south of the main entrance point: hawthorn, elder, hazel, blackthorn, oak, and rose species.

The hedgerow will also need to be crossed to accommodate a foul rising main diversion. However, it is believed that the pipe is of reasonably small diameter and the hedge crossing can be tunnelled under the hedge to reduce disturbance. The crossing point has been chosen to fall within one of the more sparsely vegetated areas of the hedgerow, to minimise disturbance to the root zone of the hedgerow and mature trees.

To mitigate the ecological impact of the proposed development works it is proposed that any gappy areas of the remaining hedgerow within the development area will be planted up with native woody species. These will be chosen to mirror those species already present within the hedgerow. Some additional native, standard trees will also be introduced to the hedgerow, to increase age diversity.

Approximately 150m of new hedgerow will also be created along the southern boundary of the site to create a 'wildlife corridor' between existing hedgerows. This will be planted using the same hedging species that are present within the existing hedgerow, and a similar species mix ratio will be used. A number of native, standard trees will also be included. This should mirror the species rich character of the existing hedgerow and, once established, should provide a valuable wildlife corridor feature. Measures to further enhance this new hedgerow for wildlife are proposed within the great crested newt mitigation strategy for this development

Whilst the loss of a comparatively small section of existing 'important' hedgerow would be an unavoidable consequence of the proposed development, a significant net gain in species-rich hedgerow would result overall.

The Shared Services Archaeologist has confirmed that the hedgerows have been checked against the Cheshire Historic Environment Record under the following criteria as defined in Schedule 1, Part II of the Hedgerow Regulations and that these hedgerows are not covered under the stated criteria. Consequently, they are not considered to be of archaeological importance. They incorporate no archaeological features included in the schedule of monuments. The hedgerows are not situated wholly or partly within an archaeological site included in the schedule of monuments and are not associated with any such feature.

To turn to historic importance, the County Archivist has confirmed that the hedgerows do not form part of boundary between two historic parishes or townships. There is no evidence to suggest that they form a boundary of a pre-1600 estate or manor. There is no evidence to suggest that they form an integral part of a field system pre-dating the Inclosure Acts.

Provided that this is not the case, the hedgerows on-site would not be classed as "important" under the 1997 Regulations and the proposed hedgerow removal would be considered to be acceptable. However, a hedgerow protection condition will be necessary to ensure that all hedgerows to be retained as part of the development are protected during the course of construction operations.

To turn to proposed landscaping, the submission includes landscape proposals which would include planting throughout the site, a proposed hedgerow with trees to the southern boundary and infill hedge / replacement tree planting to the Sheppenhall Lane frontage. In principle, this, along with the landscape proposals for the remainder of the site, is considered to be acceptable and can be secured by an appropriate condition.

Proposed site boundary treatments are not clear on the submitted plans and it would be essential to ensure that any proposed fences to external site boundaries to the south, west and east were set on the development side of hedgerows/ trees. However, these details could be secured by condition.

### ***Design***

The development has been laid out with a row of large detached dwellings fronting on to Sheppenhall Lane. This continues the existing pattern of ribbon development and creates an active frontage to the lane, which adds visual interest and improves the security of this area. All of the dwellings on the frontage are served via a shared drive from the main site access which minimises the impact on the protected trees and on the site frontage and reduces the need for hedgerow removal. The main gateway to the development is from a T-junction access at the northern end of

the Sheppenhall Lane frontage with a main spine road running due west from this junction. The road is lined with detached dwellings to either side, creating a further active frontage. The large dwelling on plot 16 terminates the vista from the site entrance. At this point, the road narrows to form a cul-de-sac to the south side, and courtyard of smaller mews properties to the north side, thus creating two distinct character areas, and a distinct sense of place. Shared surfaces have been utilised in both these areas in accordance with Manual for Streets best practice, to slow vehicle speeds, reduce the visual impact of highway over-engineering and to give pedestrians natural priority.

Generous rear gardens have been provided to the rear of all the properties which adjoin the open countryside to the south and west. This gives the opportunity for boundary landscaping and softens the edge of the development and its impact on the surrounding countryside.

To turn to the elevational detail, the surrounding development in the village to the north and east comprises a mix of modern, suburban, cul-de-sac development. On the adjacent housing estate on the opposite side of Sheppenhall Lane, inter-war and post war detached and semi-detached houses and bungalows, as well as older vernacular cottages and farm buildings are located. To the south and west is open countryside with sporadic traditional farm buildings, which pre-date the expansion of Crewe. There is consistency in terms of materials with most dwellings being finished in simple red brick, and grey / brown slates / concrete / clay tiles.

The proposed house types have been influenced by the form and mass of surrounding residential properties. The dwellings include traditional features such as, stone cills and brick heads to windows. The use of projecting gables and bay windows to feature house types helps to break up the massing of the buildings and maintain visual interest. The roof forms are gables, which reflect the predominant form in the surrounding area. It is therefore considered that the proposed development will sit comfortably alongside the mix of existing development within the area.

The proposal is therefore considered to be acceptable in design terms and compliant with the requirements of Policy BE2 (design) of the adopted Local Plan.

### ***Sustainability***

Due to its Open Countryside location, the site is inherently unsustainable in terms of its location and runs contrary to the general principle of locating new development within and adjacent to existing centres of population in order to minimise car travel. In this case, a judgement must be made as to the extent to which the site is unsustainable and whether this is sufficient to outweigh the conservation benefits of the scheme.

The site is located on the edge of Aston and within walking distance of village, which is a small settlement, comprising only c.140 dwellings, but which does have the benefit of a village pub, Methodist Church and cricket ground. Within Wrenbury, which is 1½ miles away, and within easy cycling distance, there are shops, health facilities, pubs, a railway station, church and school. Nantwich and Whitchurch have a full range of shops and services and are accessible by train from Wrenbury.

According to the applicants Transport Statement, public transport services are also available at the junction of Whitchurch Road with Sheppenhall Lane. The walking distance between the site access and the crossroads is some 250m, which is within the recommended 400m walking distance for acceptable access to public transport services.

The principal bus service passing through the junction is the service 72. This operates 6 services per day from Nantwich and 4/5 services per day from Whitchurch, Marbury and Wrenbury. An extract from the bus timetable is attached to the Transport Statement as Appendix 1 and shows that there is a service linking the crossroads (Departs 08:05) to Nantwich (arrives 08:23) for the morning commute and in the evening there are services leaving Nantwich (16:35 and 17:35) and serving the crossroads (16:53 and 17:53)

Therefore, in light of the above, it is not considered that the site's lack of sustainability is of such magnitude, in this case, to outweigh the benefits of the scheme to the heritage asset.

### ***Amenity***

A distance of 21m between principal windows and 13m between a principal window and a flank elevation are generally regarded to be sufficient to maintain an adequate standard of privacy and amenity between residential properties. The layout provided demonstrates that distances in excess of 35m will be maintained to the nearest neighbouring dwellings on the opposite side of Sheppenhall Lane to the east. A distance of approximately 21m will be maintained between the nearest proposed dwelling (plot 6) and the rear elevations of the properties on the west side of Sheppenhall Lane. This measurement is taken from the corner of the proposed dwellings, and therefore greater separation will be achieved between the actual elevations and principal windows will not be directly opposing.

A distance of only 5m will be achieved between the flank elevation of the proposed dwelling on plot 1 and the flank elevation adjoining property, known as Stanley Bank, immediately to the north. This dwelling includes a principal window at ground floor level in the side elevation close to the back of the building. However, there is no recommended minimum separation between two flank elevations and similar relationships already exist between the existing properties on the western side of Sheppenhall Lane. Furthermore, the dwelling on plot 1 has been stepped forward slightly to avoid any loss of direct sunlight from the south to the principal window in question. The proposed dwelling is also stepped forward of the front building line of Stanley Bank and the application of the 45 degree test demonstrates that there would not be any loss of light to the principal windows in its front elevation as a result.

To turn to the amenity standard that would be achieved within the development, in the majority of cases the recommended minimum separation distances set out above would be achieved. However, there are a number of cases where separation distances between principal windows have been reduced to 16m to the front of properties.

In respect of separation distances to the front of dwellings, modern urban design principles encourage tightly defined streets and spaces, with parking to the rear to avoid car dominated frontages. The reduction of separation distances between front elevations helps to achieve these requirements. Furthermore, those rooms which face on to the highway are always susceptible to some degree of overlooking from the public domain. On this basis, it is considered that, where it is desirable in order to achieve wider urban design objectives, a reduction to 16m between dwellings could be justified.

Furthermore, whilst the minimum density standard of 30 dwellings per hectare has been omitted, Government advice in PPS.3 indicates that local planning authorities should still have regard to the need to make effective and efficient use of land in the consideration of planning applications. If the

minimum standards were to be achieved, it would not be possible to accommodate the number of dwellings which are currently proposed and additional greenfield land would be required in order to generate the required amount of revenue to fund the restoration of the Abbey.

A private amenity space of c.50-60sq.m is also usually considered to be acceptable for new family housing. The indicative layout indicates that this can be achieved in all cases. It is therefore concluded that the proposed development would be acceptable in amenity terms and would comply with the requirements of Policy BE.1 of the Local Plan.

### ***Ecology***

According to the interim policy, it must be demonstrated that proposed developments and their infrastructure must not impact on designated or candidate European Sites (Special Areas of Conservation; Special Protection Areas; Ramsar Sites and Offshore Marine Sites) protected under the European Habitats Directives 92/43/EEC or the Conservation of Habitats and Species Regulations 2010

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate "in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment" among other reasons.

The Directive is then implemented in England and Wales by the Conservation (Natural Habitats etc) Regulations 1994 ("the Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

Regulation 3(4) of the Regulations provides that the local planning authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must have regard to the requirements for derogation referred to in Article 16 and the fact that Natural England will have a role in ensuring that the requirements for derogation set out in the Directive are met.

If it appears to the planning authority that circumstances exist which make it very likely that the requirements for derogation will not be met then the planning authority will need to consider whether, taking the development plan and all other material considerations into account, planning permission should be refused. Conversely if it seems from the information that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements will be met or not, a balanced view taking into account the particular circumstances of the application should be taken and the guidance in paragraph 116 of PPS9.

In line with guidance in PPS9, appropriate mitigation and enhancement should be secured if planning permission is granted. In respect of this site, a number of ecological surveys have been

undertaken. The Council's ecologist has examined the surveys and commented that the likely impacts of the proposed development upon protected species is restricted to; great crested newts, badgers and breeding birds (including barn owl).

Great crested newts have been recorded at one pond within 250m of the proposed development and a second pond beyond 250m of the development. The ecological consultants appointed by the applicant could not gain access to survey a third pond (a garden pond) in close proximity to the proposed development. The Councils Ecologist advises that whilst no survey of this pond has been undertaken it is unlikely to support a significant great crested newt population.

Additionally, there is a fourth pond within 250m of the development that was dry at the time it was visited by the applicant's ecologist. If this pond and the associated ditch habitat were to hold water during the spring/summer period it is likely that newts breeding at the nearby ponds would also breed here. The status of great crested newts at this pond is unknown due to the lack of a full survey. However, considering the pond's small size, the Councils Ecologist advises that it is unlikely that to support anything other than a small population.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected, the planning authority must have regard to the Habitat Regulations when determining this application. In particular, the LPA must consider whether Natural England is likely to grant a derogation license. The Habitats Regulations only allow a derogation license to be granted when:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favorable conservation status of the species will be maintained.

For the reasons set out in detail above, it is considered that this proposal which will enable the restoration of a nationally significant listed building at risk constitutes an overriding public interest in the light of the Habitat Regulations. The applicant has demonstrated that there are no suitable alternative sites and, subject to conditions, as detailed below, it is considered that the favorable conservation status of the species will be maintained.

The Councils Ecologist advises that the proposed development is likely to have an adverse impact on great crested newts through the loss of relatively small area of terrestrial habitat within 250m of a known breeding pond. The proposed development also poses the risk of killing/injuring any newts present on the site when the works are undertaken. The impacts are likely to be relatively low. However, in the absence of mitigation, the risks of an offence occurring are significant enough to warrant the implementation of proportional mitigation/compensation.

To mitigate the risk posed to great crested newts, the applicant's ecologist has recommending the trapping and exclusion of newts from all parts of the application site within 250m of both the pond known to support breeding great crested newts and any 'dry' pond. The mitigation proposals have therefore been formulated to mitigate for the worst case scenario which may occur if conditions at the 'dry' pond were favourable for breeding newts.

In addition, the remainder of the application site will be enclosed with temporary amphibian fencing and will be hand searched for amphibians prior to development commencing.

The construction of two amphibian hibernacula and an additional length of native species hedgerow is also proposed to compensate for the loss of terrestrial habitat associated with the proposed development.

One of the hibernacula appears to be on third part land outside the application site boundary. If planning consent is granted, thought needs to be given as to whether a section 106 agreement may be required to secure the implantation of this aspect of the proposed mitigation.

The Councils Ecologist advises that the proposed mitigation is appropriate and proportional to the potential impacts of the proposed development and is likely to maintain the favorable conservation status of the great crested newt.

There appears to be a loss of potential badger foraging habitat associated with the proposed development. The detailed survey report before he is able to fully assess the level of impact of this.

The mature trees on site have the potential to support barn owls. Confirmation of whether any evidence of barn owls was recorded during the surveys of the trees is required prior to the determination of the application. This information has been requested from the applicant and an update will be provided to Members at committee.

The proposed development has the potential to have an adverse impact breeding birds, potentially including the more widespread BAP priority species. If planning consent is granted standard conditions will be required to safeguard breeding birds.

The proposed development will result in the loss of neutral grassland habitat. The grassland habitats on site are of some relatively limited nature conservation value on the local context.

In summary, subject to the imposition of conditions to secure appropriate compensation / mitigate, it is considered that the proposal will be acceptable in ecological terms, and that the favourable conservation status of the relevant protected species will be maintained. The proposal therefore complies with Policy NE.5 (Nature Conservation and Habitats)

### ***Highway Safety***

The Parish Council and other objectors to the scheme have expressed concerns about traffic generation from the development, given the narrow width of Sheppenhall Lane. Other areas of concern relate to the junction of Sheppenhall Lane with the A530, as well as the A533 itself which has a poor accident record.

A transport statement has been submitted which explains that the internal site layout is designed to be accessible by a refuse vehicle, and turning opportunities for service vehicles are provided at regular intervals within the development

The site access will be in the format of a traditional residential street where it meets Sheppenhall Lane. This will include a 5.5m wide carriageway and a 2.0m footway on both sides of the access road. The internal roads will be designed to an adoptable standard.

Visibility of a minimum 2.4 x 43m will be provided in both directions from the new site access and standard junction radii will be provided on the access. A number of dwellings are shown with a front

access to Sheppenhall Lane, although these would be served via a private driveway that will effectively run parallel to Sheppenhall Lane and link to the internal site road. A single dwelling on the north side of the access is shown to have an independent and direct access driveway to Sheppenhall Lane and this will also be provided with a turning area to allow cars to enter and leave that plot in forward gear.

A footway is to be provided from the site access to the north east boundary of the site along Sheppenhall Lane. There is limited footway provision along Sheppenhall Lane although the Sheppenhall Grove housing area, opposite the development site on Sheppenhall Lane, is provided with footways throughout and has provided some footways for a limited section of Sheppenhall Lane, specifically around the Sheppenhall Grove junction.

Sheppenhall Lane is subject to 30mph speed limit, between the site access position and the A530 Whitchurch Road. South of the site access, the road narrows to a single track and becomes a rural lane. There is anticipated to be no material traffic impact to and from the south along Sheppenhall Lane arising from this proposal.

Whilst there is only intermittent footway provision along Sheppenhall Lane to link the site to Whitchurch Road, there are verges along the road that can be used by some pedestrians and generally traffic flows and traffic speeds are very low. The presence of pedestrians in the carriageway is not uncommon in this area, and intervisibility between vehicle drivers and pedestrians is excellent such that there is no material danger arising from these activities.

The traffic impact arising from the development has been assessed with reference to the TRICS database of previously surveyed residential development sites. Trip rates per household are likely to be as follows: AM Peak Hour 0.190 0.395 0.585; PM Peak Hour 0.391 0.249 0.640.

For the development of 43 dwellings, the above trip rates would lead to the following traffic movements at the site access, and to and from the north along Sheppenhall Lane: (AM Peak Hour 8 17 25; PM Peak Hour 17 11 28) From this information, using the industry standard for predicting the likely level of traffic movements, it can be seen that the proposed development is likely to result in less than 1 vehicle movement every 2 minutes in the busiest hour of the day. At all other times of the day the traffic movements would be less.

The level of the proposed development impact can be compared with the development opposite, at Sheppenhall Grove. That development consists of some 48 dwellings, compared to the 43 dwellings on the proposed site. However, the Sheppenhall Grove site consists of all detached dwellings, with some having been extended to 6 bedrooms. As such, the current proposal can be expected to have a reduced impact when compared to that existing development.

Notwithstanding the difference in scale of dwellings and the increased number of dwellings, the report concludes that the highway network comfortably accommodates the demand arising from the existing houses and it should be accepted that a similar, or more likely slightly less level of impact from the application site would similarly not lead to any difficulties. For the reasons set out, the applicant's transport consult considers that there would be no difficulties in accommodating the impact of the proposed 43 dwellings on the application site.

The Strategic Highways Manager has examined the application and the accompanying report and concurred with its conclusions.

The internal site layout is considered to be acceptable and an adequate level of parking is proposed for all of the units, having regard to the rural nature of the site.

The proposed access point is considered to be safely designed with adequate visibility and the level of traffic generation on both Sheppenhall Lane and the A530, and at the junction of the two roads is not considered to be sufficient to generate any adverse impacts or the requirement for any junction improvements or mitigation.

Although there is no continuous footway between the site and the A530, given the relatively low traffic volume and vehicle speeds in this location, it is not considered that the proposal would be detrimental to the safety of existing or future pedestrian's users of the road. A new footway would be provided under a Section 278 agreement between the site entrance and the end of the existing highway verge to the north side of the site, which would improve pedestrian accessibility for both the existing and proposed development in this location.

On this basis the Strategic Highways Manager recommends approval, subject to the imposition of appropriate conditions. Therefore, whilst the concerns of the Parish Council and local residents are noted, in the absence of any objection from the Strategic Highways Manager, it is not considered that a refusal on highway safety, traffic generation or parking grounds could be sustained.

### ***Drainage and Flooding***

The applicant has submitted with the application, a detailed Flood Risk Assessment, which concludes that the site is located in an area identified as having a low probability of flooding and therefore a Flood Risk Assessment has been prepared in accordance with PPS 25. The site falls within Flood Zone 1. PPS 25 confirms that the land use falls into 'more vulnerable' and this is appropriate for Flood Zone 1. The surface water run-off is to be discharged via infiltration, both for the highways and for the private plot drainage. Detailed design considerations in relation the proposed adopted foul and surface water systems can be dealt with by way of Grampian style conditions. The planning layout drawing indicates the proposed impermeable area on the site will be circa 0.736 hectares. If the surface water run-off is managed correctly, then there will be no increase in flood risk to the development or to others. In summary, the development can be considered appropriate for Flood Zone 1 in accordance with PPS 25.

United Utilities and the Environment Agency have considered the report and raised no objections subject to the imposition of appropriate planning conditions. Therefore it is concluded that the proposed development will not adversely affect onsite, neighbouring or downstream developments and their associated residual flood risk. Whilst resident's concerns about the capacity of existing sewerage infrastructure are noted, in the absence of any objection from the statutory drainage consultees, it is not considered that a refusal on drainage or flooding grounds could be sustained.

### ***Affordable Housing***

According to Policy RES.7, in settlements of 3,000 population or less, a threshold of 5 units will be applied, for the provision of affordable housing and, where there is a proven need, the threshold will be sites of more than 1 unit.

The Strategic Housing Market Assessment 2010 identified that for the Audlem sub-area where the site is located there is a net requirement for 6 new affordable units per year between 2009/10 – 2013/14. A rural housing needs survey was carried out in 2007 for the Audlem Ward, which included the Newhall Parish. The survey was conducted by sending out a questionnaire to all the households in the Audlem Ward. 306 questionnaires were sent out and 98 returned for the Newhall Parish giving a return rate of 32%. The rural housing needs survey identified that in Newhall there were a total of 18 hidden households (households with at least 1 adult in them who wished to form a separate household), 13 of which gave lack of affordable housing as a factor. 9 of the hidden households stated that they would prefer shared ownership or rented tenures. The survey also established that there are 9 people who left the Hankelow Parish and would wish to return if there was cheaper housing available. The Audlem Rural Housing Needs Survey 2007 has identified that there is a need for at least 9 new affordable homes in the Hankelow Parish.

The applicant is offering 5 units of affordable housing which is 11.5% of the total dwellings proposed on this site. Although the affordable housing provision offered is lower than the normal requirement for 30% affordable housing (which would be 12 units out of the 43) the provision of the full policy requirement in terms of affordable housing within the scheme would increase the overall costs of the development and would necessitate further enabling development to cover the shortfall. 30% of the additional units would also need to be affordable, which in turn would lead to even more units being constructed and more harm to the character and appearance of the open countryside, until the costs of providing affordable units and the revenue generated from the site were in balance. For this reason, it is unusual for any affordable housing to be secured as part of an enabling development application. Consequently, the fact that in this case it has been possible to achieve 11.5% affordable housing provision is considered to be a significant benefit of this proposal.

Therefore, in this case, having regard to the detailed financial information which has been submitted and the sensitive nature of this site, it is considered to be acceptable to reduce the affordable housing requirement.

The Housing Section have agreed that the affordable units should be 3 x 2 beds and 2 x 3 beds, to be delivered on a discounted for sale basis at a discount of 40% from open market value. In the event of the developer experiencing difficulties in selling the discounted units, another form of intermediate tenure housing would also be acceptable provided it was as affordable as the discounted for sale units and was in line with PPS3 and the Affordable Housing Interim Planning Statement.

The Affordable Housing Interim Planning Statement also states that, “where 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. Therefore, subject to the Section 106 agreement making provision for the discounted units to be retained in perpetuity, there are no objections on affordable housing grounds.

