

# Southern Planning Committee

## Agenda

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<b>Date:</b>	<b>Wednesday, 28th March, 2012</b>
<b>Time:</b>	<b>1.00 pm (PLEASE NOTE THE CHANGE OF TIME)</b>
<b>Venue:</b>	<b>Council Chamber, Municipal Buildings, Earle Street, Crewe CW1 2BJ</b>

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Members of the public are requested to check the Council's website the week the Southern Planning Committee 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.

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

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

1. **Apologies for Absence**

To receive 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 pre-determined any item on the agenda.

3. **Minutes of Previous Meeting** (Pages 1 - 10)

To approve the minutes of the meeting held on 7 March 2012.

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.

Please contact Julie Zientek on 01270 686466

E-Mail: [julie.zientek@cheshireeast.gov.uk](mailto:julie.zientek@cheshireeast.gov.uk) with any apologies, requests for further information or to arrange to speak at the meeting

A period of 3 minutes is allocated for each of the planning applications for the following individuals/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. **12/0036C Land North East of Dunkirk Farm, London Road, Brereton, Holmes Chapel: The Construction of 18 New Affordable Two and Three Bedroom Houses for Mike Watson, Plus Dane Group** (Pages 11 - 26)

To consider the above planning application.

6. **12/0219C 5 Bradwall Road & The Hollies, Wesley Avenue, Sandbach: Demolition of the Existing Building and Construction of a New Three Storey Mixed Use Development with Restoration of The Hollies for Andrew Sehne, Wrights Printers in liaison with Mr & Mrs P Hitchen** (Pages 27 - 34)

To consider the above planning application.

7. **12/0220C 5 Bradwall Road & The Hollies, Wesley Avenue, Sandbach: Conservation Area Consent for Demolition of the Existing Building and Construction of a New Three Storey Mixed Use Development with Restoration of The Hollies for Andrew Sehne, Wrights Printers In Liaison with Mr & Mrs P Hitchen** (Pages 35 - 38)

To consider the above planning application.

8. **12/0234N Rose Hall, Aston Juxta Mondrum, Nantwich CW5 6DS: Proposed Two Storey Extension to form residential annex for Mrs A McAlpine** (Pages 39 - 46)

To consider the above planning application.

9. **12/0267N Land On Newtown Road, Sound: Erection of Detached Property, Double Garage & Associated Access Provision for Mr and Mrs Bradbury** (Pages 47 - 58)

To consider the above planning application.

10. **12/0477C 25, Thornbrook Way, Sandbach, Cheshire CW11 3ZB: Single Storey Side and Rear Facing Extension for Mrs J Adamson** (Pages 59 - 64)

To consider the above planning application.

11. **11/4002C Land Off Jersey Way, Middlewich, Cheshire: Construction of 77 No. Private Residential Dwellings together with Associated Works for c/o David Major (Stewart Milne Homes NW), Russell Homes & Stewart Milne Homes** (Pages 65 - 86)

To consider the above planning application.

12. **12/0222N Land Off Marsh Lane, Nantwich, Cheshire: Reserved Matters Application for 13 No. Detached Dwellings, Parking and Amenity Space and the Retention of Public Open Space/Children's Playground including Appearance, Landscaping, Layout, Scale and Access Following Outline Approval of P05/0121 for Elan Real Estate Ltd & British Waterways** (Pages 87 - 98)

To consider the above planning application.

13. **11/3160N Warmingham Grange, Warmingham Grange Lane, Warmingham CW11 3LB: Alterations to Plot Nos 1,2,4,5,6,7 & 8 of the Barn Units Block and to Plot No 3 of the Stable Units block at Warmingham Grange for Viscount Homes Limited** (Pages 99 - 104)

To consider the above planning application.

14. **11/3168N The Limelight Club, 1- 7, Hightown, Crewe CW1 3BP: Restoration and Conversion of Existing Building to Form 23no Dwellings with Amenity Space and Off Road Parking for Mr Stuart Campbell, Limelight Developments Ltd** (Pages 105 - 120)

To consider the above planning application.

15. **11/3855N Land at Weston Road, Crewe, Cheshire CW1 6JS: Demolition of Existing Office Building and Erection of Industrial Unit (Use Class B8 - Storage and Distribution) with Ancillary Trade Counter Floorspace and Associated Internal Road/Footways, Car Parking and Landscaping for Rowlinson Group Limited** (Pages 121 - 126)

To consider the above planning application.

16. **11/4222N PRG Engineering, Lightwood Green Avenue, Audlem: Proposed Extension to Existing Industrial Building and Enlargement of Rear Parking and Vehicle Turning Area for PRG Engineering** (Pages 127 - 136)

To consider the above planning application.

17. **12/0253C Smallwood Storage Ltd, Moss End Farm, Moss End Lane, Smallwood, Sandbach CW11 2XQ: Reserved Matters Application for 11/0627C - Demolition of Existing Buildings and Erection of 15 Dwellings and Associated Infrastructure Works for Rowland Homes Limited** (Pages 137 - 150)

To consider the above planning application.

18. **12/0344N Church Bank Cottage, Wyche Road, Bunbury, Tarporley, Cheshire CW6 9PN: Proposed Two Storey Side Extension And Single Storey Sunroom for Mr & Mrs R Parr** (Pages 151 - 158)

To consider the above planning application.

19. **12/0392N Former Millfields Public House Site, Blagg Avenue, Nantwich: Extension to Time Limit for Approved Planning Application P09/0109 for Demolition of Existing Public House and Erection of Residential Development comprising of 12 Two Bedroom Houses and 2 One Bedroom Flats for Mrs Susan J Stott** (Pages 159 - 164)

To consider the above planning application.

20. **12/0457N Land off Wyche Lane Bunbury: Extension to Time Limit on Application P07/0867 for 10 Affordable Houses for Muir Group Housing Association Ltd** (Pages 165 - 170)

To consider the above planning application.

21. **12/0459N Land off Wyche Lane Bunbury: Variation of Condition 2 and Removal of Condition 17 Relating to Access on Application P07/0867 (10 Affordable Houses) for Muir Group Housing Association Ltd** (Pages 171 - 190)

To consider the above planning application.

22. **11/4399C 94, Macclesfield Road, Holmes Chapel CW4 8AL: Extension to Garage to Form Home Working Office (Resubmission of 11/2081C) for Mr John Pattison** (Pages 191 - 198)

To consider the above planning application.

23. **Appeals in January and February 2012** (Pages 199 - 212)

To note the Council's appeal's performance for January and February 2012.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Southern Planning Committee**  
held on Wednesday, 7th March, 2012 at Council Chamber, Municipal  
Buildings, Earle Street, Crewe CW1 2BJ

**PRESENT**

Councillor G Merry (Chairman)  
Councillor M J Weatherill (Vice-Chairman)

Councillors P Butterill, J Clowes, W S Davies, L Gilbert, P Groves, M Jones,  
A Kolker, D Marren, M A Martin, D Newton and A Thwaite

**NON-COMMITTEE MEMBERS IN ATTENDANCE**

Councillors Rachel Bailey, A Moran and S Hogben

**OFFICERS PRESENT**

Rachel Goddard (Senior Lawyer)  
Ben Haywood (Principal Planning Officer)  
Paul Jones (Democratic Services Team Manager) (for Item 6 only)  
David Malcolm (Southern Area Manager – Development Management)  
Julie Zientek (Democratic Services Officer)

**Apologies**

Councillors S McGrory and M Sherratt

**151 DECLARATIONS OF INTEREST**

Councillor M Jones declared that, with respect to application number 11/4149N, he had been present in meetings when the site had been mentioned, but that he had not discussed it and had not expressed an opinion. In accordance with the Code of Conduct he remained in the meeting during consideration of this item.

Councillor M Jones declared that, with respect to application number 11/2423N, as the Ward Member he had been present in meetings when the site had been mentioned, but that he had not discussed it and had not expressed an opinion. In accordance with the Code of Conduct he remained in the meeting during consideration of this item.

Councillor S Davies declared that he had called in application number 12/0166N, but that he had not expressed an opinion and had not fettered his discretion.

Councillor P Butterill declared a personal interest in respect of application number 12/0222N on the grounds that she was a member of Nantwich Town Council, which had been consulted on the proposed development. In accordance with the code of conduct, she remained in the meeting during consideration of this item.

Councillor D Marren declared a personal interest in respect of application number 12/0222N on the grounds that he was a member of Nantwich Town Council, 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.

All Members of the Committee declared that they had received correspondence regarding application number 11/4149N.

Julie Zientek declared a personal and prejudicial interest in respect of application number 12/0222N on the grounds that she knew the objector. In accordance with the code of conduct, she withdrew from the meeting during consideration of this item.

152 **MINUTES OF PREVIOUS MEETING**

RESOLVED – That the minutes of the meeting held on 15 February 2012 be approved as a correct record and signed by the Chairman.

153 **12/0222N LAND OFF MARSH LANE, NANTWICH, CHESHIRE:  
RESERVED MATTERS APPLICATION FOR 13 NO. DETACHED  
DWELLINGS, PARKING AND AMENITY SPACE AND THE RETENTION  
OF PUBLIC OPEN SPACE/CHILDREN'S PLAYGROUND INCLUDING  
APPEARANCE, LANDSCAPING, LAYOUT, SCALE AND ACCESS  
FOLLOWING OUTLINE APPROVAL OF P05/0121 FOR ELAN REAL  
ESTATE LTD & BRITISH WATERWAYS**

Note: Having declared a personal and prejudicial interest in this application, Julie Zientek withdrew from the meeting during consideration of this item.

Note: Councillor A Moran (Ward Councillor), Mr E Leetham (objector) and Mr P Darwin (on behalf of the applicant) had registered their intention to address the Committee on this matter but did not speak.

The Committee considered a report regarding the above planning application and an oral update by the Southern Area Manager - Development Management.

RESOLVED – That the application be DEFERRED to enable officers to consider revised plans and undertake further consultation.

154 **12/0166N THE BANK, STATION ROAD, WRENBURY CW5 8EX:  
DEMOLITION OF BANK AND BUILD NEW ONE DORMER BUNGALOW  
(RESUBMISSION) FOR MR T MORGAN**

Note: Councillor Rachel Bailey (Neighbouring Ward Councillor) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application, an oral update by the Southern Area Manager - Development Management and an oral report of the site inspection.

RESOLVED – That, contrary to the planning officer's recommendation for refusal, the Head of Development be granted delegated authority to APPROVE, subject to receipt of a satisfactory Protected Species survey with regard to bats and the following conditions:

1. Standard time limit
2. Submission of materials
3. Prior to commencement details of the access to be submitted and approved
4. Prior to commencement detailed site layout plan to be submitted and approved
5. Permitted Development rights A-F to be removed
6. Landscaping to be submitted and approved
7. Garaging to parking of vehicles and storage only, not be converted to accommodation.
8. Ecology (if required)

And an Informative from Network Rail in respect of works close to the railway.

Reason for the decision:

The application site is located within the Open Countryside where there is a presumption against inappropriate development and where the construction of new residential dwellings is strictly controlled. The application proposals would not satisfy the criteria set out in Policy RES.5 for Residential Development in the Open Countryside. Notwithstanding this, the existing building is in dilapidated condition and the site is partly brownfield. Furthermore, there is a deficit in Councils housing land supply. In the light of these material considerations, it is considered that the proposed development would not cause significant detrimental harm to the character and appearance of the Open Countryside and is acceptable, as a departure to Local Plan Policies NE.2 (Open Countryside) and RES.5 (Housing Development in the Open Countryside). It is considered that there would be no harm to the amenity of surrounding residential properties, or future occupants of the dwelling as conditioned. The site can also be satisfactorily accessed without causing harm to highway safety and would not result in an adverse impact on Protected Species. The proposed development is therefore considered to be in accordance with

other Policies BE.1(Amenity), BE.2 (Design Standards), BE.3 (Access and Parking), NE.5 (Nature Conservation), and NE.9 (Protected Species) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

155 **11/3867N LAND TO REAR OF 157 CREWE ROAD, ACCESSED VIA GUTTERSCROFT, HASLINGTON CW1 5RJ: CONSTRUCTION OF 11 THREE STOREY DWELLINGS FOR LOTHLORIAN LTD**

Note: Councillor R Hovey (on behalf of Haslington Parish Council), Ms S Jones (objector) and Mr R Holmes (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 and an oral update by the Southern Area Manager - Development Management.

RESOLVED – That, for the reasons set out in the report, the application be APPROVED subject to the following conditions:

- 1) Commencement of Development (3 years)
- 2) Approved Plans
- 3) Materials to be submitted
- 4) Details of Surfacing materials to be submitted
- 5) Detailed Landscaping Scheme to be submitted
- 6) Landscaping Scheme Implementation and maintenance
- 7) Tree / hedgerow protection measures to be submitted and retention of hedgerow to western boundary with footpath (Haslington PF45)
- 8) Details of Boundary treatments to be submitted for approval
- 9) Parking to be made available prior to occupation
- 10) Hours of construction:  
Monday – Friday 08:00 to 18:00 hrs  
Saturday 09:00 to 14:00 hrs  
Sundays and Public Holidays Nil
- 11) Hours of pile driving:  
Monday – Friday 08:30 – 17:30 hrs  
Saturday 08:30 – 13:00 hrs  
Sunday and Public Holidays Nil
- 12) Phase II Contaminated Land Survey prior to commencement
- 13) Gutterscroft improvements to be implemented prior to the occupation of the development
- 14) Details of drainage to be submitted
- 15) Details of any lighting
- 16) Breeding birds surveys if any works are undertaken between 1<sup>st</sup> March and 31<sup>st</sup> August in any year,
- 17) Detailed proposals of features suitable for use by breeding birds to be submitted
- 18) Construction Management Plan to be submitted and approved in writing prior to the commencement of development. Implementation in accordance with the approved plan.
- 19) Obscure glazing to the side elevation of house types A & C



- 20) Removal of permitted development rights for roof alterations to Plots 5 - 8

156 **11/4149N EARL OF CREWE HOTEL, NANTWICH ROAD, CREWE, CHESHIRE CW2 6BP: DEMOLITION OF EXISTING BUILDINGS AND CONSTRUCTION OF NEW FOODSTORE WITH ASSOCIATED CAR PARKING AND SERVICING FACILITIES FOR ALDI STORES LTD**

Note: Councillor S Hogben (Ward Councillor), Mr C Dunn and Mr G Fyffe (supporters), and Mr D Highton (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

Note: Councillor D Flude (Ward Councillor) had not registered her intention to address the Committee. However, in accordance with paragraph 2.8 of the public speaking rights at Strategic Planning Board and Planning Committee meetings, the Committee agreed to allow Councillor Flude to speak.

The Committee considered a report regarding the above planning application and an oral update by the Principal Planning Officer.

RESOLVED – That, contrary to the planning officer's recommendation for refusal the application be APPROVED subject to the following conditions:

1. Timescale
2. Materials
3. Opening hours 8-8 and 11-5 on Sundays
4. Access
5. Landscaping
6. Car parking – amended plans
7. Delivery hours
8. Construction hours
9. Car park closed outside opening hours
10. CCTV
11. Contaminated land
12. 10% renewable energy
13. Waste management plan
14. Highway and access
15. Lighting
16. Air quality

Reason for the decision:

In the opinion of the Local Planning Authority, the evidence submitted by the applicant has conclusively demonstrated that re-use of the existing building is neither physically nor financially sustainable. Therefore it has been clearly demonstrated that there are reasons for the development which outweigh the need to safeguard the locally listed building. The proposal therefore complies with Policy BE13 (Buildings of Local Interest) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The proposal would also accord with Policies BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Access and Parking), BE.4 (Drainage, Utilities and Resources), BE.5 (Infrastructure), TRAN.1 (Public Transport), TRAN.3 (Pedestrians), TRAN.4 (Access for the Disabled), TRAN.5 (Provision for Cyclists), TRAN.6 (Cycle Routes), TRAN.9 (Car Parking Standards), S.10 (Major Shopping Proposals), S.9 (Nantwich Road) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and that it would not materially harm the character or appearance of the area or the privacy and living conditions of neighbouring occupiers and would be acceptable in terms of highway safety.

**157 12/0234N ROSE HALL, ASTON JUXTA MONDRUM, NANTWICH CW5 6DS: PROPOSED TWO STOREY EXTENSION TO FORM RESIDENTIAL ANNEX FOR MRS A MCALPINE**

Note: Prior to consideration of this application, the meeting was adjourned for five minutes for a break.

Note: Mr G Kaufman (objector) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application and an oral update by the Southern Area Manager - Development Management.

RESOLVED – That the application be DEFERRED for a Committee site inspection to enable Members to assess the impact of the proposed development on neighbouring residential amenity.

**158 12/0250C LAND ON OAK TREE LANE, CRANAGE: DEMOLITION OF THE HAVEN AND NEW FARM, OAK TREE LANE, AND CONSTRUCTION OF TWO NEW REPLACEMENT DWELLINGS ON SEPARATE SITE AT OAK TREE LANE FOR MS PAT DAVIES**

Note: Mr J Ashall (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 and an oral update by the Southern Area Manager - Development Management.

RESOLVED – That, for the reasons set out in the report, the application be APPROVED subject to the following conditions:

1. Time limit.
2. Compliance with the approved plans.
3. Submission of materials for approval.
4. Submission and implementation of a tree protection scheme.
5. Submission of landscaping scheme.
6. Implementation of landscaping scheme

7. Submission and implementation of boundary treatment scheme.
8. Hours of construction (including deliveries) limited to 0800 to 1800 Monday to Friday, 0800 to 1400 Saturday with no working on Sundays or Bank Holidays.
9. Submission of details of the method, timing and duration of any pile driving operations.
10. Submission and implementation of a scheme for protection from traffic noise and vibration.
11. Protection measures for breeding birds.
12. Submission and implementation of a scheme of boundary treatments.
13. Use of electromagnetic screening measures to protect the Jodrell Bank Radio Telescope.
14. Removal of permitted development rights
15. Removal of all existing buildings and associated hardstanding within 3 months of the first occupation of either of the proposed dwellings.

and an informative regarding the involvement of the Highways Agency in the demolition works.

159 **12/0325N THE PRINTWORKS, CREWE ROAD, HASLINGTON, CREWE, CHESHIRE CW15RT: PROPOSED REPLACEMENT DWELLING FOR PREVIOUSLY APPROVED RESIDENTIAL CONVERSION FOR NIGEL HARTLEY**

The Committee considered a report regarding the above planning application.

RESOLVED – That, for the reasons set out in the report, the application be APPROVED subject to the following conditions:

- 1 Standard
- 2 Reference to plans.
- 3 Materials including surfacing
- 4 Boundary treatment
- 5 Landscaping
- 6 Landscape implementation
- 7 Removal of permitted development rights for extensions, alterations, outbuildings and gates / walls / fences / satellite dishes etc.
- 8 Contaminated land
- 9 Construction Hours
- 10 Pile Driving
- 11 Tree Protection
- 12 Implementation of Tree Protection

160 **12/0384C GROVE INN, MANCHESTER ROAD, CONGLETON CW12  
1NP: REPLACEMENT OF VACANT PUBLIC HOUSE WITH  
CONVENIENCE RETAIL OUTLET STORE FOR SEVEN TEN  
(CHESHIRE) LTD**

Note: Mr J Taylor (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 and an oral update by the Principal Planning Officer.

RESOLVED – That the application be REFUSED for the following reasons:

1. Insufficient information has been submitted with the application relating to the existing Pelican crossing, the proposed Puffin crossings, a revised position for the bus-stop and the management of deliveries to the store, in order to assess adequately the impact of the proposed development having regard to highway safety. In the absence of this information, it has not been possible to demonstrate that the proposal would comply with Development Plan policies and other material considerations.
2. The proposed form and design of the development would be unsympathetic to the surrounding character of the area and would therefore be contrary to Congleton Local Plan Policies GR1 and GR2.

161 **APPEAL AGAINST NON-DETERMINATION: LAND OFF WYCHE LANE,  
BUNBURY CW6 9PS (APPLICATION NO. 11/2423N)**

Note: Mr J Walton (objector) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application, which was the subject of an appeal against non-determination.

RESOLVED – That, had the Committee been able to determine the application, it would have been APPROVED for the reasons set out in the report, subject to a Deed of Variation to the existing Section 106 Agreement to reference the new permission and the following conditions:

1. Standard Time Limit
2. Amended plans
3. Materials
4. Remove permitted development rights – extensions and ancillary buildings
5. Access to be constructed to sub-base level prior to first occupation
6. Landscaping scheme to be submitted
7. Implementation / maintenance of landscaping

8. Boundary treatment to be submitted and implemented
9. Full drainage details to be submitted and implemented.
10. Obscure glass to first floor window in east gable of unit 1.
11. Scheme of tree protection to be submitted and agreed
12. No lighting of fires / storage of materials etc. in protected area
13. Specification for paths / drives etc. under trees to be submitted and agreed
14. Implementation of wildlife mitigation measures.
15. Hedgerow removal to take place outside bird nesting season
16. Details of finished floor levels to be submitted and agreed
17. Track to be surfaced using "Top-trek" or a similar material – details to be submitted and agreed.

The meeting commenced at 2.00 pm and concluded at 5.35 pm

Councillor G Merry (Chairman)

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Application No: 12/0036C

Location: LAND NORTH EAST OF, DUNKIRK FARM, LONDON ROAD,  
BRERETON, HOLMES CHAPEL

Proposal: The Construction of 18 New Affordable Two and Three Bedroom Houses

Applicant: Mike Watson, Plus Dane Group

Expiry Date: 28-Mar-2012

**SUMMARY RECOMMENDATION:**

APPROVE subject to conditions and S106 Legal Agreement

**MAIN ISSUES:**

- Principle of Development
- Housing Need
- Affordable Housing
- Design & Layout
- Highways
- Trees & Landscaping
- Ecology
- Public Open Space Provision
- Drainage and Flood Risk
- Residential Amenity
- Noise

**1. REASON FOR REFERRAL**

This application proposes the erection of more than 10 dwellings and is therefore a major development.

**2. DESCRIPTION AND SITE CONTEXT**

This application relates to a green field site situated on the west side of London Road just outside of the settlement boundary of Holmes Chapel. The site is broadly triangular in shape and measures just over 1 ha in size. The site is bounded to the northwest by the Crewe to Manchester Railway Line to the South West by open countryside and to the north by the River Croco beyond which there are residential properties arranged around a courtyard (Alum Court).

Directly to the south of the site is a private drive, which is accessed directly off the A50 London Road, which serves Dunkirk Farm to the east.

### 3. DETAILS OF PROPOSAL

Full planning permission is sought for the erection of 18 affordable dwellings with access provided off the private drive serving Dunkirk Farm. The dwellings would be managed by a registered social housing company (Plus Dane Group). The tenure is proposed to be a mix of rented and shared ownership, which should the application be approved, would be secured by a Section 106 Legal Agreement.

### 4. RELEVANT HISTORY

09/2897C - The Construction of 18 affordable two-bedroom houses - Withdrawn 18/11/2009

10/3320C - The Construction of 18 affordable two-bedroom houses – Refused and Dismissed at Appeal

At the meeting of the Southern Planning Committee held on 1<sup>st</sup> June 2011, Members resolved to refuse an identical scheme on the following grounds:

*‘The Local Planning Authority considers that the affordable housing requirements within the area could be accommodated for by alternative Brownfield sites in the locality which would negate the need to use land within the open countryside. The proposal is therefore contrary to Policy H14 of the adopted Congleton Borough Local Plan First Review (2005).’*

The applicant lodged an appeal against the council’s decision and the appeal was subsequently dismissed on 14<sup>th</sup> December 2011.

In determining the appeal, the Inspector acknowledged that there is an identified local need for affordable housing in the area and that the contribution towards accommodating this need would not be fully met by the developments already approved in the village of Holmes Chapel. As such, there is a need to provide further affordable housing.

Whilst the inspector concluded that in principle, the scheme was acceptable, the appeal could not be allowed because the submitted unilateral undertaking, which aimed to secure the affordable housing, public open space and highways contributions, was inadequate. This was because the Deed had not been properly executed and therefore without an appropriate undertaking, the scheme failed to secure the housing as affordable. This was the principal and only reason that the appeal was dismissed.

### 5. POLICIES

#### National Policy

PPS1	‘Delivering Sustainable Development’
PPS3	‘Housing’
PPS7	‘Sustainable Development in Rural Areas’
PPS9	‘Biodiversity and Geological Conservation’
PPG13	‘Transport’



PPS23	'Land Contamination'
PPG24	'Planning and Noise'
PPG25	'Development and Flood Risk'

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

Regional Spatial Strategies (RSS) were revoked by the Secretary of State for Communities and Local Government on 9 July 2010 under Section 79 (6) of the Local Democracy, Economic Development and Construction act 2009. However, the Regional Spatial Strategy for the North West has been reinstated (protem) as part of the statutory Development Plan by virtue of the High Court decision in the case of Cala Homes (South) Limited and the Secretary of State for Communities and Local Government and Winchester City Council on 10 November 2010.