### ***Housing Land Supply***

The proposal would also assist the Council to meet its housing land requirements, which would be a further significant benefit of the proposal. National policy guidance (PPS3) states that Local Authorities should manage their housing provision to provide a five year supply. It is acknowledged that the Council does not currently have a five year housing land supply and, accordingly, in the light

of the advice contained in PPS3 it should consider favourably suitable planning applications for housing.

Furthermore, the Written Ministerial Statement: Planning for Growth (23 March 2011) by The Minister of State for Decentralisation (Mr. Greg Clark) states that:

*“The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy.”* It goes on to say that *“when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. Where relevant - and consistent with their statutory obligations - they should therefore, inter alia,*

- consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession;*
- take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;*
- consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);*
- ensure that they do not impose unnecessary burdens on development”*

The proposal will help to maintain a flexible and responsive supply of land for housing, which is specifically identified above as a “key sector”. The proposal will also create jobs and economic growth in the construction industry and all the associated supply networks. The Secretary of State for Communities and Local Government has made it clear that he will take the principles in this statement into account when determining applications that come before him for decision. In particular, he will attach significant weight to the need to secure economic growth and employment.

### **Infrastructure**

Objectors to the scheme have expressed concerns about the impact of 43 additional dwellings on infrastructure provision including education and public open space.

According to the applicant's submission, discussions have taken place with the relevant Council officers in respect of education and open space requirements. It has been confirmed that no specific financial contributions will be required which ensures that the maximum funds generated by the enabling scheme will go to the Abbey restoration. By email dated 9 March 2011, Mr C Lawton of the Council confirmed that there would be no open space requirements for the development. By email dated 3 December 2010, Ms S Davies confirmed that the Council did not require an education contribution for the development. Verification of this has been provided by the Council's Greenspaces Section. However, the Education Department has commented that the situation has changed a little since the advice was given in 2010 and projections show that the local schools (Wrenbury and Sound) will be oversubscribed from 2016, without considering this development. The development of 43 dwellings with 2+ bedrooms will generate 7 primary and 6 secondary aged pupils. Based on the standard multiplier formula, they have therefore requested a contribution of £75,924.

A planning obligation must comply with the following three tests as set out in the Community Infrastructure Regulations 2010:

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

The developer, has advised that a contribution of £30,000 is the maximum that can be achieved without rendering the development unviable and generating the need for further enabling development as a result. As with the affordable housing provision, this would be undesirable as these dwellings would in themselves generate a further requirement for education contributions, which in turn would lead to even more units being constructed and more harm to the character and appearance of the open countryside, until the costs of providing the education contribution and the revenue generated from the site were in balance.

In the light of the above, therefore, it is considered that a contribution of £30,000 is fairly and reasonably related in scale and kind to the proposed development, in accordance with the Community Infrastructure Regulations 2010.

### **Noise**

Due to the proximity of the site to the A530 road, Environmental Health has recommended that an assessment of traffic noise be carried out and any necessary mitigation measures identified and implemented. This can be secured through an appropriate condition.

### **Contaminated Land**

The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. The reports submitted in support of the planning application recommend that a watching brief is maintained during the site works. As such, and in accordance with PPS23, Environmental Health recommends that the standard contaminated land conditions, reasons and notes be attached should planning permission be granted.

### **Section 106 Mechanism for Release of Funds**

Unlike many enabling development proposals which involve a phased release of funds as the new units are constructed, in this case the developer is proposing that the money would be paid in a lump sum on commencement of development. This has the advantage of allowing work to commence on the Abbey as soon as work starts on the enabling development and completion of the restoration is not dependent upon completion of the enabling development.

The Council's consultants have stated that the availability, rate and dependence on bank funding is likely to play an important role in terms of whether or not the enabling development goes ahead. Without the certainty of significant affordable housing income and in a small village location with unproven demand, it may be difficult to secure bank finance, particularly against the current difficult economic back drop. In addition to the level of bank funding required and the timing of that funding, the borrowing rate is also of importance as this was a major differentiator between the development appraisal undertaken by the quantity surveyor and the one we have undertaken. As development

work cannot get underway until the £2m enabling sum is paid, the timing and availability of bank funding may well create a major hurdle to the total proposed enabling arrangement.

The developers are confident that the availability of finance for the project will not be problematic and it is considered that this issue should be given limited weight in the consideration of the application. In the event that funds could not be secured, the enabling development would not take place, and therefore no harm would occur to other planning interests barring work to the Abbey. There is no danger of a worst case scenario occurring whereby the enabling development is started and/or completed out and the works to the Abbey are not. The payment of the lump sum on commencement also helps to guard against this eventuality.

### **Legal Position**

Newhall Parish Council have not obtained an opinion from Counsel in the usual sense, although legally trained local residents (who have attended Bar School) have offered a view. The Borough Solicitor notes that the proposed development and Combermere Abbey are in the same locality and, whilst noting the observations of Newhall Parish Council, disputes the applicability of the quoted case law in this particular situation. The proposal is for enabling development, which is designed to secure the long term future of a heritage asset in the local area, in accordance with Policy HE11 'Enabling Development' of PPS 5. Accordingly the Borough Solicitor is satisfied that the proposed contribution is a material consideration to be taken into account when making a determination on this particular application. The mechanism to be used for the collection and administration of the proposed contribution will be constructed so as to fall within the terms of section 106 of the Town and Country Planning Act 1990 (as amended).

## **9. CONCLUSION**

The site is located within the Open Countryside, as defined in the Replacement Local Plan, where there is normally strictly control over new development. However, exceptions can be made to the general policy of restraint for "enabling development".

Enabling Development is that which would normally be rejected as clearly contrary to other objectives of national, regional or local planning policy, but is permitted on the grounds that it would achieve a significant benefit to a heritage asset. Such proposals are put forward on the basis that the benefit to the community of conserving the heritage asset would outweigh the harm to other material interests. Therefore, the essence of a scheme of enabling development is that the public accepts some disbenefit as a result of planning permission being granted for development which would not otherwise gain consent, in return for a benefit funded from the value added to the land by that consent.

In this case the enabling development would generate funds to restore the north wing of Combermere Abbey, a Grade 1 Listed Building which is in Priority Category A on the English Heritage Register of Buildings at Risk, as a building being in immediate risk of further rapid deterioration or loss of fabric with no way forward agreed. The proposed works, are the conversion of The North Wing to form a dwelling involving its repair, alteration and refurbishment on the ground and first floor and remodeling and simplifying its roof structure attics.

Combermere Abbey is thought to have originated in 1133 as a Cistercian monastery, but nothing of this survives. In 1774, it was recorded as largely timber framed but alterations took place in 1795 and after 1814 including the addition of new service wings. The abbey is set in its own extensive

grounds next to a mere, with service ranges, a sundial and game larder close by to the south and an ice house and stables to the north east, all set within the open countryside. Therefore, the Abbey is considered to be a significant heritage asset worthy of enabling development.

This programme of repairs and improvements has removed the Game Larder from the at risk register, brought the stable complex into good repair and economically beneficial use as holiday accommodation, and conserved the roof and external wall of the west wing and library, as well as providing the temporary support and cover for the North Wing. The farming business has been significantly improved, and weddings and corporate events contribute revenue to the maintenance of the estate. In 1993 English Heritage offered £209,947 in grant aid to assist the owners with repairs and conservation work to the abbey and in 2000 a further grant of £157,528 was offered. This is focussed on repairs to the library. However, there is a limit to how much funding English Heritage is able to contribute to the deficit between the cost of repair to Combermere Abbey and its value when restored to good condition. In cases such as this English Heritage are able to contribute a proportion of the costs only, rather than the full amount.

Notwithstanding the excellent progress that has been made by the owner in bringing the historic assets at Combermere into good repair and sustainable use, the North Wing in particular remains at very high risk. A sum of £2m is needed to bring the structure into good repair and use. It is therefore considered that enabling development is necessary to secure the restoration of the Abbey, having regard to its structural condition and the availability of alternative means of securing the necessary funding.

A judgement must be made as to whether the benefits of an application for enabling development to secure the future conservation of a heritage asset outweigh the disbenefits of departing from the development plan, having regard not only to the heritage considerations, but also to all relevant planning considerations such as the character and appearance of the open countryside, highway safety, drainage and ecology.

English Heritage's 2008 publication *Enabling Development and the Conservation of Significant Places* and Policy HE11 of PPS5 provide guidance on the issues that should be considered in reaching planning decisions on whether the benefits of an application for enabling development to secure the future conservation of a heritage asset outweigh the disbenefits of departing from the development plan.

Having assessed the application carefully, and following advice from both English Heritage, and independent external consultants, it is considered that the proposal meets all of the tests set out in these documents. In particular:

- it will not materially harm the significance of the heritage asset or its setting
- it will avoid detrimental fragmentation of management of the heritage asset
- it will secure the long term future of the heritage asset and, where applicable, its continued use for a purpose sympathetic to its conservation
- it is necessary to resolve problems arising from the inherent needs of the heritage asset, rather than the circumstances of the present owner, or the purchase price paid
- there is a source of funding that might support the heritage asset without the need for enabling development
- the level of development is the minimum necessary to secure the future conservation of the heritage asset and of a design and type that minimises harm to other public interests.

English Heritage, are convinced of the outstanding historic and architectural significance of Combermere Abbey and of the need to keep the collection with the estate in order to sustain this significance. This has clear and distinct heritage benefits that will be lost forever were sale of the estate to be forced.

The new enabling development scheme, properly secured through a Section 106 agreement, could keep the collection in place, see the repair of the important North Wing and leave the management of the estate in the hands of the current owner, who has demonstrated herself to be committed to the conservation of the estate and to opening it up to public access in a way that is compatible with the running of the businesses that sustain it.

However, English Heritage have stated that the establishing where the balance of public benefit lies, is clearly a matter for Cheshire East in its role as planning authority, with an overview of all relevant planning considerations.

Enabling development is by definition contrary to Planning Policy, which has been formulated to protect the public interest and therefore it is inevitable that some degree of harm will result from the development. The nature and magnitude of the harm caused must be balanced against the benefit in terms of restoring the listed building.

In this case, the impact of the development is considered to be acceptable in terms of its impact on the character and appearance of the surrounding open countryside, the layout and design, the sustainability of the site's location, neighbour amenity, hedgerows, highway safety, drainage and flooding, greenspaces provision, education provision, ecological impact, contaminated land and noise implications, when weighed against the restoration of the listed building. Subject to the receipt of amended plans, it is considered that the impact on protected trees can also be adequately mitigated. There are also considered to be other potential benefits arising from the scheme, which are also material considerations. These include affordable housing, as well as the contribution to housing land supply and economic growth.

It is considered, that the benefits of the enabling development would outweigh the level of harm that would be generated. As a result, the development complies with the relevant national guidance and these are material considerations, which in this case are sufficient to outweigh the provisions of the development plan policy. However, a legal agreement will be required to ensure that the benefits to the heritage asset are fully secured.

Accordingly, the recommendation is that Strategic Planning Board should approve the application, as a departure from the Development Plan.

## **10. RECOMMENDATIONS**

**APPROVE subject to a legal agreement to secure**

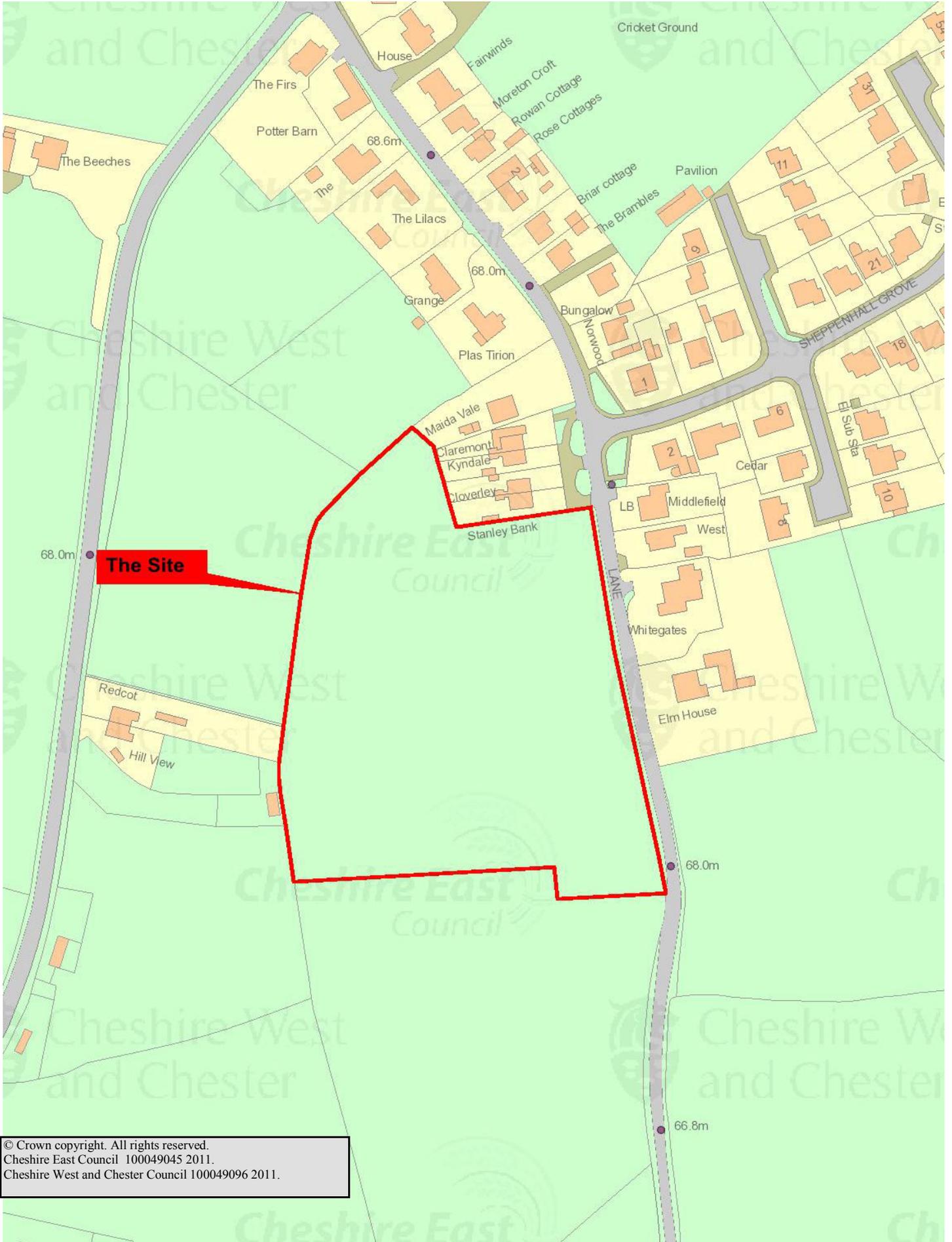
- 1. the delivery of the heritage benefits of the scheme and to secure affordable housing comprising 3 x 2 bed units and 2 x 3 bed units, to be delivered on a discounted for sale basis at a discount of 40% from open market value or as another form of intermediate tenure housing which is offered at the same level of affordability and complies with the requirements of PPS3 and the Councils Interim Statement on Affordable Housing.**
- 2. An education contribution of £30,000**

**3. Great Crested Newt Hibernacula**

and the following conditions:

1. Standard
2. Plans
3. Materials
4. Submission of detailed landscape proposals
5. Implementation of landscape proposals.
6. Arboricultural Method Statement and specification for all works within tree root protection areas.
7. Tree Protection.
8. Implementation of Tree Protection
9. Submission/ approval /implementation of Programme of Arboricultural works
10. Submission/ approval /implementation of Boundary treatment
11. Submission/ approval /implementation of drainage and service routes.
12. Retention of hedgerow on site frontage to south of access point
13. Submission/ approval /implementation of Drainage details
14. Submission/ approval /implementation of a scheme to limit the surface water run-off generated by the proposed development,
15. Submission/ approval /implementation of a scheme to manage the risk of flooding from overland flow of surface water,
16. Site must be drained on a separate system, with only foul drainage connected into the foul sewer.
17. Submission/ approval /implementation of Vehicular access details
18. Provision of Parking
19. Submission/ approval /implementation of drawing showing provision of footpath link.
20. Surfacing materials
21. Details of bin storage
22. Removal of permitted development rights
23. Submission/ approval /implementation of assessment of traffic noise from the A530 and any recommended mitigation
24. Restriction of construction hours
  - Monday – Friday 08:00hrs – 18:00hr
  - Saturday 09:00hrs – 14:00hrs
  - With no Sunday or Bank Holiday working
25. Restrict any piling to
  - Monday – Friday 08:30hrs – 17:30hrs
  - Saturday 09:30hrs – 14:00hrs
  - Sunday Nil
26. Restrict “floor floating” to:
  - Monday – Friday 07:30hrs – 20:00hrs
  - Saturday 08:30hrs – 14:00hrs
  - Sunday Nil
27. Submission/ approval /implementation of external lighting
28. Submission/ approval /implementation of contaminated land assessment and any recommended mitigation
29. Safeguarding Breeding birds
30. Provision of Bird and Bat Boxes

- 31. Landscape proposals – including hedgerow gapping up, provision of rough grassland buffers associated with hedgerows etc.**
- 32. Implementation of GCN mitigation**



Application Number	<b>10/2647C</b>
Proposal	<b>ERECTION OF 13 NO. AFFORDABLE HOUSES, ASSOCIATED PARKING AND LANDSCAPING AND NEW VEHICULAR ACCESS. LAND NORTH OF, TWEMLOW LANE, TWEMLOW GREEN</b>
Location	<b>24-Nov-2010</b>
LDFC	<b>13-Oct-2010</b>
Expiry Date	<b>Wind Turbine Dev Safeguarding Area</b>
Constraints	<b>Primary Surveillance Radar PSR 200m</b>
	<b>Agricultural Land GRADE 3</b>
	<b>Contaminated land Located on Potential Contaminated Site - Contact Contaminated L</b>
	<b>Jodrell Bank outer zone</b>
	<b>High priority military low flying area likely to raise considerable and signific</b>
	<b>Congleton Local Plan Local Plan Area</b>
	<b>Congleton Local Plan Jodrell Bank Radio Telescope C</b>
	<b>Congleton Local Plan Open Countryside</b>
	<b>Congleton Local Plan Inset no.16</b>

**SUMMARY RECOMMENDATION:** Approve with conditions.

**MAIN ISSUES:**

- Principle of the Development
- Housing Need
- Highways and Parking
- Amenity
- Design and Layout
- Landscaping and Trees
- Jodrell Bank Telescope
- Section 106 Agreement – Affordable Housing and Management of the Public Open Space and Trees Retained within the site

**SUMMARY**

This application is being re-assessed to address the issues raised in a Judicial Review, which led to the decision being quashed on 10<sup>th</sup> January 2012. The previous application was approved subject to the completion of a Section 106 Agreement, by the Southern Planning Committee on 2<sup>nd</sup> February 2011. (The Section 106 Agreement was completed on 29<sup>th</sup> September 2011 and the planning permission issued on 6<sup>th</sup> October 2011).

The report is presented to the Strategic Planning Board in order that the application can be assessed, with the errors identified by the Judicial Review in the previous report to the Southern Planning Committee, corrected and new information assessed.

The detailed grounds for Judicial Review were that the Council did not adequately have regard to a previous refusal in April 2008 (07/1227/FUL) and '*failure to take account of the material consideration whether the development comprised a small scheme.*' In addition to this there were material errors of fact contained within the report, which have been amended. The errors were as follows:

- The report wrongly stated that the Congleton Borough Rural Housing Survey 2005 concluded that in Twemlow there was a need for 18 new affordable homes
- The report also stated that of the 17 people who had moved out of the area, 15 would not have done so if there was cheaper housing available to them

## **DESCRIPTION AND SITE CONTEXT**

The application site comprises part of a triangular parcel of land, bounded by Twemlow Lane on the south west side, Goostrey Lane on the eastern side and the former Ministry of Defence fuel storage site to the north. The eastern boundary with Goostrey Lane contains a variety of types of residential properties; to the southwest, on the opposite side of Twemlow Lane, are dwellings that were former Local Authority properties.

The site is 0.82 hectares in size and comprises bushes and trees (some of which are subject to protection orders), and rough grassland, which is mostly level with a slight fall from east to west across the site. The site is defined as being within the Open Countryside and is adjacent to the infill boundary line of Twemlow, as defined in the adopted local plan.

## **DETAILS OF PROPOSAL**

The proposal is for the development of 13 affordable houses that would be constructed by McInerney Homes and then acquired and managed by the Plus Dane Group, which is a registered social housing company. The tenure is proposed to be a mix of rented and shared ownership, which would, should the application be approved, be secured by a Unilateral Undertaking submitted with the application. An Affordable Housing Statement and Local Housing Need Justification Statement has been submitted with the application and this is discussed in the main body of the report.

Originally the proposal comprised 14 dwellings, which has been reduced to 13 in order to achieve a more acceptable layout, and recognise concerns in relation to the Jodrell Bank Telescope. The layout of the site would comprise a vehicular access taken from Twemlow Lane, with an area of informal, public open space to the northwest of the access. Six of the dwellings would be sited on the south eastern side of the access road, which would then have a turning head and an entrance to a private parking courtyard. This would provide parking and vehicular access to the seven properties, facing on to Twemlow Lane. These seven dwellings would take the form of two semi-detached units at either end and a terrace of three in the centre, the terraced properties would be slightly set back from the semi-detached properties on either side. The properties would comprise eight 2 bed and five 3 bed houses.

## **RELEVANT HISTORY**

The previous approval bearing this reference number (10/2647C) was quashed in the High Court of Justice Administrative Court on 10<sup>th</sup> January 2012. This was on the grounds of *'failure to take into account the April 2008 decision'* and *'failure to take into account the material consideration whether the development comprised a small scheme'*.

07/1227/FUL            2008    Refused application for 16 dwellings

- Failure to meet the criteria for affordable housing exception sites
- Inadequate private open space
- Impact on protected trees
- Detrimental to highway safety
- No provision for sustainable transport options

- Insufficient information related to protected species

07/0165/FUL            2007    Withdrawn application for 16 dwellings

06/0120/FUL            2006    Withdrawn application for 16 dwellings

## **POLICIES**

### **National Guidance**

PPS1 Delivering Sustainable Development

PPS3 Housing

PPS9 Biodiversity and Geological Conservation

PPG13 Transport

PPS23 Planning and Pollution Control

### **Regional Spatial Strategy**

DP1 Spatial Principles

DP2 Promote Sustainable Communities

DP4 Making the Best Use of Existing Resources and Infrastructure

DP5 Manage Travel Demand: Reduce the Need to Travel, and Increase Accessibility

DP7 Promote Environmental Quality

DP8 Mainstreaming Rural Issues

DP9 Reduce Emissions and Adapt to Climate Change

RDF1 Spatial Priorities

RDF2 Rural Areas

RDF4 Green Belts

L2 Understanding Housing Markets

L4 Regional Housing Provision

L5 Affordable Housing

RT2 Managing Travel Demand

RT9 Walking and Cycling

EM1 Integrated Enhancement and Protection of the Region's Environmental Assets

### **Congleton Local Plan 2005**

The site is not allocated in the Local Plan but the following policies apply:

PS8 Open Countryside

H1 & H2 Provision of New Housing Development

H6 Residential Development in the Open Countryside and Green Belt

H13 Affordable and Low Cost Housing

H14 Rural Exception Sites

GR1 New Development

GR2 & GR3 Design

GR6 Amenity and Health

GR9 Parking and Access

GR18 Traffic Generation

NR1 Trees & Woodlands

GR22 Open Space Provision

SPG2 Provision of Private Open Space in New Residential Developments

SPD6 Affordable Housing and Mixed Communities

## OTHER MATERIAL CONSIDERATIONS

### Other Material Considerations

The Council has adopted an Interim Planning Statement on Affordable Housing. This document sets out the Council's definition of affordable housing, specific site requirements, as well as providing guidance on development considerations and means of securing their provision. It also sets out the Council's requirements for achieving mixed and balanced communities, including the housing needs of specific groups.

The statement has been produced within the framework of the three adopted Local Plans for the former District authorities of Crewe and Nantwich, Congleton and Macclesfield, the Council's Strategic Housing Market Assessment (SHMA) and government guidance as expressed in national planning guidance and policy statements. It is also consistent with the Council's Corporate Objectives and the Sustainable Community Strategy. The statement was adopted on 24<sup>th</sup> February 2011.

### Draft National Planning Policy Framework

*"The Governments key housing objective is to increase significantly the delivery of new homes. Everyone should have the opportunity to live in high quality, well designed homes, which they can afford, in a community where they want to live. This means:*

- *increasing the supply of housing*
- *delivering a wide choice of high quality homes that people want and need*
- *widening opportunities for home ownership; and*
- *creating sustainable, inclusive and mixed communities, including through the regeneration and renewal of areas of poor housing*

### Written Ministerial Statement: Planning for Growth (23<sup>rd</sup> March 2011)

The Minister of State for Decentralisation issued this statement on 23<sup>rd</sup> March 2011 and advice from the Chief Planner, Steve Quartermain states that it is capable of being regarded as a material consideration. Inter alia it includes the following:

*"When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate **housing**, economic and other forms of sustainable development. Where relevant – and consistent with their statutory obligations – they should therefore:*

- (i) Consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after recent recession;*
- (ii) Take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;*
- (iii) Consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased customer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);*
- (iv) Be sensitive to the fact that local economies are subject to change and so take a positive approach to development where new economic data suggest that prior assessments of needs are no longer up-to-date;*
- (v) Ensure that they do not impose unnecessary burdens on development.*

The Government has also stated that there should be a presumption in favour of sustainable development.

This states inter alia that:

*“There is a presumption in favour of sustainable development at the heart of the planning system, which should be central to the approach taken to both plan-making and decision-taking. Local planning authorities should plan positively for new development, and approve all individual proposals wherever possible.”*

PPS3 states at Para 69 that in determining planning applications for housing, Local Planning Authorities should have regard to a number of criteria including achieving a good mix of housing reflecting the accommodation requirements of specific groups, using land effectively and efficiently and ‘ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, the spatial vision for the area and does not undermine wider policy objectives.’

Para 71 goes on to state that where the Local Planning Authority can not demonstrate an up to date five years supply of housing. They should ‘consider favourably’ planning applications for housing having regard to the policy in PPS3 (Para 69) and the wider planning objectives for the area.

It is accepted that at present the Council can not demonstrate a 5 year supply and thus the Council should give favourable consideration to this proposal having regard to the criteria listed in Para 69 of PPS3.

## **OBSERVATIONS OF CONSULTEES**

### **Environmental Health**

No objection, subject to conditions relating to:

- the potential for land contamination
- limits on the hours of construction and deliveries
- limits on the hours of piling if it is necessary

### **United Utilities**

16<sup>th</sup> August 2010

No objections, subject to the site being drained on a separate system, with only foul drainage being connected to the main sewer. Surface water should discharge directly into the soakaway/watercourse.

15<sup>th</sup> December 2011

Thank you for your planning consultation of 14/12/11 for application 10/2647C. We have responded previously to the application. I believe that the application details have not changed. Therefore the previous comments still stand.

### **Strategic Highways Manager**

16<sup>th</sup> November 2011

The Traffic Statement shows that the traffic generation and impact from the site will have a negligible effect on Twemlow Lane, and once past the nearest junctions, the traffic will split and there would be no adverse impact on the local network.

The analysis of sustainable modal choice for the site shows the requisite information on: walking, cycling, bus and rail travel, and shows site has options for all of those choices. In addition the proposal offers 200% parking ratio against dwelling numbers and states that this is designed to mitigate against displacement parking onto the public highway.

The visibility available for the proposed junction is in accordance with standards set against the measured approach speeds and the SHM is satisfied that visibility to the nearside kerb is available in both directions.

The SHM considers that the Transport Statement appropriately addresses the traffic issues associated with the site and whilst sustainable modal choice is available, the SHM considers that this aspect of the analysis clearly shows these choices to be rural in nature with the limitations that can bring. Walking options have limited footways, cycling is a real option, bus services have a rural timetable and the rail link is a reasonable option from Goostrey and Holmes Chapel. The SHM also acknowledges the realistic parking provisional ratio and considers this to be robust.

The SHM recognises the constraints of this site, but feels that the parking court is a necessity given the proposed layout. However it does not comfortably align with the quality design Manual for Streets advocates. The parking arrangements are secure because of passive surveillance.

The SHM does consider that the site should provide a roadside 2 metre footpath for the frontage of the site between the new junction and the eastern boundary. It is acknowledged that there is a secondary footpath on this frontage which serves plots 1 – 6. However, the additional footpath would serve the rest of the site and provide the significant refuge for pedestrians which this site demands because of its rural nature. This is considered to be an essential link and will prevent the need for pedestrian use of the verge.

In principle, the Strategic Highways Manager has no objection to the development and recommends conditions relating to the provision of a frontage footpath, the provision of tactile paving and dropped kerbs and the submission of a suite of drawings for the proposed junction.

### **University of Manchester – Jodrell Bank Observatory**

24<sup>th</sup> August 2010

The University of Manchester opposes this application, as it would harm the efficient operation of the telescopes at Jodrell Bank Observatory. The potential electrical interference generated from the proposed development is of considerable concern, particularly because they lie to the south west of the observatory and are also less than 3 miles from the site.

As an example, an interfering signal from this location would be 4 times greater than if it came from a unit in Holmes Chapel.

The telescope can only make many of its most important observations by pointing in this direction when it is very vulnerable to stray radiation from electrical devices on the ground.

10<sup>th</sup> January 2012

We have objected to the proposed development at Twemlow Green on the grounds of the detrimental impact of radio frequency emissions on the radio astronomy observations at Jodrell Bank Observatory. We were concerned that it was approved. We would therefore like to take this opportunity to provide some of the basis of our objection along with some comments on the impact of radio interference on the research undertaken at Jodrell Bank.

Jodrell Bank Observatory conducts world-leading research using the 76-m Lovell Telescope. In addition, it operates e-MERLIN as a UK national facility, an array of telescopes in which signals from other radio telescopes across the UK are combined, together with those at Jodrell Bank, to produce images at radio wavelengths with similar detail to those produced by

the Hubble Space Telescope. (The team studying pulsars use the Lovell Telescope for much of their work and is recognised as one of the leaders in this field, using detailed timing observations to make the tests of Einstein's theories of relativity and probe the physics of objects so compact that a teaspoonful would weigh a billion tons.

The University of Manchester, Regional Development Agencies, and national research funding bodies have invested millions of pounds over the last few years in the development and operation of the telescopes and equipment as well as the development of a new Discovery Centre to communicate this research with the public.

The astronomical signals studied by radio astronomers are extremely weak: that is such large dishes equipped with the most sensitive receivers, cooled to less than -250 C are used. Many radio observatories are located in remote regions away from sources of terrestrial radio interference, in some cases with legal protection against interference and residential/commercial development. The observatory at Jodrell Bank relies on consultation within the local planning procedure.

The threshold for harmful interference to radio astronomy observations is set out in the recommendation of the International Telecommunications Union (document ITU-R 769). This quantifies the average flux density from a harmful interfering source, as received at the by a telescope, (assuming that the telescope is not pointed towards the interfering source (0dB gain).) This threshold is used both nationally and internationally to protect radio astronomy observatories. This threshold is also used as the basis of shared access to parts of the radio spectrum administered by Ofcom in the UK. In particular, there is a 50km protection zone for recognised spectrum access (RSA) centred on Jodrell Bank Observatory and other radio telescopes in the UK, which is taken into account by Ofcom for the planning of radio links and the licensing of other radio transmission equipment. The basis of the protection is that emission from a planned link or equipment should not exceed the ITU-R 769 threshold at that frequency.

Many domestic devices and appliances produce radio emissions, whether intentionally or otherwise, across a wide range of frequencies. Consequently unintentional emissions occur at frequencies used at Jodrell Bank and internationally for radio astronomy. Current EMC requirements for domestic appliances not to interfere with each other are set out by the Comité International Spécial des Perturbations Radioélectriques (Special Committee for Radio Interference or CISPR). As an indication, we may consider a typical dwelling to have a number of such devices whose emission is at the CISPR level. Given the distance from the observatory, and an allowance for propagation loss, the interference from the dwelling may be compared with the ITU-R 769 threshold. Three devices, operating at the CISPR 14-1 limit (30 dBµV at 10m), indoors (assuming 10dB building shielding) at a distance of 2.5km, assuming 10dB propagation loss due to low level clutter, would just exceed the ITU 769 threshold at 1.4 GHz. We stress, however, that the CISPR levels are designed to prevent interference to other devices (such as radio and TV) which are much less sensitive than the cooled receivers used at Jodrell Bank and other radio telescopes. Furthermore, even typical battery powered devices and toys have been measured to exceed these CISPR limits by more than a factor of 30 (eg a cordless drill measured by RTCG Project 712, Ofcom 2002).

This approximate calculation indicates why observations are already affected to some degree by radio interference from many sources. The fact that we can still make world-class observations is because in most cases, strong, short-lived interference can be recognised and removed from the data. Lower-level continuous interference can increase the general noise level and means that in general observations need to be made for longer and hence at greater cost to achieve a given sensitivity.

These calculations are indicative and approximate: In practice, the strength and nature of interference varies greatly, as does the ability to mitigate the effects of interference using sophisticated signal processing techniques and careful editing of data. Clearly, astronomers at JBO are able to operate at present, and carry out experiments, but they often rely on a wide range of techniques to reduce the impact of interference. This takes considerable effort and every increase in interference requires more effort and further developments in signal processing and analysis. Moreover, each increase in interference has the potential to make certain observations impossible, depending on the characteristics of the new source of interference. This is already starting to happen in some cases.

The potential for interference increases with the number of dwellings and its distance from Jodrell Bank and the above approximate calculations show why we are concerned about a development of this size (13 dwellings) at such a distance.

## **VIEWS OF TOWN/PARISH COUNCIL**

11<sup>th</sup> August 2010

There were concerns regarding the current speed of traffic on Twemlow Lane and the dangers when pulling out of properties. Residents were already fighting to reduce the speed limit as it was viewed to be too high. This application was intending to add even more pressure (on traffic congestion) and in the public's view, a dangerous B road. (One access is intending to serve another, with possible twenty eight cars at peak times).

It needs to be pointed out that the speeds submitted in the application were not top speeds, just a mean average which could be a distorted figure to move towards the passing of the application.

The pavement on Twemlow Lane is narrow, not serviceable to walk on and the street lighting is limited. This creates a danger when people need to travel by foot on winter mornings / evenings when it will be dark, especially over the station bridge heading towards Goostrey. The local primary school is in Goostrey and there will be the need to transport children to and from the school presumably by foot or bus. It is viewed to be unsafe when walking to and from the station or bus stop.

Many residents from Twemlow Lane have issues with the utilities, especially the water supply. The water pressure is not great enough in the morning to let one lady have a shower until 10.00am.

The surface water generally floods gardens after a large rainfall as the gullies can't cope with the volume of water.

The sewage system apparently is only designed to accommodate the current houses. Even though the application states that these things have been considered, when 14 more properties have been built they are very worried that their situation will deteriorate further.

The cascading ruling put forward in the application still gives the builders, after only two criteria, the chance to bring people to reside from outside Twemlow. After Twemlow there may be the need to move towards Goostrey for residents.

The application would mean an increase of 20% of homes in the hamlet of Twemlow and, if the need is greater in Goostrey then 14 houses would have a lot smaller impact in Goostrey, as the village is a lot bigger. Residents are very worried that people in Twemlow don't need these houses and then outsiders from other areas would be offered the properties.

The concluding view is that Twemlow is not a sustainable location for 14 affordable houses.

24<sup>th</sup> November 2010

The amendment to the initial application has made no difference. The change of style of houses (two semis and one group of three houses) is not in keeping with a rural area at all.

4<sup>th</sup> January 2012

At the Parish Council meeting this morning, Twemlow Parish Council affirmed its opposition to this proposal as outlined in e-mails of 11th August and 24th November 2010.

**OTHER REPRESENTATIONS**

48 representations have been received relating to this proposal, between 9<sup>th</sup> August 2010 and 3<sup>rd</sup> January 2012. 46 in opposition and 2 in support. The objectors express concern over the following issues:

**Land Use**

- Overdevelopment of the area
- Disproportionate increase in the housing stock in Twemlow parish
- Lack of proven housing need in Twemlow
- Local infrastructure could not sustain additional housing
- Lack of amenities in the area
- Lack of available spaces in the local primary school
- Inadequate utilities in the local area – electricity, water drainage
- Encroachment on Greenfield land
- Land is neglected but could be returned to agricultural use
- Precedent would be set for further development to the rear of the site and on the Ministry of Defence site
- More suitable sites available in Holmes Chapel
- Local residents would not want affordable housing to be built in Twemlow
- Affordable housing need should be addressed by other sites in the Borough that have been granted consent
- Insufficient capacity for electrical supply

**Design**

- The development would alter the character of Twemlow and is not in keeping with the existing development

**Amenity**

- Noise and light pollution
- Proximity to the former Ministry of Defence site

**Highways**

- Infrequent bus services, leading to an increase in traffic
- Local primary school is not safely accessible on foot
- Risk of accident for secondary school children walking to the bus stop
- Lack of footpaths on existing roads
- Inadequate access to local services
- Adverse impact on highway safety due to an increase in traffic on Twemlow Lane and over the narrow railway bridge
- Unsafe vehicular access opposite existing properties

## Other

- Interference to the Jodrell Bank telescopes
- Underhand tactics by the developers
- To approve the application would ignore the requirements of the Localism Act

The 2 letters in support came from the same source and expressed the need for affordable housing in Twemlow. They state that 60% of housing in Twemlow was affordable 20 years ago, now there are only 2 affordable houses left.

## OFFICER APPRAISAL

### Principle of Development

National policy 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 or villages. This requires planning at a 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.”*

The site is designated as being within the Open Countryside where Policy PS8 states that development will only be permitted if it meets one of several criteria. The relevant criterion is that it is for affordable housing in compliance with Policy H14. Policy H14 relates to rural exception sites and requires that development is:

- close to existing or proposed services and facilities
- comprise a small scheme appropriate to the locality
- consists in its entirety of housing to be retained as low cost in perpetuity
- is supported by a survey identifying local housing need
- subject to a legal agreement ensuring properties are occupied by local people in housing need, cannot be disposed of on the open market and has a mechanism in place for management of the scheme.

Having regard to this, the nearest services and facilities are in Goostrey but within 2km of the site. The scheme is considered to be small and appropriate to the locality. The housing would be retained as low cost in perpetuity. A housing needs assessment has been provided and is considered to be acceptable. A Unilateral Undertaking has been submitted which would prevent sale of the properties on the open market and has a mechanism for management of the scheme. The proposal is therefore considered to be compliant with Policy H14.

An assessment of housing need has been submitted with the application and is discussed below.

### **Housing Need**

#### *Cheshire East Strategic Housing Market Assessment (SHMA)*

The SHMA for Cheshire East was completed in 2010. The proposed development lies in the geographical area of 'Holmes Chapel Rural'. The result for Holmes Chapel Rural shows that the net housing need for this area is for 8 homes per annum for the next 5 years.

#### *Congleton Borough Rural Housing Needs Survey – 2005*

The survey covers the Parishes of Cranage, Goostrey and Twemlow. Response rate was 31% for Twemlow. It showed that 9 households contained at least 1 hidden household and in total there were 15 hidden households. However two of these stated that they had sufficient income to qualify for a mortgage. The remainder would qualify for an affordable home in terms of their levels of income demonstrating a need for 13 affordable homes in Twemlow. The survey also found that 4 people had moved out of either the parish or the borough within the last 5 years because they could not afford to buy/rent a home in the area and of these 1 would like to return and 2 of the 4 were unsure. Therefore after discounting those that were unsure, a need of 14 affordable homes remains in Twemlow.

#### *Twemlow Parish Council Survey April 2010*

In April 2010, Twemlow Parish Council conducted its own Housing Needs Survey for the parish. A questionnaire was sent to all the households in the parish and there was a 52% response rate. The survey showed that there were 9 hidden households. Of these 7 would consider affordable housing. In addition, there were 17 households where at least one member had moved out of the area. Of these 7 would return if cheaper housing were available. This survey demonstrates a housing need of 14 affordable homes.

#### *Housing Waiting List/Cheshire Homechoice*

There are 32 people registered within the parishes of Twemlow, Lower Withington, Goostrey, Swettenham and Cranage as their first choice.

#### *Current Delivery of Affordable Housing and Planning Permissions for Holmes Chapel Rural*

Since 2010 there has been one development of 10 units for shared ownership in Cranage. There is also a site in Cranage which has planning permission for a further 10 units.

The affordable housing need in Twemlow is for 14 homes. The mix in terms of homes required would be for a 60/40 split between 2 and 3 bedroom homes. The Council's Interim Policy on Affordable Housing expects a ratio of 65% Social or Affordable rent and 35% properties as intermediate tenure.

Twemlow is a very rural parish but the Transport Statement submitted with the application concludes that the site is accessible by non-car modes and the nearby parish of Goostrey would provide access to public transport, shops, community facilities and schools. It is therefore considered that this parcel of land would provide a relatively sustainable site for this rural exception housing scheme.

### **Highways and Parking**

Several of the objectors have expressed concerns about highway safety and parking in relation to this application. It is considered that the Transport Statement that was submitted with the application appropriately addresses the traffic issues associated with the site. In principle there are no objections to the development subject to conditions relating to tactile paving and dropped kerbs, detailed drawings of the junction and the provision of a frontage

footpath. The first two are considered to be acceptable. However, the latter as discussed in the landscaping and trees section below, would have an adverse impact on the trees on the boundary of the site. Given that a footpath is to be provided within the site, linking the properties to the access road and Twemlow Lane, it is considered that this would not be necessary; moreover subsequent discussion with the SHM has concluded that a satisfactory alternative could be achieved within the site and that this issue can be dealt with by condition.

Concern has been expressed regarding infrequent bus services leading to an increase in traffic, lack of footpaths, risk of accident to children walking to school, inadequate access to local services, unsafe access opposite existing properties and adverse impact on highway safety due to an increase in traffic. It is considered that the Transport Assessment submitted with the application has addressed these issues and this has been scrutinised by the Strategic Highways Manager. Whilst the development would give rise to additional traffic in the area it is not considered that this will cause an unacceptable impact on highway safety. The access is also considered to be acceptable and would not have any significant adverse impact on highway safety.

As the proposal is considered to be acceptable in terms of highway safety and parking provision, a refusal on highway safety grounds could not be justified.

### **Ecology - Protected Species & Nature Conservation**

The Nature Conservation Officer originally had concerns that the Ecological Assessment originally submitted, did not include the results of a protected species records search. This was subsequently submitted and showed that roosting bats, badgers and Great Crested Newts do not present a constraint to the site.

Conditions are recommended to ensure the protection of breeding birds and that the hedgerow on the eastern boundary of the site should be retained and it is considered that these would meet the necessary tests in Circular 11/95.

Due to the length of time that has elapsed between the original submission and the re-assessment of the application, updated survey work was undertaken. The survey confirmed that there was no evidence of Badgers on the site and that this species is unlikely to be affected by the proposed development. Conditions relating to the hedgerow and breeding birds will still be imposed.

### **Amenity**

Policy GR6 requires that new development should not have an unduly detrimental effect on the amenity of nearby residential properties from loss of privacy, loss of sunlight or daylight, visual intrusion, environmental disturbance or pollution and traffic generation access and parking.

Supplementary Planning Document 2 (Private Open Space), sets out the separation distances that should be maintained between dwellings and the amount of usable residential amenity space that should be provided for new dwellings. Having regard to this proposal, the required separation distances would be fully complied with and the residential amenity space provided for the new dwellings would be satisfactory.

It is considered that permitted development rights for extensions should be removed in order to protect the amenity of residents in the future. In addition at the western end of the site, an area of informal open space is to be provided.

Having regard to the residential amenities of neighbouring properties, it is important that conditions are imposed to limit the hours of construction and any piling that may be required. Subject to these conditions, the proposal is considered to be acceptable in terms of residential amenity, as it does not result in any impact identified in Policy GR6.