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  
 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

## **Local Plan Policy**

PS8	Open Countryside
GR1	New Development
GR2	Design
GR3	Residential Developments of More than 10 Dwellings
GR4	Landscaping
GR6&7	Amenity & Health
GR9	Accessibility, servicing and parking provision
GR10	Managing Travel Needs
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
GR22	Open Space Provision
H1 & H2	Provision of New Housing Development
H6	Residential Development in the Open Countryside
H14	Affordable Housing in Rural Parishes
NR1	Trees & Woodland
NR2	Wildlife & Nature Conservation

SPG1	Provision of Public Open Space in New Residential Developments
SPG2	Provision of Private Open Space in New Residential Developments
SPD4	Sustainable Development
SPD6	Affordable Housing and Mixed Communities

### **Other Material Considerations**

Interim Planning Policy on the Release of Housing Land  
Interim Planning Statement: Affordable Housing  
Strategic Market Housing Assessment (SHMA)

Circulars of most relevance include: ODPM 06/2005 Biodiversity and Geological Conservation; ODPM 05/2005 Planning Obligations; and 11/95 'The use of Conditions in Planning Permissions'.

Relevant legislation also includes the EC Habitats Directive and the Conservation (Natural Habitats &c.) Regulations 1994.

Design compendiums include 'By Design' and Manual for Streets'

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

## **6. CONSIDERATIONS (External to Planning)**

### **Environmental Protection:**

The Environmental Protection Division states that an assessment should be undertaken in order to identify and evaluate all potential sources and impacts of land and/or groundwater contamination. The noise attenuation measures detailed in the submitted 'Noise and Vibration Survey' should be conditioned and implemented prior to occupation of the dwellings. It is also recommended that conditions relating to hours of construction, piling and associated deliveries to the site are imposed.

### **Highways:**

Visibility from the proposed access point is good in both directions. London Road has an existing speed limit of 40 mph at the proposed access point, with it changing to de-restricted to the south. There are no pedestrian crossing facilities close to this site to the north (towards Holmes Chapel end). As such it is recommended that the developer provide a financial contribution towards traffic management improvements for an extension of the 40mph speed (to the south) and a pedestrian refuge island to the north. Conditions relating to the construction of the access and turning head are recommended.

### **Environment Agency (EA):**

No objection subject to the imposition of conditions relating to finished floor levels, ground levels, drainage, landscaping and a scheme for the future management and maintenance of the buffer zone with the River Croco.

### **Green Spaces:**

Following the assessment of the existing provision of Amenity Greenspace accessible to the proposed development, it is acknowledged 900 sq metres of Amenity Greenspace is being provided on site. This is actually an over provision by 480sq metres but is welcomed and recognised when calculating and assessing the Children and Young Persons Provision.

Taking into account the amount of POS located within the area of the development site and the location of the POS that has been proposed, it would seem adequate, although more detail as to the landscaping proposals would be sought.

To the North and North East of the site there are existing trees and natural landscaping to be retained. In addition, boundary treatments of post and rail fencing incorporating some hedgerows to retain the openness and character of the site are to be provided. Clarification would be required as to the intended end ownership of these areas due to any maintenance implications that may arise as a result of it. It is with this in mind therefore, that it is suggested that consideration is made for these areas of POS to be transferred to a management company. This, if preferred, could also be applied to the centrally located formal area of POS.

If the formal POS was to be transferred to the Council serving the development based on the Council's Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

Maintenance: £10,647.00

If the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study for Children and Young Persons Provision.

Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development.

On site provision would normally be required as there is none in the local vicinity, (the closest being over the 800m distance threshold set out in Interim Policy Note for the Provision of new Open Space).

Whilst Green Spaces acknowledge that this would be the requirement following guidelines and policy, it also recognises the provision of this may make the development economically unviable.

An alternative would be a contribution towards upgrading of the play facility at Middlewich Rd, Holmes Chapel. This is located approximately 950m distance from the development site but is the main park for the town of Holmes Chapel. The last play area report for CE in 2009 recommends;

- considering installing a new multi-play unit including a slide to accommodate the 12 and under age range, to replace the existing climbing frame and slide, two separate units if finance will allow, and a new rocking item.
- Ensure that there is a hard standing surface or pathway system into and across the site.
- Ensure any future development of the site in terms of equipment, ancillaries and access embraces the ethos of the DDA and allows accessibility for all.

With the above in mind and as a **guide only** a ballpark estimate for contributions sought from the developer would be;

Enhancement: £17,589.00  
Maintenance: £12,537.00 (25 years)

The enhancement figure is based on 2 items of equipment including a small multi unit and rocking item for the under 7-age range. Green Spaces would request that any enhancement contributions should not be 'time limited' so ensure maximum benefit to the community, thus enabling the 'pooling' of funds should the old Aventis site and/or old wallpaper site (FADS) be developed.

It should be noted that the maintenance figure is based solely on the estimated extra (42) persons emanating from the development and will contribute to the existing maintenance budget.

**Public Rights of Way Unit:**

Whilst the site is adjacent to public footpath no. 2, in the Parish of Brereton as recorded on the Definitive Map, it appears unlikely that the proposal would affect the public right of way, although the PROW Unit would expect the planning department to add an advisory notes to any planning consent to ensure that developers are aware of their obligations with regards to health of the users of the public right of way.

**United Utilities (UU):**

United Utilities offer no objection to the proposal subject to the site being drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the SUDS.

**University of Manchester (Jodrell Bank):**

The University of Manchester recommends that the development should incorporate materials that assist in the electromagnetic screening of the development to prevent interference with the Jodrell Bank telescope.

**Network Rail:**

No objection subject provided the development does not encroach onto Network Rail land and subject to conditions relating to boundary treatment, drainage, construction, noise / vibration, landscaping including hard-standing.

## **7. VIEWS OF THE PARISH COUNCIL**

Holmes Chapel Parish Council object for the following reasons:

- The site is outside the established development zone line for Holmes Chapel and, therefore, is in open countryside
- There are adequate Brownfield sites within Holmes Chapel where affordable housing can be accommodated
- Outline planning permission has been granted for 2 Brownfield sites – Victoria Mills and Sanofi Aventis. Building on the latter site is programmed to start in September 2012
- It is not considered that the figures, used by the Inspector in connection with the appeal for a previous application for this site, reflect the true position; nor is contamination an issue for this part of the site
- Therefore, current permissions on Brownfield sites will cater for immediate affordable household needs in Holmes Chapel for the time being

Brereton Parish Council object and consider that the affordable housing requirements within the area could be accommodated for by alternative Brownfield sites in the locality which would negate the need to use land within the open countryside. The proposal is therefore contrary to Policy H14 of the adopted Congleton Borough Local Plan First Review (2006).

## **8. OTHER REPRESENTATIONS**

Letters have been received from 22 addresses objecting to this application. 3 Letters of objection have been forwarded on by the MP Fiona Bruce. The grounds for objecting are as follows:

- The application has no significant differences to 10/3320C which was refused
- There is already outline planning permission for 231 houses, 69 of these being affordable
- Traffic problems – A50 is dangerous and congested
- More traffic, disruption, making the schools in Holmes Chapel more populated hence requiring more teachers, over subscriptions at the doctors, dentists and placing strain on local infrastructure within Holmes Chapel
- Loss of biodiversity and habitats
- Loss of views and intrusive within Open Countryside
- Will exacerbate drainage and flooding issues
- Brownfield sites should be prioritised before Greenfield sites (CPRE)
- Would set an undesirable precedent
- There is already an ample supply of affordable units set to be built according the Council's SHLAA
- Loss of privacy
- Loss of 6 trees
- The adjacent fields are in the same ownership. If permitted this could lead to pressure for further houses
- The application is not supported by a survey of housing need in accordance with policy
- Dane Housing cannot let their current vacant units
- More suitable sites should be considered before this one within Holmes Chapel e.g. Sanofi Aventis, Fads, Victoria Mills, Albion Chemicals and Arclid
- Proposed parking facilities are very close which will obviously mean more noise and pollution for residents on Alum Court
- The site is in the Parish of Brereton and therefore the houses should be situated within Brereton Village.
- Flooding and drainage issues.- During heavy rain, the pumping station at Sanofi - Aventis cannot cope with the increased capacity. On a number of occasions the sewers have flooded resulting in sewage flowing into public areas

## **9. APPLICANT'S SUPPORTING INFORMATION**

Supporting Planning Statement Incorporating a Design & Access Statement  
Affordable Housing Statement  
Flood Risk Assessment  
Highways Assessment  
Noise Impact Assessment  
Phase 1 Habitat Survey

Tree Survey  
Arboricultural Implications Assessment

## **10. OFFICER APPRAISAL**

### **Principle of Development**

The application site lies outside of the settlement boundary for Holmes Chapel and within the open countryside as defined by the adopted Congleton Borough Local Plan First Review. National planning policy in the form of Planning Policy Statement 3: *Housing* indicates that where viable and practicable, local planning authorities should consider releasing sites solely for affordable housing in perpetuity that would not normally be used for housing because, for example, they are subject to policies of restraint. Consistent with this advice, saved policy PS8 of the local plan restricts development within the open countryside, with a number of exceptions, which include affordable housing for local need.

Local plan policy H14 outlines the detailed requirements for affordable housing schemes within the rural parishes of the former Borough of Congleton. It promotes proposals which meet an identified local housing need that cannot be accommodated any other way and indicates that sites must be small and close to existing or proposed services and facilities. It requires developments to be appropriate to the locality in terms of scale, layout and design. It also explains that schemes should consist only of low cost housing in perpetuity, which is for rent, shared equity, or in partnership with the local housing authority or a housing association.

In addition, policy H14 indicates that such schemes must be subject to a legal agreement to ensure, amongst other matters, that initial and subsequent occupancy is limited to members of the local community who are in housing need, that occupants are prevented from subsequently disposing of the properties on the open market and a satisfactory mechanism is established for the management of the scheme. As such, the principle of affordable rural housing within the open countryside is acceptable subject to local need and compliance with other material planning considerations. This view was supported at appeal by the planning inspector (appeal ref: APP/R0660/A/11/2159406).

### **Housing Need**

The site located in the Parish of Brereton. However, it was agreed that due to the proximity to Holmes Chapel the Housing Need should be looked at for this area primarily as it would be an extension to this area. There is also affordable housing need information available for Brereton. Although the housing need was determined when the appeal for the site was considered, due to the time that has passed, the housing need has been checked again.

The SHMA 2010 shows that for Holmes Chapel there is a requirement for 90 new affordable units between 2009/10 – 2013/14. This is made up of a net requirement for 18 new units per year. The unit types required are 4 x 1bed, 9 x 3bed, 2 x 4/5bed and 1 x 1/2bed older persons units.

Although the main housing need identified is from Holmes Chapel, given that the site is in Brereton the affordable housing need for this area has also been examined. Brereton comes under the Sandbach Rural sub-area for the purposes of the SHMA 2010. The SHMA shows that for Sandbach Rural there is a requirement for 5 new affordable units between 2009/10 – 2013/14. This is made up of a net requirement for 1 new unit per year.

Brereton was also one of the areas which was part of the Congleton and Macclesfield Border Rural Housing Needs Survey Assessment. This showed that there are 19 hidden households. These are households that contain at least one adult who wishes to form a new household within Cheshire East in the next 5 years.

Cheshire Homechoice is used as the choice based lettings method of allocating social rented accommodation across Cheshire East. There are currently 91 applicants who require housing in Holmes Chapel and 5 applicants who require housing in Brereton. The applicants who require housing in Holmes Chapel require 25 x 1bed, 28 x 2bed, 19 x 3bed and 7 x 4bed (12 applicants didn't specify the number of bedrooms required). The applicants who require housing in Brereton require 1 x 1bed and 4 x 2bed.

The Housing Need information shows significant need for Affordable Housing in the Holmes Chapel area plus need in Brereton and to date there has been no delivery of any of the Affordable Housing needed between 2009/10 – 2013/14 for these areas. There have been other planning applications for sites in Holmes Chapel which have been approved or have resolutions to approve and include affordable housing. These are the Fine Arts (Victoria Mills) and the former Fisons sites.

If both these sites and the Dunkirk Farm site were developed there could be affordable housing provision of up to 111 new affordable units. This is slightly above the identified affordable housing need for Holmes Chapel alone. However with the inclusion of the need identified for Brereton the delivery on the 3 sites would provide just under the required amount of affordable housing needed between 2009/10 – 2013/14.

The timescales for delivery of the proposed developments at Fine Art, Victoria Mills and the Former Fisons Site, will not be able to cater for the need in the short term (i.e. before 2013/14) due to phasing and site specific issues such as contamination and remediation. Consequently, without delivery of some units, the need will be exacerbated.

Thus, in the light of the evidence of need demonstrated by the SHMA, the Congleton and Macclesfield Border Rural Housing Needs Survey Assessment and Cheshire Homechoice coupled with the previous appeal decision, it is concluded that there is an identified local need within Holmes Chapel and as such a refusal could not be sustained on this basis. The Council's Housing Strategy and Needs Manager support this application and as such the principle of the proposed development is deemed to be acceptable.

### **Affordable Housing**

With regard to the issue of type and tenure, the tenure mix of the affordable units being offered by the applicant is 10 shared ownership and 8 social rented. This does not meet with the required tenure split of 65% social rent and 35% intermediate tenure identified in the SHMA

2010. However, the tenure split offered is the same as on application 10/3320C for this site which was accepted.

Provided that the Section 106 Agreement competently secures the provision and retention of the affordable housing in perpetuity, it is considered that this renders the proposal acceptable in terms of the provision of affordable housing and addresses the reason for dismissing the previous appeal. Subject to this, the requirements of local policies PS8 and H14 are considered to have been met.

## **Design & Layout**

The proposed layout shows the dwellings configured in an L shape positioned along the northeastern and northern boundaries. This would allow the highways layout to follow a similar pattern with the remaining southern portions of the site given over to public open spaces/amenity space. This would also increase the separation with the southern boundaries and would provide scope for further planting along these boundaries so as to minimise the visual impact on the open countryside.

Whilst the Senior Landscape and Tree Officer has expressed concern about the visual impact on the proposals, it is considered that the potential harm the landscape would be minimised. Furthermore, it should be noted that the previous Inspector raised no concerns about the visual impact of developing this site and therefore it is not considered that a refusal on these grounds could be sustained. The proposed layout would provide a high quality public realm with good surveillance across the area of open space and formal areas of landscaping. There would be well-defined active frontages with areas of hardstanding and parking kept to a minimum. Consequently, the revised layout is deemed to be acceptable in design terms.

With regard to the design of the proposed dwellings, they would be modest in terms of their size and scale and rural in character. The house types would vary and this would help to provide some differentiation within the development itself. The individual design of the house types proposed is deemed to be acceptable. As such, the proposal satisfies the requirements of PPS1, PPS3, By Design, Manual For Streets along with local plan policies GR1, GR2 and GR3 which seek to deliver high quality design.

## **Highways**

Policy GR9 states that proposals for development requiring access, servicing or parking facilities will only be permitted where a number of criteria are satisfied. These include the adequate and safe provision for access and egress by vehicles, pedestrians and other road users to a public highway. The proposed development would be served by a new access created off the A50 London Road. This new access would also accommodate the vehicle movements generated by the residential units at Dunkirk Farm and as such the existing access would be closed off.

The Strategic Highways Manager has assessed this application and has offered no objection to the proposal on highways grounds. However, because of the rise in vehicle movements coupled with existing development at Dunkirk Farm, it has been recommended that the 40 mph speed limit be extended further south to lessen the conflict between vehicles emerging and accessing the site with traffic travelling along the A50 London Road.



The capacity of the local highway network is deemed sufficient to accommodate the vehicle movements associated with the scale of the proposed development. The recommended pedestrian island to the north on London Road and the contribution towards traffic management to extend the 40 mph speed limit are considered to be relevant and proportionate to the development. Therefore, the proposal complies with the requirements of policies GR9 and GR18.

### **Trees & Landscape**

The layout proposed would require the removal of a section of roadside hedgerow, a short line of unmaintained Hawthorn (possibly a remnant hedge) and a number of mature trees. The Senior Landscape and Tree Officer (SLO) has considered the impact of the proposed replacement access and hedge removal in relation to the Hedgerow Regulations 1977. A new access would be exempt from a Hedgerow Removal Notice if the existing access were closed up with hedge planting within 8 months. Therefore the SLO has not assessed any ecological or historic criteria under the Regulations.

The short line of Hawthorn is not significant and the SLO is satisfied that the individual trees identified for removal have defects, which make them unsuitable for long-term retention. Subject to appropriate protection measures and certain remedial arboricultural works, it should be possible to retain trees identified for retention within the layout as proposed. In the event that the proposals are deemed acceptable, comprehensive tree protection, boundary treatment, levels and landscape conditions are recommended.

### **Public Open Space Provision**

Under Supplementary Planning Guidance Note 1 'Provision of Public Open Space in New Residential Developments', there is a requirement for the provision of public open space on the site. The proposed layout shows that there would be a central core of open space within the site.

The Council's Greenspaces division have stated that the proposed general open space provision is acceptable subject to either a maintenance contribution or transfer to a management company. However, no provision for children's informal play space is specified on the proposed plans. Therefore, Greenspaces have recommended contributions towards the cost of provision and future maintenance off site. The applicant has confirmed that Plus Dane will provide play equipment and will maintain the open spaces in perpetuity. Thus, subject to this being secured by way of a legal agreement, and to the specification of the Council's Greenspaces division, the financial contributions would not be required. The applicant has confirmed acceptance of this and consequently the scheme is compliant with SPG1.

### **Ecology**

In view of the fact that the development would involve the removal of some tree specimens and scrubland, and given that evidence of use of the site by protected species has been found in the area, the existence of protected species needs consideration. The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

The application is supported by a Phase 1 habitat survey. The ecologist has identified few habitats of priority interest on site and suggested that the loss of habitats such as scrub and hedges could be mitigated through enhanced landscaping. Some of the features of the site exhibit ideal habitat for breeding birds and as such precautionary recommendations are made. With respect to birds, bats and barn owls, the ecologist has no objection to the proposals subject to the retention of 3 tree specimens, conditions relating to the protection of breeding birds, provision of bat and bird boxes, a 5m buffer zone along adjacent River Coco and the submission of 10-year-management plan to include the area of adjacent grassland identified in submitted ecological survey.

Concerns have been expressed regarding potential impacts on further protected species including Great Crested Newts. Further survey work is being carried out on this and this will be provided by way of an update to members.

### **Drainage and Flood Risk**

PPS25 'Development and Flood Risk' states that LPAs should, in determining planning applications, give priority to the use of sustainable drainage systems for the management of runoff. Building design should ideally use softer engineering structures such as swales, detention ponds, infiltration basins and porous surfaces as alternatives to conventional drainage systems to minimise flooding and environmental damage as a result of uncontrolled surface water runoff. In the event of such development being approved, sustainable drainage systems can be secured through condition or agreement. United Utilities have not objected to the application provided that the site is drained on separate system.

Policy GR21 of the Congleton Local Plan sets out criteria to be considered when determining applications within identified flood risk areas. More recent guidance in PPS25 states that a sequential approach is to be followed at all levels of the planning process. The proposed development is for a more vulnerable use, part of which lays within flood zone 3; the sequential and exception tests should therefore be applied to the site in accordance with table D.3 of PPS25 (Annex D). The site has not been subject to these tests under the former Congleton Borough's Strategic Flood Risk Assessment. Nonetheless, the Environment Agency has accepted that the updated Flood Risk Assessment is acceptable as the amount of development falling with zone 3 would be minimal and therefore compliance with conditions relating to finished floor levels, ground levels, drainage and a scheme for the future management and maintenance of the buffer zone with the River Croco would ensure compliance with local policies GR21 and the advice within PPS25.

### **Residential Amenity**

The proposed dwellings would back onto the properties situated on Alum Court. However, the separation distance between the new and existing properties would exceed the minimum separation distance of 21.8 metres between principal windows as set out in the Council's Supplementary Planning Guidance (SPG2). As such, the impact on the nearest residential properties would not be significant. Within the development itself, minimum separation distances would be achieved and each property would benefit from an appropriate amount of private amenity space in accordance with policies GR6 and SPG2.

## Noise

The application is supported by a noise assessment, which assesses the likely potential impact of the adjacent Crewe to Manchester Railway Line on the future occupants of the proposed dwellings. The assessment concludes that any harm could be addressed through the incorporation of appropriate glazing and materials in the development to help minimise any noise impact. The Councils' Environmental Health Division is satisfied with these measures and as such the proposal is deemed to be acceptable and in accordance with policy GR6 and PPG24.

## 11. CONCLUSIONS AND REASONS FOR THE DECISION

The principle of the development is found to be acceptable. Whilst this is a Greenfield site and the loss of any such site to housing is regrettable, consideration also needs to be given to the need for the Council to ensure an adequate supply of housing. There is an identified need for affordable housing both within the rural Parishes of Brereton and Holmes Chapel even having regard to those sites that already benefit from planning permission in the locale. This view was supported when a similar scheme was considered at appeal (ref: 10/3320C).

In highways terms, the capacity of the local highway network is deemed sufficient to accommodate the vehicle movements associated with the scale of the proposed development subject to measures aimed at reducing the speed limit on London Road. There would be no adverse impact on trees. The applicant will ensure provision of the public open space and play equipment, which will be maintained by the Plus Dance housing Group in perpetuity. The risk posed to drainage is not deemed to be high and could be controlled through the use of SUDS and conditions recommended by the Environment Agency. Subject to appropriate ecological mitigation, the applicants have demonstrated general compliance with national and local guidance in a range of areas. The application is therefore recommended for approval, subject to a Section 106 Agreement and conditions.

The drafting of the Section 106 by the Borough Solicitor will address the Inspectors previous concerns about the inadequate unilateral undertaking submitted by the Applicant at the previous Appeal.

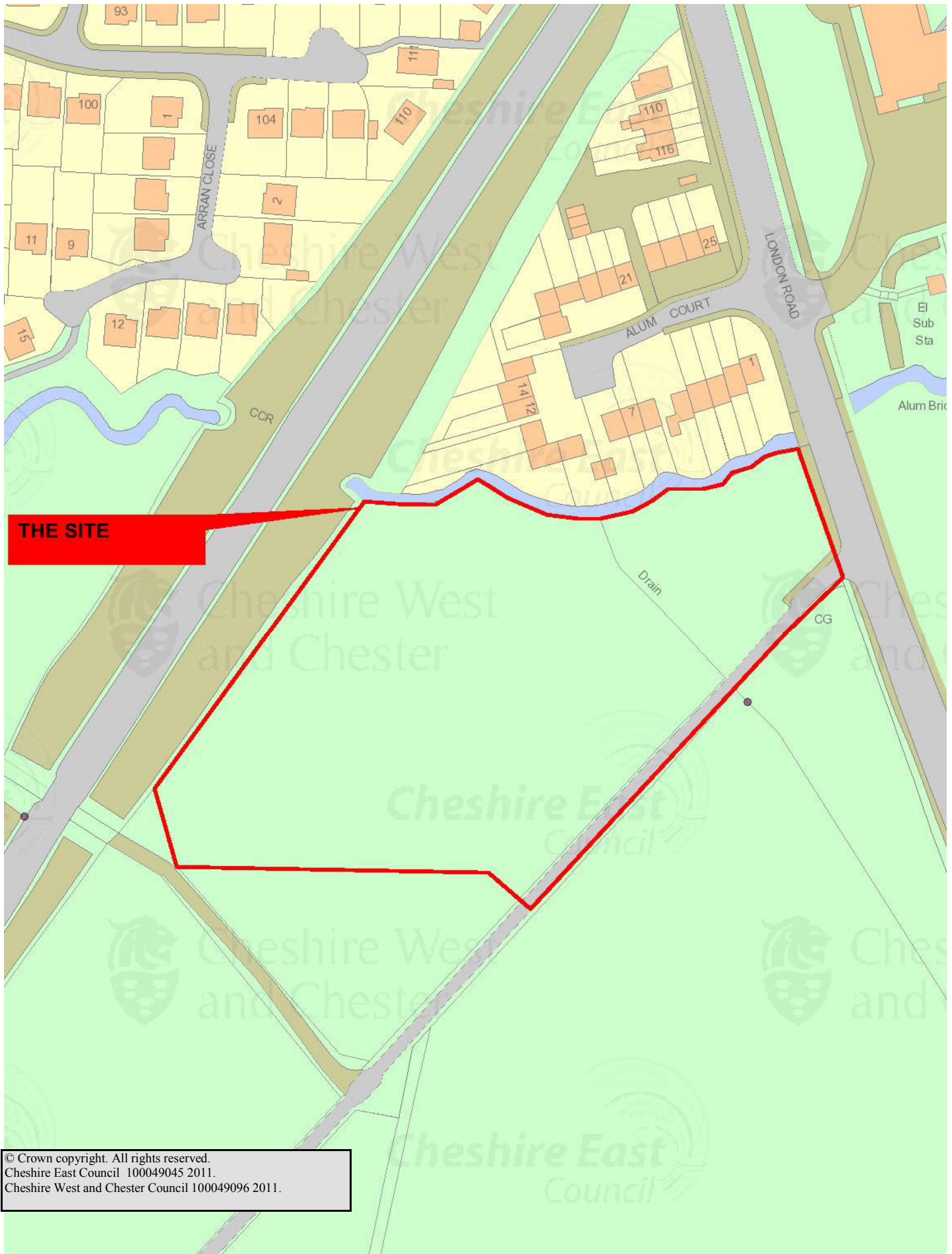
## 12. RECOMMENDATION:

**APPROVE** subject to the completion of a S106 agreement to secure affordable housing, public open space provision, and highways contributions towards traffic management improvements for an extension of the 40mph speed (to the south) and a pedestrian refuge island to the north.

## Conditions

1. Commence development within 3 years
2. Development in accordance with approved drawings
3. Submission of details/samples of external materials
4. Submission of details of electromagnetic screening measures to be submitted (Jodrell Bank).
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. Details of the closure of the existing access off London Road (including native hedge planting) to be submitted
8. Landscaping scheme (to include native species for ecological value) to be submitted
9. Implementation of approved landscaping scheme
10. Submission and implementation of a tree protection scheme
11. Submission and implementation of details of boundary treatments
12. Submission and implementation of surveys and mitigation methods for the protection of breeding birds
13. Scheme for the provision of bat and bird boxes to be submitted
14. Drainage - Submission and implementation of a scheme for the regulation of surface water including SUDS
15. Submission and implementation of a scheme to ensure that finished floor levels are set no lower than 53.82m above Ordnance Datum (AOD)
16. Submission and implementation of a scheme for the management of overland flow from surcharging of the on-site surface water drainage system
17. Submission and implementation of a scheme for the provision and management of a buffer zone alongside the watercourse to include details of buffer zone with River Croco, details of planting, management plan for the buffer zone and details of footpaths, fencing, lighting
18. Submission of details of existing and proposed ground levels
19. Submission of a Phase 1 land contamination survey
20. Construction management plan to be submitted
21. Noise attenuation measures to be carried out prior to occupation of dwellings in accordance with recommendations included within noise report
22. Limits on hours of construction including delivery vehicles.
23. Limits on hours of piling
24. Removal of permitted development rights for extensions, outbuildings and gates walls and fences.



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Application No: 12/0219C

Location: 5 Bradwall Road & The Hollies, Wesley Avenue, Sandbach

Proposal: Demolition of the Existing Building and Construction of a New Three Storey Mixed Use Development with Restoration of The Hollies.

Applicant: Andrew Sehne, Wrights Printers In Liaison with Mr & Mr

Expiry Date: 13-Apr-2012

**SUMMARY RECOMMENDATION:** Approve subject to the completion of a Section 106 Agreement requiring a contribution to local traffic management measures and conditions.

**MAIN ISSUES:**

Principle of the Development

Housing Land Supply

Amenity

Highway Safety

Ecology

**REASON FOR REFERRAL**

The application has been referred to Southern Planning Committee because it is a small scale major development.

**DESCRIPTION AND SITE CONTEXT**

The application site comprises 5 Bradwall Road a redundant storage depot, previously occupied by a printing business and The Hollies, which is an important building in the historic context of Sandbach. The site is contained within the Sandbach Conservation Area and the Methodist Church adjacent to the Hollies is a Grade II Listed Building. 5 Bradwall Road is on a prominent corner plot in the town centre. The entire site is contained within the settlement zone line of Sandbach.

**DETAILS OF PROPOSAL**

The proposal seeks full planning permission for the demolition of the existing building (5 Bradwall Road) and the erection of a 3 storey mixed use development including 150sqm retail

unit and 2 apartments at ground floor level, 5 apartments at first floor level and 3 apartments at second floor level. There would be 3 two bedroom and 7 one bedroom apartments.

The proposal also includes the refurbishment of The Hollies, with parking and service areas to the rear.

## **RELEVANT HISTORY**

### 5 Bradwall Road

08/0423/FUL            2008    Withdrawn application for 3 storey mixed use development

08/0422/CON           2008    Withdrawn application for demolition

### The Hollies

05/1218/FUL           2005    Withdrawn application for apartments and restaurant

06/1324/CON           2007    Refusal for demolition and erection of 22 apartments and restaurant

06/1325/FUL           2007    Refusal for 22 apartments and restaurant

08/0454/FUL           2008    Refusal for partial demolition and erection of mixed use development

08/0455/CON           2008    Refusal for partial demolition

## **POLICIES**

### **National Guidance**

PPS1 Delivering Sustainable Development

PPS3 Housing

PPS9 Biodiversity and Geological Conservation

PPG13 Transport

PPS23 Planning and Pollution Control

PPG24 Planning and Noise

### **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

DP9 Reduce Emissions and Adapt to Climate Change

RDF1 Spatial Priorities

L2 Understanding Housing Markets

L4 Regional Housing Provision

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:

PS4 Towns

H1 Provision of new housing development

H2 Housing supply

GR1 New Development

GR2 Design

GR4 Landscaping

GR6 Amenity and Health

GR7 Pollution

GR9 Accessibility, Servicing and Parking Provision

NR3 Habitats

BH9 Conservation Areas

BH10 Demolition in Conservation Areas

### **CONSIDERATIONS (External to Planning)**

#### **Environmental Protection:**

Request conditions relating to the hours of construction and piling, noise and contaminated land.

#### **United Utilities:**

None received at the time of report writing.

#### **Highways:**

The Strategic Highways Manager has considered this application and offers the following comments:

It is considered that this application offers a good blend of development options and residential unit/parking ratios for this town centre location and is a viable proposal in highway terms. However there still remains the historic issue of potential displacement parking. As a result it would be appropriate for a provisional sum to be negotiated for local traffic management. The sum of £5,000 would be sufficient to provide for improvements to local traffic management and this sum should be secured via a Section 106 agreement.

In addition the access should be upgraded to a radius kerbed vehicular crossing with tactile paving on the pedestrian desire line. This will be recommended for a planning condition along with the provisional sum.

*Condition:* A provisional sum of £5,000 will be provided by the developer in accordance with the requirements of Cheshire East Council for the purposes of local improvements to traffic management. This will be secured via a S106 agreement under the Planning Act 1990.

*Condition:-* Prior to first occupation the existing access will be upgraded to current Cheshire East Council specification under Section 184 of the Highways Act 1980. The developer will

enter into and sign a S184 agreement and provide a detailed construction plan to the satisfaction of the Local Planning Authority.

**English Heritage:**

Do not wish to make any comments and recommend that the application is determined in accordance with national and local policy guidance and on the basis of the Councils specialist conservation advice.

**VIEWS OF TOWN COUNCIL:**

Members welcome this development and offer no objection.

**OTHER REPRESENTATIONS:**

One email has been received from the owner of several of the residential properties (flats) opposite the site. It expresses strong objections to the proposal due to direct overlooking from first and second floor living rooms.

Two further comments have been received expressing support for the proposal.

**OFFICER APPRAISAL**

**Principle of Development**

The site is designated as being within the Settlement Zone Line of Sandbach where there is a general presumption in favour of development provided that it is in keeping with the scale and character of the town. (Policy PS4). Therefore the proposal should be judged on the criteria laid out in the individual sections of this report.

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. Therefore, the proposal would assist the Council to meet its housing land requirements and would ease pressure on large previously undeveloped greenfield sites elsewhere within the Borough generally.

**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.”*

## **Design and Scale**

### 5 Bradwall Road

The proposal would allow the demolition of the existing building at 5 Bradwall Road, which is a redundant building that detracts from the character and appearance of the town. It is a reflection of its time architecturally and marks the evolution of motorised transport in Sandbach, but has little intrinsic merit in its own right.

The proposal is for a three storey building, which is reduced to 2.5 storeys adjacent to Sandbach Pentecostal Church on Bradwall Road. The building would be 11m tall at the highest point and would wrap around Bradwall Road and Wesley Avenue, with an octagonal bay on the corner.

Detailing would include contrasting brick string courses in buff and blue, dentil courses to the eaves and first floor sill, stone heads and surrounds and large arched windows at ground floor level and traditional sash windows to other floors.

The octagonal bay would reflect features on Sandbach Literary Institute, in Hightown, a short distance from the site. This is considered to be a strong design feature on this prominent and important corner plot facing the town centre.

The proposal has evolved from a contemporary design, to a building of a more traditional appearance. This was a result of discussions with officers and consultation with Sandbach Town Council, who are wholeheartedly in support of the proposal.

### The Hollies

The application includes the refurbishment of this building with no major alterations to its existing form. This building is a noteworthy and locally significant building which has fallen into a poor state of repair, and its refurbishment would make a positive contribution to the character of the street scene, the Conservation Area and the setting of the adjacent Listed Building.

### **Amenity**

Opposite part of the site, on Bradwall Road, is a three storey block of apartments. This would be close proximity to the proposed building and the owner of some of the apartments has expressed concerns about direct overlooking, window to window at first floor level. However, the layout of the building has been designed in such a way as to ensure that the majority of the windows that face Bradwall Road serve communal areas containing the stairs and lift. The only windows that may cause an overlooking problem are the ground and first floor bedroom windows of the apartments at the end of the building, adjacent to the Pentacostal Church. These windows take the form of a bay with 3 glazing units and as such it is considered that if the central units were fixed (i.e. non-opening) and fitted with obscured glazing; this issue could be addressed as the two side units would not directly face the building. This should be secured by condition.

There are no privacy or light loss issues relating to the refurbishment of The Hollies, as this part of the proposal includes no extensions to the building.

In order to protect the amenity of neighbouring properties, it is considered necessary to impose conditions to restrict the hours in which construction takes place. It is also considered necessary to place restriction on the opening hours of the retail unit.

### **Highways**

To the rear of both buildings it is proposed to provide 14 parking spaces to serve both the new build apartments and The Hollies. The Strategic Highways Manager has stated that the proposal is viable in highway terms and offers a good blend of development options and parking ratios. However there is a history of displacement parking in this area and as such the Strategic Highways Manager considers that it would be reasonable to require a sum of money to contribute to local traffic management. The sum which has been requested is £5,000, which if agreed should be secured by a Section 106 Agreement.

### **Affordable Housing**

PPS3 sets out a national minimum indicative size threshold of 15 units to trigger an affordable housing requirement and the Councils Affordable Housing Interim Planning Statement requires that for any sites with over 15 units there is a requirement for 30% of the units to be affordable on a tenure split of 65% of the affordable being social or affordable rented and 35% being intermediate tenure.

The total residential accommodation on this application is 10 dwellings, therefore it does not trigger any affordable housing requirement.

### **Ecology**

A protected species survey was submitted with the application, relating to the demolition of 5 Bradwall Road. This has been assessed by the Nature Conservation Officer who concluded that there would be no significant ecological issues associated with the proposed development.

### **CONCLUSIONS AND REASONS FOR THE DECISION**

In conclusion, it is considered that the proposal meets the requirements of national policy and the development plan in terms of the issues addressed above and therefore approval of this application is recommended subject to the following conditions.

The development is acceptable in design, amenity, ecology and highway safety terms, subject to the recommended conditions.

**RECOMMENDATION:** Approve subject to the completion of a Section 106 Agreement requiring a contribution to local traffic management measures and the following conditions:

1. Time limit.
2. Compliance with the approved plans.
3. Submission of materials for approval.
4. Submission and implementation of boundary treatment scheme.
5. Hours of construction (including deliveries) limited to 0800 to 1800 Monday to Friday, 0800 to 1400 Saturday with no working on Sundays or Bank Holidays.
6. Submission of details of the method, timing and duration of any pile driving operations.
7. Submission and implementation of a scheme for protection from traffic noise and vibration.
8. Submission of a noise impact assessment
9. Submission of details of acoustic enclosure of equipment with the potential to create noise.
10. Restrictions on the opening hours of the retail unit (0730 to 1900 Monday to Saturday and 0900 to 1600 Sunday and Bank Holidays).
11. Submission of a Phase I contaminated land survey
12. Submission and implementation of a scheme of boundary treatments.
13. Fixed and obscured glazing in the central units of the bay windows at ground and first floor level adjacent to the Pentacostal Church on Bradwall Road.



Application No: 12/0220C

Location: 5 Bradwall Road & The Hollies, Wesley Avenue, Sandbach

Proposal: Conservation Area Consent for Demolition of the Existing Building and Construction of a New Three Storey Mixed Use Development with Restoration of The Hollies

Applicant: Andrew Sehne, Wrights Printers In Liaison with Mr & Mr

Expiry Date: 09-Apr-2012

SUMMARY RECOMMENDATION: Approve with conditions

MAIN ISSUES:

Impact on the Conservation Area

**REASON FOR REFERRAL**

The application is before Southern Planning Committee as it is an application linked to a small scale major development (12/0219C).

**DESCRIPTION AND SITE CONTEXT**

The application site comprises a redundant storage depot, previously occupied by a printing business. The site is contained within the Sandbach Conservation Area and is within the settlement zone line of Sandbach.

**DETAILS OF PROPOSAL**

This application is for the demolition of the redundant building at 5 Bradwall Road, which is contained within the Sandbach Conservation Area.

**RELEVANT HISTORY**

08/0423/FUL            2008   Withdrawn application for 3 storey mixed use development

08/0422/CON           2008   Withdrawn application for demolition

**POLICIES**

**National Guidance**

PPS5 Planning for the Historic Environment

**Congleton Local Plan 2005**

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

BH10 Demolition in Conservation Areas

**CONSIDERATIONS (External to Planning)**

**English Heritage:**

Do not wish to make any comments and recommend that the application is determined in accordance with national and local policy guidance and on the basis of the Councils specialist conservation advice.

**VIEWS OF TOWN COUNCIL:**

Members welcome this development and offer no objection.

**OTHER REPRESENTATIONS:**

Two comments have been received, expressing support for the proposal.

**OFFICER APPRAISAL**

The main issues that require consideration in this application are the impact on the character and appearance of the Sandbach Conservation Area. Policy BH10 states that: *“Conservation Area Consent and/or planning permission, as relevant, for the demolition of a building or group of buildings which significantly contribute to the present character or appearance of a Conservation Area will not be granted unless the harm from the loss was outweighed by the public benefits of an approved replacement scheme.”*

The building is in a poor state of repair and does not make a positive contribution to the character of the area. It is a reflection of its time architecturally and marks the evolution of motorised transport in Sandbach, but has little intrinsic merit that would require its retention.

**CONCLUSIONS**

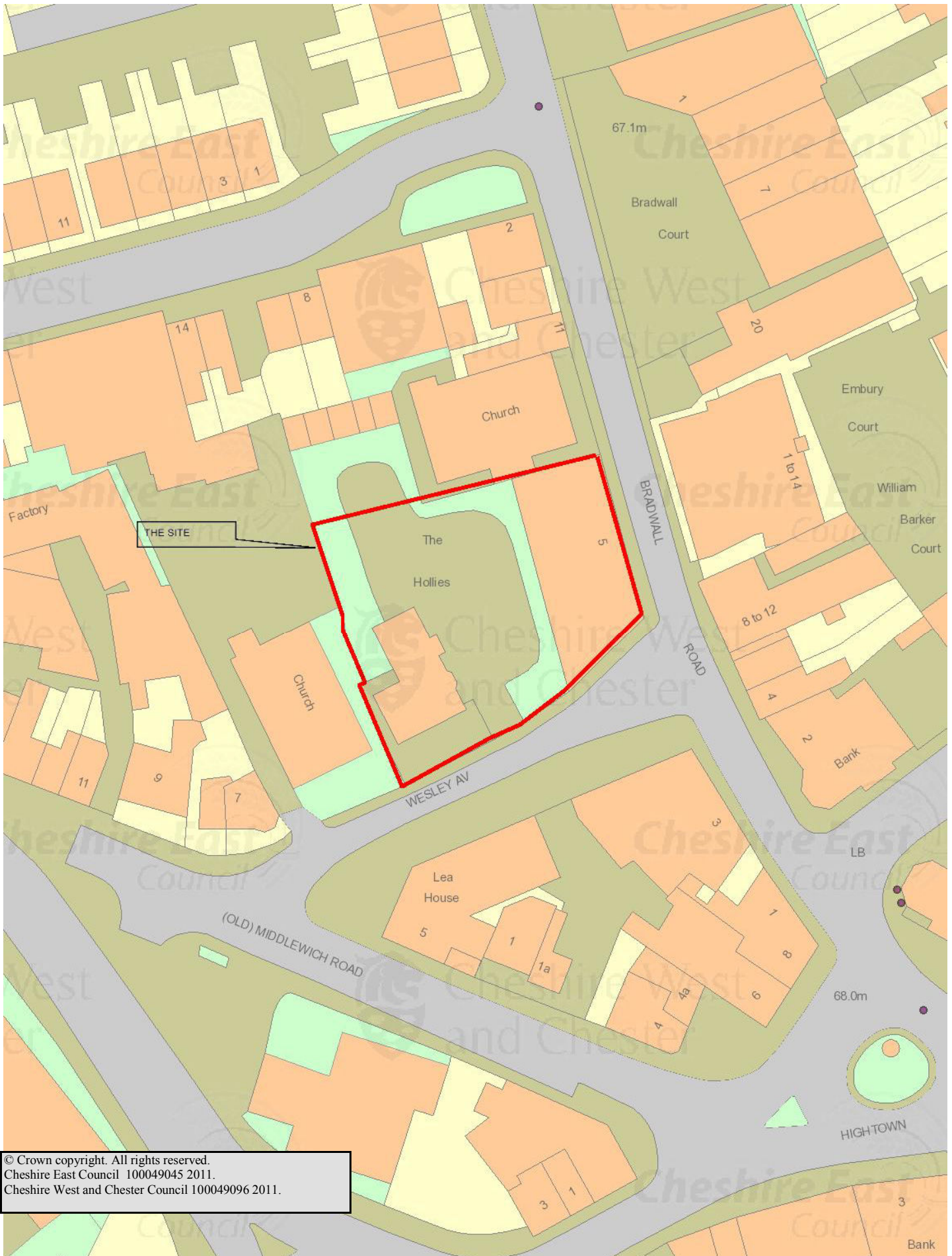
For the reasons given above, it is concluded that the proposed development complies with the relevant local plan policies and the demolition of the building is considered to be acceptable.

**RECOMMENDATION:**

**Approve subject to the following condition:**

- 1. Commence development within 3 years**





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Application No: 12/0234N

Location: ROSE HALL, ASTON JUXTA MONDRUM, NANTWICH, CW5 6DS

Proposal: Proposed Two Storey Extension to form residential annex

Applicant: Mrs A McAlpine

Expiry Date: 08-Mar-2012

**SUMMARY RECOMMENDATION: Approve with Conditions****MAIN ISSUES**

- Principle of development
- Design and impact on the open countryside
- Amenity impact on neighbouring property
- Access and Parking

**REFERRAL**

This type of application is usually dealt with under delegated powers however this application has been called into planning committee by Councillor Michael Jones for the following reasons,

*'This is an application which appears to be in the open countryside and is causing considerable impact on access for neighbours.  
The design may also be contrary to planning rules.'*

This application has been deferred to the 28<sup>th</sup> March 2012 Southern Planning Committee for a site visit.

**DESCRIPTION OF SITE AND CONTEXT**

The proposal site is a three storey former farmhouse property sited on Dairy Lane, Aston Juxta Mondrum. The proposal site is situated within the open countryside with a recent barn conversion surrounding the site to the north and east. The existing dwelling has a several single storey additions at the rear (west) of the dwelling which is surrounded by a 2m high wall.

## **DETAILS OF PROPOSAL**

The applicant is seeking permission for a two storey extension to the rear of the property which is to be used as a residential annex for the applicant's housekeeper. The proposed extension to the property will be largely constructed on the existing footprint of the single storey extensions. The annex will have a kitchen, sitting room and WC at ground floor level and two bedrooms and a bathroom at first floor level. The extension will have a length of 8.4m, a width of 4.9m and a maximum height of 6m. There appears to be an alteration to the roof of the existing single storey rear projection which will contain the kitchen.

At the time of the planning officer's site visit internal works to modernise the dwelling were taking place.

## **RELEVANT HISTORY**

No relevant planning history

## **POLICIES**

The policies from the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP) are:

### **Local Plan Policy**

BE.1 (Amenity)  
BE.2 (Design Standards)  
RES.11 (Improvements and Alterations to existing Dwelling)  
NE.2 (Open Countryside)

### **Other Material Considerations**

PPS1, Delivering Sustainable Development  
Extensions and Householder Development SPD

**CONSIDERATIONS (External to Planning):** None received at time of writing this report.

**VIEWS OF THE PARISH / TOWN COUNCIL:** None received at time of writing this report.

## **OTHER REPRESENTATIONS**

The occupants of Little Rose Barn (1), 2, 3, Court House (5) Rose Farm Barns; Dairy Lane have made the following comments,

- Support the re-development of Rose Hall,
- Concern that first floor windows will overlook back gardens and windows,
- Restrict sunlight hours to rear windows and gardens,

- No measurements on the plans to show the height of the extension
- Views will be restricted,
- The building will be overbearing as it is larger than existing garage buildings,
- Proposal appears to be for a new two storey dwelling within the green belt,
- There would be no objection to a single storey extension with annex which is integrated with the main house,
- Over development of the site,
- There is no right of access across the private road to the east of the site and therefore questions are raised as to how the new occupants will access the extension,
- The proposed single storey kitchen extension will be a tall single storey extension which will be imposing,
- UPVC windows would be out of character with the surrounding area – timber doors and windows should be required, and slate roofs,
- Concerns over the capacity of the existing septic tank and potential impact on the water course.

Further objections received from the occupiers of Little Rose Barn (1), 2, and Court House (5) Rose Farm Barns, Dairy Lane, from the additional consultation carried out on the change of the description of development and the addition of the supporting statement. The main issues raises are;

- Concerns over the height, will cause loss of daylight, outlook and privacy,
- Would prefer single storey extension,
- No internal access to annex therefore concerns it will be a separate annex,
- Concerns over vehicle access – notes that there is no right of way over private drive to the rear,
- Issues raised with regards to the capacity of the existing septic tank,
- The application also includes extension to create a single storey kitchen,
- Disagree with the planning statement that the proposal will be constructed largely on the existing footprint of existing outbuildings, as the existing sheds are outbuilding not used as part of the house,
- Over development on the site,
- Does not consider the development to be subservient to the main dwelling,
- Support re-development of Rose Hall.

## **APPLICANT'S SUPPORTING INFORMATION**

Planning Statement

### **OFFICER APPRAISAL**

#### **Principal of Development**

The principal of householder development within the open countryside is considered acceptable provided that the proposed extension appears subordinate to the original dwellinghouse and the original dwelling remains the dominant element. The proposal

must also accord with Local Plan policies BE.1 (Amenity), BE.2 (Design Standards) and RES.11 (Improvements and Alterations to existing Dwellings).

### **Design and Impact on the open countryside**

The existing dwellinghouse has a collection of single storey extensions and outbuildings to the rear of the property. The proposed development seeks to remove these outbuildings and replace them with a single storey outshout and a two storey residential annex. The proposed site plan shows that the footprint of the development is fairly similar to that which already exists on site.

Policy RES.11 states that, 'in the open countryside the original dwelling must remain as the dominant element with the extension subordinate to it'. The reasoning for the policy then goes on to explain that '...the extension must not result in the creation of a dwelling that is double or more than double the size of the original dwelling.' The proposed extension will be significantly less than double the volume of the existing dwelling and therefore from a numeric aspect the proposed extensions are acceptable.

The proposed extensions and alterations are of design and nature which is in keeping with the traditional design of the proposed dwelling. The proposed two storey extension will appear as a subordinate addition to the dwellinghouse and will tidy up the rear elevation of the dwelling.

Whilst timber window frames and doors would be preferable to retain the buildings traditional character, the use of UPVC windows and doors is acceptable as this property is not listed and the site is not within a conservation area.

The proposed two storey extension is to be used as ancillary living accommodation for the applicant's housekeeper. Whilst new dwellings within the open countryside are acceptable the use of an extension for ancillary living accommodation is an acceptable use and with the addition of a condition to ensure the annex is only used as ancillary accommodation for a member of the family or someone who works for the owners of the dwellinghouse.

It is therefore considered that the proposed extension will not have a detrimental impact on the open countryside and is of a scale and mass which is acceptable in line with Local Plan policy BE.2 (Design Standards).

### **Amenity**

The proposed extensions will be sited to the rear of the site to the west. The proposed extension will be contained largely to the footprint of the existing buildings; however it will have a first floor addition.

The two storey extension (annex) will be sited to the rear of the site adjacent to the converted barns known as Rose Farm Barns. No.6 – 4 Rose Farm Barns are of a two storey nature and No.1-3 are one and a half storey in height.

There is a minimum distance of 21m between the proposed two storey extension and the rear elevation of No's 3 and 4 Rose Farm Barns. The proposed extension will have a secondary window in this elevation serving a bedroom which will face the principal windows on the rear elevation of the No's 3. The Council's Supplementary Planning Document: Extensions and Householder Development states that to protect the privacy and living conditions of neighbouring properties, a distance of 21m should be achieved between any proposed principal window and a directly opposing principal window, unless the window is fitted with obscure glazing. It is considered that although this window meets the distance, as it will serve as a secondary window to the bedroom an obscure glazed window condition would be acceptable in this instance. It is therefore considered that with the addition of an obscure glazing condition the proposed development will not have a significantly detrimental impact on the neighbours to the north by means of overlooking.

There is an 18m distance between the proposed rear elevation of the extension and the rear elevation of the property known as 'Little Rose Barn'. Both properties have principal windows facing each other, however due to the orientation of the barn to the rear elevation of the proposed extension no direct overlooking will occur. It is therefore considered that the proposed extension will not have a significantly detrimental impact on the amenity of the adjacent neighbours by means of overlooking. Therefore it is not considered necessary to require obscure glazing to the first floor rear windows.