### **Design and Layout**

The revised proposal, comprising 13 dwellings would be accessed from Twemlow Lane, with a road that would sweep round to a parking court at the rear, with 6 of the dwellings, all semi-detached facing onto this access road. The remaining 7 properties would face onto Twemlow Lane, with a central terrace of 3 dwellings and semi-detached properties to either side. These properties would be largely screened from Twemlow Lane by the existing trees and bushes on the boundary. It is considered that the layout would make good use of the available land and would not be out of character with the varied pattern of development in the area.

The dwellings would be of a simple design, constructed of brick with tiled roofs. The surrounding development consists of a mix of house types and sizes, including large detached dwellings and cottages to the west and former Local Authority, semi-detached properties to the southeast. It is considered that the development would be in keeping with the character and appearance of the area and would not have any significant adverse impact on the street scene.

### **Landscaping and Trees**

Trees on the northern boundary and many of the several trees on the Twemlow Lane frontage are protected by the Twemlow Lane TPO 2007. The trees on and adjoining the site provide a wildlife corridor, a screen and a prominent landscape feature in this section of Twemlow Lane and it is considered important that they be retained. The central area of the site appears unmanaged and supports grassland and ruderal vegetation.

Overall, the proposed internal site layout is sympathetic to trees. The proposed new access would be taken at a point where the tree cover is minimal and with the exception of a small number of stems to be removed in this area ( not subject to TPO protection), subject to appropriate management, it should be possible to retain the majority of healthy specimens. The principle of retaining the trees outside the curtilage of individual properties and in the area of public open space would provide greater opportunities for their long term retention and maintenance. The applicants have indicated that future management would be undertaken by the Plus Dane Group. It is considered desirable to secure some additional planting and a management plan for retained trees. In addition, several of the trees would benefit from remedial works. These issues are covered by conditions and the Unilateral Undertaking submitted with the application.

Whilst not indicated on the plans, it is noted that the Transport Statement makes reference to a proposed new footway on the northern side of Twemlow Lane, between the proposed new access and the south east corner of the site. In pre-application discussions, it was requested that consideration be given to avoiding provision of a footway in this location to ensure that the root protection areas of the trees could be protected. The suggestion was made that an internal footpath could be provided with a link to a suitable crossing point on Twemlow Lane. It is noted that an internal path and link are indicated on the site plan and therefore the need for the external path is not justified.

The Council's Strategic Highways Manager has indicated in his initial consultation response that a footway should be provided. However, given that a footpath is to be provided within the site, linking the properties to the access road and Twemlow Lane, it is considered that this

would not be necessary. The SHM has subsequently agreed that an alternative solution could be found, which would not have an adverse impact on the trees on the site. Therefore, a condition should be imposed requiring details of an alternative footpath within the site, to be submitted for approval by the LPA.

In addition, it is recommended that conditions be imposed requiring tree protection measures, submission of a landscaping scheme for approval by the LPA and a long term management scheme for the public open space and the tree belt be included in the Unilateral Undertaking.

### **Jodrell Bank Telescope**

The University of Manchester has objected to this proposal as it considers that it would harm the efficient operation of the telescopes at the Jodrell Bank Observatory. They state that the potential for electrical interference caused by the proposed development is of considerable concern given that it is less than 3 miles to the southwest of the observatory.

Jodrell Bank Observatory is a major local asset to the Borough and the Council would not wish to cause harm to its efficient operation. However, this has to be balanced against the nature of the site, size of the development and the recognised need for affordable housing in the area.

The site is triangular and already bounded on two sides with residential properties and the development has been reduced in size to just 13 dwellings. It is therefore considered, that given these factors and the recognised need for affordable housing in the area, that this issue could be satisfactorily mitigated against, by the use of measures recommended by the Observatory on other developments. These involve installing targeted screening on the roof and those walls that face towards Jodrell Bank and to have no screening on walls that face away from the telescope. This can be achieved by using plasterboard with aluminium foil backing, Pilkington 'K glass' for the windows, reflective insulating material for use in the walls and loft and doors that are either metallic or incorporate an aluminium foil barrier. The use of these materials can be secured by condition should the application be approved by Members.

### **Other Matters**

Concerns have been expressed about the existing water pressure in the area. However, this is an issue that should be addressed by the water supplier and not through the planning process. It is therefore not a valid planning reason for refusal.

The Parish Council has expressed concerns about the ability of the local drainage system to cope with the new development. However, United Utilities were consulted on the application and had no objections. In addition, a condition will be imposed requiring the submission of detailed drainage plans for approval prior to the development commencing.

Additional concerns have been expressed relating to the electricity supply in the area. Should the dwellings be granted approval, this issue will be addressed by the electricity supplier.

### **Unilateral Undertaking**

Should the Council be minded to approve the application, the applicants have submitted a Unilateral Undertaking to address the following:

- The 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 connections to the parish of Twemlow 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 the parish of Goostrey, then the former Congleton Borough, then the wider Cheshire East Borough).

- A management plan for the area of public open space and the trees retained within the site.

This undertaking has been checked by the Legal Department and meets all the necessary requirements.

### **Major Development**

Whilst the development does comprise a small scale major development, as defined in the scheme of delegation for Cheshire East Council, this does not mean that it cannot be considered as a 'small scheme' as laid down in Policy H14. In comparison to other developments, a development of 13 dwellings is considered to be small scale in terms of its significance and overall impact on the local area.

### **Previous Refusal (07/1227/FUL)**

Ground one of the Judicial Review stated that the Council failed to take into account the April 2008 decision on this site. The proposal was for a development of 16 two-storey dwellings, and the application was refused for following 6 reasons.

- 1. The site lies in an area of open countryside where there is strict control over new development. The application fails to meet the criteria for affordable housing exception sites and furthermore the location, scale layout and design will not be appropriate to the locality, all contrary to Policy H14 of the Congleton Borough Local Plan.*
- 2. The proposed development would not afford future users with appropriate levels of private open garden space, contrary to Supplementary Planning Guidance Note 2 for Provision of Private Open Space in new Residential Developments and GR1 of the Congleton Borough Local Plan.*
- 3. The proposed development could not be accommodated without threat to trees subject of a Tree Preservation Order, the loss of which would be detrimental to the visual amenity of the area. The proposed development is therefore contrary to the provisions of Policies NR1 and GR1 of the Congleton Borough Local Plan and Supplementary Planning Guidance for Trees and Development, adopted 2006.*
- 4. The proposed development as submitted fails to satisfy adopted highway standards specifically:  
Internal layout – dimensions and geometry  
Internal layout – insufficient detail/reference to Manual for Streets  
Insufficient detail in Design & Access Statement regarding highways access  
Junction design detail lacks accuracy  
Service strip provision is inadequate  
Footway provision  
As such the development is detrimental to highway safety for vehicle and pedestrian users and is therefore contrary to Policies GR17 and GR18 of the Congleton Borough Council Local Plan and T7 of the Cheshire Structure Plan.*
- 5. The proposed development fails to make provision for promoting sustainable transport options. The site is outside a reasonable walking distance to local services and as this scheme proposes to contribute towards meeting local affordable housing needs, car ownership by prospective households cannot be assumed. As such the enhancement and provision of sustainable modes of transport in the locality is required to satisfy sustainable principles in the requirements of Policy T7 of the Cheshire Structure Plan.*

6. *The ecological survey indicates that there is evidence of protected species at the site. The proposed development could result in the disturbance or harm of these species. In the absence of appropriate assessments and consequent indication of mitigation measures the Local Planning Authority is unable to accept that no harm would arise. The proposal is therefore considered to be contrary to Policy NR3 of the Congleton Borough Local Plan.*

### **How the Reasons for Refusal Have been Addressed**

Having regard to the first reason for refusal, the updated housing needs information has addressed this and the scheme now meets the tests set out in Policy H14.

The second reason for refusal related to inappropriate levels of private open garden space. This is now not the case with this proposal.

The third reason relates to adverse impact on protected trees. This is now not the case with this proposal.

The fourth reason relates to highway safety and similarly this would now not apply to this proposal.

The fifth reason relates to the lack of sustainable transport options. Having regard to this reason, it is considered that the Traffic Statement submitted with the application has given adequate justification as to why the site is accessible via non-car modes. As such, it meets the requirements and purpose of Policy GR9.

The sixth reason for refusal related to ecological issues which have been addressed by the submission of reports which satisfy the Councils' Nature Conservation Officer, because there is no evidence of harm to protected species.

### **Dunkirk Farm Brereton (10/3320C)**

Several of the objections and the letter from Stripes Solicitors refer an application at Dunkirk Farm in Brereton (10/3320C). This application was refused by the Southern Committee on the grounds that other brownfield sites would negate the need to use land within the open countryside. This application has now been determined at appeal and although the appeal was dismissed, it was on the grounds that the Unilateral Undertaking was inadequate. The appeal confirmed that it was a suitable location and proposal for a rural exception site.

### **Poolwood Cottages Somerford (09/1663C)**

This application for affordable housing that was dismissed at appeal has been cited as a material consideration in the determination of this application. However, the site has different characteristics to the application site as it does not relate well to existing built development and has poor transport links. Moreover, it has to be remembered that each case should be treated on its own merits, not on the merits of others.

### **The Town and Country Planning (Jodrell Bank Telescope) Direction 1973.**

Jodrell Bank have been given the requisite 21 days notice that the Authority may be disposed to approve the application. Their response is summarised in the report. As previously stated, Jodrell Bank Observatory is a major local asset to the Borough and the Council would not wish to cause harm to its efficient operation. However, this has to be balanced against the nature of the site, size of the development and the recognised need for affordable housing in the area.

## **CONCLUSION**

In conclusion, it is considered that the principle of rural affordable housing in this location is acceptable and supported by local and national policies. The specific proposal for 13 dwellings in Twemlow is acceptable and it is considered that there is sufficient evidence to demonstrate that a need exists in this location for 13 affordable dwellings.

The siting, layout and design of the scheme is considered to be 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.

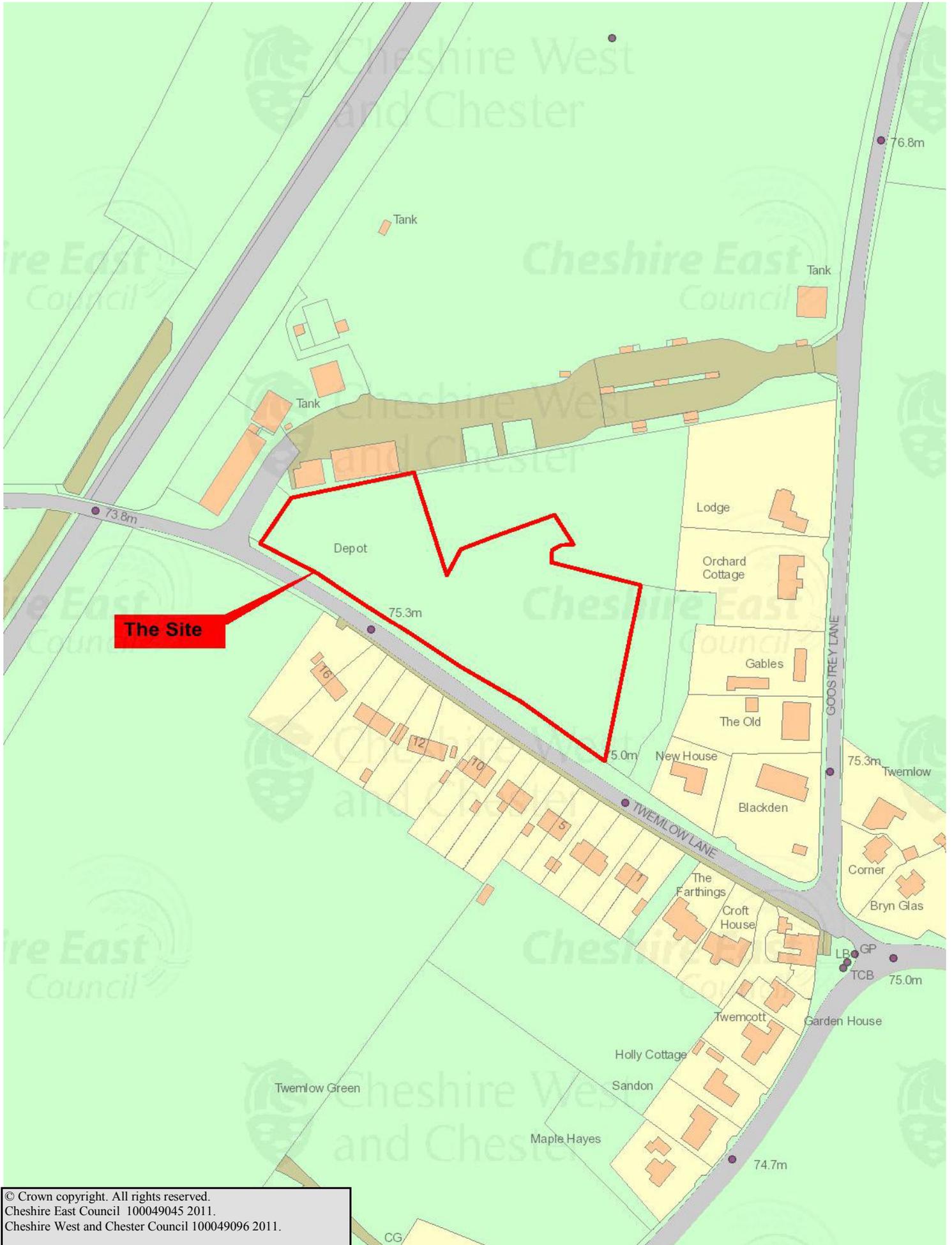
The objections of the University of Manchester have been given careful consideration. However, it is considered that, on balance, the importance attached to the provision of affordable housing should be given prominent weight. In taking this decision, appropriate mitigation measures are considered to alleviate some of the harm to Jodrell Bank.

There are no other material planning considerations that would warrant the refusal of the application. As such the scheme is considered to be acceptable, subject to the following conditions and compliance with the Unilateral Undertaking.

## **RECOMMENDATION:**

**Approve subject the following conditions and implementation of the following Unilateral Undertaking within 3 months of the date of the Strategic Planning Board of 8<sup>th</sup> February 2012, or any date as agreed by the Chairman of the Strategic Planning Board and Development Management and Building Control Manager subsequently:**

- 1. Commence development within 3 years**
- 2. Development in accordance with agreed drawings**
- 3. Submission of details/samples of external materials**
- 4. Electromagnetic protection measures**
- 5. Submission and implementation of detailed access and junction plans**
- 6. The dwellings shall not be occupied until the access and junction are completed in accordance with the approved details**
- 7. Provision of tactile paving and dropped kerbs**
- 8. Submission and implementation of details of a footpath within the south western boundary of the site**
- 9. Submission and implementation of surveys and mitigation methods for the protection of breeding birds**
- 10. Submission of a scheme of landscaping of the site including the retention of the hedgerow on the eastern boundary of the site**
- 11. Implementation of approved landscaping scheme**
- 12. Submission and implementation of details of boundary treatments**
- 13. Submission and implementation of a tree protection scheme**
- 14. Submission and implementation of an arboricultural method statement**
- 15. Submission of a detailed drainage scheme**
- 16. Submission of a Phase 1 land contamination survey**
- 17. Limits on hours of construction**
- 18. Limits on hours of piling**
- 19. Removal of permitted development rights for extensions**



Application No: 11/3065C

Location: LAND TO THE SOUTH OF MIDDLEWICH ROAD AND WEST OF BROAD LANE, HOLMES CHAPEL

Proposal: IMPORTING OF WASTE TO FILL A HOLLOW IN THE AGRICULTURAL FIELD. RAISING THE LEVEL OF THE HOLLOW WILL IMPROVE THE PASTURE LAND

Applicant: MR R ARNOLD

Expiry Date: 09-Nov-2011

**SUMMARY RECOMMENDATION:** Approve subject to conditions.

**MAIN ISSUES:**

- Principle of the Development
- Materials to be Imported
- Landscape and Trees
- Ecology
- Visual Amenity
- Highway Safety

**REASON FOR REFERRAL**

This application has been referred to the Strategic Planning Board, as the scheme is a major waste application.

**DESCRIPTION AND SITE CONTEXT**

The application site comprises an area of land 10,000sqm in size, within an agricultural field. The southwestern corner of the site slopes away and presents difficulties for cultivation. There is a pond in close proximity to the site and others within 250m. A shallow stream runs along the southern boundary of the field. The site is designated as being within the open countryside in the adopted local plan.

**DETAILS OF PROPOSAL**

The application seeks full planning permission for the importation of 18,000 cubic metres of inert waste which will consist of material from construction and demolition sites. A temporary access road would be constructed from the existing field access off Middlewich Road, and there would be a site cabin and wheel washing facilities that would be used for all vehicles leaving the site.

The works would involve scraping off the topsoil which would be stockpiled for re-use when the operation is complete. The applicants anticipate that the operation will be complete within 6 months of commencement.

## **RELEVANT HISTORY**

No relevant planning history relating to this site.

## **POLICIES**

### **National Guidance**

PPS1 Delivering Sustainable Development  
PPS7 Sustainable Development in Rural Areas  
PPS9 Biodiversity and Geological Conservation  
PPS 10: Planning for Sustainable Waste Management  
PPS 23: Planning and Pollution Control

### **Regional Spatial Strategy (RSS)**

Policy DP7: 'Promote Environmental Quality'  
Policy EM11: 'Waste Management Principles'  
Policy EM12: 'Locational Principles'

### **Local Plan Policy**

#### ***Cheshire Replacement Waste Local Plan (CRWLP)***

Policy 1: Sustainable Waste Management  
Policy 12: Impact of Development Proposals  
Policy 14: Landscape  
Policy 17: Natural Environment  
Policy 19: Agricultural Land Quality  
Policy 29: Hours of Operation  
Policy 32: Reclamation

#### ***Adopted Congleton Borough Local Plan First Review 2005 (CBCLP)***

PS8: Open Countryside  
GR1: General Requirements for New Development  
GR4: Landscaping  
GR6: Amenity and Health  
GR7: Pollution  
GR9: Accessibility, Servicing and Parking Provision  
NR1: Trees and Woodlands  
NR2: Wildlife and Nature Conservation  
NR3: Habitats  
NR6: Reclamation of Land

## **OBSERVATIONS OF CONSULTEES**

### **Environmental Protection:**

#### **HOURS OF OPERATION**

The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.

In terms of site preparation and construction phase, it is recommended that the proposed mitigation measures are implemented to minimise any impact on air quality in addition to ensuring dust related complaints are kept to a minimum.

This section would like to ensure that the environment is not adversely impacted due to the proposed works. Advice should be sought from the Environment Agency with regard to the types of waste which would be suitable for this development. However, the waste should be inert and not be contaminated.

**Environment Agency:**

We have no objection in principle to the proposed development but would make the following comments;

There should remain a full 10 metre buffer strip from the proposal to the top of bank of the adjacent watercourse, Alum Brook, as shown on the submitted drawing, 5299MHE.001 (July 2011).

We would therefore advise that the proposed development will only be acceptable if a planning condition is imposed requiring a scheme to be agreed to protect the undeveloped buffer zone around the watercourse and the riparian corridor .

*Condition*

Prior to the commencement of development a scheme for the provision and management of a 10 metre undeveloped buffer zone alongside the watercourse shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The scheme shall include:

- demonstrating how the 10 metre buffer zone will be protected during development. This should include details of temporary protective fencing erected 10 metres from the watercourse
- demonstrate how the 10 metre buffer zone will be managed/maintained over the longer term

**Strategic Highways Manager:**

The Strategic Highway Manager considers the proposal to be acceptable and details appropriate geometry for the access itself. An agreed construction specification for the temporary widening of the access and the provision of 10m radius kerbs will need to be submitted for approval. Conditions should also be imposed to control vehicle movements, wheel washing and road cleaning.

**VIEWS OF TOWN/PARISH COUNCIL**

No objection provided satisfactory materials are used.

**OTHER REPRESENTATIONS**

Representations have been received from five properties, four expressing concerns and one expressing support for the proposal. The concerns are outlined below:

- Impact on wildlife habitat
- Highway safety
- Flood risk
- Disruption from noise and dust

- The nature of the material to be imported
- Whether the access road will be removed when the operation is complete
- Hours of operation
- Stability of the land in the long term
- Sewage disposal

In addition, one of the representations included a document produced by an ecologist in 2004 when development was proposed on the land. This document detailed the habitats that were present on the site and its ecological value.

## **OFFICER APPRAISAL**

### **Principle of the Development**

The application proposes the infilling of a hollow in the land with inert construction and demolition waste. Policy 1 of the Cheshire Replacement Waste Local Plan (CRWLP) requires that proposals to maximise opportunities for waste to be managed in accordance with the waste hierarchy of reduction, re-use, recycling and composting and using waste as a source of energy. In the case of this proposal the waste would be used to bring an area of land back to a condition that would allow its cultivation, as such it is considered to be acceptable in principle.

### **Materials to be imported**

The application states that the materials to be imported on to the site will be inert and comprise construction and demolition waste. The definition of inert waste at regulation 7(4) of the Landfill Regulations states that inert waste:

- Will not undergo significant physical, chemical or biological transformations;
- Will not dissolve;
- Will not burn;
- Will not physically or chemically react;
- Will not biodegrade;
- Will not adversely affect other matter with which it comes into contact in a way likely to give rise to environmental pollution or harm human health;
- Has insignificant total leachability and pollutant content;
- Produces a leachate with an ecotoxicity that is insignificant (if it produces a leachate)

It should be noted that PPS23 makes clear that the planning system and pollution control systems are separate. The planning system should focus on the use of the land and whether it is appropriate. The control of the processes or emissions is regulated by the Environment Agency and the two systems should complement, but not duplicate each other.

Subject to appropriate monitoring of the operation during its lifetime, it is considered that there would not be significant adverse impacts caused by the inert waste importation, on the ecology, watercourses and visual amenity of the area.

The Environment Agency has stated that it has no objection in principle to the proposal, but recommends that a full 10m buffer strip be maintained between the site and the top of the bank of Alum Brook.

### **Landscape and Trees**

The site of the proposed development is located on agricultural land designated as open countryside in the relevant local plan. It has no national or local protected landscape status. The main area of the field in which the site lies is relatively level although the levels fall to the south where a watercourse runs along the field boundary.

The site is currently part managed grassland and part rough grass /ruderal vegetation. A belt of trees and shrubs runs along the southern side of the watercourse and there are some trees in the south west corner of the field.