Whilst it is acknowledged that the impact of a two storey extension will have some increased impact on views of the adjacent neighbours, protecting views is not a material planning consideration. However the impact the building may have on loss of light or overbearing impact is. The proposed extension will be 6m in height, and it is considered that the impact of the building will be limited when seen in the context of the three storey dwelling, and the intervening garage. Although the light to the rear elevation of the barns may be reduced slightly due to the south aspect it is unlikely that this would significantly detrimental to substantiate a reason for refusal.

The proposed single storey element of the proposal is to the south of the site and will have a limited impact on the amenity of the adjacent neighbours due to its single nature. The proposed development is considered to be of a size and position which is acceptable and in accordance with local plan policy BE.1 (Amenity).

### **Access and Parking**

The proposed extension (annex) will be accessed off the existing driveway to the north of the site; there is sufficient space within the curtilage of the property to park several cars and therefore in the absence of any comments from the Highway Authority it is considered that the proposed development is acceptable and will not have a detrimental impact on highway safety.

Within the objections raised, the issue of the use of a private access to the west of the site is raised. The application site does not include the access to the rear and therefore does not form part of this permission. Furthermore, any issue raised with regards to the potential unauthorised use of the private access is a private civil legal matter and not a material planning consideration.

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

It is considered that the proposed development is of size and position which is in-keeping with the host dwelling, and the surrounding area. The proposed development will not have a significantly negative impact on the adjacent neighbours and is therefore considered to be acceptable and in accordance with the relevant policies of the Local Plan.

### **Conditions**

- 1. Standard Time**
- 2. Materials to match existing dwelling**
- 3. Obscure glazed window to first floor north elevation**
- 4. Annex to remain ancillary to main dwelling for use of family members, friends or staff only and not used a holiday let, separate dwelling or for a business use**
- 5. Approved plans**





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Application No: 12/0267N

Location: LAND ON NEWTOWN ROAD, SOUND

Proposal: Erection of Detached Property, Double Garage & Associated Access Provision

Applicant: MR & MRS BRADBURY

Expiry Date: 27-Mar-2012

**SUMMARY RECOMMENDATION**

Approve with conditions

**MAIN ISSUES**

- Principle of Development
- Impact on Character and Appearance of Streetscene and Open Countryside
- Impact on the Amenity of Neighbouring properties
- Impact on Landscape Features
- Impact on Highway Safety
- Impact on Protected Species and Sites of Nature Conservation

**REASON FOR REFERRAL**

This application was to be dealt with under the Council's scheme of delegation. However, the application has been called in by Cllr Rachel Bailey "to allow consideration of concerns relating to highway access and impact on "street scene".

**DESCRIPTION OF SITE AND CONTEXT**

The application site forms a paddock located within the Open Countryside as defined by the Borough of Crewe and Nantwich Replacement Local Plan 2011 Proposals Map. The site is located in the village of Sound, which does not benefit from a settlement boundary. The site fronts onto Newton Road, which is a country lane, and is located between two storey properties to the east and west. The Newton Road boundary is defined by a mature hedgerow of native species, there are numerous trees sited along the boundary of the site including a TPO tree on the boundary with Corner Cottage.

**DETAILS OF PROPOSAL**

This application proposes the erection of a two storey dwelling, double garage and the creation of a new vehicular access from Newton Road. Amended plans received show that the dwelling would be an entirely two storey property. The dwelling would have a total width of 12m and maximum depth of 10.8m. The height to eaves would be 5m and the maximum ridge height would be 7.9m.

The proposed garage would be 6.3m in width, 5.5m in depth, 2.3m to eaves, with a ridge height of 5m. The garage would be sited forward of the main dwelling. A driveway and parking/turning area is also proposed. The site would be accessed from Newton Road, through the existing hedgerow.

## **RELEVANT HISTORY**

**7/14765** – Planning permission refused for a residential dwelling on 5<sup>th</sup> November 1987.

## **POLICIES**

### **Local Plan Policy**

- NE.2 (Open Countryside)
- NE.5 (Nature Conservation and Habitats)
- NE.7 (Sites of National Importance for Nature Conservation)
- NE.9 (Protected Species)
- BE.1 (Amenity)
- BE.2 (Design Standards)
- BE.3 (Access and Parking)
- BE.4 (Drainage, Utilities and Resources)
- BE.5 (Infrastructure)
- RES.5 (Housing in the Open Countryside)
- TRAN.9 (Car Parking Standards)

### **Other Considerations**

PPS1 – Delivering Sustainable Development

PPS3 - Housing

PPS7 – Sustainable Development in Rural Areas

Draft National Planning Policy Framework (2011)

## **CONSULTATIONS (External to Planning)**

**Environmental Health** – No objection subject to conditions relating to the construction phase of development and gas protection measures.

**Strategic Highways Manager** – It is possible to provide visibility in accordance with the new standards as the speeds of vehicles on Newtown Road are low due to the narrow nature of the road. There is adequate parking provision within the site for the dwelling. No highways objections are raised. Suggest conditions relating to set back of gates and no obstruction of visibility splays.

**United Utilities – No objection**

## **VIEWS OF THE PARISH COUNCIL**

Object to proposed development on the following grounds:

- Visibility poor, only 20m and 25mph speed suggested is far lower than actual speeds
- Dispute that this is a village location, only a hamlet
- Not a built up frontage and therefore not infill
- Adjoining property is 1m lower and will be overlooked
- Window level will be car height and therefore affected by fumes and light
- Site close to SSSI, no survey carried out
- Agricultural land and constitutes Open Countryside

## **OTHER REPRESENTATIONS**

Petition containing 35 signatures and 19 letters of objections received, the salient points being:

### Planning History

- Planning permission refused in 1987, nothing changed except increase in traffic
- Previous decision refused proposals for sporadic development
- All reasons for refusal remain relevant

### Principle of Development

- Sound has no settlement boundary, and not built up frontage, Sound not a village only 50 to 60 houses spread over an area
- This is agricultural land
- 5 houses along lane and no houses on opposite side
- Away from services
- Only appropriate development in rural areas will be permitted
- Two properties do not constitute a built up frontage
- Contrary to Local Plan Policies NE.2, BE.1 and RES.5
- What is proposed for strip of land to rear
- Shortage of smaller houses in area
- No agricultural connection with proposed development
- Risk of precedent

### Design Issues

- Undesirable ribbon development
- Site is open and views are not limited
- Development of this magnitude is too obtrusive
- Will appear large against corner cottage
- Ground levels will make dwelling more prominent

- Rural idyll will be destroyed
- Design out of character, and out of keeping

#### Amenity Issues

- Will result in overlooking, overshadowing, visual intrusion, noise and disturbance, conflict with BE.1
- Windows in side elevation of Corner Cottage and rooflights, conservatory to rear, proposals would be intrusive and block sun from conservatory
- Will overwhelm surrounding dwellings
- Loss of privacy

#### Highways and Access

- No evidence of speed survey, vital to visibility splays, need to remove trees to achieve visibility which are out of ownership
- Lanes too narrow and too much congestion and damage to road verges
- Danger to pedestrians and motorists
- Volumes increased over the years
- Large vehicles use road
- Newton Road is not a street and not being redesigned
- Appropriate guidance for visibility is Design Manual for Roads and Bridges (DMRB) – 31mph requires 70m, 37mph requires 90m. These distances are not attainable
- Disagree that Newton Road is lightly trafficked
- Impossible to create a safe access
- Site access is opposite a driveway and is a dangerous without this development
- Not suitable access and Site on a blind bend, blind double bend
- Issues when cycling along cycleway
- No pavements in area
- Increased traffic will affect health
- Unrestricted speed limit

#### Wildlife, Nature Conservation and Protected Species

- Land adjacent to a SSSI, not been fully considered, rare species grows in area
- Important feature to Local people
- Wildlife, flora and fauna could be damaged
- Newts close to plot
- Grass snakes found in area

#### Other Matters

- Concern over pre application discussions
- Any archaeological damage
- Inadequate drainage

### **APPLICANT'S SUPPORTING INFORMATION**

Design and Access Statement

Planning Statement

Access Statement

Tree Survey

## **OFFICER APPRAISAL**

### **Principle of development**

This application proposes residential development within an open countryside location. Policy RES.5 relates to residential development within the Open Countryside, and states that only housing which is required for a person engaged in agriculture, or meet the criteria for infilling will be permitted. The proposed development is not justified on the basis that it is required for a person engaged in agriculture and therefore the infill criteria is the relevant policy consideration. Policy NE.2 clarifies where infilling would be acceptable. The Policy states that as an exception, there is an *“opportunity for the infilling if a small gap with one or two dwellings in an otherwise built up frontage”*. The Policy does not define the specifically what constitutes a “small gap” or an “otherwise built up frontage” and therefore each application should be considered on a site by site basis.

The application site forms a paddock located between two, two storey residential properties on the northern side of Newtown Road. The presence of these two adjoining properties alone would not constitute a built up frontage. There are no residential properties located beyond Pritch House to the west. To the east, along Newtown Road are a further four detached residential properties. While the number of properties on the northern side of this road are not considerable, it is considered that the application site forms part of this small frontage. Furthermore, when approaching the site from the west the presence of Broomhall Methodist Church provides a greater sense of enclosure to the frontage and to the built up nature of this immediate area.

The plot has a roadside frontage of 26m and the plot reduces in width to 16.5m. The roadside frontages of those properties which front Newtown Road have frontages which are between 18m and 45m in width. It is therefore considered that the width of the plot would be consistent with the existing frontages and would as such represent a small gap.

In the light of the above considerations it is suggested that the application site forms a small gap within a built up frontage and is therefore residential development is acceptable in principle as an exception to Open Countryside Policy NE.2. Therefore the main considerations are whether the proposed development is of appropriate design, and does not result in significant detrimental harm to the amenities of adjoin properties, highway safety, or any other matters.

### **Impact on the character and appearance of the streetscene and Open Countryside**

As outlined above, it is considered that the principle of residential development in this location is acceptable and inevitably there will be change to the streetscene through the introduction of built form. However, the scale, siting, form and design of the proposed development needs to be appropriate.

The application site is located within a streetscene which has a variety of house designs, however the prevailing characteristic is that of two storey detached properties. The proposed development includes the construction of a two storey detached property which would be sympathetic to the pattern of development in the area. The height of the dwelling would be 0.4m higher than the ridge of Pritch House and 0.1m lower than the ridge height of Corner Cottage. The height of the dwelling is considered to be appropriate in its immediate context.

Concern has been raised with regard to land levels and the fact that Corner Cottage is sited at a lower land level than the application site. There is a noticeable rise in the application site towards the centre of the plot. The survey plans identify a spot height of 68.2 at the sites highest point. The proposed site plan identifies that the finished ground level would be 67.05. As such the removal of 1m of earth would be required from part of the site. As such the dwelling would not be sited at a higher ground level to the adjacent dwelling.

Revised plans have removed the single storey elements either side of the dwelling. The dwelling would now be approximately 3.8m from the boundary with Corner Cottage. The distance that the dwelling would be sited from Pritch House would be 3m at its closest and 8m at its furthest. The proposed dwelling is therefore considered to sit comfortably in its plot without appearing overly cramped.

The dwelling would be set back from the edge of the public highway by 14m. The dwelling would be behind the building line of Corner Cottage and forward of the building line of Pritch House, as such the dwelling would respect the building line between these two properties. As such the development would not be a prominent form of development which is out character with the area.

There is no prevailing style of design in the area. The application dwelling proposes a double gable fronted property, with hipped roof. To the front elevation the scheme includes bay windows at ground floor level with timber framed gables above. The design incorporates some rural features in its design approach, and in the absence of any prevailing design in the immediate area the design of the dwelling is considered to be acceptable.

The scheme also proposes the construction of a detached double garage which would be sited to the front of the dwelling. Revised drawings show that the garage would have a reduced ridge height of 5m to that initially proposed. At its closest the garage would be 9m from the edge of the highway. The garage would not be forward of the line of Corner Cottage and would be largely screened by existing vegetation when approached from both directions. As such the garage would not be a prominent form of development at its modest ridge height.

### **Impact on Landscape Features (Trees and Hedgerows)**

Along the eastern boundary of the site is a sycamore tree which is protected by a TPO. The application dwelling would be sited a satisfactory distance away from this tree not to cause



any undue harm. However tree protection measures during construction are suggested. This can be secured by condition.

There are other trees sited along the western and southern boundary of the site. Those trees along the western boundary are located in the curtilage of Pritch House. The dwelling would be sited close to these trees, which are not protected, and the crown of one of these trees would need to be pruned to accommodate the development. The application submission suggests offset root protection measures. Whilst the relationship between the dwelling and the adjoining trees is not ideal, these are not high quality specimens. The Councils Landscape Officer has suggested tree protection measures to be secured by condition.

The proposed development will require the removal of a small stretch of the existing hedgerow to necessitate the vehicular access to the site. The majority of this hedgerow would be retained.

### **Impact on the Amenity of Nearby Properties**

The application dwelling is located between two residential properties, Pritch House and Corner Cottage.

Within the side elevation of Pritch House are large windows at ground and first floor level. The proposed dwelling would be sited directly to the front of these windows, however would be at a distance of 18.5m which would exceed the suggested spacing standard of 13.5m between principle windows and flank elevations. At its closest the proposed dwelling would be 3m from the boundary with Pritch House and would increase its distance from the boundary to 8m. The proposed garage would be a maximum height of 5m and have an eaves height of 2.3m and as such is relatively modest in scale. The building would be 2.5m from the boundary. In addition the boundary between these two properties is well vegetated. In the light of the distance from the boundary, scale of garage and existing vegetation it is considered that the proposed development would not have an overbearing impact on Pritch House.

Corner Cottage is sited, at its closest, 1.5m from the boundary with the application site. Within the side elevation of that property is a lounge window which looks over the application site. That window would face the parking and turning area of the application site, the dwelling itself is sited so that it would not be immediately in front of this window and has also been sited so that it is 4m from the boundary, as such the proposed development would not be overly oppressive, although the dwelling would undoubtedly be visible/noticeable.

To the rear of Corner Cottage is a conservatory and the proposed development would be 7m from this. There is sufficient distance between the conservatory and the proposed dwelling not to appear overbearing. The dwelling is sited immediately to the west of Corner Cottage, the proposed development would result in some loss of daylight to the side window and conservatory towards the late afternoon/early evening, but, again, due to the siting, spacing and aspect it is considered that this would not cause significant harm to justify a refusal of the application.

All principal windows of the dwelling are located within the front or rear elevation and as such would face over the residential curtilage of the proposed dwelling. Any first floor windows

within the side elevation would be obscure glazed, as such the proposed development would not result in any overlooking or loss of privacy.

### **Impact on Highway Safety**

The application proposes the creation of a new access onto Newton Road. Newtown Road is a relatively narrow country lane. The submitted application identifies that the proposals can achieve visibility to the east of 2m x 25m, and to the west 2m x 35m. The report also identifies that vehicular speeds along this stretch of Newtown Road are slow, despite being an unrestricted road.

The Strategic Highways Manager considers that the proposed visibility splays would provide visibility in accordance with standards as the speeds along Newtown Road are slow, due to the narrow width of the road. In the light that satisfactory visibility can be achieved the Strategic Highways Manager has raised no objection to the development and the access arrangements are therefore considered to be acceptable.

It is considered that a satisfactory level of off street parking can be provided within the site.

Conditions relating to the set back of the gate and that visibility splays are clear of obstruction above 1m in height have also been suggested by the Strategic Highway Manager and any approval should be conditioned to reflect this.

### **Impact on Protected Species/Nature Conservation Habitats**

Concern has been raised during the application process that the application site is located close to the Sound Heath Local Nature Reserve which is a designated SSSI. Sound Heath (Sound Common) is sited 120m to the north and 200m to the west of the site. No consideration has been made of this in the application submission.

The Councils Nature Conservation Officer has considered the proposed development with respect of this designation. They have concluded that the proposed development is not reasonably likely to have an adverse impact upon the features for which the SSSI is designated, and as such no further action with this respect is required.

The Nature Conservation Officer does note that the proposed development will require the removal of part of the hedgerow, which is a Biodiversity Action Plan Priority Habitat. They therefore suggest that a condition requiring a check for nesting birds is attached to any permission. Any landscaping scheme should include native species.

### **Drainage and Flooding Issues**

No objection has been raised from United Utilities with regard to drainage. The site is not located within a Flood Zone. It is therefore considered the development is acceptable in this regard.

### **Other Matters**

The Councils Contaminated Land Officer has identified that there is the potential for contamination at the site as the site is within 110m of a landfill. As the drift geology is permeable there is the potential for generated gases to migrate to the development. In the light of this a condition is suggested for suitable gas protection measures to be incorporated into the scheme.

Comments have been made with regard to the slither of land to the rear of the site. This land is within the ownership of the applicant but does not form part of the application proposals and would remain in its existing land use. Any domestic use of that land as a driveway would require consent from the LPA in the future.

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

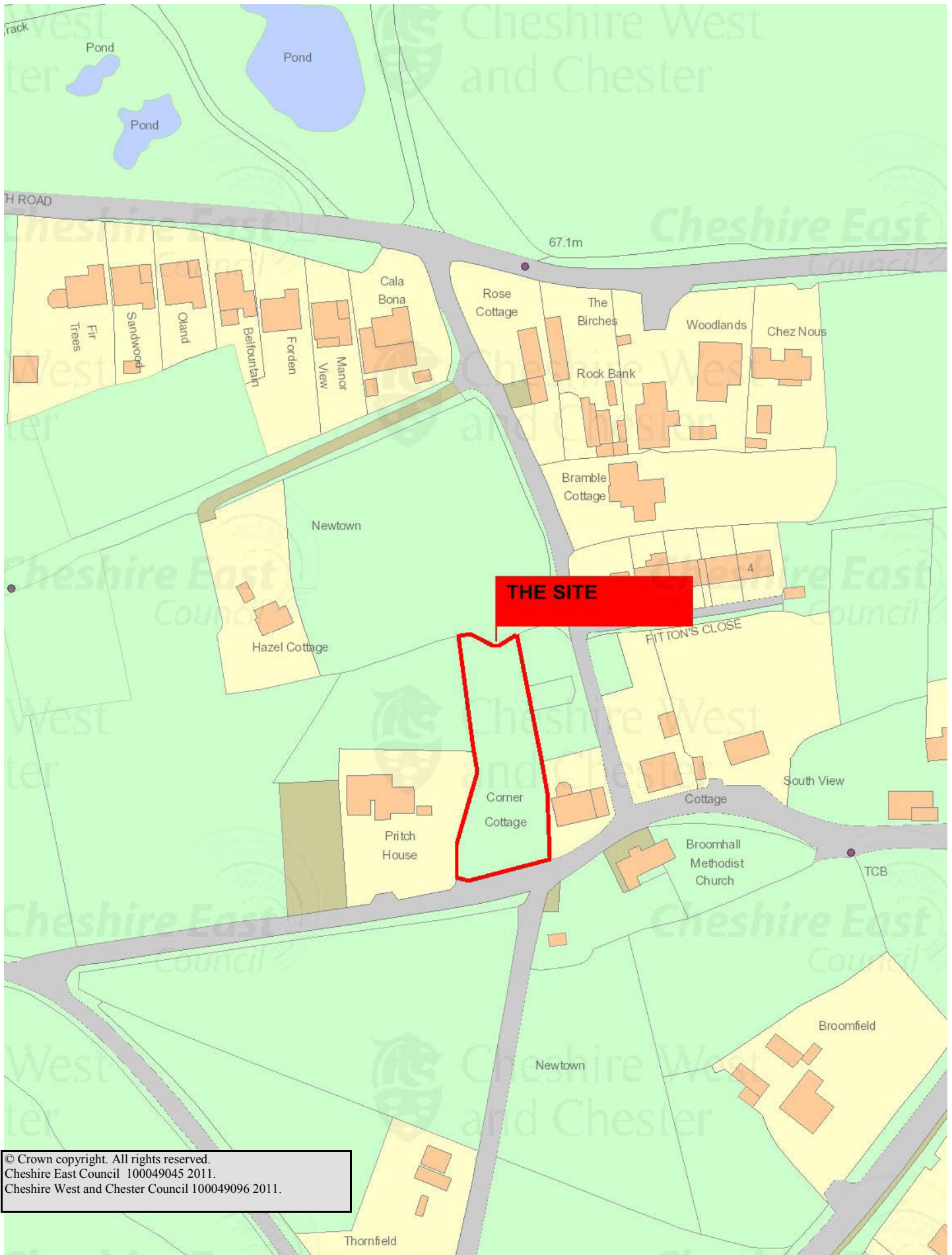
The application site is considered to represent a small gap in an otherwise built up frontage and as such is considered to be an exception to Policy NE.2 and is acceptable in principle. The siting, form, scale and design of the proposed dwelling is considered to be acceptable and there would not be any significant demonstrable harm caused to the amenity of neighbouring properties. It is considered that the site can be satisfactorily accessed from Newtown Road without causing significant harm to highway safety. It is also considered that the proposed development would cause no harm to the nearby Sound Common SSSI. The proposal is therefore in compliance with Policies NE.2 (Open Countryside), NE.5 (Nature Conservation and Habitats), NE.7 (Sites of National Importance for Nature Conservation), NE.9 (Protected Species), BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Access and Parking), BE.4 (Drainage, Utilities and Resources), BE.5 (Infrastructure), RES.5 (Housing in the Open Countryside) and TRAN.9 (Car Parking Standards) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

## **RECOMMENDATIONS**

**Approve subject to the following conditions:**

- 1) Standard Time Limit (3 years)**
- 2) Development to be carried out in accordance with the Approved Plans**
- 3) Materials to be submitted and approved by the Local Planning Authority**
- 4) Details of Surfacing Materials to be submitted**
- 5) Details of Boundary treatment to be submitted and approved**
- 7) Detailed Landscaping scheme to be submitted**
- 8) Landscaping scheme to be implemented**
- 9) Garage to be retained for the storage of private motor vehicles**
- 10) Removal of Permitted Development Rights for Extensions, and alterations**
- 11) First floor side windows to be obscure glazed and thereafter retained**
- 12) Details of drainage to be submitted and approved**
- 13) Restriction of Construction Hours**

- 14) Details of Gas Protection Measures to be submitted**
- 15) Survey to be carried out for Breeding Birds between 1<sup>st</sup> March and 31<sup>st</sup> August**
- 16) Details of Tree Protection Measures to be submitted and approved**
- 17) Details of position of garage and dwelling to be pegged out and finished floor levels to be set out for site inspection**
- 18) Gates to be set back at least 5.5m from edge of public highway**
- 19) Visibility splays should be clear of obstruction**



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Application No: 12/0477C

Location: 25, THORNBROOK WAY, SANDBACH, CHESHIRE, CW11 3ZB

Proposal: Single Storey Side and Rear Facing Extension

Applicant: Mrs J Adamson

Expiry Date: 30-Mar-2012

**SUMMARY RECOMMENDATION**

Approve subject to conditions

**MAIN ISSUES**

Principle  
Design  
Amenity

**REASON FOR REFERRAL**

The application was called in to Southern Planning Committee by Cllr Gail Wait for the following reasons:

- (i) Proposed extension is over-intensive for the site area. Light would be detracted from the kitchen and bathroom due to the size.*
- (ii) The extension would block the light entering the adjoining property as going up to the boundary.*

**DESCRIPTION OF SITE AND CONTEXT**

The application site is 25 Thornbrook Way which is a modern detached dwelling with the immediate surrounding land use being predominantly residential. The site is situated with the Sandbach Settlement Zone Line, as defined by the Congleton Borough Local Plan First Review 2005.

**DETAILS OF PROPOSAL**

The application seeks planning permission for a single storey side and rear extension. The development would extend across the width of the rear elevation and wrap around the dwellinghouse to the side. To the rear this would project 3.6 metres in length with a maximum width of 9.5 metres. When viewed from the front the proposal would be 1 metre wide which would gradually increase to a side projection of 2.5 metres towards the rear.

**RELEVANT HISTORY**

33338/3 Conservatory (Approved 2001)

## **POLICIES**

### **Regional Spatial Strategy (NW)**

DP7 Promote Environmental Quality

### **Congleton Borough Local Plan First Review 2005**

GR1 (New Development)

GR2 (Design)

GR6 (Amenity and Health)

GR9 (Accessibility, Servicing and Parking Provision)

### **Other Material Considerations**

PPS1 Delivering Sustainable Development

## **VIEWS OF SANDBACH TOWN COUNCIL**

The Town Council object to the application as the side extension up to the boundary line is un-neighbourly and will have an adverse impact on the adjacent property (27). As such its unduly detrimental effect on neighbouring amenity contravenes Local Plan policy GR6 (Amenity and Health).

## **OTHER REPRESENTATIONS**

An objection has been received from neighbouring property number 27 Thornbrook Way. In summary the objection relates to the following design and amenity issues:

- Proposal is over-intensive for the site area
- All detached dwellings on Thornbrook Way have amenity and access space of 3ft, or more, to each side of the house; approving the side extension will set precedence, resulting in a dense over-built and unattractive area. As such the proposal is not in-keeping with the area or the neighbouring homes
- The side extension proposed, being in excess of 32ft in length and 13ft in apex height, will be built directly up to the boundary line/fencing. This will create an oppressive corridor affecting amenity greatly and will significantly limit the amount of light entering all facing windows/doors on that particular elevation.
- Owing to the position and scale of this side extension, natural light in to both the south-facing kitchen windows and family sitting room windows will be reduced, with the family room also facing directly on to this 32ft extension wall. This positioning goes against the 45 degree rule.
- The siting, length and height of the extension would create an over-bearing and excessively dominant outlook when viewed from 27.
- Building so closely up to the side boundary with an extension which requires raft foundations will be incredibly difficult in the current narrow pathway space available. Access for building and maintaining the site from 27 is not a viable option given the outbuildings positioned along the fence line (within the boundary of 27). Building a side



extension in such a confined space, with very limited access options, is an inappropriate proposal.