The submission indicates that within the application site, topsoil would be stripped and stockpiled, the site filled and re-profiled on completion of the infill, the topsoil returned, with overall levels being increased by up to 2 metres. The site would then be returned to agricultural use.

During the construction period, some of the activities and associated vehicles movements would be visible from the roadside on Middlewich Road, and properties in close proximity both on Middlewich Road and Broad Lane. Nonetheless, it would appear that on completion of the works, the re-profiling of the site should not be widely apparent or appear incongruous in the landscape.

It is considered to be essential that adequate protection is provided for the watercourse and existing trees during the development period and that the land is restored to agricultural use, with appropriate restoration of topsoil and re-seeding following completion of the infill operation.

### **Ecology**

It is known that a great crested newt was recorded within the pond adjacent to the proposed development some years ago. The application is supported by a Great Crested Newt survey undertaken in accordance with the Natural England guidelines. This survey did not record any evidence of Great Crested Newts being present. After examination of the pond, the Council are satisfied on balance that great crested newts are not reasonably likely to be present or affected by the proposed development.

After consideration of additional survey information provided by the applicant and the results of a site visit in November, it is now considered that the habitats present on 'the slope' area are unlikely to qualify as a Local or UK Biodiversity Action Plan priority habitats. The habitats do however have some nature conservation value and the latest ecological survey recommends the removal of the turfs/soils from the slope and their restoration following the completion of the works. It is also required that measures are in place to safeguard the habitats associated with the adjacent stream. Subject to compliance with the recommendations in the reports (which should be secured by condition), the proposal is considered to be acceptable in relation to any impacts on the ecology of the area.

### **Visual Amenity**

Having regard to the visual amenity of the area, this will be somewhat compromised during the lifetime of the operation, by virtue of the creation of the new access road, the disturbance of the land and the vehicular movements taking place. It is however proposed to impose conditions requiring the infilling to cease after a period of 12 months and reclamation of the land, including removal of the temporary access road, to be completed within another 12

months. As such, it is considered that any adverse impact on the visual amenity of the area will be temporary and will not have a long term detrimental effect.

### **Highway Safety**

The site would be accessed from an existing field gate on to Middlewich Road and a temporary access road to the area where the material is to be deposited, would be created. The Strategic Highways Manager has assessed the information submitted with the proposal and concluded that the proposal is acceptable. This is subject to conditions being imposed relating to the following:

- widening of the access
- limits on the number of vehicle movements
- limits on hours of operation
- provision of wheel washing facilities and a hard running lane
- submission of a schedule of signage
- submission of a traffic management scheme.

Given that the access would be onto a relatively straight 'A' road, where good visibility splays can be provided and that the Strategic Highways Manager does not object to the proposal, the scheme is considered to be acceptable in highway safety terms.

### **CONCLUSIONS**

In conclusion, the materials to be deposited on the site would be inert and this will be monitored by the Minerals and Waste Enforcement Officer and regulated by the Environment Agency, therefore the proposal would be highly unlikely cause contamination to the land or nearby watercourses. With appropriate reclamation of the land, the visual amenities of the area will not suffer significant adverse impacts and the implementation of mitigation measures will ensure that the proposal will not have a significant adverse impact on protected species. Therefore, the application is recommended for approval, subject to a 12 month time limit on the infill process, a 12 month period for the remediation process including removal of the access road.

### **RECOMMENDATION:**

**Approve subject to the following conditions:**

1. Time limit
2. Development in accordance with the approved plans
3. At least seven days prior written notice of the commencement of development shall be given to the Local Planning Authority
4. All importation of waste and movement and grading of materials on site shall be completed within 12 months of the date of commencement of the development.
5. All site restoration works including removal of the temporary access road shall be completed within 12 months of the completion of the development
6. Prior to the commencement of development, a plan showing the protection of the habitats associated with the adjacent watercourse and a 10m buffer zone thereof, including pre-development measures, shall be submitted to and approved in writing by the LPA. The protection plan shall include an appropriate scale plan showing the area where protective measures will be installed and details of protective measures to avoid impacts during the operational and restoration period
7. Prior to the commencement of development, a scheme for the restoration of the habitats associated with the sloping area of land on the southern portion of the site

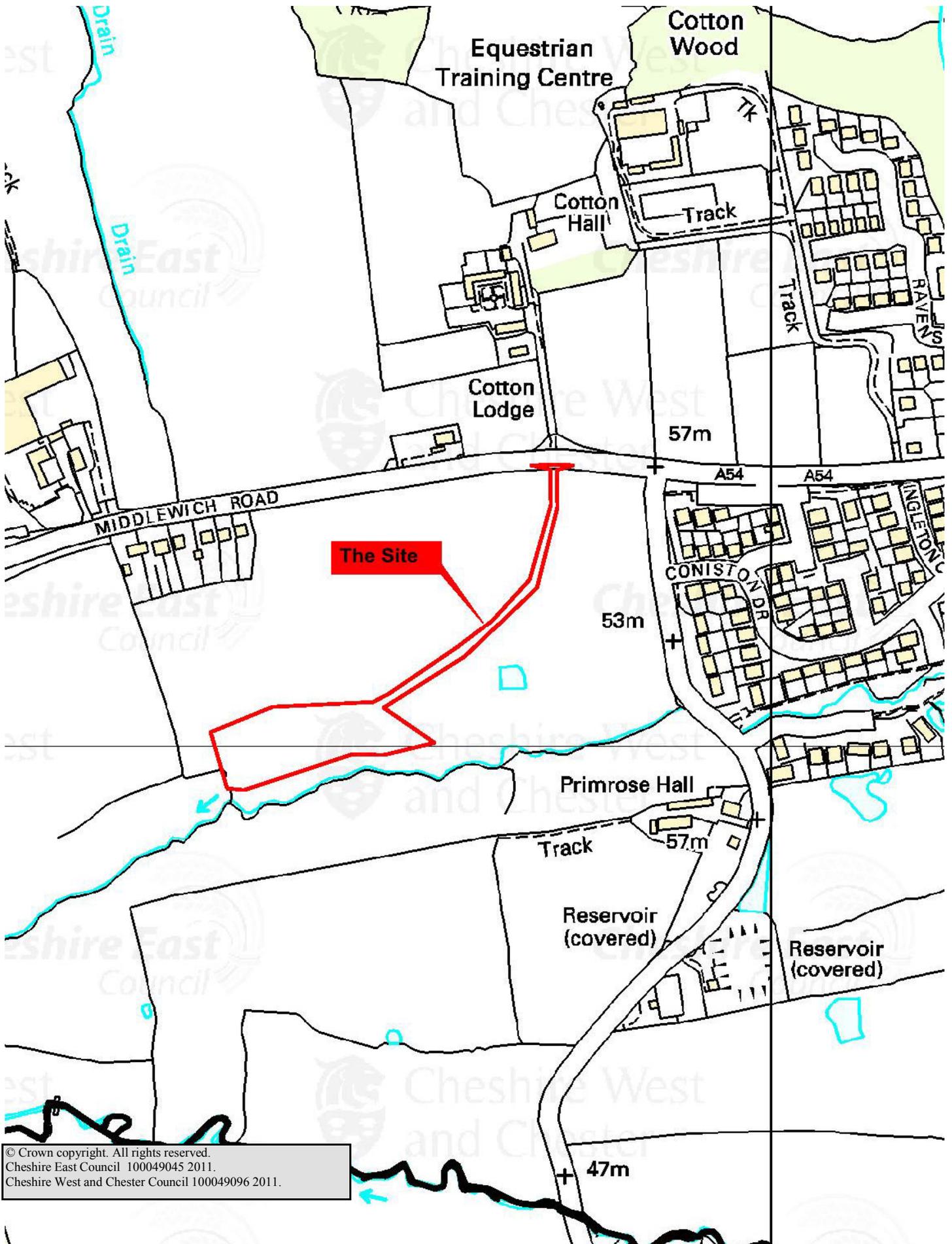
following the completion of the development shall be submitted to and approved in writing by the LPA. The scheme shall conform to the indicative proposals recommended in the Updated Phase 1 Habitat Survey dated December 2011. The restoration plan shall be implemented in accordance with an agreed schedule of works and completed within 3 months of the completion of the development excluding the other required restoration works

8. Prior to the commencement of development, an updated Badger survey shall be undertaken of the site and all land within 30m of the site boundary. The survey shall be undertaken by a competent and appropriately qualified person and a report of the survey, together with any mitigation proposals required shall be submitted to and agreed in writing with the LPA
9. The stripping, movement, replacement and cultivation of topsoil shall only be carried out when the material to be moved is sufficiently dry and friable to minimise structural damage. No movement of soils shall occur:
  - I. During the months of October to April inclusive, unless otherwise agreed in writing with the LPA; or
  - II. When the upper 1200mm of the soil has a moisture content which is equal or greater than that at which soil becomes plastic, tested in accordance with the 'worm test' as set out in BS 1377: 1975 – British Soil Methods Test for Soils for Civic Engineering purposes, or when the topsoil is not sufficiently dry that it cannot be separated from the subsoil without difficulty; or
  - III. When there are pools of water on the soil surface
10. All topsoil and subsoil shall be stored in separate in separate mounds which:
  - I. For topsoil mounds should not exceed 3 metres in height and for subsoil mounds should not exceed 5 metres in height unless otherwise agreed in writing with the LPA;
  - II. Shall be constructed with only the minimum of soil compaction to ensure stability and so shaped as to avoid collection of water in surface undulations;
  - III. Shall not be traversed by heavy vehicles or machinery except where essential for the purpose of mound construction or maintenance;
  - IV. Shall not subsequently be moved or added to until required for restoration unless otherwise agreed in writing with the LPA;
  - V. Have a minimum of a 3 metre stand off, undisturbed around storage mounds;
  - VI. Shall only store topsoil and like texture topsoil and subsoils on like texture soils.
11. The hours of operation (and associated deliveries to the site) of the development hereby permitted shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.
12. Submission and approval and implementation of a tree protection scheme.
13. Prior to commencement of development the developer will provide a construction specification drawing for that area of the temporary access which falls within the public highway - to the satisfaction of the LPA.
14. The developer will provide a schedule of signing and traffic management provision to regulate the arrivals and dispersal traffic and its turning movements and include for 'Temporary Site Access' signs on the two A54 approaches for regular traffic.
15. Heavy commercial vehicle movements per day to the site will be limited to a maximum of 50 trips (25 vehicles) between the hours of 8:00. and 16.00 hours Monday to Friday

and 08:00 to 13:00 hours on Saturday with no work at any other time including Sundays and Public Holidays.

- 16.** A record of all vehicle movements shall be kept and made available for inspection by the LPA.
- 17.** Prior to commencement of development the developer will provide a hard running lane and wheel-wash facility within the site to ensure that detritus from the site does not contaminate the public highway. No vehicles shall leave the site until it has been cleaned using this facility.
- 18.** The developer will provide mechanical sweeping, as necessary, to remove any detritus which may be carried onto the public highway from vehicles emerging from the site.
- 19.** All materials imported and deposited at the site shall be strictly inert and non-leachate forming.
- 20.** There shall be no chemical testing or processing on site and no exportation of any materials off site.
- 21.** All plant shall be silenced, operated and maintained in accordance with the manufacturers specification at all times.
- 22.** No repairs, maintenance and re-fuelling of plant or vehicles shall take place within 30m of Alum Brook.
- 23.** No lighting shall be installed at the site without prior written approval of the LPA.
- 24.** No burning of materials shall take place at the site.
- 25.** The maximum land levels of finished landform shall be in accordance with the details shown on the drawings numbered 5299MHE.001 and 5299MHE.002.
- 26.** An aftercare scheme requiring that such steps as may be necessary to bring the land to the required standard for the use of agriculture shall be submitted for the written approval of the LPA within 6 months of the date of this permission. The aftercare scheme shall include provision for:
  - I. Measures to be taken to ensure appropriate plant growth;
  - II. Detail of any surface water drainage to ensure that the site will be free draining and including, where appropriate, identification of discharge points and measures to control run-off and prevent erosion;
  - III. The removal of all plant, machinery, buildings, structures, erections and their foundations including the removal of any haul road and hardstanding areas.

The aftercare shall be carried out in accordance with the approved scheme.



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Application No: 11/3956C

Location: The Former Fodens Factory, Land Off, MOSS LANE, SANDBACH, CW11 3JN

Proposal: Proposed Residential Development at Land off Moss Lane The Former Fodens Factory Site For 269 Dwellings and Associated Works

Applicant: Mr S J Ward, BDW Trading Ltd and Hurstwood Landbank

Expiry Date: 30-Jan-2011

#### **SUMMARY RECOMMENDATION**

**Approve subject to conditions and completion of a S106 Agreement**

#### **MAIN ISSUES**

**Planning Policy And Housing Land Supply**  
**Development Viability**  
**Loss of Employment Land**  
**Affordable Housing**  
**Amenity**  
**Ecology**  
**Landscape and Tree Matters**  
**Drainage And Flooding**  
**Infrastructure**  
**Highway Safety And Traffic Generation**

#### **REFERRAL**

The application has been referred to Strategic Planning Board because it is a major development.

#### **1. SITE DESCRIPTION**

The application relates to 9ha of land, situated to the west side of the Crewe-Manchester Railway line within the Sandbach Settlement Boundary.

The site is bound by Moss Lane to the north, west and south. To the north-west of the site is an existing office building which is within the ownership of the applicant. To the north-east of the site are residential properties which front onto Mulberry Gardens and Clifton Road, these properties are of varying styles and types. The land on the opposite side of Moss Lane is mainly rural in character and includes a number of detached dwellings which are set within relatively large plots. To the south of the site is the former test track. This site is within the ownership of the applicant but does not form part of this application.

The site is relatively open and the former factory buildings which stood on the site have now been demolished. The site has 2 vehicular access points, one to the south and one to the north. There is sporadic tree planting to the boundaries of the site but this is of mixed quality.

## **2. DETAILS OF PROPOSAL**

This is a full planning application for a residential development of the former Foden Truck Factory site. The development would comprise 269 dwellings at a density of 30 dwellings per hectare. The proposed dwellings consist of;

### *Open Market Housing*

1 bed homes – 2 units  
3 bed homes – 25 units  
4 bed homes – 139 units  
5 bed homes – 22 units (**Total 188 units**)

### *Affordable Housing*

1 bed homes – 2 units  
2 bed homes – 42 units  
3 bed homes – 31 units  
4 bed homes – 6 units (**Total 81 units**)

The open market housing and the affordable housing would be developed by Barratt Homes and David Wilson Homes which are two arms of the same company

Two vehicular access points will serve the site. The northern access will serve 144 units whilst the southern access will serve 125 dwellings.

The Public Open space is situated centrally within the site and splits the development into 2 sections to ensure that vehicles can not use both the north and south access points. A landscaped footpath/cycleway is to be provided which will create a link from Foundry Lane (and the railway bridge beyond) to the Test Track site to the south.

## **3. RELEVANT PLANNING HISTORY**

10/4660C - Redevelopment of the Former Foden Truck Factory for Residential (248 Units), B1c Light Industrial (3,620sq.m) and A1 Retail (360sq.m) – No formal decision issued

07/0913/OUT – Outline: Erection of 250 residential units, 80 bed care home (Use Class C2) with 62 care/retirement apartments/bungalows, B1 light industrial units and erection of A1/A3/A4/A5 building(s) with residential accommodation above – Approved 11<sup>th</sup> March 2009

## **4. PLANNING POLICIES**

### **National Policy**

PPS 1 Delivering Sustainable Development  
PPS 3 Housing  
PPS 7 Sustainable Development in Rural Areas

PPS 9 Biodiversity and Geological Conservation  
PPG 13 Transport  
PPS 23 Planning and Pollution Control  
PPS 25 Development and Flood risk.

### **Local Plan Policy**

GR1 New Development  
GR2 Design  
GR3 Residential Development  
GR4 Landscaping  
GR5 Landscaping  
GR6 Amenity and Health  
GR9 Accessibility, servicing and provision of parking  
GR14 Cycling Measures  
GR15 Pedestrian Measures  
GR17 Car parking  
GR18 Traffic Generation  
GR21 Flood Prevention  
GR 22 Open Space Provision  
NR1 Trees and Woodland  
NR2 Statutory Sites  
NR3 Habitats  
NR4 Non-statutory sites  
NR5 Habitats  
H2 Provision of New Housing Development  
H6 Residential Development in the Open countryside  
H13 Affordable Housing and Low Cost Housing

### **Regional Spatial Strategy**

DP4 Make best use of resources and infrastructure  
DP5 Managing travel demand  
DP7 Promote environmental quality  
DP9 Reduce emissions and adapt to climate change  
RDF1 Spatial Priorities  
L4 Regional Housing Provision  
EM1 Integrated Enhancement and Protection of the Region's Environmental Assets  
EM3 Green Infrastructure  
EM18 Decentralised Energy Supply  
MCR3 Southern Part of the Manchester City Region

## **5. OBSERVATIONS OF CONSULTEES**

### **Environmental Health**

#### *Noise and Vibration*

The applicants should provide information to show that the use of the railway line has not increased since 2007. This is due to the time frame from the monitoring to the submission of the report. Confirmation that the contents of the report are still valid is required.

The recommended mitigation scheme for glazing and ventilation within the properties appears to be a scheme capable of achieving the requirements of BS 8233:1999. This Division would require the development to achieve the good standard especially along the part of the site closest to the railway and the commercial/industrial premises.

No information is provided in relation to the proposed mitigation for the gardens closest to the railway line and industrial premises only that the recommended design criteria of  $<55 \text{ dB } L_{Aeq}$  will be achieved. This Division requests that a detailed scheme for the mitigation of the gardens is submitted and approved by the Local Planning Authority.

A condition is required in relation to the timing of any pile driving.

#### *Air Quality*

An addendum to the previous Air Quality Assessment has been produced and the conclusions are accepted.

#### *Contaminated Land*

Conditions are required in relation to the submission of a remediation report and a site completion report.

### **Strategic Highways Manager**

It was anticipated that there would be a satisfactory highway solution for this site given that previous permissions have secured an acceptable solution.

This current application has also arrived at a satisfactory solution and offers the same benefits and improvements of the previous permission, with the addition of the on-site retail facility which will support sustainable travel options.

The application proposal will be subject to a Section 278 Agreement under the Highways Act 1980, and the required offsite highway works will be identified for each agreement at the end of this consultation document.

The application proposal will also be subject to a Section 38 Agreement for the formal adoption of new highway infrastructure within the site.

The application proposal will require a Section 106 Agreement under the Planning Act 1991 to secure the Travel Plans and commuted sums where applicable.

Overall subject to conditions and off-site highways works, the scheme is acceptable.

### **Education**

This proposal is for a development of some 269 new dwellings of which 265 have 2 or more bedrooms.

Applying the pupils yield of 0.162 for primary and 0.13 for secondary it is anticipated that 43 new primary aged pupils and 34 secondary aged pupils will be generated

The primary schools within the correct distances include Elworth C of E, Elworth Hall, Sandbach Community, Offley, Wheelock and Warmingham. At this current time there are 44 unfilled places at these schools. However these schools are projected to be oversubscribed by 40 places in 2013 and by 87 places in 2016.

The secondary schools are projected to have sufficient places to accommodate the additional pupils generated.

On this basis then a contribution of £466,390 will be required.

### **Network Rail**

No objection in principle but due to the site being adjacent to Network Rail land, a number of conditions are suggested.

As the proposal is for a large residential development in close proximity to Sandbach Railway Station S106/CIL funds should be sought to improve station facilities at Sandbach Station. These works would consist of improved waiting facilities on the Manchester bound platform (current approximate valuation for work £30k), Customer Information System (approximately £70k), help points (approximately £15k) in that order of preference.

### **Environment Agency**

No objection subject to planning conditions for surface water run-off and flood management being attached to any planning permission:

### **United Utilities**

No comments received

### **British Waterways**

British Waterways has no objections to the proposed development in principle. However, the development will generate significant additional use of the canal towpath by pedestrians and cyclists as a leisure and recreation route. The towpath forms part of the Cheshire Ring Canal Walk and links directly to National Cycle Route No. 5 and the Wheelock Rail Trail. Whilst it is

acknowledged in the Transport Assessment that the canal towpath “provides an important recreational route” (para 9.4), the applicant has not assessed the likely impact of the development on the condition of the towpath.

British Waterways requests that the local planning authority seeks to secure a contribution towards the improvement of the adjacent stretch of canal towpath and is confident that this request meets the statutory requirement for planning obligations to be necessary to make development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.

The additional use of the towpath by residents of the proposed developments is likely to be concentrated between Moss Lane and Hall Lane. The towpath on this stretch has a grassed surface that becomes muddy in wet weather, and would deteriorate in condition as a result of significant additional use, to the detriment of all towpath users. British Waterways would therefore seek to secure the upgrading of this stretch of the towpath using an appropriate specification and finish suitable to the character of the area and the Canal Conservation Area.

British Waterways is aware that the applicant proposes to abandon the existing discharge of surface water from this site into the canal. If this is the case, the developer must ensure that the pipe work and outfall structure are removed and the canal bank is repaired to the satisfaction of British Waterways. An informative should be attached to any planning permission.

### **Public Rights of Way**

The Design and Access Statement submitted clearly assesses pedestrian and cyclist access to and from the site and states that “a new ‘green’ linear footpath/cycleway’ is also proposed to link the two halves of the development, connections to the railway station and the developments to the south.

The status of the ‘green linear footpath/cycleway’ is not defined in the application. The public open space is to be either managed by a management company or adopted by the local authority. Likewise, the status of the footpath/cycleway needs to be defined and could be dedicated as a public highway, either public right of way or cycle track, so that it is secured and available for public use in perpetuity. If this is the case, maintenance contributions would be required.

Such routes should be designed and constructed to best practice standards and signed appropriately, to and from the town centre and other facilities such as the canal.

Access to the canal and the wider countryside from the proposed development site should be secured with the provision of a pedestrian/cyclist route from the proposed development site onto Moss Lane at the western side of the site. Note that the Proposed Composite Site Layout plan indicates this entrance to be available only for pedestrians.