- The proposal contravenes Local Plan policies GR2 and GR6 owing to the significant negative impact on neighbouring amenity, loss of light through design, position and scale.

## **OFFICER APPRAISAL**

### **Principle of Development**

The application site is situated within the settlement boundary where the principle of householder development is accepted, provided that it accords with Local Plan policies GR1 (New Development), GR2 (Design) and GR6 (Amenity and Health). These policies seek to ensure, amongst other things, that proposals are appropriate in design terms and have an acceptable impact on neighbouring amenity.

### **Design**

The application proposes a single storey 'wrap around' extension to the existing dwelling. To the rear this would project 3.6 metres in length with a maximum width of 9.5 metres. When viewed from the front the proposal would be 1 metre wide which would gradually increase to a side projection of 2.5 metres towards the rear. The proposal would have a pitched roof with a projecting gable and chimney feature at the rear. Given the single storey nature of the extension with a maximum height of 4 metres to the ridge (excluding the chimney) the development would appear subordinate to the original dwelling. Subject to materials to match the proposal would have an acceptable appearance. There would be limited impact on the streetscene given the height, width and setback of the extension when viewed from the frontage along Thornbrook Way.

Having regard to the above the proposal is considered to be acceptable in design terms and would comply with the provisions of Local Plan policy GR2 (Design).

### **Amenity**

A key consideration in the determination of this application is the impact of the proposed development on the residential amenity of adjacent properties number 23 and 27 Thornbrook Way.

In terms of number 23 the extension would project 3.6 metres from the rear elevation with a height of 2.2 metres to eaves level and a maximum height of 4 metres to the ridge which slopes away from the property. The properties are also separated by a 2 metre gap, with number 23 also benefitting from an existing single storey rear extension with similar dimensions. In this regard there would be no impacts on the residential amenity of number 23 Thornbrook Way.

Turning to the adjacent property number 27, this is also set apart from the application dwelling by around 3 metres. The side element of the proposed single storey extension would extend up to the common boundary which is defined by a timber fence of around 2 metres in height. Here the extension would have a height of 2.2 metres to eaves level rising to 4 metres to the

ridge. The gap between number 25 and 27 would be reduced to around 1.5 metres which would remain as the side access to number 27. Whilst there is a glazed kitchen door and first floor bathroom, there are no principal windows along this elevation which would be affected by the proposal. Although loss of light and oppressive impact of the proposal on these windows has been cited in the neighbour objection, as stated above these windows do not serve habitable rooms, and furthermore the first floor bathroom window would not be affected by the single storey extension. To the rear the proposal would project 3.6 metres beyond the rear elevation of the dwelling. The 2No windows on the rear elevation of number 27 serve the kitchen and the dwelling also benefits from a single storey extension which is around 6.4 metres from the common boundary. Contrary to the neighbour objection, the proposal does not breach the 45 degree guideline from the nearest window which is non-principal and furthermore the extension would be single storey. Accordingly it is not considered that there would be any significant adverse impacts associated with loss of light. Whilst the proposal would extend beyond the length of the host dwelling and to the rear along the common boundary, regard is given to the single storey nature of the development. Views of the proposal from habitable windows of number 27 would be seen in the context of the rear projection and not a 32ft wall as referred to in the neighbour objection. Having regard to the above it is not considered that the proposed development would result in an unduly detriment impact on the residential amenity of number 27 by reason of visual intrusion, over-bearing effect, or loss of light issues.

It is considered that the proposal would comply with the provisions of Local Plan policy GR6 (Amenity and Health).

### **Other matters**

#### Maintenance

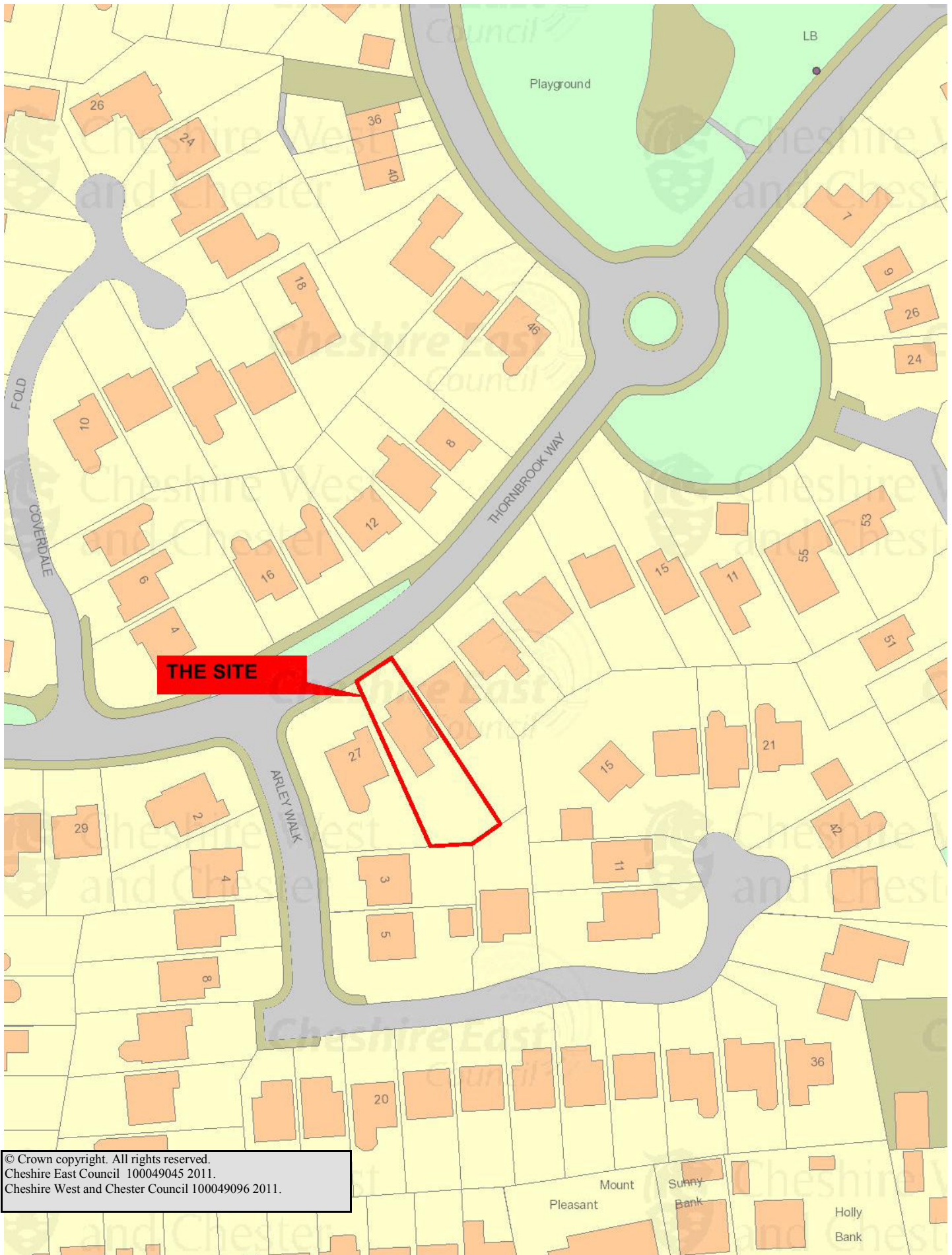
Whilst access to neighbouring land for maintenance purposes has been raised in objection, this is not a material planning consideration.

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

The application proposes an acceptable for of development in design terms and would not be unduly detrimental to neighbouring residential amenity. The proposal is in accordance with the relevant policies of the Development Plan and is therefore recommended for approval accordingly.

**RECOMMENDATION:** Approve subject to the following conditions:

1. Standard Time
2. In accordance with approved plans
3. Materials to match existing dwelling



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Application No: 11/4002C

Location: LAND OFF, JERSEY WAY, MIDDLEWICH, CHESHIRE

Proposal: Construction of 77 No. Private Residential Dwellings together with Associated Works

Applicant: c/o David Major (Stewart Milne Homes NW), Russell Homes & Stewart Milne Homes

Expiry Date: 27-Jan-2012

**SUMMARY RECOMMENDATION:**

Approve subject to the signing of a S.106 Agreement and conditions

**MAIN ISSUES:**

- Principle of development;
- Design;
- Amenity;
- Affordable Housing;
- Noise;
- Ecology;
- Archaeology;
- Landscape;
- Drainage and Flooding;
- Open Space;
- Highway Safety;
- Education
- Other Issues; and
- CIL Regulations

**REFERRAL**

This application is referred to the Southern Planning Committee as it involves a residential development of more than 10 dwellings.

**DESCRIPTION OF SITE AND CONTEXT**

The site lies wholly within the Settlement Zone Line for Middlewich and is not allocated in the Local Plan. The site is approximately 500m to the northeast of Middlewich town centre and bounded by Northwich rail freight line to the west, the rear boundaries of residential properties fronting Holmes Chapel Road to the south, Jersey Way and its wider environs to the east and King Street Industrial Park to the north.

The site measures approximately 2.4ha and is linear in shape running parallel with the railway line in a northwest to southeast direction with relatively even ground levels. A watercourse runs from the southwestern corner of the site along the western boundary into adjacent land which then cuts sharply back across the centre of the site to its eastern boundary and beyond.

## **DETAILS OF PROPOSAL**

This is a full application for the construction of 77no. dwellinghouses and associated works at land adjacent to Jersey Way, Middlewich.

## **RELEVANT HISTORY**

37596/3	Erection of 61 residential units, including 20 apartments, together with 16 office units totalling 1115sq.m B1 floorspace. Refused.
07/1452/FUL	Approved subject to conditions and S106 Agreement. 24 <sup>th</sup> February 2009.
08/1933/08/1934	Co-joined outline applications for residential development (up to 93 dwellings) proposing access from the A54 Holmes Chapel Road. Withdrawn 3 <sup>rd</sup> March 2009.
08/1430/OUT	Outline application for residential development up to 88 dwellings with associated public open space, highway and landscaping works. Withdrawn.
09/0809C	Outline application for the demolition of a dwelling house (numbers 3 & 5) and redevelopment of the site. Together with the adjoining haulage yard for up to 93 dwellings and the provision of public open space together with associated highway and landscaping works. The application seeks specific approval of the site access from Holmes Chapel Road, all other matters being reserved. Permission Granted at Appeal 19 <sup>th</sup> April 2010.
10/0924C	Planning application to extend the time limit for implementation of planning approval 07/1452/FUL (Development of 82 Dwellings, Public Open Space and Means of Access) – Approved – 30 <sup>th</sup> November 2011

## **POLICIES**

### **National Policy**

PPS1 'Delivering Sustainable Development '  
PPS3 'Housing'  
PPS9 'Planning and Biodiversity'  
PPG13 'Transport'  
PPG16 'Archaeology and Planning'  
PPS23 'Planning and Pollution Control'  
PPG24 'Planning and Noise'  
PPS25 'Development and Flood Risk'

Design Manual for Roads and Bridges  
Manual for Streets

### **Local Policy**

E10 'Re-Use or Redevelopment of Existing Employment Sites'

GR1 'New Development'

GR2 'Design'

GR3 'New Residential Development'

GR4 & 5 'Landscaping'

GR6 & 7 'Amenity and Health'

GR9 & 10 'Accessibility, Servicing and Parking Provision'

GR21 'Flood Prevention'

GR22 'Open Space Provision'

PS4 Towns

H1 & H2 'Provision of New Housing Development'

H4 'Residential Development in Towns'

H9 'Additional Dwellings and Sub-divisions'

H13 'Affordable and Low Cost Housing'

NR1 'Trees and Woodlands'

NR2 'Statutory Sites'

RC1 'Recreation and Community Facilities – General'

SPG1 'Provision of Public Open Space in New Residential Developments'

SPG2 'Provision of Private Open Space in New Residential Developments'

SPD6 'Affordable Housing and Mixed Communities'

### **CONSIDERATIONS (External to Planning)**

#### **Sustrans:**

No objections subject to the following:

- For a site of this size, we would like to see the council secure a contribution toward improving the local pedestrian/cycle network in the town including the canal network.;
- The pedestrian connection to Holmes Chapel Road is important for convenience; and
- The design of the smaller properties should include storage space for buggies/bikes.

#### **Environmental Health:**

Has the following comments to make:

- The hours of construction 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

- Should there be a requirement to undertake foundation or other piling on site it is recommended that these operations are restricted to:

Monday – Friday	08:30 – 17:30 hrs
Saturday	08:30 – 13:00 hrs
Sunday and Public Holidays	Nil

- A scheme of noise mitigation is required to be submitted to this Division in conjunction with the World Health Organisation guidelines.
- Contaminated land condition required.

**Archaeology:**

No objections subject to the following condition:

No development shall take place within the area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work (to consist of excavation, recording, reporting, and publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.

**United Utilities:**

No response received at the time of writing this report.

**Network Rail:**

No objection in principle subject to the development. However, due to its close proximity to the operational railway, Network Rail has requested a number of issues be taken into consideration, and a number of conditions attached, if the application is recommended for approval.

**Environment Agency:**

No objection subject to a number of conditions relating to the proposal being carried out in accordance with the FRA and any contamination not previously identified then no further development unless agreed with the Local Planning Authority.

**Highways:**

No objections subject to the following:

- Prior to first development the developer will enter into and sign a Section 38 Agreement with the Highway Authority under the Highways Act 1980.
- The developer will provide a contributory sum to the upgrade of existing estate footway links and the approaches to the Puffin crossing on the A54 Holmes Chapel Road. The sum of money is estimated at £7,500.00 for the high friction surface and approximately £10,000 for upgrades to connecting footways and provision of a small amount of footway lighting. The total sum therefore would be £17,500.00.
- The developer will provide a sum of £12,500 for the upgrade of two local bus stops to quality partnership facilities.



- The contributory sums will be subject to inclusion in a Section 106 Agreement under the Town and Country Planning Act 1990.

## **Greenspace:**

### ***Children and Young Persons Provision***

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 (in accordance with the submitted details on the Landscape Proposals Sheets 1 and 2, Drawing No. 4081, dated November 2011) there would still be a deficit in the quantity of provision having regard to the local standards set out in the Council's Open Space Study.

An assessment of existing play provision within the 800m distance threshold of the proposed development site has identified that there is a requirement for an additional play facility to meet the future needs arising from the development. However, in line with the Council's policy a contribution to upgrade existing facilities would be preferred on this occasion.

A deficit in both quantity and quality has been identified in some of the existing open space accessible to the new development, and in order to meet the needs of the development, opportunities have been identified for the upgrading of the existing facilities. There are currently two sites that would benefit from upgrading and enhancement;

An opportunity has been identified for the enhancement of the Locally Equipped Area for Play (LEAP) facility on Angus Grove within 50 metres of the site to increase its capacity. As this play area is located within the largest area of Amenity Greenspace, is the most heavily used as identified in the 2005 Open Space Survey and also the most easily accessible for the residents of the proposed development in the event that planning permission is granted; an enhancement from a LEAP play facility to a Neighbourhood Equipped Area for Play (NEAP) with provision being made for DDA inclusive equipment would be desirable.

This would not just contribute to improving the quantity of equipment on site; it would also improve accessibility to the site in terms of DDA requirements, encouraging greater use of the facility.

Alternatively there are opportunities to upgrade the main park facility for Middlewich off Queens Street known as Fountain Fields.

Given that an opportunity has been identified for upgrading the capacity of Children and Young Persons Provision, based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

Enhanced Provision:	<u>£36,600.15</u>
Maintenance:	<u>£76,117.50</u>

### ***Amenity Greenspace***

Following an assessment of the provision of Amenity Greenspace accessible to the proposed development, it has been identified that there will be a deficit in this type of provision in the event that planning permission is granted. Whilst it is acknowledged that the developer is providing an amount of Amenity Greenspace on site equating to 1,416 square metres there is still a shortfall of 1,134 square metres.

An opportunity has been identified on Harbutt's Field to make enhancements to the Open Space which, just outside the Accessibility Standard of 800m, is still considered reasonably accessible to the development. The upgrading of the infrastructure such as the access path around the perimeter of the Amenity Greenspace would expand the sites capacity further by improving links to pedestrian footways along the River Croco and the Canal tow path. It should be noted this would be subject to approval from English Heritage and Archaeology Planning Advisory Service as this is a Roman site.

Alternatively upgrading infrastructure at Fountain Fields would increase the capacity to benefit the new development.

Given that an opportunity has been identified for enhancing the capacity of existing Amenity Greenspace to serve the development based on the Council's Guidance Note and its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

Enhanced Provision:	<u>£ 5,990.92 (based on shortfall only)</u>
Maintenance:	<u>£30,153.75 ( based on shortfall and proposed new provision)</u>

It is acknowledged that 850 square metres is being proposed as Allotments which is welcomed for the Middlewich area. These could be self managed by an Association or possibilities could be explored through the Town Council.

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

No objection subject to the following comments:

- That no development be commenced until a full archaeological survey has been undertaken and that it be requested that such survey be undertaken in consultation with Middlewich Town Council as a potential community archaeological dig; and
- That the developer be required to enter into a Section 106 agreement to provide for improved play provision in the locality.

#### **OTHER REPRESENTATIONS**

Letters of objection have been received off the occupiers of 12, 16 and 38 Jersey Way. The salient points raised in the letters of objection are as follows:

- The proposal will result in overlooking, loss of privacy and over shadowing to my gardens.
- Does the proposal comply with CCC Design Aid Guidance?
- The proposal will have a detrimental impact on the existing residents due to noise whilst the properties are being constructed and once they are occupied;

- Jersey Way is a narrow road where vehicles find it difficult to pass each other and it will be especially difficult for emergency vehicles, this is made worse when vehicles do not park correctly;
- The applicants preferred access option is via Holmes Chapel Road;
- A previous planning application in August 2008 again with access through Jersey Way received over 88 objections from residents on Jersey Way, Dexter Way, Ayrshire Close, White Park Close, Guernsey Close and Chillingham Close. Specifically they felt that access through Jersey Way was unsatisfactory as it gave too little regard to pedestrian safety or the amount of new traffic that would be utilising Jersey Way and Dexter Way. At our (88 residents) invitation, Russell Homes then submitted amended plans which provided access to the site from Holmes Chapel Road. This had far more benefits and was as such approved by the planners;
- The proposal will exacerbate congestion in the area and will have a detrimental impact highway safety;
- The site borders onto land reserved for the re-opening of Middlewich Railway Station;
- The neighbouring railway line is frequently used by trains;
- Flooding is likely to occur especially on the area marked as public open space;
- Planning permission was already refused for access through Jersey Way in September 2004;
- The developer has already breached the conditions attached to the 2008 application;
- Debris as vehicles leave the site will be detrimental to highway safety;
- The area is already congested and builders may block people driveways;
- Part of the site lies within an area designated as an area of archaeological importance;
- The proposal will reduce the value of properties within the area;
- The Council needs to consider, in supporting such an application, the associated local services, of which more are required in order to keep pace with and support the expansion of the towns housing population; and
- This junction is partly on a bend. When cars are parked on Dexter Way oncoming traffic is forced onto the wrong side of the road. Drivers exiting Jersey Way and turning left have to be alert that oncoming traffic maybe on the wrong side of the Dexter Way.

## **APPLICANT'S SUPPORTING INFORMATION**

- Design and Access Statement
- Flood Risk Assessment
- Protected Species Survey
- Landscape Report
- Transport Statement
- Geo Environmental Site Investigation Report
- Viability Report
- Noise Impact Assessment

## **OFFICER APPRAISAL**

### **Principle of Development & Main Issues**

The proposed scheme is a full application and the applicant is proposing on erecting 77no. dwellinghouses together with associated works. The site already benefits from planning permission for residential development following approval of planning applications

07/1452/FUL for 88 (renewed under 10/0924C and 09/0809C) and 93 dwellings respectively. Consequently, the principle of residential development has clearly been established and given that those consents remain extant, this application does not present an opportunity to revisit that issue. The main considerations in the determination of this application are, the acceptability of this scheme in terms of principle of development; design; amenity; affordable housing; noise; ecology; archaeology; landscape; drainage and flooding; open space; highway safety; education; other issues; and CIL regulations.

## **Design**

### ***Policy Context***

PPS1 and PPS3 support a mix of housing types within new development. Whilst encouraging good design, PPS1 says that planning authorities should not attempt to impose architectural styles and particular tastes, or be unnecessarily prescriptive. In this case, the case officer is satisfied that the proposal represents an acceptable design solution in the context of existing development.

Policy GR.2 (Design) is broadly in accordance with this guidance but places greater emphasis on the impact to the streetscene and encouraging development which respects the character, pattern and form of development within the area.

With reference to the above policy context, in order to ensure that the proposal satisfactorily contributes to and improves the street scene, it needs to be reflective of and complementary to the local vernacular, which will mean modest sized properties which are simple in design terms with gardens.

### ***Elevational Detail***

The application proposes a mixture of two storey dwellings including detached, semi detached and terraced properties. According to the submitted plans, there will be 42no. detached, 18no. semi detached and 17no. terraced properties. Typically the dwellings will measure approximately 5.1m high to the eaves and 7.6m high to the ridge. According to the submitted plans and the Design and Access statement the dwellings will be constructed out of facing brick, under a concrete tile roof and some of the properties will incorporate a render finish, which will be conditioned, in the event that planning permission is approved. In addition to the above, the properties will incorporate sill and lintel details and some will have projecting gables, in order to make the dwellings appear less stolid and uniform. It is considered that the proposed mixture of house types would not be at odds with the pattern and design of development in the surrounding area.

The scale, proportions and detailing on the proposed dwellings are similar to those within the surroundings mimicking its context without creating a pastiche form of development. The dwellings are set back from the road frontage and respect the surroundings, providing a sympathetic and unobtrusive infill development.

### ***Site Layout***

The nature of the site, which is a linear plot somewhat constrains the way in which the site can be developed. The application site would be served by a single access point from Jersey Way, in between numbers no's 14 and 16 Jersey Way. According to the revised plans the public open space will be located immediately to the north of the site entrance. The access road serving the site is in the form of a letter 'T', with several cul-de-sacs off it.

A number of the proposed properties face the POS, which helps with natural surveillance. Located at the north end of the application site are the terraced properties, which are organised into 5no. blocks of 3 and 4 dwellinghouses. Located to the front of plots 51 to 53 and 60 to 63 are car parking spaces, which are broken up with hard and soft landscaping. Located to the rear of plots 51 to 59 is another area of car parking, a pumping station and allotments. Beyond these plots is a small industrial estate. The remainder of the site is a mix of detached and semi detached properties, which front onto the access road or the cul-de-sacs. It is noted that plot no. 24 fronts directly onto Holmes Chapel Road. Furthermore, separating plot no. 24 from no. 3 Holmes Chapel Road is a public footpath, which will serve the new development.

The street has been designed so that it bends (albeit slightly) and as there is a variation in property types this helps to provide more interest in the streetscene, for example, located on a number of corners are larger properties, which help to create focal points and draw the eye. Furthermore, properties at the end of the street have been designed so they face down the street and provide an end stop and vista to the street.

Overall, it is considered that the variety of designs of proposed dwellings and variations in the building line provides interest in the streetscene. Furthermore, the areas of open space also soften and provide interest. The proposal is therefore in accordance with policies GR.2 (Design) and advice advocated within PPS1.

### ***Waste Management***

All of the proposed dwellings have the ability/facility to store the requisite number of storage bins within rear garden areas for general refuse and recycling receptacles.

On bin collection day the receptacles can easily be moved to the public footpaths in close proximity of individual properties ready for collection and then returned to the rear gardens once emptied again. This will ensure that bins or other such containers are not visible on any day other than on collection day.

### ***Over development and loss of buildings with character.***

It is not considered that objection on the grounds of over development can be sustained. The proposed density is acceptable having regard to the existing character of the area and fully accords with the principles of PPS3. Similarly, it is not considered that the loss of any buildings on the site would harm the character of Middlewich. None of the buildings benefit from statutory protection and whilst a barn within the curtilage of no.3 has some features of merit, it is in a very poor state of repair and could in effect be demolished without the need for planning permission.

## **Amenity**

The site is bounded to the north by industrial buildings and to the west by a railway line. Existing residential development bounds the site on all other sides with residential properties fronting onto Holmes Chapel Road to the south and Jersey Way and Dexter Way to the east. The Councils Supplementary Planning Guidance (SPG) recommends that minimum distances of 21.3m be maintained between principal elevations and 13.7m between a principal elevation and a flank elevation.

According to the submitted plans Plots no's 1, 14, and 19 are located with their gable facing the properties which front onto Jersey Way. The rear elevations of plots 15 to 18 face the rear elevations of no's 24 to 30 Jersey Way. All of the proposed dwellings are set well away from the boundaries and the proposals comply with the aforementioned separation distances. Consequently, it is not considered that the proposed dwellinghouses will have a significant impact on the residential amenities of no's 16 to 32 Jersey Way.

To turn to the levels of residential amenity to be provided within the development, the recommended minimum distances of 21.3m and 13.7m will be achieved in all cases with the exception of the separation distance between the front elevation of plots 20 and 73 and the gable of plots no. 18 and 74, where there is a separation distance of approximately 10.5m. However, given the orientation and juxtaposition of these plots will not result in any overshadowing or loss of privacy and it is not considered that the standard of amenity afforded to the proposed properties would be compromised to such an extent as to warrant a refusal on amenity grounds. There is approximately 15m separating the properties on the west of the access road from those located on the east. In respect of separation distances to the front of dwellings, modern urban design principles encourage tightly defined streets and spaces. The reduction of separation distances between front elevations helps to achieve these requirements. Furthermore, those rooms which face onto 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 15m between dwellings could be justified.

The proposed units all comply with the relevant separation distances and are sited sufficiently far from the site boundaries to avoid any adverse impact on the residential amenity of adjoining properties in the other roads listed above.

The Councils SPG advocates the provision of 65sq.m of private amenity space for all new family dwellings. The majority of plots will include significantly more than 65sq.m. However, the case officer notes that some of the plots have much smaller garden spaces. These plots are primarily the terraced units. The amount of garden space afforded to these units is commensurate with other properties of a similar size in the locality and as such it is not considered that there is sufficient justification to warrant a refusal.

## **Affordable Housing**

This application is for 77 units and there is a requirement for Affordable Housing at this site. The Affordable Housing Interim Planning Statement states that the minimum percentage of Affordable housing that would normally be required is 30%. This would equate to 23 units.

There should be a tenure split of 65% rented affordable housing and 35% intermediate affordable housing.

The SHMA 2010 identifies that for Middlewich there is a requirement for 56 new affordable units per year, made up of a need for 13x1 bed, 8x2 bed, 30x3 bed and 6 x 1 or 2 bed older persons units. In addition to the information from the SHMA, Cheshire Homechoice, which is the choice based lettings system for allocation of social housing across Cheshire East, currently has 99 applicants who have indicated Middlewich as their first choice, the breakdown of the number of bedrooms these applicants require is 24x1 bed, 35x2 bed, 21x3 bed and 4x4 bed. There are currently 15 applicants who have not specified the number of bedrooms they require.

There is an extant planning permission in place for this site which has a requirement for provision of 30% affordable housing, made up of 24x1 bed apartments. The information from the SHMA and Cheshire Homechoice shows that although there is some need for 1 bed units, there is a greater need for 2, 3 and 4 bed units, so provision of houses as the affordable units is preferable as it would help to meet the greater housing need.

The applicant has offered 15 units of affordable housing which is 19% provision, which is not in line with the requirements from the Affordable Housing Interim Planning Statement.

The applicant has submitted a financial viability appraisal which demonstrates that the provision of 30% affordable housing would not be viable at this site. Officers have scrutinised the viability assessment submitted and found it to be sound. Therefore the provision of 15 units (19%), split as 8 intermediate and 7 affordable rent is accepted. Whilst this is less than the previous 30%, it is preferable in that it comprises houses as opposed to flats. Housing officers state that 'Russell Homes wrote to them advising them that they had contacted a number of Housing Associations who operate in the area to see if any were interested taking the 24no. 1 bedroom apartments that were required as per the extant planning permission. However, none of the Housing Associations contacted were willing to take on this number of 1 bed apartments. The Housing Associations contacted by Russell Homes were: -

- Muir Group
- Anchor Trust
- Plus Dane
- Harvest Housing Group
- Johnnie Johnson Housing
- Stonham Housing
- Equity Housing Group
- Great Places
- Guinness Northern Counties

The Affordable Housing IPS requires that the affordable units should also be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration. The submitted plans show that this will be the case.

The Affordable Housing Interim Planning Statement states that "the Council will require any provision of affordable housing and/or any control of occupancy in accordance with this

statement to be secured by means of planning obligations pursuant to S106 of the Town and County Planning Act 1990 (as amended)" It also goes on to state "all cases where a Registered Social Landlord is to be involved in the provision of any element of affordable housing, then the Council will require that the Agreement contains an obligation that such housing is transferred to and managed by an RSL as set out in the Housing Act 1996" It is therefore the Housing Section's preferred option that the developer undertakes to provide the rented affordable units through a Registered Provider who are registered with the Tenant Services Authority to provide social housing. This will be secured through the S106 agreement as set out in the Heads of Terms below.

## **Noise**

The application site is bounded on western side by a railway line, on the northern side by a number of industrial units and on the southern side by Holmes Chapel Road. Colleagues in Environmental Health have been consulted on the application and have commented that the submitted noise report states that 2007 data was used to calculate the noise criteria of the site in this area, as the 2007 data represented the 'worst case'. However the 2011 data has not been included in the report. The 2011 data therefore needs to be submitted so that Environmental Health can make their own assessment of the site based on all the monitoring information.

The noise report that has been submitted with this application clearly indicates that the noise levels at night are 69dB LAeq placing the proposed properties close to Holmes Chapel Road in category D (planning permission should normally be refused). Within the report there are a number of recommended schemes for acoustically attenuating the properties. However colleagues in Environmental Health are not satisfied with this vague response and would like to see further detail on what attenuation would be achieved by each proposed scheme and also details of the mitigation measures for the associated gardens.

The applicant has been made aware of the concerns raised by Environmental Health and they have submitted an updated noise assessment. At the time of writing this report the amended noise assessment was being considered by Environmental Health and a further update will be provided to Members prior to their meeting.

Noise impacts during construction would be controlled via a condition to restrict the hours of work and any associated pile driving activities.

## **Ecology**

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

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



and provided that there is

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

The UK implements the Directive in the Conservation of Habitats & Species Regulations 2010 which contain two layers of protection.

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

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

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

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

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

### **Bats and Badgers**

It is considered that the only protected species that are likely to be affected by the proposed development are roosting bats and badgers. Roosting bats were highlighted as potentially occurring within outbuildings associated with 3 Holmes Chapel Road. It was noted that the original survey was conducted and prepared in 2008 and as such is considerably out of date. Therefore, the applicant has submitted additional information. The Council Ecologist has examined this and commented that ‘no evidence of badgers was recorded during the survey’. Due to the time of the year that the survey was completed no bat activity survey could be undertaken. However, considering the nature of the buildings on site and the abundance of alternative roosting opportunities offered by surrounding properties he is satisfied that neither bats nor badgers are likely to be present or affected by the proposed development.

### 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.

### **Archaeology**

The application site is located within Middlewich's Area of Archaeological Potential, as defined in the Congleton Borough Local Plan. In January 2008 the application area was subject to an extensive programme of pre-determination archaeological trial trenching. This work was carried out by Oxford Archaeology North in association with Wardell Armstrong on behalf of the applicants, Russell Homes, in response to an earlier application (Ref 07/1452/FUL) for the development of the site for housing.

The trial trenching demonstrated the survival of extensive and well-preserved archaeological deposits dating to the Roman period across much of the site.

Since that time, a number of revised planning applications have been submitted to the former Congleton Borough Council and the successor Cheshire East Council (Refs 08/1430, 08/1934/OUT, 09/0809C, and 10/0924C). Some of these applications included extensions to the original area but enough was known about the archaeological potential of these areas to specify the necessary archaeological mitigation, without further pre-determination field evaluation. With regard to the main area, the advice concerning the need for a programme of formal excavation, recording, and reporting in the areas referenced above was repeated together with the recommendation that this work should be secured by means of a suitably worded condition.

The Councils archeologist advises that the present application will also require a full programme of archaeological mitigation, whose scope will be the same as that outlined above, together with further mitigation at the southern end of the site which now extends up to the Holmes Chapel Road and this work will be conditioned accordingly.

### **Landscape**

The site comprises a former depot and includes areas of hard standing, a few isolated trees, a mature hedgerow and watercourses. The majority of the trees which remain on the site are principally located adjacent to the railway boundary with one mature willow close to Jersey Way. None of these trees are of any great significance and they are not subject to any TPO protection. The Councils Landscape Officer has commented that the landscape proposals as shown on the site layout plan appear reasonable in principle. However, the submitted proposals do not provide any significant level of screening between plots to the north of the site and the adjacent industrial area. It is considered that the imposition of conditions relating to boundary treatment and landscaping will be able to help to soften the proposal and provide a better outlook.

### **Drainage and Flooding**

Development on sites such as this generally reduces the permeability of at least part of the site and changes the site's response to rainfall. Planning Policy Statement 25 (Development

and Flood Risk) states that in order to satisfactorily manage flood risk in new development, appropriate surface water drainage arrangements are required. The guidance also states that surface water arising from a developed site should, as far as possible, be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development.

In terms of flooding, the Environment Agency have assessed the Flood Risk Assessment and raised no objections to the development subject to the imposition of planning conditions. It is therefore considered that the development would not raise any significant flooding implications that would warrant the refusal of this application.

It is possible to condition the submission of a satisfactory drainage scheme in order to ensure that any surface water runoff generated by the development is appropriately discharged. This will probably require the use of Sustainable Drainage Systems (SUDS) which include source control measures, infiltration devices as well as filter strips and swales which mimic natural drainage patterns.

## **Open Space**

The Councils Greenspace Officer has examined the proposal and following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, states that if the development were to be granted planning permission there would still be a deficit in the quantity of provision having regard to the local standard set out in the Councils Open Space Study.

An assessment of existing play provision within the 800m distance threshold of the proposed development site has identified that there is a requirement for an additional play facility to meet the future needs arising from the development. However in line with the Councils policy a contribution to upgrade existing facilities would be preferred on this occasion.

A deficit in both quantity and quality has been identified in some of the existing play space accessible to the new development, and opportunities have been identified for the upgrading of the existing facilities. There are currently two sites that would benefit from upgrading and enhancement;

The Locally Equipped Area for Play (LEAP) facility on Angus Grove within 50 metres of the site would benefit from enhancement to increase its capacity. This play area is located within the largest area of Amenity Greenspace, is the most heavily used as identified in the 2005 Open Space Survey and also the most easily accessible for the residents of the proposed development in the event that planning permission is granted; an enhancement from a LEAP play facility to a Neighbourhood Equipped Area for Play (NEAP) with provision being made for DDA inclusive equipment would be desirable.

This would not just contribute to improving the quantity of equipment on site; it would also improve accessibility to the site in terms of DDA requirements, encouraging greater use of the facility. Alternatively there are opportunities to upgrade the main park facility for Middlewich off Queens Street known as Fountain Fields.

The area of general amenity greenspace required by policy on this site would be 2550sq.m and this development would provide 1416sq.m. As a result there is an under provision on the site. However, an opportunity has been identified on Harbutts Field to make enhancements to the Open Space which whilst occurring outside the accessibility standard radius of 800m is still considered reasonably accessible to the development. The upgrading of the infrastructure such as the access path around the perimeter of the Amenity Greenspace would expand the site's capacity further by improving links to pedestrian footways along the River Croco and the Canal tow path. (It should be noted this would be subject to approval from English Heritage and Archaeology Planning Advisory Service as this is a Roman site.)

Alternatively upgrading infrastructure at Fountain Fields would increase its capacity to absorb demand from the new development.

It is acknowledged that 850 square metres of land on site is being proposed as Allotments which is welcomed for the Middlewich area. These could be self managed by an Association or possibilities could be explored through the Town Council.

### **Highway Safety and Traffic Generation**

Policy GR9 states that proposals for development requiring access, servicing or parking facilities will only be permitted where a number of criteria are satisfied. These include adequate and safe provision for suitable access and egress by vehicles, pedestrians and other road users to a public highway.

The proposal is seeking to create a new access directly off Jersey Way and a pedestrian access will link Holmes Chapel Road with the proposed application site. It is noted that the application site was allocated for future development and the preceding development of Jersey Way was designed in such a way that allows connection to this land and this application utilises that road layout to provide access for the development.

In support of the application a Transport Assessment has been submitted by the Highway Consultants: Singleton Clamp & Partners which examines the traffic generation from the site and assesses the impact on the local highway junctions via the junction modelling programmes Arcady and Picady, whilst all trip rates for the development are taken from the national TRICS database.

The Highways Engineer has assessed the figures presented in the report and accepts the conclusions as a robust analysis of the likely impact of this development in traffic terms on the local highway infrastructure.

This current proposal is for 77 residential units and despite the use of more significant trip rates from the TRICS database the proposal has a traffic impact that is materially no different than either of the previous applications and therefore the related traffic impact on the local highway network remains acceptable.

It is considered that the current proposal has a number of benefits over the previous schemes, which include:

- The overall number of units is reduced and therefore traffic impact is acceptable.

- The scheme now offers a pedestrian link to the A54 Holmes Chapel Road and this is seen as a significant benefit to sustainable links. Indeed this was originally an aspiration for the development of this site.
- Property No 3, Holmes Chapel Road is to be retained but will now take its access from within the development site which will effectively remove one permanent access from the A54.

The Highways Engineer states that the proposed layout uses geometry and dimensions from the CCC 1996 Design Aid for housing roads and this is not seen as inappropriate given this design was used for the existing estate link. Within the site the design includes for feature tables and this aspect of the development layout acknowledges the design principles from Manual for Streets. The Highways Engineer confirms that this 'combined approach is acceptable where an existing residential estate is being extended and it does allow particularly good footpath links throughout the site'.

According to the submitted plans each of the proposed plots has sufficient space to provide off street parking in compliance with the Borough Councils adopted residential standards. Therefore, whilst the concerns of local residents are duly noted, in light of the above, and in the absence of any objection from the highway authority, it is not considered that a refusal on highway safety, parking, or traffic generation grounds could be sustained. It is considered that the proposal complies with policy GR9.

### **Education**

The Education Officer's comments had not been received at the time of report preparation. However, in this instance, given that the previous approvals on the site, which were for a greater no. of dwellings, and could still be implemented, did not carry such a requirement. Also given the viability issues on the site, an education contribution would result in the other contributions being reduced accordingly or the scheme being rendered unviable. This would prevent the site from coming forward which would adversely affect housing land supply and would increase pressure to develop greenfield sites elsewhere.

### **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 proposed development cannot proceed without these improvements and the contribution is reasonably related in scale and kind to the development. As explained within above, 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.

### **Other Matters**

Issues relating to the loss of property values are not material planning considerations and as such are not sufficient justification to warrant a refusal of the application.

Another concern of the objectors is builder's vehicles blocking local resident's drives and causing other problems in the locality for residents. Again, concerns of the objectors are noted and it is appreciated that it is not uncommon for such problems to occur during the construction periods although these tend to be for limited periods of time and are therefore not considered reasonable grounds for refusal of a planning application. Furthermore, if vehicles are causing an obstruction, this is a matter to be dealt with by the Police; the planning system is not intended to duplicate other legislation. The objector is also concerned about debris being left on the road as the properties are being constructed. It is considered given the nature and scale of the proposal and the constrained plot size any conditions relating to wheel wash facilities are unreasonable.

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

The proposed scheme is a full application and the applicant is proposing on erecting 77no. dwellinghouses together with associated works. The site already benefits from planning permission for residential development following approval of planning applications 07/1452/FUL for 88 (renewed under 10/0924C and 09/0809C) and 93 dwellings respectively. Consequently, the principle of residential development has clearly been established and given that those consents remain extant, this application does not present an opportunity to revisit that issue.

The proposed development would not have a detrimental impact upon highway safety or traffic congestion 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 proposal is considered to be acceptable in terms of its impact upon residential amenity, drainage/flooding, protected species, and trees/landscape. Matters of noise and archaeology can be adequately dealt with through the use of appropriate conditions. Given the previous approvals and the viability issues on this site it is not considered to be reasonable to require an education contribution in this instance.

The development would provide 19% affordable housing and will be split on the basis of 7no. rented units and 8no. intermediate units. Although this is below the policy requirement of 30% a robust viability assessment has been submitted to support this level of provision. Also, the proposal will provide family homes rather than flats as previously proposed as part of the approved scheme. This will better meet the demand locally and the needs of the RSL's operating in the area. It is acknowledged that there is a deficit in the provision of Public Open Space on the site. However, the upgrading of the infrastructure at Fountain Fields via a financial contribution will increase the capacity to benefit the new development. The

enhancement of the LEAP facility at Angus Grove will benefit the development and the local community.

Therefore in the light of the above, having due regard to all other matters raised it is concluded that the development complies with the relevant local plan policies and in the absence of any other material considerations to indicate otherwise it is recommended for approval subject to signing of a Section 106 agreement and conditions.

## **RECOMMENDATIONS**

**APPROVE** subject to the following conditions and the satisfactory completion of a S106 Agreement comprising;

### **Heads of terms**

- **Provision of 19% affordable housing (15 no. units comprising of 8no. 2 bedroom units and 7no. 3 bedroom units) split on the basis of 47% social rent (7 units) and 53% intermediate tenure (8 units) as per requirements of the Interim Planning Statement;**
- **Provision for a management company to maintain the on site amenity space and allotments;**
- **The developer will provide a contributory sum to the upgrade of existing estate footway links and the approaches to the Puffin crossing on the A54 Holmes Chapel Road. The sum of money is estimated at £7500 for the high friction surface and £10000 for upgrades to connecting footways and provision of a small amount of lighting. The total sum will be £17500;**
- **The developer will provide a sum of £12500 for the upgrade of two local bus stops to quality partnership facilities;**
- **A commuted sum payment of £112,717.65 to enhance and maintain the LEAP facility at Angus Grove; and**
- **A commuted sum payment of £36,144.67 to enhance and maintain the capacity of existing amenity greenspace.**

### **And the following conditions**

- 1. Standard Time Limit**
- 2. Plan References**
- 3. Materials to be submitted and approved by the Local Planning Authority**
- 4. Details of the surfacing materials to be submitted and approved in writing by the Local Planning Authority**
- 5. Boundary treatment details to be submitted and approved in writing by the Local Planning Authority**
- 6. Details of a Landscaping scheme to be submitted and approved in writing by the Local Planning Authority**
- 7. The approved landscaping scheme to be implemented.**
- 8. Breeding birds surveys if any works are undertaken between 1<sup>st</sup> March and 31<sup>st</sup> August in any year.**

9. Prior to the commencement of development the applicant to submit detailed proposals for the incorporation of features into the scheme suitable for use by roosting bats and breeding birds including house sparrow and swifts. Such proposals to be agreed by the LPA.
10. Remove PD Rights for extensions and alterations to the approved dwellings
11. Drainage scheme to be submitted and approved in writing by the Local Planning Authority
12. All services to be located underground, unless otherwise agreed in writing with the Local Planning Authority
13. Parking to be made available prior to occupation
14. Construction management plan to be submitted and approved in writing prior to the commencement of development
15. No development shall take place within the area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work (to consist of excavation, recording, reporting, and publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.
16. Submission/approval/implementation of external Lighting
17. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) from Campbell Reith Hill
18. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
19. Details of the Footpath connection to Holmes Chapel Road to be submitted and agreed in writing. Footpath to be constructed prior to the first occupation of the dwellings, unless otherwise agreed in writing
20. All Windows/Doors in the development hereby approved to be set behind a 55mm reveal
21. Scheme for Water Course Protection
22. Eco Homes 'Very Good Standard' or 2 Star Code for Sustainable Homes
23. Hours of construction:

Monday to Friday	0800 to 1800 hours
Saturday	0900 to 1400 hours
Sundays and Bank Holidays	Nil
24. Pile Foundations

Monday to Friday	0830 to 1730 hours
Saturday	0830 to 1300 hours
Sundays and Bank Holidays	Nil

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 is delegated authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.**



Application No: 12/0222N

Location: LAND OFF MARSH LANE, NANTWICH, CHESHIRE

Proposal: Reserved Matters Application for 13 No. Detached Dwellings, Parking and Amenity Space and the Retention of Public Open Space/Children's Playground including Appearance, Landscaping, Layout, Scale and Access Following Outline Approval of P05/0121

Applicant: Elan Real Estate Ltd & British Waterways

Expiry Date: 13-Apr-2012

### **SUMMARY RECOMMENDATION**

**APPROVE** subject to conditions

#### **MAIN ISSUES**

- The acceptability of the Layout, Scale, Appearance and Landscaping
- Impact on adjoining residential amenities
- Impact up highway safety/parking
- The impact upon ecology
- The impact upon flooding

### **REASON FOR REFERRAL**

This application is referred to the Southern Planning Committee as it involves a residential development of more than 10 dwellings. It was deferred from the last meeting in order for revised plans to be considered.

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

The application site is located on the northwestern side of Marsh Lane within the Nantwich Settlement Boundary. The site is currently an undulating area of open scrub land which borders the Shropshire Union Canal to west, is enclosed on 2 sides (south and east) by a recreational open space and an equipped children's playground (which has been protected by a S106 agreement) and is bound to the north by residential properties.

### **DETAILS OF PROPOSAL**

A Reserved Matters application has been submitted seeking permission for the erection of 13 detached dwellings.

Revised plans show that the proposed dwelling on plot number 3 has been moved approximately 3 metres to the southwest in order to help alleviate the impact upon No.44 Marsh Lane.

The outline permission (P05/0121) was subject to a Section 106 Agreement which was signed in December 2011. The S106 Agreement related to playground improvements and its maintenance, the creation of a public footpath and keeping and maintenance of the Public Open Space.

A new access point is proposed through the middle of the Public Open Space.

## **RELEVANT HISTORY**

**11/2370N** – New detached house, garage, driveway (44 Marsh Lane) – Withdrawn 15<sup>th</sup> September 2011

**P05/0121** - Outline Application for Residential Development and Retention of Existing Public Open Space/Children's Playground (Amended Plans) – Approved 9<sup>th</sup> December 2011

## **POLICIES**

### **National policy**

PPS 1 - Delivering Sustainable Development

PPS 3 - Housing

### **Local Plan Policy**

BE.1 - Amenity

BE.2 - Design Standards

BE.3 - Access and Parking

BE.4 - Drainage, Utilities and Resources

BE.5 - Infrastructure

RES.2 - Unallocated Housing Sites

RES.3 - Housing Densities

RT.2 – Equipped Children's Playgrounds

RT.3 – Provision of Recreational Open Space and Children's Playspace in New Housing developments

NE.9 - Protected Species

### **Other Material Considerations**

Supplementary Planning Document on Development on Backland and Gardens

## **CONSULTATIONS (External to Planning)**

**Highways** – No objections, subject to there being a minimum of two spaces per dwelling, a section 38 agreement ensuring the new access road is to adoption standards and improvements to a nearby bus stop being secured (23/02/2012)

**British Waterways** – No objections (28/02/2012)

**Environmental Health** – No objections, subject to conditions in relation to hours of construction, hours of piling, lighting and an informative with regards to contaminated land (06/02/2012)

**United Utilities** - No objections, subject to a condition that the site must be drained on a separate system (21/02/2012)

**Countryside Rights Of Way Office (Cheshire East Council)** – No objections subject to improvements and maintenance of a footpath link (02/02/2012)

**Open Space Society** - No comments received at time of report

**Mid-Cheshire Footpath Society** - No comments received at time of report

**Ramblers Association** - No comments received at time of report

**Greenspace (Cheshire East Council)** - No comments received at time of report

**Environment Agency** - No objections (22/02/2012)

**Housing (Cheshire East Council)** – No objections, development does not trigger an affordable housing requirement (15 dwellings) (03/02/2012)

**Sustrans** – Request a 2 metre wide pedestrian/cycle link from Marsh Lane to the Canal towpath (02/02/2012)

**Shrewsbury & North Wales Branch of the Inland Waterways Association** – No objections, subject to conditions relating to the development of the footpath link and an adequate amount of mooring space (07/02/2012)

#### **VIEWS OF THE TOWN COUNCIL:**

**Nantwich Town Council** – Have concerns regarding the potential over domination and overlooking on No.44 Marsh Lane. Also request a condition with regards to construction traffic (05/03/2012)

#### **OTHER REPRESENTATIONS**

4 neighbours have made representations. The main concerns raised relate to;

- Over-domination & height of proposal
- Drainage, flooding & associated health risks
- Highway's issues
- Retention and keeping the footpath clear
- Overdevelopment
- Loss of privacy
- Overshadowing

#### **APPLICANT'S SUPPORTING INFORMATION**

Planning Statement  
Design & Access Statement  
Site Waste Management Plan

Flood Risk Assessment  
Phase II Ground Investigation Report  
Gas Protection Assessment  
Statement of Community Involvement  
Ecology Report  
Tree Protection Plan  
Incursion Plan  
Landscaping Layout  
Topographical Land Survey  
Arboricultural Development Report  
Revised Site sections

## **OFFICER APPRAISAL**

### **Principle of Development**

As the proposed development is a reserved matters application, the principle of the development has already been established with the approval of the outline planning application (P05/0121) which included means of access to the site. As such, this application seeks approval for the subsequent detail of the application, namely the layout, landscaping, appearance and scale.

### **Layout**

The housing scheme consists of 13 detached, two-storey dwellings located on the northwestern side of Marsh Lane, Nantwich. The houses would be erected in a linear pattern, following the line of Marsh Lane.

10 of the new dwellings would be positioned towards to the rear of the site, approximately 20 to 25 metres to the southeast of the Shropshire Union Canal to the rear, and approximately 20-55 metres in from Marsh Lane. These 10 properties would face in a south easterly direction towards Marsh Lane and would front onto a proposed new access road.

3 of the new dwellings proposed would be positioned towards the front of the site approximately 22 to 33 metres in from Marsh Lane. 2 of these would back onto Marsh Lane and the third would be side on and form a corner plot on the new access road proposed.