Further, suggestions have been received under the Council’s statutory Rights of Way Improvement Plan (ROWIP ref. T73 and T47) to improve the towpath of the Trent and Mersey canal close to the site. The towpath is acknowledged in the Design and Access Statement as a route of importance for walking and cycling for both leisure and transport reasons. Contributions previously agreed should be confirmed from the developer towards this

improvement. It should be noted that the towpath is in the ownership of British Waterways and is not, as described in the Design and Access Statement, a public footpath. British Waterways have responded to this consultation directly.

Other suggestions under the Rights of Way Improvement Plan (ref. T49 and T48) relate to the provision of sections of pavement at the corner of Moss Lane at the southern edge of the proposed development site and on Watch Lane to the west. The suggestions were put forward to encourage pedestrian movement along these lanes. The improvements to the footway could be extended in a westerly direction from those proposed in the area of the bridge over the railway. Again, contribution should be sought from the developer towards these improvements, one of which is immediately adjacent to the proposed development site boundary.

Pedestrian movement to and from the proposed development site will utilise the network of existing public footpaths. Surface improvements are required on public footpaths No. 30, 31 and 46 which run between the proposed development site and the employment and service centres of the locality. Notably, FP46 is acknowledged as a key pedestrian link between the site and the railway station but is not currently in a condition amenable to encourage walking. Installation of lighting should be considered on this route. Contributions previously secured for these improvements should be confirmed and will facilitate the pedestrian movements referred to in the Design and Access Statement and Travel Plans.

#### **Ramblers Association**

No comments received

#### **Open Space Society**

No comments received

#### **Mid Cheshire Footpath Society**

No comments received

#### **Amenity Greenspace**

Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission there would be a deficit in the quantity of provision. Whilst the Open Space Study (February 2005) highlights no deficiencies for Children and Young Persons within certain areas of Sandbach, it acknowledges parts of the town appear to be outside the catchment of existing play areas. In addition to this, when applying the formula taking into account the additional population arising from the development, then a facility is required on site.

The Proposed POS Layout plan indicates a LEAP play facility. The criteria of a LEAP being a minimum of 400sqm, having at least 5 play functions with impact absorbing surface, should be overlooked and have appropriate seating for adults. This is in line with good practice nationally and is similar to that of the previous legacy Councils play area strategy definitions. However, the Landscape Strategy promotes a more amenity greenspace/natural play vision

throughout the site. Whilst natural play is valued and welcomed, a combination of natural and equipped play, giving a diverse opportunity for play would be preferred.

If a combination of natural and equipped play was to be implemented then, Streetscape would request that the final layout and choice of play equipment be agreed with CEC, and obtained from The Councils approved supplier and the construction should be to the Council's standards. Full plans must be submitted prior to the play area being installed and these must be approved, in writing prior to the commencement of any works.

Clarification as to the final location in order to ensure that the security and safety of the play facility users has been taken into consideration in line with Section 5 of the Councils Supplementary Planning Guidance Note. The large area of POS indicated to the centre of the plan would be the preferred location for any new facility and Streetscape would be prepared to take transfer of the play facility and surrounding associated informal play space if appropriately located and designed.

If the LEAP were to be adopted by the Council a 25 year maintenance fee of £299,993 would be required.

Following an assessment of the provision of Amenity Greenspace (AGS) accessible to the proposed development, if the development were to be granted planning permission, there would be a slight deficit in the quantity of provision. It is acknowledged 9,340sqm of combined AGS, play provision; linear cycleways etc are being provided on site. The area of AGS required on site is 10,050sqm. Therefore, there is an under provision. However the design is such that no further provision is necessary. It should be noted that this is the area required for AGS alone and Children and Young Persons provision 'should' be in addition.

### **Cheshire Brine Board**

The Board has considered the above application and has no objections to the development outlined in the proposal but your attention is drawn to the fact that the site is in an area which has previously been affected by brine subsidence. Therefore the Board recommends, that precautions against brine subsidence damage should be taken in the design of all proposed buildings at the site, as set out in our letter to the applicant's Engineer Encia, dated 20 April 2007 (PFC/ST/NL08127/J09).

### **Natural England**

Natural England has no objections to the application but would like to make the following comments;

- As long as the Watch Lane Flash is not be affected or receive any flows from the new development, Natural England are satisfied that the SSSI is unlikely to be impacted by these proposal. The conditions suggested by the Environment Agency should be included on any planning permission.
- Overall, Natural England is satisfied with the assessment of impacts to habitats and species present within the development site, as described in the Ecology Report.

- The mitigation measures proposed in Section 4) 'Constraints and Recommendations' should be incorporated as conditions, should the planning application be granted permission.
- In addition to avoidance and mitigation proposals Natural England are pleased to see that opportunities to provide enhancements for wildlife are being considered
- Natural England are pleased with the public open space provision as proposed within the Landscape Strategy, in particular the creation of green corridor connections from the existing and proposed residential areas and out through a sequence of semi-natural and amenity spaces to the wider rural landscapes.

## **6. VIEWS OF TOWN/PARISH COUNCIL**

**Sandbach Town Council:** No objection. However, Members re-iterate their concern that the development will significantly increase traffic in this area; known to have existing traffic and safety issues.

**Moston Parish Council:** No further comments to make

## **7. OTHER REPRESENTATIONS**

Two letters of objection have been received which raise the following points:

- The site clearance works are causing problems of vibration
- The site works are starting as early as 07:30am and there should be hours of operation restrictions
- The proposal should not go ahead without improved access from Moss Lane onto Middlewich Road at the Fox Public House
- The existing tree screening around the site should be maintained

## **8. APPLICANT'S SUPPORTING INFORMATION:**

Design and Access Statement (Produced by Roger Tym & Partners)

Planning Statement (Produced by Roger Tym & Partners)

Arboricultural Survey and Constraints Report (Produced by ACS Consulting and dated August 2011)

Noise Assessment (Produced by Hepworth Acoustics and dated November 2010)

Ecology Report (Produced by NLG Ecology Ltd and dated October 2011)

Landscape Strategy (Produced by Camlin Lonsdale and dated October 2011)

Flood Risk Assessment (Produced by Campbell Reith)

Transport Statement (Produced by Campbell Reith and dated October 2011)

Travel Plan (Produced by Barratt Homes and dated October 2011)

Badger Survey Report and Method Statement (Produced by NLG Ecology Ltd and dated October 2011)

Financial Viability Appraisal (Produced by DTZ and dated November 2011)

These supporting documents are available to view on the application file

## **9. OFFICER APPRAISAL**

### **Main Issues**

The main issues in the consideration of this application are the suitability of the site, in principle, for residential development having regard to matters of planning policy, housing land supply, loss of employment, affordable housing, amenity, ecology, design landscape, layout drainage and flooding, infrastructure, highway safety and traffic generation.

### **Planning Policy and Housing Land Supply**

The application site is shown as being within the Settlement Zone Line for Sandbach and therefore Policy PS4 is relevant. Policy PS4, states that within the settlement zone line;

*'there is a general presumption in favour of development provided it is in keeping with the town's scale and character and does not conflict with the other policies of the plan'. It goes on to say that 'any development within settlement zone lines on land which is not otherwise allocated for a particular use must also be appropriate to the character of its locality in terms of use, intensity, scale and appearance'*

Policy H4 provides detailed criteria that the Council will be required to consider before housing development within the settlement zone lines can be granted planning permission. This includes considerations such as the availability of previously developed land and buildings and the capacity of existing infrastructure, the accessibility of the site to jobs, shops and services by modes other than the car and the capacity of existing infrastructure. Generally the proposal is considered to be in line with this policy. Policy H4 also requires that the proposed development complies specifically with policies GR2 and GR3 and also that it accords with other Local Plan policies.

The NW Regional Spatial Strategy (2008) proposes a dwelling requirement of 20,700 dwellings for Cheshire East for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum. The Council have decided to continue to use the housing requirement of 1,150 net additional dwellings per annum pending the adoption of the Core Strategy.

In terms of housing land supply, this issue has been dealt with at the recent public inquiries at Abbeyfields, Hind Heath Road and Elworth Hall Farm in Sandbach. At these appeals the Councils has conceded that the housing land supply situation is now worse than initially thought and that the current supply stands at 3.65 years approximately.

In this instance the site has been granted outline planning permission under application 07/0913/OUT and is included within the Cheshire East SHLAA. It is therefore considered that the principal of development on this site is acceptable.

### **Development Viability**

The site was subject to a planning application by Bellway homes under application 10/4660C. The site was previously contracted to be acquired by Bellway Homes including a full complement of S106 contributions including affordable housing requirements. Due to the economic downturn and contributions required as part of the last application, the purchase of the site by Bellway from the landowner became 'protracted'. As a result Bellway were released from the contract by mutual consent.

Barratt Homes and David Wilson Homes have now agreed to acquire the site. As the site was purchased prior to the credit crunch in 2007, the land value of the site has fallen. The applicants also state that the site is subject to a number of abnormal costs and the application is subject to a financial viability appraisal.

The abnormal costs identified within the financial viability report are renewable energy, abnormal foundations, topsoil importation, soakaways and offsite highway improvements.

The report submitted to support the applicant's case was prepared on behalf of DTZ. The report reaches the conclusion that the scheme could provide 30% affordable housing with a tenure split of 90% shared equity and 10% affordable rent in addition to a renewable energy compliance of £2,500 per unit. This would provide for no contributions to education, LEAP maintenance or canal side improvements.

The applicant has indicated that the £2,500 per unit which is allocated towards renewable energy could be used elsewhere towards any necessary infrastructure improvements which may be required.

In support of their case the viability appraisal identifies that the overall developers profit for the development is 16.5%. This figure is well below the accepted industry standard of 17.5% - 20%, a figure used within the majority of viability models and which is supported by the guidance published by the Homes and Community Agency.

On the whole the figures contained within the Viability Report are considered to be robust and are accepted. However further justification is being sought in relation to the 'holding costs and remediation costs and this will be provided as part of an update report.

Whilst it is clearly unfortunate that a higher level of affordable rent tenure cannot be increased in accordance with the requirements of SPD6 and the Interim Housing Policy, policy H13 and the Interim Housing Policy do advise that the Council will consider the economics of provision when assessing affordable housing provision. Furthermore, the guidance contained within 'Planning for Growth' makes it clear that Councils will be expected to consider the impact of planning obligations on the viability of development and that such issues amount to important considerations.

A further important consideration stems from the recent Hind Heath Road appeal decision where one of the main reasons for the Secretary of State dismissing the appeal was due to the fact that the Council could demonstrate a five year supply of deliverable sites within the Sandbach area, of which Canal Fields was one such site. Refusal could therefore have a potentially damaging effect on the housing land supply within both Sandbach and the Borough and thus our ability to defend future appeals.

On that basis, it therefore remains for Members to consider the nature of the offer from the applicants and which option they wish to secure from the following two options;

- a) 30% affordable housing with a tenure split of 90% shared equity and 10% affordable rent in addition to a renewable energy compliance of £2,500 per unit and no contributions to education, LEAP maintenance or canal side improvements.
- b) 30% affordable housing with a tenure split of 90% shared equity and 10% affordable rent in addition to a contribution of £2,500 per unit towards infrastructure improvements such as education, LEAP maintenance or canal side improvements and no provision for renewable energy on the site.

It is officers view that option B should be secured having particular regard to the education contribution and the need to off-set the very specific impact that 265 2, 3, 4 & 5 bed homes would have on school capacity. However, if Members took a different view, this would require a minor adjustment to the proposed heads of terms, conditions and would need to be made clear prior to the committee resolution.

### **Loss of Employment Land**

Policy E10 states that 'proposals for the change of use or redevelopment of an existing employment site or premises to non-employment uses will not be permitted unless it can be shown that the site is no longer suitable for employment uses or there would be substantial planning benefit in permitting alternative uses that would outweigh the loss of the site for employment purposes'.

It should be noted that during the consideration of the previous outline permission on this site that evidence was provided of marketing undertaken on the site and the viability of development on this site. In this case the employment element of the development would be completely lost and the development would be wholly residential. However this is not considered to be an issue that would warrant the refusal of this planning application given that Policy E10 allows the redevelopment of an existing employment site where there would be substantial planning benefit. In this case it is considered that there is such a benefit due to the 5 year housing land supply issue to meet the 4 tests within Policy E10.

### **Affordable Housing**

The affordable housing requirement for this development would be 30% and the tenure split should be 65% social rent and 35% intermediate tenure.

The proposed development would provide 30% affordable housing in the form of 1, 2, 3 and 4 bedroom properties. This equates to a total of 81 affordable units across the site, to be split

between 10% social rented and 90% shared equity. The affordable housing mix would be split across the Barratt and David Wilson sites as follows;

*Affordable Housing*

- 1 bed homes – 2 units
- 2 bed homes – 42 units
- 3 bed homes – 31 units
- 4 bed homes – 6 units (Total 81 units)

In terms of the tenure split and at the time of writing this report negotiations were continuing with the applicant and a further update may be provided. This is because there is a greater need for social rented properties in Sandbach and a lower level of affordable housing with a higher number of social rented properties may be more appropriate as part of the development.

Both the Factory and Test Track sites are owned by Hurstwood Landbank, but are subject to separate planning applications. The Test Track site has greater levels of contamination and is subject to viability issues. The Test Track application includes 124 dwellings, giving a total of 393 dwellings. The affordable housing provision across this site would equate to 30% and across both sites it would equate to 20% affordable housing provision.

**Amenity**

The majority of the residential properties are to the north-east of the site and front onto Mulberry Gardens and Foundry Lane. The proposed dwellings would mainly back onto these properties although some would have their side elevations facing towards the existing dwellings. The separation distances to these properties is considered to be adequate and it is not considered that the proposed development would have a detrimental impact upon the residential amenity of the adjacent dwellings which front onto Mulberry Gardens and Foundry Lane.

In terms of the properties which front onto Moss Lane the separation distances are acceptable whilst a landscaped buffer which is located outside the application site would also be retained to help screen the development.

In terms of noise from the adjacent land uses and the railway line, the comments of the Environmental Health Officer have been noted. However mitigation was submitted and agreed as part of the last application. It is therefore clear that the necessary mitigation can be secured and this will be conditioned as part of this application.

It should also be noted that there would be some improvement to residential amenity through the loss of the existing employment site.

In terms of land contamination, the development this is being considered as part of a separate planning application for the decontamination works.

**Ecology**

Sandbach Flashes Site of Special Scientific Interest (SSSI)

Sandbach Flashes is a site of physiographical and biological importance. It consists of a series of pools formed as a result of subsidence due to the solution of underlying salt deposits. The water varies from freshwater, chemically similar to other Cheshire meres, to highly saline. Inland saline habitats are extremely rare and are of considerable interest because of the unusual associations of plants and animals. Most of the flashes are surrounded by semi-improved or improved grassland. Fodens Flash is partly surrounded by an important area of wet woodland.

As well as the physiographical and biological interests of the flashes, the SSSI is notified for both its breeding bird assemblage and for its aggregations of non-breeding birds specifically Curlew, Lapwing, Snipe, Teal and Widgeon. The site is also notified for its geological features resultant of the solution of underlying salt deposits.

In terms of the impact upon the SSSI, Natural England has been consulted and has advised that the proposed development would not materially or significantly affect the SSSI. The proposed development is therefore considered to be acceptable in terms of its impact upon the SSSI.

## Badgers

The proposed development will result in the loss of two sporadically used outlier setts and also the potential disturbance of other badgers setts located outside the application boundary on the adjacent railway embankment.

The submitted method statement provides details of the controlled closure of the two setts to be lost to the development and recommendations for the supervision and implementation of any works within 30m of the off-site setts. The proposed method statement is considered acceptable and the proposed mitigation will be secured through the use of a condition.

## Bats

One of the buildings which stood on the site included a small bat roost and the applicant gained a Natural England Licence prior to the demolition of the buildings which stood on the site. As the licence has already been granted, it is not considered necessary the development against the tests contained within the EC Habitats Directive 1992. The development must proceed in accordance with the Natural England Licence which has been dealt with separately to this planning application.

## Breeding Birds

The use of conditions in relation to the timing of the works and details of mitigation measures could be used to ensure that the development would not have a detrimental impact upon breeding birds.

### Hedgerows

Hedgerows are a Biodiversity Action Plan priority habitat and hence a material consideration. The hedgerow to the boundaries of the site would be retained and any necessary improvements would be secured under a landscaping condition.

### **Trees**

The application site includes a number of trees to the boundaries of the site. These trees are of varying quality and age and are not protected by a Tree Preservation Order. The submitted information in relation to the trees on the site assesses the trees in nine groups and three individual trees. Of these, trees groups are identified as of moderate quality and value and the remaining three groups and the three individual trees are identified as being of low quality and value.

The existing trees provide both constraints and opportunities for the development. The former use of the site provided a completely different setting to the residential use now proposed. It is accepted that the quality of the trees is variable and that many specimens would require remedial pruning work if they are to be retained. Furthermore, the remediation of the site is likely to have impacts upon the trees. Nonetheless, it is important that the layout makes appropriate provision for the retention of healthy trees which can form integral elements of the landscape framework for the new development.

The Planning Layout plans indicate some existing trees retained within the site adjoining properties on Mulberry Gardens and Foundry Lane and others retained close to the Moss Lane boundary.

On the basis of the information submitted there were concerns that the layout did not make appropriate provision for tree retention. The areas of concern were:

1. Barratts Plots B10 & 11- rear garden dominated by trees. (Greater impact than approved layout).
2. Parking court between Barratts plots B12 & 13 - works within tree root protection areas and likely to result in tree losses.
3. Barratts plots 13-15 rear gardens likely to suffer from tree shading issues. (Smaller gardens and greater impact than approved layout)
4. David Wilson plots 20, 22, 23, - garages in tree root protection areas.
5. David Wilson Plots 1-7& 9 likely to suffer for excessive shading from trees to the south.
6. Plots adjacent to the railway corridor are likely to be affected to a degree by offsite trees along the railway corridor to the east.
7. Turning head on Moss Lane would involve trees losses and in tree root protection area.

These issues were raised with the applicants and an amended layout has now been secured. This shows some improvements to the trees which bound the site such as an improvement in the relationship between plots B10 & B11, B113-115 and David Wilson Plots 20, 22 and 23. It is now considered that the works are acceptable in relation to the trees which bound the site.

## **Drainage and Flooding**

A Flood Risk Assessment has been provided by the applicants and this has been forwarded to the Environment Agency. The Environment Agency have assessed the FRA and raised no objection to the development, subject to the imposition of planning conditions. It is therefore considered that the development would not raise any significant flooding/drainage implications that would warrant the refusal of this application.

## **Design**

The surrounding development comprises a mixture of ages and architectural styles. Notwithstanding this, there is consistency in terms of materials with most walls being finished in simple red brick with some properties incorporate render. The predominant roof forms are gables although some are hipped and most are finished in red tiles. Clifton Road and Mulberry Gardens to the north-east are suburban in character whilst Moss Lane is rural in character.

The layout of the site includes prominent dwellings at the northern entrance points as well as new woodland gateway planting at the northern access point. This is considered to be acceptable as part of the proposed development.

In terms of legibility, there are two developers on this site Barratt Homes and David Wilson Homes. Both house builders have different house types which vary in terms of their design and style this would assist in the legibility of the site. The use of a varying palette of materials which would help to increase legibility across could also be secured through the use of planning conditions.

The house types are of varying heights (from two to three storeys in height) which will add some subtle interest to the appearance of the dwellings with a varying ridge line across the development. The proposed dwellings include features such as projecting gables, sill and lintel details, porches and bay windows, these details provide interest to the dwellings and they would not appear out of character with the surrounding residential development especially the properties fronting Clifton Road and Mulberry Gardens.

The proposed dwellings would provide surveillance of all public areas including the highways, public open space and the footpath/cycle link.

To the south-west corner some properties have been re-orientated so that a small number of properties face onto the Moss Lane landscape buffer and the Canal Conservation Area beyond. Ideally a greater proportion of dwellings should face onto Moss Lane. However, in this case this has not been achieved and any visibility from Moss Lane would be limited in any case given the existing landscape buffer. It is therefore considered that this layout is acceptable.

## **Open space**

If planning permission was granted for a development on this site there would be a slight deficit in the quantity of POS in the area.

The site plan shows that the public open space provision to serve the site would be centrally located and would be roughly rectangular in shape. There would also be areas of open space which would run alongside the footpath/cycle link, as well as smaller parcels located to the south west corner and western boundary.

The area of POS required on this site would be 10,050sq.m and this development would provide 9,340sqm. As a result there would be an under provision on the site. However the view of the Greenspace Officer is that no further provision would be necessary given the design and layout of the proposed POS. It should also be noted that increased POS provision would result in fewer units and increased pressures on the viability of the site.

In terms of children and young person's provision there would be a deficit in provision if planning permission was granted. To serve a development of this size a LEAP with a minimum of 5 pieces of equipment and with an area of 400sqm will be required. This will be secured as part of the S106 Agreement as part of this application.

In terms of the maintenance of the POS, this would be done via a management company which would be secured via a S106 Agreement. The Greenspace Officer stated that the Council would be prepared to adopt the LEAP subject to a 25 year maintenance contribution of £299,993. This contribution could not be secured due to issues of viability and as a result the LEAP will also be maintained by a management company which would be secured via a S106 Agreement.

### **Highway Safety and Traffic Generation**

The site gained outline planning permission in 2008 for 280 dwellings, B2 units and an extra-care facility. All details were reserved except for highway access, which was resolved satisfactorily in terms of local and significant highway improvements. Agreements for further improvements to local sustainable links were also made and included footway repairs and upgrades and the provision of street lighting improvements. In 2011, the Strategic Planning Board resolved to grant a further permission, though this permission was not issued as the related developer has moved away from this scheme.

This application continues to offer the same junction upgrades to the local network to mitigate the development traffic impact and in particular still offers the signal controlled junction at the B5079/A533 – Station Road/London Road junction.

This signal junction solution for the Station Road/London Road junction offers traffic signals with pedestrian facilities as per the original permission. The remaining off-site highway aspects of the site align with those agreed for the 2008 permission.

This application does provide a Transport Assessment (in accordance with the requirements of the DfT Document: 'Guidance on Transport Assessments) which re-iterates the satisfactory details for TA's on the previous applications. It is adjusted to assess the small changes in the development proposals for a small increase in residential units and the removal of the B2 use which was a high traffic generator.

The proposed position for this application in terms of the highway access solution is satisfactory.

A Framework Travel Plan is offered and this will be secured as part of the S106 Agreement.

The necessary upgrades and repairs to the existing footway links to and from the site between it and sustainable transport modes such as the railway station and the bus services on London Road and Station Road were agreed as part of the previous applications. These improvements will be secured by schedule under a Section 278 Agreement (Highways Act 1980) and will be provided by the developer. The benefits of these improvements align with the developer's duty to provide and promote sustainable modal choice of travel and the footway and cycle links throughout the site compliment this accessibility.

The changes to Moss Lane to the rear of the site will offer significant improvements to the general sustainable use of the Elworth area.

As part of the development, Mill Lane will be closed to through vehicular traffic. This is an important element of the design approach to this development, as it will ensure that the correct split of traffic generation and distributes the traffic impact as predicted in the Transport Assessment. However, it should be noted that the need for a traffic regulation order to achieve this does mean that the Authority will have to go through a statutory consultation process and there is a small chance that resolution for the necessary traffic order may not be achieved. It should also be noted that, if and when Moss Lane is closed to through vehicular traffic, it will still remain open for pedestrians and cyclists.

The internal layout for this site is to be an innovative Manual for Streets layout, which will provide a pedestrian friendly hierarchy of internal adoptable highways, ranging from major vehicular routes to pedestrian priority streets.

At the time of writing a revised internal layout drawing is awaited and this will provide some adjustment of the layout. This is to ensure that the design features are more consistent across the site.

### **Infrastructure**

As part of the existing outline permission for this site (07/0913/OUT) a contribution of £40,000 was secured towards enhancing education provision (a contribution of £30,000 was also secured for the test track site to the south). As part of application 10/4660C a contribution of £328,069 was negotiated.

The Councils Education Department has been consulted as part of this application and the original consultation response requested a contribution of £466,390.

As stated in the viability section above, the applicant has offered to contribute towards education provision providing that there are no renewable energy requirements on this site. This is considered to be the most appropriate approach and as a result the contribution of £466,390 could be secured as part of this development.

### **Ground Conditions**

A consultation response has been received from the Cheshire Brine Board. This makes recommendations in relation to the construction of the buildings on the site. It is considered that the development can proceed in accordance with these recommendations.

### **Public Rights of Way**

As part of the proposed development, a footway/cycle link would be provided which would run from the south of the site to Foundry Lane. This would provide a sustainable link to a footpath and a bridge over the railway line to Station Road and Sandbach Railway Station. It is also envisaged that this link would be extended into the vacant sites to the south, once they come forward for housing development. The maintenance of this footway/cycle link would be secured as part of an agreement with a management company.

As part of the consultation response to this application, the Public Rights of Way Officer has made the following suggestions:

- a. Improvements to the towpath of the Trent and Mersey canal close to the site
- b. The provision of sections of pavement at the corner of Moss Lane at the southern edge of the proposed development site and on Watch Lane to the west. The suggestions were put forward to encourage pedestrian movement along these lanes.
- c. Surface improvements are required on public footpaths No. 30, 31 and 46 which run between the proposed development site and the employment and service centres of the locality.

Information has been provided on the costs of these works and £55,000 has been identified for towpath improvements and £30,000 towards improved disabled access on to the canal at bridge 159 Rookery Bridge and Bridge 160 Elton Moss Bridge. This would provide a circular walk linking the adjacent housing sites (Canal Fields and Fodens Test Track). Further improvements relate to the replacement of styles with gates, which equates to £885 which would improve access for disabled people. This gives a total of £85,885 towards PROW improvements along the canal.

The improvements to Sandbach public footpath 30 and 31 would equate to a total of £31,863 (£23,400 and £8,463) and would be secured via a S106 agreement.

### **Other Issues**

Policy EM18 (Decentralised Energy Supply) of the RSS requires all residential developments comprising 10 or more units to secure at least 10% of their predicted energy requirements from decentralised and renewable or low-carbon sources. This will be controlled by the use of a planning condition.

### **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 a contribution towards the highway works is required to help mitigate against the highways impact of the development, the PROW/Canal side improvements would mitigate against the increased use of the canal towpath and PROW. The proposed development cannot proceed without these improvements and the contribution is reasonably related in scale and kind to the development.

The development would result in increased pressures on local schools which are already at capacity. The contribution is required to increase the capacity of local schools which would serve this development. This is considered to be necessary and fair and reasonable in relation to the development.

As explained within the main report, affordable housing, POS and children's play space is a requirement of the Interim Planning Policy. It is directly related to the development and is fair and reasonable.

On this basis the S106 recommendation is compliant with the CIL Regulations 2010.

## **9. CONCLUSIONS**

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. In this case the application site is a brownfield site within the Sandbach Settlement Boundary and benefits from an outline planning permission for a residential development. It is therefore considered that the principle of a residential development on this site is acceptable.

The proposed development would not have a detrimental impact upon highway safety and the Strategic Highways Manager has secured a number of off-site highway works to ensure that this is the case.

The layout, design and scale of the proposed dwellings are considered to be appropriate.

The development would provide 30% affordable housing and an update will be provided in relation to the tenure split. The development is considered to be acceptable in terms of provision of Public Open Space and the provision of a LEAP which will be maintained by a management company.

The viability arguments are accepted and although the development would not offer any renewable energy the development would make an appropriate contribution to educational provision, PROW and canal side improvements.

The proposal is considered to be acceptable in terms of its impact upon residential amenity, drainage/flooding, protected species, SSSI, employment land and trees

## **10. RECOMMENDATION**

**APPROVE** subject to the following conditions and the satisfactory completion of a S106 Agreement comprising;

### **Heads of terms**

- A provision of affordable housing (the numbers and tenure split is to be confirmed)
- A contribution towards local education provision of £466,390
- The provision of a LEAP, Public Open Space and footway/cycle link which should be retained in perpetuity and a scheme of management
- A commuted payment towards canal side/PROW improvements (£117,748)
- An Interim Residential travel plan in accordance with DfT guidance document
- A commuted sum for the necessary Traffic Regulation Orders, local traffic management orders and bus stops (£44,000)

### **Conditions;**

1. Standard time – 3 years
2. Materials to be submitted to the LPA and approved in writing
3. Submission of a landscaping scheme to be approved in writing by the LPA
4. Implementation of the approved landscaping scheme
5. No trees to be removed without the prior written consent of the LPA
6. Boundary treatment details to be submitted to the LPA and approved in writing
7. Remove PD Rights for extensions and alterations to the approved dwellings
8. If protected species are discovered during construction works, works shall stop and an ecologist shall be contacted
9. Prior to any commencement of works between 1<sup>st</sup> March and 31<sup>st</sup> August in any year, a detailed survey is required to check for nesting birds.
10. Prior to the commencement of development the applicant to submit detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds.
11. The proposed development to proceed in accordance with the recommendation made by the submitted Badger survey report and method statement dated October 2011.
12. The development hereby permitted shall not be commenced until such time as; a scheme to limit the surface water run-off generated by the proposed development, has been submitted to and approved in writing by, the Local Planning Authority.
13. The development hereby permitted shall not be commenced until such time as; a scheme to manage the risk of flooding from overland flow of surface water, has been submitted to, and approved in writing by, the Local Planning Authority.
14. Acoustic mitigation measures to be submitted and agreed
15. The hours of construction shall be limited to 08:00 – 18:00 Monday to Friday, 09:00 – 14:00 Saturday and not at all on Sundays or Bank Holidays
16. Any piling works shall be limited to 08:30 – 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays or Bank Holidays
17. The remedial scheme shall be carried out in full accordance with original remedial scheme provided under application 07/0912/OUT and addenda provided under

**this application. These details shall not be varied without the prior written consent of the Local Planning Authority**

**18. A Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to, and approved in writing by, the LPA prior to the first occupation of any part of the development hereby approved.**

**19. No building within 3 metres of the public sewer which crosses the site**

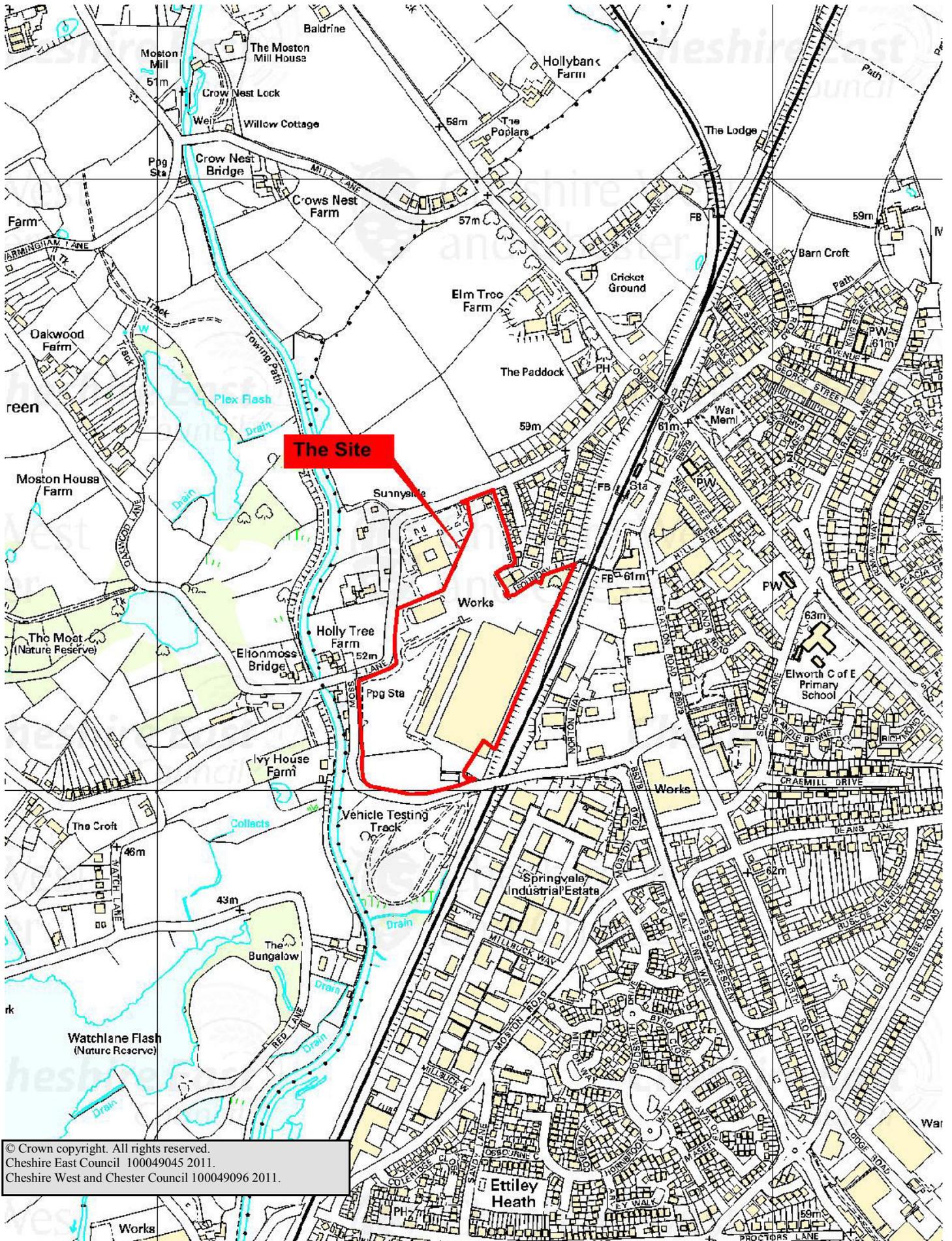
**20. Completion of the proposed off-site highway works**

**21. Details and location of the contractors compound together with details of management of the site to be submitted to the LPA and approved in writing**

**22. Measures to show how mud, clay or other material is not deposited on the highway**

**23. Details of external lighting to be approved in writing by the LPA**

**In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Planning and Housing in consultation with the Chair of the Strategic Planning Board is delegated authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.**



**The Site**

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Application No: 11/3569C

Location: FORMER FODENS FACTORY AND TEST TRACK SITES, MOSS LANE, SANDBACH

Proposal: SITE PREPARATION, BULK EARTHWORKS AND INFILLING OPERATIONS TO ENABLE THE FUTURE DEVELOPMENT OF THE SITES FOR RESIDENTIAL-LED PURPOSES.

Applicant: MR RICHARD LEVER, ENCIA LTD

Expiry Date: 05-Jan-2012

**SUMMARY RECOMMENDATION****Approve subject to conditions****MAIN ISSUES****Principle of the Development****Land Contamination****Japanese knotweed****Amenity****Ecology****Trees****Impact upon the adjacent watercourses****Design****Highway Safety And Traffic Generation****REFERRAL**

The application has been referred to Strategic Planning Board because it is a major development.

**1. SITE DESCRIPTION**

The application relates to 12.34ha of land, situated to the western side of the Crewe-Manchester Railway line within the Sandbach Settlement Boundary. The sites are known as the former Fodens Factory Site and the Fodens Test Track Site. The factory site is bound by Moss Lane to the north, west and south. To the north-west of the site is an existing office building which is within the ownership of the applicant. To the north-east of the site are residential properties which front onto Mulberry Gardens and Clifton Road, these properties are of varying styles and types. The land on the opposite side of Moss Lane is mainly rural in character and includes a number of detached dwellings which are set within relatively large plots. To the south of the former factory site is the former test track. This site is bound by the

Crewe-Manchester Railway to the east, the Canal Fields site to the south and the Trent & Mersey Canal to the west.

The sites are relatively open and the former factory buildings which stood on the site have now been demolished. The factory site has 2 vehicular access points, one to the south and one to the north and the Test Track site has one vehicular access point to the north. There is sporadic tree planting to the boundaries of the site but this is of mixed quality.

## **2. DETAILS OF PROPOSAL**

This is a full planning application for the remediation of the contaminated land on the site.

## **2. RELEVANT PLANNING HISTORY**

10/4660C - Redevelopment of the Former Foden Truck Factory for Residential (248 Units), B1c Light Industrial (3,620sq.m) and A1 Retail (360sq.m) – Yet to be determined

07/0913/OUT – Outline: Erection of 250 residential units, 80 bed care home (Use Class C2) with 62 care/retirement apartments/bungalows, B1 light industrial units and erection of A1/A3/A4/A5 building(s) with residential accommodation above – Approved 11<sup>th</sup> March 2009

07/0912/OUT – Outline planning application for the redevelopment of the above site for residential development (between 142 and 149 dwellings) – Approved 30<sup>th</sup> March 2009

## **3. PLANNING POLICIES**

### **National Policy**

PPS 1 Delivering Sustainable Development  
PPS 3 Housing  
PPS 7 Sustainable Development in Rural Areas  
PPS 9 Biodiversity and Geological Conservation  
PPG 13 Transport  
PPS 23 Planning and Pollution Control  
PPS 25 Development and Flood risk.

### **Local Plan Policy**

GR1 New Development  
GR2 Design  
GR3 Residential Development  
GR4 Landscaping  
GR5 Landscaping  
GR6 Amenity and Health  
GR9 Accessibility, servicing and provision of parking  
GR18 Traffic Generation  
GR21 Flood Prevention  
NR1 Trees and Woodland  
NR2 Statutory Sites

NR3 Habitats  
NR4 Non-statutory sites  
NR5 Habitats  
NR6 Reclamation of Land

### **Regional Spatial Strategy**

DP4 Make best use of resources and infrastructure  
DP5 Managing travel demand  
DP7 Promote environmental quality  
DP9 Reduce emissions and adapt to climate change  
RDF1 Spatial Priorities  
EM1 Integrated Enhancement and Protection of the Region's Environmental Assets  
EM3 Green Infrastructure  
MCR3 Southern Part of the Manchester City Region

### **Other Considerations**

'Planning for Growth'  
'Presumption in Favour of Economic Development'  
Draft National Planning Policy Framework  
The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

## **4. OBSERVATIONS OF CONSULTEES**

**Environmental Health:** Hours of construction condition required. Any potential nuisance that may arise from any of the works undertaken on the site such as noise, odour, dust or vibration will be investigated under the provisions of the Environmental Protection Act 1990 by the Environmental Health Division.

In terms of the contaminated land and following a meeting with the site contractor the Environmental Health Department have agreed variations on the remedial strategy given parts of the remedial scheme submitted in support of the application were out of date. The outcome of the meeting with Encia has subsequently been confirmed in writing.

The Environmental Health department are satisfied with the outcome of the meeting, and have no objections to the planning application subject to the updated remedial strategy being adhered to. The following conditions should be applied should planning permission be granted:

- The remedial scheme including the approved addenda (original remedial scheme provided under application 07/0912/OUT and addenda provided under this application) shall be carried out and regular updates provided to the Local Planning Authority (LPA) regarding its progress.
- A Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to, and approved in writing by, the LPA prior to the first use or occupation of any part of the development hereby approved.

**Strategic Highways Manager:** Originally raised concerns in relation to the frequency of heavy commercial vehicle trips, the routes of HGV vehicles, wheelwash details and traffic management for vehicles entering and leaving the site.

Following the receipt of these details the Strategic Highways Manager accepts the details and these should be conditioned as part of any approval.

**Environment Agency:** The Environment Agency has no objection in principle to the proposed development but requests that any approval includes the following planning conditions;

- Before the development commences, and during the course of construction period, temporary protective metal fencing shall be erected along the canal and drain
- No development shall take place until a scheme for the reinstatement of the watercourse banks has been submitted to and agreed in writing by the local planning authority and implemented as approved
- Prior to commencement of development , a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.

A number of informatives are also suggested to be attached to any decision notice.

**United Utilities:** No comments received

**British Waterways:** Originally raised a number of concerns regarding the retrospective nature of the works and the impact upon the adjacent canal. Following negotiations between the applicant and British Waterways the following comments have been provided;

The remediation of the test track site will ultimately be beneficial to British Waterways in terms of removing the on-going risk of pollution of the adjacent Trent and Mersey Canal from this site.

However, it was acknowledged that while the operations are taking place there is a significant risk of pollution entering the canal as a result of exposed waste materials, soils and contaminated surface water entering the watercourse on the south and east boundaries of the test track site, which discharges into the canal. Landfill waste has been found to be present in very close proximity to the edge of this watercourse, which is wide in places and is not confined to an obvious ditch or channel.

The contractor has agreed to immediately introduce straw bales on the edge of the watercourse to act as a filter for waste materials. They also intend to prepare, as a matter of urgency, a detailed method statement setting out measures to minimise the risk of contaminated materials entering the watercourse and canal, along with full details of the methods for working in close proximity and up to the edge of the watercourse. We agreed that these details should be provided and agreed by British Waterways and the Local Planning Authority by the end of January.

In relation to the land in British Waterways ownership adjacent to the canal, it was observed that the clearance of vegetation and removal of any waste materials from this land have now

been completed and there are no stockpiles of materials now present on British Waterways land. This strip of land should be included within the application site and intends to amend the red edge accordingly and notice should be served upon British Waterways.

**Cheshire Brine Board:** No comments received

**Natural England:** Natural England is reasonably satisfied with the conclusions and proposed mitigation/remediation strategy. It should be noted however that the Qualitative Risk Assessment (Section 7) suggests that the applicant has not yet consulted the Environment Agency with regard to the precautionary and pragmatic approach to the protection of the SSSI and Minor Aquifer. We would expect this consultation to have taken place prior to determination so that any comments from the Environment Agency (EA) can be taken into account within the strategy. The remediation strategy will need to be conditioned as part of any approval. The comments made in relation to application 10/4660C also apply.

**Network Rail:** Network Rail has no objection in principle to this application but due to the proposal being next to Network Rail land and infrastructure and to ensure that no part of the development adversely affects the operational railway Network Rail would request that a number of conditions are attached to any decision notice. The applicant should be made aware of their proposals potential to impact seriously and negatively upon the operational railway. Conditions suggested in relation to boundary treatment, drainage, lighting, vibro-impact machinery. The applicant will also need to discuss the extent of the excavation with Network Rail.

## **5. VIEWS OF THE TOWN/PARISH COUNCIL**

**Sandbach Town Council:** No objection

**Moston Parish Council:** No comment to make

## **6. OTHER REPRESENTATIONS**

One letter of representation received from the occupants of 32 Moss Lane raising the following points;

- All vehicles required for the works should utilize the southern access point
- The applicant should provide clear signage to advise vehicles to use the southern access
- The site works have already begun without planning permission

## **7. APPLICANT'S SUPPORTING INFORMATION:**

Detailed Remedial Strategy (Produced by Encia Consulting Ltd)

Site Waste Management Report (Produced by Encia Consulting Ltd)

Mitigation in relation to Bats (Produced by the Tyrer Partnership Ecology Consultants)

Method Statement to accompany the Badger Licence (Produced by NLG Consultant Ecologist)

Quantitative Risk Assessment (Produced by Encia Consulting Ltd)

Geoenvironmental Appraisal (Produced by Encia Consulting Ltd)

Supplementary Geoenvironmental Appraisal (Produced by Encia Consulting Ltd)

Supporting letter from Complete Weed Control to confirm that Japanese Knotweed has been eradicated on the site

Badger Survey Report and Method Statement (Produced by NLG Ecology Ltd)

Ecological Assessment (Produced by NLG Ecology Ltd)

These documents are available to view on the Councils website

## **8. OFFICER APPRAISAL**

### **Principle of the Development**

A scheme to remediate the Fodens Factory and Test Track sites has previously been agreed as part of outline applications 07/0912/OUT and 07/0913/OUT and both of these consents remain extant. The applicant now wishes to remediate the sites without having to gain reserved matters approval for the housing schemes and discharging the relevant planning conditions which would be attached to the outline and reserved matters applications. The reason for this is that the applicant wishes to decontaminate the site before being subject to any further Land Fill Tax.

The principal of the remediation of these sites prior to any future applications for housing is supported and applications for housing on both the Factory and Test Track sites are expected shortly. The main issues in the consideration of this application are whether the contaminated land works are sufficient, the impact upon residential amenity, ecology, landscape, drainage and flooding, and highway safety.