Access to the site shall be via a new access road located opposite No.85 and No.87 Marsh Lane. It is advised within the submitted Design & Access Statement that the layout has been arranged to take into account the shape of the site and has taken influence from the pattern, form and appearance of housing in the adjacent residential areas.

The properties on the opposite side of Marsh Lane are erected in a linear pattern following the line of the road and front onto Marsh Lane. They consist of a mixture of two-storey, semi-detached and terraced properties. To the northeast, adjacent to the site, are 2 detached, two-storey dwellings to the rear of which are a number of modern detached dwellings on Cartlake Close. As such, the immediate area is characterised by a mixture of two-storey development of different forms and patterns, therefore it is considered that the addition on 13 detached dwellings would not appear incongruous within the area.

In relation to separation distances, the development meets the appropriate distance standards with the exception of the proposed dwellings on plots 3 and 5 and 6 and 2. However, given the relationship between these proposed dwellings, these are considered acceptable in this instance. Furthermore, these separation distances only just fall short of the appropriate standards.

As a result of the above reasons, it is considered that the layout of the proposed scheme is acceptable

With regards to the amenity space provided, the smallest of the rear gardens proposed measures approximately 68 metres squared, which is also considered to be acceptable.

## **Landscaping**

The land slopes down from the canal to the road but is undulating and several areas are mounded. There is a small group of trees to the northwest of the site and a belt of trees/shrubbery vegetation running close to Marsh Lane frontage including Hawthorne, Elder, Willow and Hazel which has not been managed for some time. The Council's Landscape Officer has advised that the development would require the removal of an area of trees/scrub on the Marsh Lane frontage in order to create the access and accommodate the development and trees in the northwest corner of the site. It is advised that this vegetation is not outstanding.

In relation to the impact upon neighbouring amenity, further plans showing cross sections and the re-siting of the dwelling on plot 3 were requested and subsequently submitted.

Concerns are raised about the relationship between the development and the canal due to the sudden changes in land levels and amenity issues that would be created to the rear from the canal. Subsequent informal correspondence has been had between the developer, British Waterways and the Council and it has been agreed that British Waterways are happy to plant further screening towards the rear of the site to soften the impact of the scheme when viewed from the canal. This shall be secured via condition. The Landscape Officer also has concerns about the feasibility of any screen planting on the boundary between the dwelling on plot number 3 and the closest neighbour, No.44 Marsh Lane. The landscaping shall be secured via condition. As such, once conditioned, it is considered that the landscaping of the site shall be acceptable.

## **Appearance/Design**

The proposed dwellings would all be detached, two-storey dwellings and be of 5 different designs entitled; Brampton, Bunbury, Oakham, Southwold and Crofton.

There are 5 Brampton style units proposed. These units have a footprint of approximately 73 metres squared, are approximately 7.2 metres tall, have dual pitched roofs, a gable on the front elevation and a half dormer, an integral garage and a ground floor bay window.

There are 3 Bunbury style units proposed. These units have a footprint of approximately 59 metres squared, are approximately 7.7 metres tall, have dual pitched roofs and central a gable on the front elevation and a mixture of detached and integral garages.

There are 2 Oakham style units proposed. These units have a footprint of approximately 96 metres squared, are approximately 8.2 metres tall, have dual pitched roofs and a half dormer and integral garage on the front elevation.

There are 2 Southwold style units proposed. These units have a footprint of approximately 64 metres squared, are approximately 8 metres tall, have dual pitched roofs and a half dormer and an integral garage on the front elevation.

There is 1 Crofton style unit proposed. This unit is a replacement of a Bunbury design in order to accommodate the re-siting of the dwelling on plot 3. This property would have a footprint of approximately 60 metres squared, would have a maximum height of 7.9 metres would have a dual pitched roof and a smaller, set-back two-storey addition to the side.



Each dwelling would be two-storey in nature and would include features such as dual pitched roofs, bay windows and porches which are present on nearby properties ensuring that the houses proposed would respect the character of the immediate area.

With regards to materials, it is advised within the submitted Design and Access Statement that in order to fit in with the local character of the area, the materials to be used shall be traditional and simple.

Within the submitted external finishes schedule, it is advised that all of the units shall be constructed from contrasting red bricks, a buff coloured art stone and a natural mortar finish. With regards to the roofs, all of the dwellings would have a Marley Interlocking tiles. The fenestration, Bargeboards, Soffits and Fascias would all be finished in white uPVC fenestration.

It is considered that these finishes would respect the character of the immediate area and are deemed to be acceptable.

### **Scale**

Of the surrounding dwellings, the properties on the opposite site of Marsh Lane are all two-storey in nature and approximately 7-8.5 metres tall and have footprints between 43 and 77 metres squared.

The adjacent property to the northeast, No.44 Marsh Lane is also two-storey in nature, is approximately 8-8.5 metres tall and has a footprint of approximately 194 metres squared. No.12 Cartlake Close is also two-storeys tall with a height of approximately 8.5-9 metres and a footprint of approximately 121 metres squared.

This general assessment shows that the footprint sizes of the nearby dwellings range from 43 to 194 metres squared a range within which all of the new properties proposed would fall within.

With regards to height, all of the surrounding units are two-storey in nature and have heights between 7 and 9 metres, also a range within which all of the proposed new dwellings would fall within. It should be noted that Condition 5 on the approved application P05/0121 stated that the new dwellings should be two-storeys and should not exceed 8.5 metres in height. This condition would be adhered to by this proposal.

As a result of the above assessment, it is considered that the scale of the proposed dwellings is acceptable.

### **Access**

The proposed access to the site was agreed to at the outline stage of the application; however a number of highway's conditions were proposed. These conditions (Conditions 9, 10 & 11) included; details of the access to be submitted and approved prior to the occupation of the dwellings, that acceptable visibility splays are agreed too and that the provision of parking of 1.5 vehicles per unit within the boundary of the site are achieved.

Within the submitted Design & Access Statement, it is advised that the site would be served by an adoptable internal road and shared private drives. 2 car parking spaces are proposed per dwelling, which would adhere with the outline Condition 11. There is a mixture of garage types proposed both integral and external. It is advised that these garages are all set far enough back from the roads to ensure that the garage doors can be opened and closed whilst a car is parked in the driveway.

The Council's Highway's Officer, as part of this application has advised that he has no objections to the development subject to conditions relating to parking space allocations, the extent of the



proposed adopted turning head and improvements to a nearby bus stop. In response to these conditions, 2 parking spaces per dwelling are proposed as part of the development; however, in order to retain such spaces, it is proposed that permitted development rights are removed. With regards to the extent of the adopted highway, it is considered that the private driveways, which at their most intensive use would be serviced by 5 dwellings is deemed to be acceptable if not adopted. In relation to the proposed improvement to a nearby bus stop, such a request at this stage of the application is deemed to be unreasonable given that a S106 agreement has already been agreed as part of the outline application.

As a result, subject to the removal of permitted development rights, the access of the development is considered to be acceptable.

## **Amenity**

The neighbours that would be most impacted by the proposed development would be No.44 Marsh Lane to the northeast of the site and No.12 Cartlake Close to the north of the site. The properties on the opposite side of Marsh Lane are all 42 metres away or more, a distance deemed to be acceptable so not to create any issues in relation to loss of privacy, loss of light or visual intrusion.

With regards to the impact upon No.44 Marsh Lane, the closest property to this neighbour would be the dwelling on plot No.3 which would be approximately 11 metres away from this dwelling at its closest point, 2.5 metres further away than the original proposal. At present, between this neighbour's property and this proposed dwelling is the neighbour's driveway and on the opposite side of the boundary an approximately 3 metre tall mound. Screen planting is proposed on this boundary between the two properties.

On the relevant side elevation of the dwelling on plot No.3 there is an obscurely glazed ground floor kitchen window proposed. On the side elevation of No.44 Marsh Lane there are 4 openings. At first floor level there is a secondary bedroom window, at ground floor level there is an obscurely glazed window to a garage, a solid garage door and a secondary window to a lounge. On the rear elevation of this neighbouring property, there are 8 openings. At first floor level there is a secondary bedroom window, an obscurely glazed en-suite window and two other bedroom windows. At ground floor level there are a set of patio doors to a lounge, a set of patio doors to a dining room and a window and door to a kitchen.

Due to the relationship between the proposed dwelling on plot number 3 and this neighbouring unit, there will be no direct privacy/overlooking issues created to this side as the only opening proposed on the relevant side elevation of the closest development shall be obscurely glazed. This shall be re-affirmed via condition. Furthermore, screen planting is proposed on this boundary. As such, subject to the appropriate boundary treatment being conditioned, it is considered that the proposal would be acceptable from a privacy perspective with regards to this neighbour.

The principal windows on the dwelling on plot 4 would be approximately 31 metres away from the windows on the rear elevation of this neighbour. A distance considered large enough as to not create any privacy issues.

In relation to loss of light / overshadowing, because this proposed new dwelling would be to the southwest of this neighbouring house, and be in an elevated position, there is a potential for loss of light to be created in the late afternoons and summer evenings. Again, due to the offset siting of the proposed unit, any loss of light would be created largely to the side elevation of this neighbouring property. As the side elevation of No.44 Marsh Lane only includes either openings

to a garage (which is not classified as a principal habitable room), or secondary openings to habitable rooms which would gain light from other windows, it is not considered that the impact of loss of light on this neighbour by the dwelling proposed on the closest plot would be significant. Furthermore, because the closest proposed dwelling on plot number 3 has been re-sited 3 metres further to the southwest, this impact is further reduced.

In relation to the loss of light that could be created by the dwelling proposed on plot No.4, because the two-storey aspect of this property would be approximately 31 metres to the west, it is not considered any loss of light created by this unit on this neighbour would be significant.

With regards to visual intrusion, as above, in relation to the side elevation of this neighbouring property, because all of the openings either serve a non-habitable room or are secondary windows, and because the closest proposed dwelling would now be approximately 11 metres away from this neighbour, it is not considered that the visual intrusion created to this side would be significant enough as to warrant refusal of this application.

Due to the distance of the dwelling proposed on plot number 4 from this neighbouring unit, the fact that the closest aspect of this proposed dwelling would be single-storey in nature and because of the proposed screen planting, it is not considered that the proposed dwelling on plot number 4 would have a detrimental impact upon No.44 Marsh Lane by reason of visual intrusion.

With regards to the impact upon No.12 Cartlake Close, the closest property to this neighbour would be the dwelling on plot No.4 which would be approximately 25 metres away from this neighbour. Due to this separation distance, it is not considered that the development would have a detrimental impact on the occupiers of this property by reason of loss of privacy, visual intrusion or loss of light.

In summary, it is considered that subject to the appropriate boundary treatment being conditioned, the development would adhere with Policy GR6 of the Local Plan and therefore be acceptable from an amenity perspective.

## **Ecology**

As part of the approved outline permission, an extended phase 1 habitat and tree survey was submitted. Condition 12 of P05/0121 advises that the development shall be carried out in full accordance with the recommendations of this survey in order to safeguard any protected species that may be present on the site and in order to mitigate for any loss of valuable natural habitats. As part of this submission an updated survey has been submitted.

The Council's Ecologist advised that subject to conditions relating to the protection of nesting birds, the incorporation of features for breeding birds and the retention of the original condition within the outline permission requiring that the development accords with the latest extended habitat survey recommendations, he has no objection to the development.

## **Flooding/Drainage**

As part of the original application, United Utilities raised no objections to the development and no representation was received from the Environment Agency.

As part of this application, the Environment Agency have reviewed the submitted Phase 2 Ground Investigation Report and consider that *'the risks posed to controlled waters to be acceptable and have no objection to the planning permission.'*

United Utilities also have no objection to the development subject to a condition that the site must be drained on a separate system, with only foul drainage being connected into the foul sewer.

As such, subject to the implementation of this condition, the impact of the development upon flooding and drainage is deemed to be acceptable.

### **Other Matters**

In response to concerns raised by objectors not already addressed, the issues regarding the footpath have already been largely agreed at the outline application stage as part of the S106 agreement. It was agreed as part of this legal document that the developer is required to submit plans and thereafter implement a 1.5 metre wide footpath linking the Public Open Space with the adjacent towpath. Any further requests for improvements are unreasonable at this stage of the development. This also applies to the request for adequate mooring space which in any case, would fall outside of the development site.

### **CONCLUSIONS**

The principle of the development has already been established with the approval of an outline permission which also gained approval for access. It is now subsequently considered that the scale, appearance, landscaping and layout of the scheme are also acceptable. It is considered that the development would not have a detrimental impact upon neighbouring amenity, ecology, flooding or drainage and therefore adhere with the Policies RES.2 (Unallocated Housing Sites), NE.8 (Sites of Local Importance for Nature Conservation), NE.9 (Protected Species), BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Access and Parking), BE.4 (Drainage, Utilities and Resources), BE.5 (Infrastructure), RT.1 (Protection of Open Spaces with Recreational or Amenity Value) and RT.2 (Equipped Children's Playgrounds) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

### **RECOMMENDATION:**

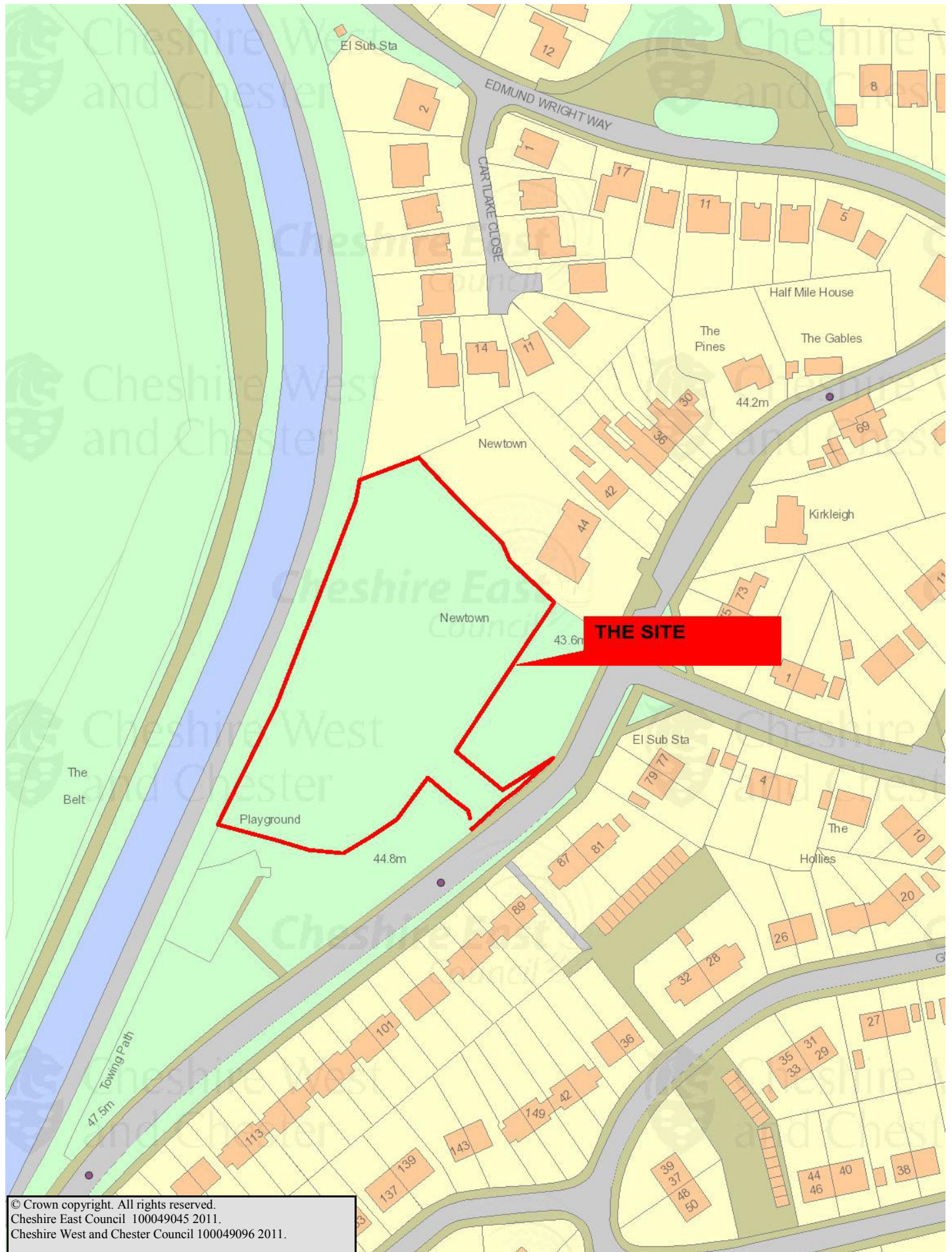
**APPROVE** subject to conditions

1. Time (Standard)
2. Plans
3. Materials as per application
4. Hours of construction
5. PD Removal (A-E)
6. Obscure glazing (kitchen windows on plots 3 & 4)
7. Landscaping scheme to include treatment off site to canal boundary
8. Landscaping (Submission of details)
9. Landscaping (Implementation)
10. Tree protection
11. Details of retaining structure
12. Boundary treatment
13. External Lighting
14. Structural stability of canal bank in accordance with survey

- 15. Site to be drained on a separate system**
- 16. Development in accordance with Extended Habitat survey**
- 17. Nesting birds**
- 18. Breeding birds**

**Informative**

The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the Town and Country Planning Act 1990 and the current Building Control Regulations with regards to contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales and approved by the LPA in writing. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.



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Application No: 11/3160N

Location: WARMINGHAM GRANGE, WARMINGHAM GRANGE LANE,  
WARMINGHAM, CW11 3LB

Proposal: Alterations to Plot Nos 1,2,4,5,6,7 & 8 of the Barn Units Block and to Plot  
No 3 of the Stable Units block at Warmingham Grange

Applicant: Viscount Homes Limited

Expiry Date: 23-Nov-2011

**SUMMARY RECOMMENDATION**

Approve subject to deed of variation to link the current application to the original application P03/1522.

**MAIN ISSUES**

Principle  
Design  
Amenity  
Landscape

**REASON FOR REFERRAL**

The application has previously been referred to Southern Planning Committee on the 7<sup>th</sup> December 2011 where there was a resolution to approve the application. However it has since been discovered that the affordable units within the application are in separate ownership. The application has subsequently been revised to exclude the affordable housing units as these were not affected by the amendments to the scheme. The affordable units would still be subject to the original approval (P03/1522) and S106 Agreement, with the current application being subject to a deed of variation to link it to the original application (P03/1522).

**DESCRIPTION OF SITE AND CONTEXT**

The application site is Warmingham Grange which is comprised of the Grade II Listed Grange building and associated enabling residential development in the form of 'The Barns' and 'The Stables' which were permitted under planning reference P03/1522. The original proposal included the demolition of existing outbuildings; the conversion of the stable block and the Grade II Listed Grange to residential accommodation; and the construction of 8 dwellings known as 'The Barns' as enabling development to the restoration of the Grange. The



application comprised 14 residential units in total, inclusive of 3No affordable units with a Section 106 Legal Agreement. The development has been commenced with a number of dwellings being occupied, however the site is not fully complete. As it stands the development is unauthorised as works have been carried out in breach of conditions and not in total accordance with the approved plans of planning reference P03/1522. The current application seeks to regularise the development and those elements which are not in accordance with the original approval. The development lies within the Open Countryside, as defined by the Borough of Crewe and Nantwich Replacement Local Plan 2011.

## **DETAILS OF PROPOSAL**

The application seeks to regularise parts of the development which were not carried out in total accordance with planning reference P03/1522. The current application includes a number of amendments to the elevation detail of the 'The Stables' and 'The Barns' which are summarised below:

### Stable Building – unit 3

Additional door to south elevation

Door to east elevation to be retained

Door to garages vertically boarded and black

Unit 3 double to have personnel door from the rear of the garage

### Barns 1 -4 Rear Elevation and Part Barn 5 North Elevation

Dormer windows to Barns 4 & 5 to have vertical glazing bar as per original scheme

### Barns 5 – 8 Rear Elevation

Omit slit over door to Barn 5

Vent cover required to Barn 6 to be provided in colour to match brickwork

Omit window to Barn 5 and provide 1800mm French doors

Barn 8 -Change positions of French doors and window to provide French doors on side elevation and window on rear elevation which are different from original approval

Roof lights to be approved as per existing on site which differs from original approval.

### Courtyard Elevation

Drift access to have two slits

Vents to be in colour to match existing brick work

Roof lights to be approved as per existing on site which differs from original approval.

## **RELEVANT HISTORY**

P03/1522 Conversion of Warmingham Grange into Three Apartments and Demolition of Outbuildings and Replacement with Eight Houses and Erection of Three Affordable Housing Units (Approved with conditions).

P03/1523 Listed Building Consent for Conversion of Warmingham Grange into Three Apartments and Demolition of Outbuildings and Replacement with Eight Houses and Erection of Three Affordable Housing Units (Approved with conditions)

## **POLICIES**



## **Regional Spatial Strategy (NW)**

Policy DP7 Promote Environmental Quality

## **Borough of Crewe and Nantwich Replacement Local Plan 2011**

NE2 (Open Countryside)

RES8 (Affordable Housing in Rural Areas)

BE1 (Amenity)

BE2 (Design)

BE9 (Listed Buildings: Alterations and Extensions)

## **Other Material Considerations**

PPS1 Delivering Sustainable Development

PPS4 Planning for Sustainable Economic Growth

PPS5 Planning for the Historic Environment

## **VIEWS OF WARMINGHAM PARISH COUNCIL**

No comments made.

## **OTHER REPRESENTATIONS**

No representations received at time of report preparation.

## **OFFICER APPRAISAL**

### **Principle of Development**

The principle of the development has already been accepted under the previous permission P03/1522. As such the key issues surrounding the determination of this application will be whether or not the changes to the original permission comply with Local Plan policies BE1 (Amenity), BE2 (Design), and BE9 (Listed Buildings: Alterations and Extensions).

### **Design**

The current proposal includes amendments to the elevation detail which have not been carried out in accordance with the original approval. The changes however, would not affect the Grange itself but relate to the Stable block conversion and the dwellings known as 'The Barns' which were constructed as enabling development for the restoration of the Grade II Listed Grange. The changes are detailed earlier in the report and although these are minor individual elements, the cumulative impact must be assessed. In design terms the alterations which have been carried out are sympathetic to the development, with the use of appropriate materials. In this regard the scheme is still acceptable and the amendments are such that they would not adversely alter the overall character and appearance of the development when viewed in the context of the Grade II Listed Grange and its setting. The application is in accordance with Local Plan policies BE2 (Design) and BE9 (Listed Buildings: Alterations and Extensions).

### **Amenity**

There would be no additional adverse impacts on residential amenity over and above the original permission P03/1522. The proposal would comply with Local Plan policy BE1 (Amenity).

### **Landscape**

A landscape plan has been submitted with the application however the scheme is not considered to be acceptable as further changes and additional information is required. The hard and soft landscaping elements of the development are integral to the appearance of the scheme and the Grade II Listed Grange and its setting. As the landscape scheme as a whole is not acceptable the condition will be re-applied to any further permission granted having regard to Local Plan policies BE2 (Design) and BE9 (Listed Buildings: Alterations and Extensions).

### **Section 106 Agreement**

The original application was subject to a Section 106 Agreement to secure 3No units as affordable housing stock and not private dwelling houses. The affordable housing units took the form of 2No units in the 'Stables' and 1No unit in the 'Barns'. A financial contribution of £14,000 was also included within the S106 for speed management in Warmingham village. The Council is in receipt of the financial contribution. The existing S106 Agreement will stand for the affordable units under application P03/1522 and the current application will now be subject to a deed of variation to connect it to the original application.

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

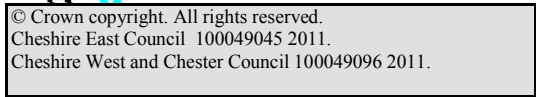
The application seeks to regularise part of the development at Warmingham Grange which has not been carried out in full accordance with the approved plans. The main consideration in the determination of this application is the impact of the amendments to the elevation detail of the 'Stables' and the 'Barns' on the character and appearance of the scheme in the context of the Grade II Listed Grange and its setting. The amendments are considered to be acceptable in design terms and would comply with the provisions of Local Plan policies BE2 (Design) and BE9 (Listed Buildings: Alterations and Extensions). Landscaping details are not considered to be satisfactory. The hard and soft landscaping elements of the development are not satisfactory as a whole and as this is integral to the appearance of the scheme and the Grade II Listed Grange and its setting, it is considered that a landscape condition should be re-attached to any permission. The application is recommended for approval, subject to a deed of variation to link the current application with the original approval; and subject to conditions.

**RECOMMENDATION: Approve subject to deed of variation to link the current application to the original application P03/1522, and the following conditions:**

1. Approved Plans

2. Landscape scheme – hard and soft landscaping
3. Landscape implementation
4. Details of boundary treatment and enclosures
5. Remove Permitted Development Rights for Classes A to E of Part 1; Class A of Part 2; and Classes A to F of Part 40.

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.