### **Land Contamination**

The level of land contamination varies greatly from the factory site to the test track site. For both sites Phase II site investigations, monitoring of groundwater and gas and drainage survey have been undertaken. The results of which are as follows:

#### Fodens Factory Site

- Ground conditions were found to be relatively consistent across the main factory area of the site
- The results of the chemical test results for soils indicated that in respect of metals, Volatile Organic Compounds (such as benzene) and Semi Volatile Organic Compounds these were not recorded above the relevant Generic Assessment Criteria (such as Soil Guideline Values) for residential end uses
- Poly Chlorinated Biphenyls were not detected
- Elevated levels of total Polyaromatic Hydrocarbons (PAHs) exceeding the relevant Soil Guideline Values were detected in three samples during the site investigations
- Elevated levels of Total Petroleum Hydrocarbons (TPH) exceeding the relevant threshold values were identified in one soil sample from adjacent to a diesel tank in the central southern portion of the site
- Chemical analysis of groundwater indicated slightly elevated levels of TPH, copper, chromium, nickel and zinc. The surveys indicate that the TPH in the groundwater is migrating onto and across the site from offsite sources to the east

### Fodens Test Track Site

- Trial trenches have been excavated and these have confirmed the distribution and type of made ground. The made ground is shallow (0.2m) to the north but becoming deeper to the south (approx 2.4m). The made ground comprised a lower layer of mixed 'industrial/domestic' type waste with an upper layer of 'industrial type' waste.
- Made ground was encountered on the majority of the exploratory holes in the test track area to depths ranging from 1m to 6.7m. The bulk of the made ground is broadly characterised as inert or putrescible waste.
- The inert waste was mainly found to the north of the site and generally comprises of dark brown silty sand and gravel entrained with ash, brick, concrete, metal, plastic etc. Evidence of asbestos was also encountered
- The putrescible made ground was generally to the south and lies beneath a layer of inert waste. The putrescible waste is characterised as black sand with much paper, cloth, decomposing organic matter, plastic bags, cardboard, timber, ash, etc
- Extensive samples of the natural and made ground have been submitted for chemical analysis. The samples of materials identified as topsoil were found to contain elevated metals such as copper and nickel. Samples of the made ground contained elevated concentrations of a number of metal and organic determinands and other physically unsuitable materials (plastic bags, bricks, wire, cloth etc) which would be unacceptable near the surface in garden areas. The putrescible waste materials also contained significant organic (hydrocarbon) contamination
- Part of the site is former landfill and the site is likely to be the source of significant gas generation and migration. Gas monitoring has been carried out and the majority of the area can be characterised as requiring gas exclusion measures.

The remediation of the Test Track site involves the excavation and sorting/selection of the made ground types deposited on the site.

Any made ground encountered during the process exhibiting signs of organic (hydrocarbon) contamination is to be separated and temporary stockpiled for further analysis. Depending on the results of this analysis the material will be relocated or retained on site or disposed off site at a suitably licensed landfill.

The bulk of the made ground types shall be taken to the designated treatment/sorting area and undergo various screening/picking operations to minimise the biodegradable waste which should be removed to a licensed facility. All timber, metal and glass is to be reclaimed and recycled where possible. All hard material (brick, concrete, stone etc) is to be removed from the soil matrix and crushed for reuse.

All indications from the previous site investigations are that the remaining soil on the Test Track site is suitable for reuse to make up the land levels on the Test Track site. Samples will be taken from the screened soil and submitted for chemical analysis. The results shall be compared to the agreed site specific target concentrations for bulk filling to the test track site. It has been agreed to undertake gas monitoring upon completion of the remediation of the Test Track site in order to confirm the concentrations of any gas and the level of gas protection measures required in the proposed properties.

The excavation of contaminated soils/biodegradable fill should not present a significant problem with regard to emission of dust during extraction and transport as the material to be

excavated should have a relatively high moisture content. At all times during the excavation works, best practice means shall be employed to minimise dust and odour emissions.

Perched water is to be collected and pumped into a holding tank for sampling and chemical analysis. Dependent on the analysis, the perched water will be disposed of down the existing manhole cover to an existing sewer. This will need to be in accordance with a temporary discharge consent which has to be obtained from United Utilities. This consent will specify the acceptable chemical concentrations and discharge rates that will be allowed.

The investigations for the Factory site have yielded very limited identification of chemical contamination. Hydrocarbon contamination will be delineated and remediated.

Contaminated land from both sites may be considered suitable for treatment on site and this will be subject to a Mobile Treatment Licence from the Environment Agency.

In terms of the contamination and remediation, the Environmental Health Officer has requested additional updates regarding the screening values for soils as there have been recent changes in national guidance. These details have been provided and the Environmental Health Officer is satisfied with the remediation scheme subject to two conditions being attached to any planning consent.

### **Japanese Knotweed**

Some areas of Japanese Knotweed have been previously identified on the site and this underwent a programme of herbicide treatment to eradicate the invasive plant. A letter from Complete Weed Control states that this was carried out in September 2008. No evidence in the treated areas of any new growth of Japanese Knotweed has been encountered in the subsequent years since the 2008 treatment.

### **Amenity**

The majority of the residential properties are to the north-east of the site and front onto Mulberry Gardens and Foundry Lane. As the majority of the remediation works are carried out on the Test Track site which is further from the surrounding residential properties this will help to reduce the impact upon residential amenity.

In terms of the timings of the works, the Environmental Health Officer has requested that the hours of operation are conditioned as part of any approval.

Any potential nuisance that may arise from any of the works undertaken on the site such as noise, odour, dust or vibration will be investigated under the provisions of the Environmental Protection Act 1990 by the Environmental Health Division.

### **Ecology**

#### Sandbach Flashes Site of Special Scientific Interest (SSSI)

Sandbach Flashes is a site of physiographical and biological importance. It consists of a series of pools formed as a result of subsidence due to the solution of underlying salt

deposits. The water varies from freshwater, chemically similar to other Cheshire meres, to highly saline. Inland saline habitats are extremely rare and are of considerable interest because of the unusual associations of plants and animals. Most of the flashes are surrounded by semi-improved or improved grassland. Fodens Flash is partly surrounded by an important area of wet woodland.

As well as the physiographical and biological interests of the flashes, the SSSI is notified for both its breeding bird assemblage and for its aggregations of non-breeding birds, specifically Curlew, Lapwing, Snipe, Teal and Widgeon. The site is also notified for its geological features resultant of the solution of underlying salt deposits.

In terms of the impact upon the SSSI, Natural England and the Environment Agency have been consulted and are satisfied with the mitigation/remediation strategy. The proposed development is therefore considered to be acceptable in terms of its impact upon the SSSI.

### Badgers

The proposed development will result in the loss of two sporadically used outlier setts and also the potential disturbance of other badgers setts located outside the application boundary on the adjacent railway embankment.

The submitted method statement provides details of the controlled closure of the two setts to be lost to the development and recommendations for the supervision and implementation of any works within 30m of the off-site setts. The proposed method statement is considered to be acceptable and the proposed mitigation will be secured through the use of a condition.

### Bats

One of the buildings which stood on the site included a small bat roost and the applicant gained a Natural England Licence prior to the demolition of the buildings which stood on the site. As the licence has already been granted, it is not considered necessary the development against the tests contained within the EC Habitats Directive 1992. The development must proceed in accordance with the Natural England Licence, which has been dealt with separately to this planning application.

### Breeding Birds

The use of conditions in relation to the timing of the works has been suggested by the Councils Ecologist in order to ensure that any nesting birds are not disturbed. However works have already commenced and the vegetation has been removed outside the bird breeding season. Therefore, the suggested condition is not necessary.

The suggested condition to incorporate features into the scheme which are suitable for nesting birds will be attached to the housing application and is not considered appropriate for this application.

## **Trees**

The two sites which are the subject of this application contain existing vegetation including trees, lengths of hedgerow and scrub. There are no trees protected by a Tree Preservation Order on either site and the trees are of mixed quality.

As already stated, the applicant has commenced the decontamination works and the very nature of the works has resulted in a number of trees/vegetation from the boundaries of the site. The vegetation removal from the site has now been completed and the decontamination of both sites will bring substantial benefits.

As part of the housing applications for both sites, the remaining trees will be accommodated where possible and enhanced through additional planting.

## **Impact upon the adjacent watercourses**

The Test Track site is bound by the Trent & Mersey Canal to the west and a small brook to the south of the site and the impact upon these watercourses has been subject to much negotiation between the applicant and the Environment Agency and British Waterways.

The main concern relates to the contamination of these watercourses from the decontamination works. It should be noted that without the decontamination works, there would also have been a risk of contamination. As a result, the scheme is welcomed by British Waterways.

The Environment Agency are satisfied that there will be no impact upon the adjacent brook and have suggested a number of conditions.

British Waterways have requested a detailed method statement setting out measures to minimise the risk of contaminated materials entering the watercourse and canal, along with full details of the methods for working in close proximity and up to the edge of the watercourse. It is understood that this has been produced and is awaiting final agreement from British Waterways. An update will be provided in relation to this issue.

In terms of development on land owned by British Waterways, it is accepted that the applicant has not completed the correct ownership certificate. However British Waterways are aware of the application and it is considered that this issue is a matter between the applicant and British Waterways and is not a factor which would affect the determination of this planning application.

## **Design**

Following the remediation works the land levels will be regarded. These levels are similar to those existing and would not appear out of character.

## **Highway Safety and Traffic Generation**

As part of the decontamination works, the contractor will use three wagons which will make 36 movements Monday – Friday and 18 movements on a Saturday. This equates to 4-5 loads

per hour. It is anticipated that the haulage operation to the licensed landfill will be complete by the end of February 2012.

The Factory site does not have any surplus or contaminated soils which require disposal off site. However there is approximately 10,000cu.m of crushed concrete which is generated from the Factory site which will be required to be transported to the Test Track site. This material will be transported by 2 dump trucks with approximately 50 vehicle movements (5-6 per hour). The transportation of the crushed material will not commence until the haulage operation to landfill has been completed. It is anticipated that these works will commence at the beginning of March and will run through to mid April 2012.

The level of vehicle movements will be for a temporary period only and is considered to be acceptable by the Strategic Highways Manager.

## **9. CONCLUSIONS**

A scheme for the remediation of both sites has previously been approved as part of applications 07/0912/OUT and 07/0913/OUT and both of these consents remain extant. The remediation of the sites would provide substantial planning benefits and will help these brownfield sites to come forward for residential development.

The mitigation works have been subject to extensive negotiation between the contractor and Environmental Health, British Waterways and the Environment Agency. The mitigation works are considered to be acceptable and would not harm the adjacent watercourses.

The development will not have a detrimental impact upon protected species subject to the compliance with the Badger Method Statement.

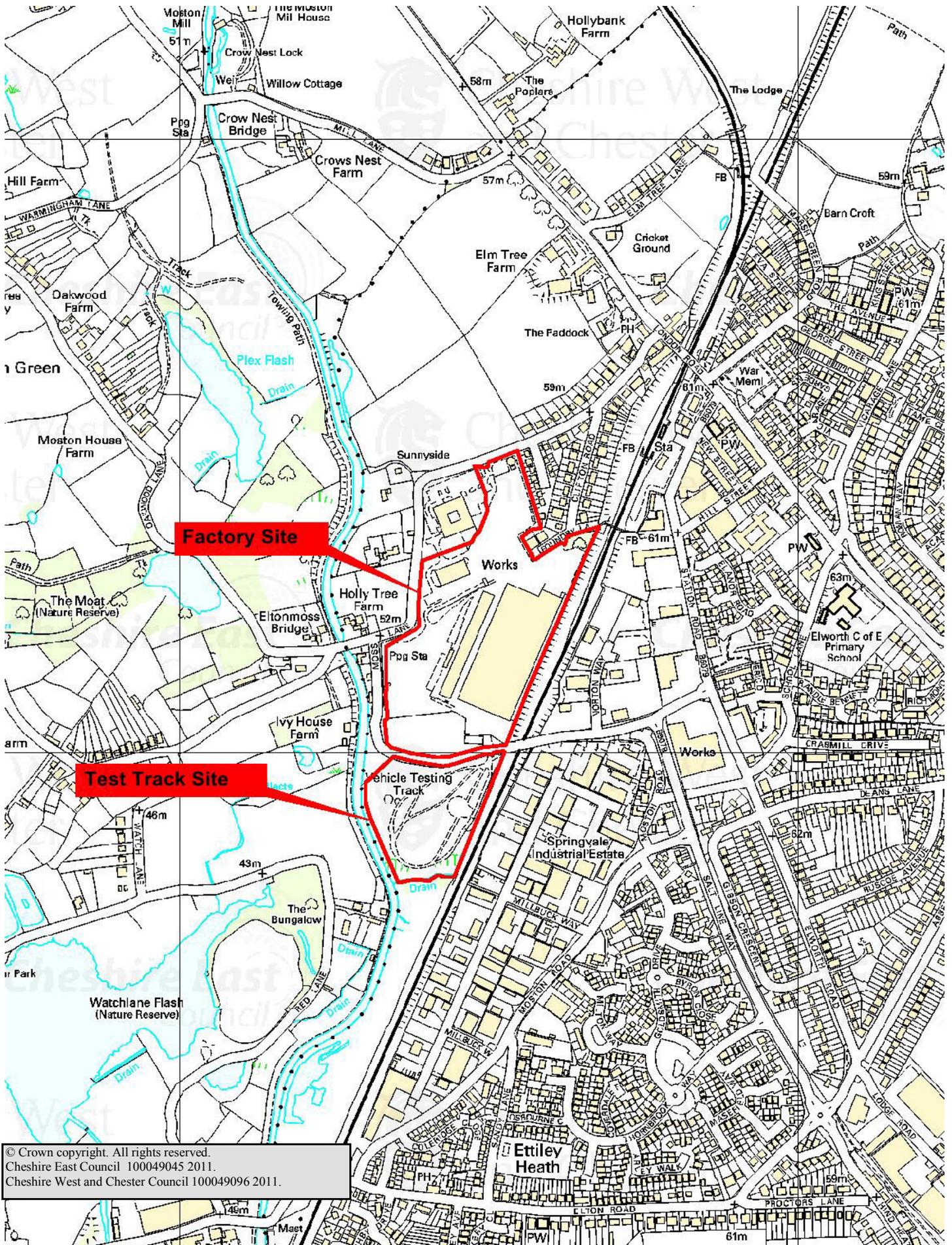
The works will not have a detrimental impact upon residential amenity, trees and highway safety/traffic generation.

## **10. RECOMMENDATION**

**APPROVE** subject to the following conditions;

- 1. Within one month of the date of this permission a scheme for the reinstatement of the watercourse banks and a timetable for implementation shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be implemented in accordance with the approved details**
- 2. Within one month of the date of this permission a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority.**
- 3. The hours of construction/operation of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday 08:00 to 18:00 hrs, Saturday 09:00 to 14:00 hrs, Sundays and Public Holidays Nil.**
- 4. The proposed development to proceed in accordance with the recommendation made by the submitted Badger survey report and method statement dated November 2011.**

- 5. Compliance with the detailed method statement setting out measures to minimise the risk of contaminated materials entering the watercourse and canal, along with full details of the methods for working in close proximity and up to the edge of the watercourse.**
- 6. The remedial scheme shall be carried out in full accordance with original remedial scheme provided under application 07/0912/OUT and addenda provided under this application. These details shall not be varied without the prior written consent of the Local Planning Authority**
- 7. A Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted to, and approved in writing by, the LPA prior to the first occupation of any part of the development hereby approved.**



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## CHESHIRE EAST COUNCIL

### STRATEGIC PLANNING BOARD

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**Date of meeting:** 8<sup>th</sup> February 2012  
**Report of:** Stephen Irvine, Development Management and Building Control Manager.  
**Title:** Appeals Record in 2011  
**Portfolio Holder** Cllr Rachel Bailey

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#### **1.0 Report Summary**

- 1.1 This report summarises the Council's records on appeals in 2011 (71.3%) and looks into any lessons that can be learnt from it and applied in 2012 and beyond.

#### **2.0 Decision Required**

- 2.1 For noting by the Strategic Planning Board

#### **3.0 Recommendation**

- 3.1 That the Committee note the Council's appeals performance for 2011 (71.3%) and its success in most instances in defending planning appeals.
- 3.2 That the Committee endorse setting a target of a 74% appeals success in 2012 and 76% in 2013.
- 3.3 That the Committee note the main policy issues raised in cases the Council lost on appeal.
- 3.4 That the Committee note the reasons for costs awards in 2011 and Officers seek to reduce them in 2012.

#### **4.0 Financial Implications**

- 4.1 There are no financial implications.

#### **5.0 Legal Implications**

- 5.1 There are no legal implications with the recommendation.

#### **6.0 Risk Assessment**

- 6.1 There are no risks associated with this decision.

## **7.0 The Council's Appeals Record in 2011**

### **Facts**

7.1 The Council fought a total of 122 appeals in 2011 of which:

- 113 where against planning decisions.
- 4 were enforcement appeals.
- 5 were Tree Preservation Order Appeals.

7.2 The Council's record in 2011 was as follows:

#### Performance

Appeals Dismissed: 87 (71.3%)

Appeals allowed: 35 (28.7%)

#### Costs

Costs awarded against Cheshire East: 8.

Costs awarded to Cheshire East: 1.

Costs awards dismissed: 8.

### **Performance**

7.3. The overall appeals performance of the Council in 2011 was well above the national target of 60%. A 71.3% success rate in appeals is considered good and indicates that the decisions made by Officers and the Council's three Planning Committees are robust and generally well founded in the majority of policy areas.

7.4. Nevertheless, there is still some room for improvement and to this end Officers will be seeking a 74% success rate this year with the aim of achieving 76% in 2013.

7.5. Furthermore, it should be noted that, with the implementation of the Council's pre-application charging system, the number of appeals should reduce as this process should 'iron-out' a significant numbers of faults in applications before an application is submitted.

7.6. A review of the 35 appeal decisions the Council lost on appeal revealed that the following application issues were the most raised:

- Impact on living conditions of adjacent occupiers (loss of outlook, light and privacy) – 6.
- Impact on the character and appearance of the open countryside – 6.
- Impact on the character and appearance of the area – 8.
- Impact on the character and appearance of a Conservation Area – 5.
- Highways safety matters (access and parking) – 4.

- Green Belt issues – 4.

7.7. Whilst there is no indication that the Council are losing an unacceptable amount of applications in any one area, it is clear that the Council need to be vigilant in the above policy areas to ensure that it applies its planning policies fairly and reasonably. In particular, the above indicates that there is a need to assess the impact of a scheme on the character and appearance of an area very carefully. As such, Officers have been informed of the above to ensure this happens.

### **Costs**

7.8. Eight awards of costs were made against the Council in 2011. These awards cost the Council a total of £ 48 409.68. This is considered unacceptable by Officers and they will be looking to significantly lower it in 2012.

7.9. A review of the reasons for these costs revealed that the majority of costs awards were on Committee overturns (5 out of 8 cases) or on legal or appeal matters (3 out of 8 Cases).

7.10. The main reason given for the award of costs was about failure to provide adequate documentary evidence to support a reason for refusal (5 out of 8 cases).

7.11. There was no specific type of application where costs were awarded against the Council.

7.12. For information, a summary of the reasons costs were awarded against the Council is set out below.

**Site:** New Road, Wrenbury (11/0041N)

**Committee Overturn:** Yes.

**Reason for Costs Award:**

No evidence to support reason for refusal that other sites for housing were available in the area.

**Costs:** £15591

**Site:** Wrenbury Fishery (10/1776N)

**Committee Overturn:** Yes

**Reason for Costs Award:**

Unreasonable reasons for refusal re: sustainability of the site and late submission of the council's appeal statement.

**Costs:** £3000

**Site:** 416 Newcastle Road (10/4539N)

**Committee Overturn:** Yes.

**Reason for Costs Award:**

No evidence to support a reason for refusal on i) impact on character and appearance of the area, (ii) need for development.

**Costs:** £5365.98

**Site:** Little Island Nurseries (10/4497N)

**Committee Overturn:** Yes

**Reason for Costs Award:**

Unreasonable failure to take account of expert advice (British Horse Society) supporting the scheme.

**Costs:** £2589.75

**Site:** Holford House (10/4283M)

**Committee Overturn:** No.

**Reason for Costs Award:**

Unnecessary preparation of Unilateral Undertaking and subsequent applicant time (A condition should have been used).

**Costs:** £2023

**Site:** Woodside Poultry Farm (10/3506M)

**Committee Overturn:** Yes

**Reason for Costs Award:**

Reason for refusal on impact of the development on future residents found to be unreasonable.

**Costs:** £1024.65

**Site:** Canal Road (10/2653C)

**Committee Overturn:** No.

**Reason for Costs Award:**

Unreasonable delay in completing the S106 agreement.

**Costs:** £4202.30

**Site:** Whittakers Green Farm (10/2215N)

**Committee Overturn:** No.

**Reason for Costs Award:**

No evidence to support noise, pollution, odour and highways concerns.

**Costs:** £14613

## **8.0 Conclusion**

8.1. The appeals performance of the Council in 2011 was well above the national target of 60%. At 71.3%, the success rate in appeals is considered good and indicates that the decisions made by Officers and the Council's three Planning Committees are robust and generally well founded in the majority of policy areas.

8.2. A review of the 35 appeal decisions the Council lost on appeal revealed that the following application issues were most raised:

- Impact on living conditions of adjacent occupiers (loss of outlook, light and privacy).
- Impact on the character and appearance of the open countryside.
- Impact on the character and appearance of the area.

- Impact on the character and appearance of a Conservation Area.
- Highways safety matters (access and parking).
- Green Belt issues.

Whilst there is no indication that the Council are losing an unacceptable amount of applications in these areas, it is clear that the Council need to be vigilant in the above policy areas to ensure that this does not become the case.

- 8.3. Eight awards of costs were made against the Council in 2011. These awards cost the Council a total of £ 48 409.68. A review of the reasons for these costs revealed that the majority of costs awards were on Committee overturns or on legal or appeal matters. The main reason given for the award of costs was about failure to provide adequate documentary evidence to support a reason for refusal.
- 8.4. In view of the above, it is clear that Members and officers should seek to reduce the costs made against the Council by reducing the number of unnecessary Committee overturns, ensuring legal and appeal matters are dealt with efficiently and that reasons for refusal are sound and evidenced.

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