Application No: 11/3168N

Location: The Limelight Club, 1- 7, HIGHTOWN, CREWE, CW1 3BP

Proposal: Restoration and Conversion of Existing Building to Form 23no Dwellings with Amenity Space and Off Road Parking

Applicant: Mr Stuart Campbell, Limelight Developments Ltd

Expiry Date: 22-Nov-2011

**SUMMARY RECOMMENDATION:**

- **APPROVE** subject to Section 106 Agreement and conditions

**MAIN ISSUES:**

- Principle of Development
- Housing Land Supply
- Amenity
- Highway Considerations
- Design
- Layout, Landscaping and Private Amenity Space
- Ecology
- Sustainability
- Land Contamination
- Air Quality
- Noise
- Affordable Housing

**1. REASON FOR REFERRAL**

The application has been referred to Committee because the proposal is for a residential development of over 10 units.

**2. DESCRIPTION OF SITE AND CONTEXT**

The site comprises a large three storey church building with a single storey annex on the northern side of the church which connects it to what would have previously been a terraced row of four units. These have been opened up at ground level to create one large open space for a café bar. To the rear there is a lean-to structure with a change in level stepping down to a pool table area with access to the rear and to the car park beyond. The site is currently built on in its entirety excluding one or two small pockets of land available on the north western corner adjoining no. 9 Hightown

Built in 1870 as the Congregational Chapel, United Reformed Church, Hightown, the church was founded in 1847 in Oak Street but rebuilt in Hightown. Due to declining support the church closed and it was converted to many uses including a furniture store, restaurant, the Victoria Snooker Club and then into the “Limelight” club and live music venue. The club extended and expanded into the adjoining properties no. 1, 3, 5 and 7 Hightown. These have been modified and structurally altered to accommodate the requirements of the bar/nightclub. Parts of the terrace have also been a takeaway facility. The first floor currently is a residential accommodation and office space. The Limelight operated over the last two decades as a sizeable music/pub/function venue until January 2010, since when it has remained empty after falling into receivership. The chapel building is locally listed.

The site is located on the corner of Hightown and Flag Lane, to the rear of the site is a large free car park, to the front of the site is an open park called Jubilee Gardens, the area to the south is a new four storey block of apartments and to the north is a continuation of the terrace row which has shops at ground floor and residential above.

Adjacent uses include housing, shops, car park and park. The access to the site is off Hightown and Flag Lane. The site is approximately 300m from Crewe town centre which provides access to a wide number of facilities within the town.

The site is fairly regular in shape and covers an area of approximately 950sqm. It is predominantly flat but does have a split level due to the site falling East to West.

### **3. DETAILS OF PROPOSAL**

The site will be converted for a mixed residential scheme comprising housing and apartments with amenity space and off street parking. The design has been modified since the initial submission reducing the amount of residential units from 23 to 22 units creating approximately 1468 sqm of habitable accommodation and comprises of the following:

- 11 one bedroom flats
- 7 two bedroom flats
- 1 two bedroom house
- 1 three bedroom house
- 2 four bedroom houses

The intention is to retain and repair the external shell of the church respecting its local listing status. Internally the church will be converted to flats whilst minimising the amount of intrusive building work and retaining and restoring the original features. To create amenity space between the chapel and terrace buildings, the annex to the chapel is to be removed.

The terrace to the side will be restored back to four self contained houses as originally constructed. Changes to the fenestration of the front elevation are proposed in order to introduce a domestic scale into the elevation, to compartmentalise the building into domestic scale rooms.

Within the proposals there are several access and exit points around the site. The two communal access points are directly off the amenity space and the ground floor units within the church each have a private access and the terrace row is accessed directly off Hightown

#### 4. RELEVANT HISTORY

There are no relevant previous applications relating to this site

#### 5. POLICIES

##### **North West of England Plan - Regional Spatial Strategy to 2011**

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 W 1	Strengthening the Regional Economy
Policy W 5	Retail Development
Policy RT 1	Integrated Transport Networks
Policy RT 2	Managing Travel Demand
Policy RT 3	Public Transport Framework
Policy RT 9	Walking and Cycling
Policy EM9	Secondary and Recycled Aggregates
Policy EM 11	Waste Management Principles
Policy EM 12	Locational Principles
Policy EM 15	A Framework For Sustainable Energy In The North West
Policy EM 16	Energy Conservation & Efficiency
Policy EM 17	Renewable Energy
Policy EM18	Decentralised Energy Supply
Policy MCR 4	South Cheshire

##### **Cheshire Replacement Waste Local Plan**

Policy 11 (Development and Waste Recycling)

##### **Borough of Crewe and Nantwich Replacement Local Plan 2011**

- BE.1 (Amenity)
- BE.2 (Design Standards)
- BE.3 (Access and Parking)
- BE.4 (Drainage, Utilities and Resources)
- BE.5 (Infrastructure)
- TRAN.1 (Public Transport)
- TRAN.3 (Pedestrians)
- TRAN.4 (Access for the Disabled)
- TRAN.5 (Provision for Cyclists)
- TRAN.6 (Cycle Routes)

TRAN.9 (Car Parking Standards)

**National policy**

PPS 1: Delivering Sustainable Development

PPS 4: Planning for Sustainable Economic Growth

PPS 25: Development and Flood Risk

PPG 13: Transport

Department for Transport – Manual for Streets

Proposed Changes to PPS6: Planning for Town Centres – Consultation

**6. CONSULTATIONS (External to Planning)**

**Environmental Health**

- Due to the potential for noise disturbance to local residents, the development should be subject to the following hours of operation restrictions;

Monday – Friday	08.00 hrs	18.00 hrs
Saturday	09.00 hrs	14.00 hrs

With no Sunday or Bank Holiday working

- 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	08:30hrs – 13:00hrs
Sunday	Nil

- Due to the location of the development being on a busy road in the town, no development shall commence until an assessment of traffic noise has been submitted to and approved in writing by the Local Planning Authority. The recommendations in the report shall be implemented in accordance with the approved details prior to the first occupation of the development hereby permitted.
- Any proposed external lighting of the development shall be submitted to and approved in writing by the Local Planning Authority in order to safeguard the amenity of local residents.
- There shall be adequate bin storage, for both household waste and recycling, for the size of the development.
- The application is for new residential properties with garden areas which are a sensitive end use and could be affected by any contamination present. As such, and in accordance with PPS23, this section recommends that the standard contaminated land conditions be attached should planning permission be granted

**Highways**



- The current plans are the result of negotiation between the developer and the Highways Department and as such they are happy with the outcome.

## **7. OTHER REPRESENTATIONS:**

None received at the time of report preparation.

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

- Design and Access Statement

## **9. OFFICER APPRAISAL**

### **Principle of Development**

The site lies within the Settlement Boundary of Crewe, where, according to Policy RES.2 the development or redevelopment of unallocated sites for housing will be permitted, (in accordance with policies BE.1- BE.5). These policies relate to matters of amenity, design, access and parking, drainage and utilities and infrastructure. These issues are addressed in more detail below. However, on the basis of the above, the proposal is considered to be acceptable in principle.

### **Housing Land Supply**

The proposal would also assist the Council to meet its housing land requirements and would ease pressure of Greenfield sites elsewhere within the Borough. 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,*

- (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 the 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 consumer 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.*
- They should ensure that they give appropriate weight to the need to support economic recovery, that applications that secure sustainable growth are treated favourably (consistent with policy in PPS4), and that they can give clear reasons for their decisions.*

The proposal will facilitate economic growth and will also create jobs in the construction industry and all the associated supply networks. It will also help to ensure a *flexible and responsive supply of housing land*. 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.

### **Loss of Community Facility**

Policy CF3 seeks to protect community facilities which make a positive contribution to the social or cultural life of a community, unless suitable alternative provision is made. Previous appeal decisions which have considered schemes that would result in the loss of a public house, which is considered to be similar to a nightclub use, have established that where there are other facilities within easy walking distance then there are no planning objections to the loss in principle. Appeal decisions make it clear that the consideration is whether there are alternative establishments in the local area not whether they offer exactly the same ambience / facilities as the one which has closed. Policy CF3 makes no reference to the need to market an establishment before it is lost or for any considerations regarding viability. Whereas the Council has used such a reason for refusal for other premises in villages, the same considerations do not apply to the loss of a night club in a town such as Crewe with other night clubs, public houses and similar facilities within walking distance. It is therefore considered that the loss of this night club would not conflict with policy CF3 of the Replacement Local Plan 2011.

### **Affordable Housing**

The SHMA identifies that the annual affordable housing need for Crewe is 256 new units per year, made up of 123 x 1 beds, 20 x 2 beds, 47 x 3 beds, 40 x 4/5 beds and 26 x 1/2 bed older persons units.

Also Cheshire Homechoice which is the choice based lettings system for allocating social housing across Cheshire East, currently has 379 applicants who have specified Crewe Town Centre as their first choice for housing. The breakdown of applicants is 127 x 1 beds, 119 x 2 beds, 49 x 3 beds, 7 x 4 beds and 4 x 5 beds. There are 73 applicants who have not indicated how many beds they require.

As the development is for more than 15 units, the affordable housing requirement, according to current policy, is 30% of the total units on site. As originally submitted the scheme was for 23 units, which would have equated to an affordable housing requirement of 7 units. The, tenure split should be 65% social rent and 35% intermediate tenure. This would result in a requirement for 4.5 units for rent and 2.5 units for intermediate tenure. The Housing Officer has expressed a preference for a mix of 5 units for rent and 2 units for intermediate tenure.

As the highest affordable housing need identified from the SHMA 2010 and Cheshire Homechoice is for 1 and 2 bed units, it is suggested that the 7 units are a mixture of 1 and 2 bed properties.

However, the developer has submitted an HCA viability assessment which demonstrates that they are unable to provide any affordable housing on the site.

Housing Officers have looked at various elements of the information in the appraisal against evidence in the Economic Viability of Affordable Housing Requirements report produced by Arc4 consultants on behalf of the Council. For example, the build costs used in the applicant's appraisal were found to be largely in line with those in the Arc 4 report.

Housing also asked for further information about the estimated sales prices and the applicant provided us with a copy of an estate agents letter with estimated prices that were used in the appraisal. These have been checked against:

- estimated sales prices of the properties used by the applicant in the HCA appraisal
- the average property prices at ward level using Hometrack Housing Intelligence System
- what is currently available for sale on Rightmove close to the site

Housing Officers found that most of the estimated prices were in line with the information available from Hometrack and similar to what was advertised for sale on Rightmove, with the only exception being that the average prices for the 4 beds on Hometrack were significantly higher than the estimated price used in the appraisal. The developer was also asked if the purchase price for the site of £130,000 used in the appraisal could be evidenced and a copy of a completion statement was provided confirming this.

In the light of the above, Housing have no objection to this application although it will not provide the affordable housing that would normally be required by policy. Whilst there is some concern that the estimated sales values for the 4 bed units may be lower than will be achieved, this could be addressed through an overage agreement so that if the total sales proceeds for the development exceed a specified amount that the additional monies are split 50/50 so that the Council could receive some contribution to go towards the provision of affordable housing.

### **Amenity**

The surrounding development comprises, a taxi office and music shop adjoining the site to the north, an electrical retailer and a small area of open space on the opposite side of Hightown to the East; a shop and a block of flats on the opposite side of Flag Lane to

the south; and terraced houses at 90 degrees to the site fronting on to Flag Lane to the west.

The last approved use of the premises was as a nightclub, and it is therefore considered that the change of use to residential would improve the overall standard of amenity for neighbouring occupiers.

With regard to matters of daylight and privacy it is generally considered that minimum distances of 21m and 13m should be maintained between two principal elevations and a principal and flank elevation respectively in order to ensure an adequate standard of privacy and amenity. There is no minimum separation distance between 2 flank elevations.

Given that no extensions are proposed to the building, the development will not impact on light to any of the neighbouring properties. The removal of the existing outriggers from rear of the terrace fronting on to Hightown will improve the situation from an amenity perspective for the adjacent shops.

To turn to the issue of privacy, there is one window proposed in the side elevation facing towards the shops to the north which would look out on to a blank gable elevation.

The terraced property to the west has a blank gable elevations facing towards the site, although a two storey outrigger contains secondary windows at ground and first floor level. At ground floor level, the existing 2m boundary wall will guard against any overlooking, whilst at first floor level, the existing window is fitted with obscured glazing. Consequently no privacy issues are raised.

The majority of proposed windows in the east elevation of the building (front) will overlook the open space on the opposite side of Hightown. However, the windows of House 4 on the plans will directly oppose those of the electrical store on the opposite side of the road. A separation distance of approximately 14m will be maintained between the properties. Whilst this is below the 21m standard, given that the property opposite is a retail premises, with, what appear to be, offices above, this reduction is considered to be acceptable. Furthermore, it is similar to the separation distances between existing properties elsewhere along Hightown.

There are a substantial number of windows in the side (south) elevation of the chapel, which will face towards the properties on the opposite side of Flag Lane.

The windows at the eastern end of the elevation will directly face commercial premises with offices above on the southern corner of Flagg Lane and St. Mary's Street and therefore do not raise any concerns. However, the windows at the western end of the elevation would directly face principal windows in the existing flats on the opposite side of Flag Lane. The separation distance between the two buildings at ground and first floor level is approximately 14m, and 17.5m at second floor level, which is substantially below the recommended 21m. However, given that these would be either bedroom windows or secondary windows to the living rooms of the proposed flats concerned, they could be fitted with obscured glazing. This would effectively eliminate any overlooking problems. This could be secured by condition.

The windows mid-way along the side elevation of the chapel would also be positioned less than 21m from those of the existing flats opposite. However, they would not be directly opposing and any overlooking between the windows would be at an oblique angle. Furthermore, this is equivalent to many similar relationships elsewhere in the surrounding area, which is characterised by tightly knit terraced streets. Subject to the conditions as set out above, it is not therefore, considered that a refusal on privacy grounds could be sustained.

### Highway Considerations

It is considered that traffic generation from the site would not form a sustainable reason for refusal given the previous use of the building as a night club, the scale of the development, and the sustainable location, within easy walking distance of the town centre, shops and facilities as well as the bus station.

The access to the site would be formed from the existing public car park to the rear, where vehicle speeds are low and therefore no safety concerns are raised.

As originally submitted, the development was for 23 dwellings of mixed size and would normally require a minimum combined parking provision of 35 spaces.

This is broken down as follows:

11 one bed at 100% parking	= 11 spaces
9 two bed at 200% parking	= 18 spaces
1 three bed at 200% parking	= 2 spaces
2 four bed at 200% parking	= 4 spaces
<b>Total</b>	<b>=35</b>

This proposal as originally submitted only provided 8 off street parking spaces to serve all 23 dwellings. The highways authority was of the view that the level of parking proposed was far too low to adequately serve the demand that this development will generate.

The highways authority recommended refusal on the grounds of insufficient off street parking provision. However, the applicant has submitted a revised plan, which omits a proposed extension and now provides for 20 residential units, a reduction of three from the original proposal, and incorporates 15 dedicated parking spaces for the development with no loss of spaces to the public car park

The highways officer has confirmed that subject to compliance with the amended plans he no longer has any objection to the proposed scheme. Conditions are recommended requiring compliance with the amended plans, provision of parking prior to first occupation and provision of cycle parking which is shown on the site layout plan.

## Design

As stated above, the original chapel is locally listed. The rear elevation of the building is very clearly visible from the public car park to the rear of the site. However, very minimal changes are proposed to the rear elevation of the original chapel. The only works proposed are the reinstatement of a former window which had been previously altered to form a door.

To the front of the building, the main part of the chapel will be restored and unsympathetic signage will be removed. Existing openings will be utilised, and two small, sympathetic, porch canopies will be added over ground floor doorways. The most significant alteration proposed, is the removal of the single storey annex to the north side of the original chapel, to create an entrance courtyard. The facade of this annex building will be retained to enclose the courtyard from the street. The existing window openings will be enlarged in order to create an entrance gateway into the courtyard behind, which will be enclosed on the other three sides by the original chapel, and the terrace of houses to the side. Whilst the loss of historic building fabric is always regrettable, given that the facade will be retained, and that the annex is not visible on the other three sides due to the presence of other buildings, it is considered that this loss can be tolerated. Furthermore, it will facilitate the conversion of the main part of the locally listed building to a viable new long term use, the alterations to the facade are considered to be sympathetic, and the new courtyard will create a pleasant area of communal open space and an inviting entrance for the development.

No changes are proposed to the side elevation with all existing openings being utilised as part of the conversion and no new openings being formed. It is therefore concluded that the proposed changes to the former chapel will not adversely affect the character and appearance of the locally listed building or that of the street scene and the proposal therefore complies with the relevant local plan policies.

To turn to the terrace of houses, at present there are a number of original windows remaining at ground floor level. These have a vertical form and distinctive arched window heads. However, an unsympathetic modern doorway has been inserted in the middle of the row and a modern shop front installed at the northern end of the terrace. These will be removed and replaced with arched windows to match the originals. 2 of the original windows will be enlarged to create new doorways but the distinctive arched heads will be retained. Sympathetic porch canopies to match those proposed on the chapel will also be added and a matching doorway and canopy will be included as part of the blocking up of the modern shop front.

At first floor level the windows in the dwellings at each end of the terrace, will be enlarged to match those of the middle units. It will restore the uniformity of the terrace. Overall it is considered that these works will represent a considerable improvement in the overall appearance of the building and the street scene on this part of Hightown.

To the rear of the terrace, a number of unsympathetic modern out-riggers will be removed and new fenestration, similar to that of the original chapel alongside, will be installed which will restore harmony to the composition of the rear elevation. It is

considered that this will improve the visual amenity the car park, which forms an important part of the public realm in this area.

### **Landscaping**

With the exception of some small yard areas between outbuildings to the rear, the site is entirely covered by buildings. Consequently there will be no adverse impact on existing trees and hedges and limited opportunities for new planting.

According to the Design and Access Statement, an area of soft landscaping will be provided in front of the retained brick facade of the annex building, to soften and enhance the approach to the development. Additional areas of landscaping are to be provided on the land between the original church building and the railings of the boundary wall. Details of planting and soft landscaping can be secured by condition.

### **Open Space**

With regard to private amenity space, the plans show an area between the northern elevation of the church and southern elevation of the terrace row. This area will be communal space with access to cycle storage and bin storage. There is also a small amenity area to the south of the terrace row. These areas are communal for enjoyment by all parties. There are also private gardens for flat 1 and flat 5. However, it is acknowledged that the amount of private amenity space will be very limited to serve 20 dwellings, including 1 no.2 bedroom house, 1 no. 3 bedroom house and 2 no. 4 bedroom houses, which are considered to be family homes. Furthermore, no Public Open Space is provided within the proposed development, which is a local plan requirement of scheme of this size. However this is typical of existing properties in the area which comprise predominately terraced houses and flats. Also the site has ready access to the existing Public Open Space on the opposite side of the road and is within easy walking distance of larger areas of open space such as Queens Park. Whilst lack of on-site Public open space can be mitigated through a financial contribution towards off site provision, given the viability issues with this scheme, as explained above it is not considered that a payment could be secured in this case.

### **Ecology**

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

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

and provided that there is:

- no satisfactory alternative

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

The UK implements the Directive in the Conservation of Habitats & Species Regulations 2010 which contain two layers of protection:

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

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

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

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

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

In this case the Council’s Ecologist has confirmed that he does not anticipate there being any significant ecological issues associated with the proposed development.

### **Sustainability**

Policy EM18 of North West England Plan Regional Spatial Strategy (RSS) outlines that, in advance of the setting of local targets for decentralised/renewable/low-carbon source energy supply, at least 10% of predicted energy requirements should be from such sources unless it is demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable. This applies to all residential developments comprising 10 or more units. No information with regard to energy sourcing has been submitted with the application. However, it is considered that this detail can be adequately secured by condition.

### **Land Contamination**



The application is for new residential properties with garden areas which are a sensitive end use and could be affected by any contamination present. As such, and in accordance with PPS23, Environmental Health have recommended that the standard contaminated land conditions be attached should planning permission be granted

### **Air Quality**

Although it is within the town centre, the site is not located within an Air Quality Management Area and therefore it is not considered that the proposal will exacerbate or be adversely affected by air pollution. Consequently the Environmental Health Section have raised no objection on these grounds.

### **Noise**

Due to the location of the development being on a busy road in the town, the Environmental Health Section have commented that an assessment of traffic noise and any recommended mitigation should be secured by condition.

## **10. CONCLUSION**

The application involves the conversion of a former chapel and an adjoining terraced row, which were last used as a nightclub, but have been derelict since 2010, to 20 dwellings. The building is locally listed.

The site is located in the settlement boundary for Crewe where there is a presumption in favour of new development. The proposal will assist the Council in meeting its 5 year housing land supply requirements, ease pressure on Greenfield sites, regenerate a derelict site, secure a long term viable future for a locally listed building and will create jobs and economic growth in the construction industry. It should therefore be supported in principle.

Given the availability of alternative facilities it is not considered that loss of the nightclub provides grounds for refusal. An acceptable financial appraisal has been submitted which demonstrates that it is not economically viable to provide affordable housing on this site. Subject to the imposition of obscured glazing conditions, the proposal is considered to be acceptable in amenity terms.

The site is sustainably located within a short walking distance of the town centre and bus station, and has a safe vehicular access from the car park at the rear. As a result of a reduction in the number of units proposed from 23 to 20 and inclusion of 15 parking spaces the proposal is considered to have adequate on-site parking provision. There is also a large public car park to the rear.

The scheme is considered to be acceptable in design terms and will not adversely affect the character and appearance of the street scene or the locally listed building and its setting.

Although the development provides no on-site Public Open Space and only very limited private amenity space, it is located in close proximity to off site provision. Whilst a contribution towards maintaining or improving of off-site Public Open Space would be desirable give the viability issues referred to above, this is not considered to be a reasonable request in this case.

Subject to the imposition of appropriate conditions, the proposals will have no adverse impact in terms of trees, landscape, ecology, land contamination, air quality or noise.

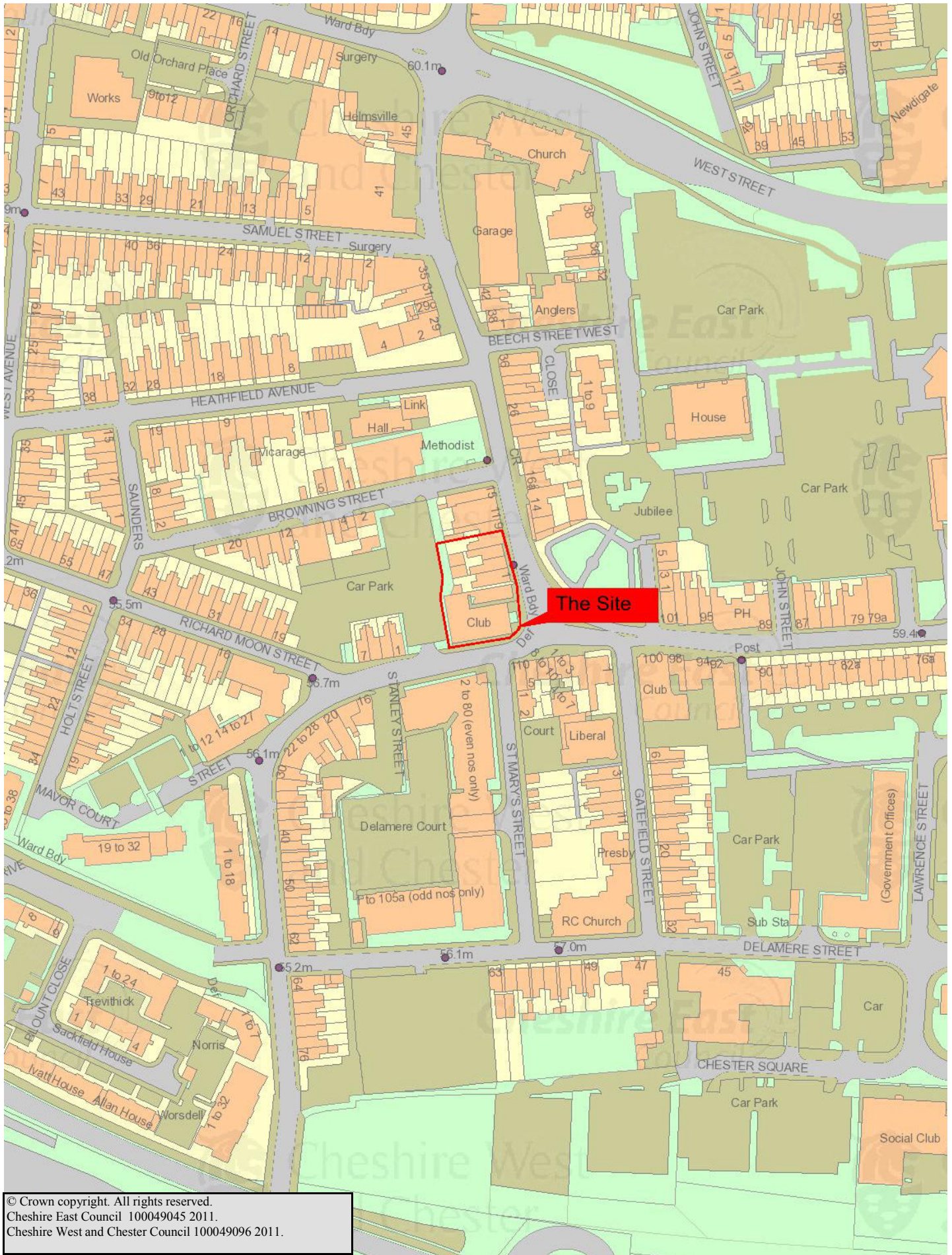
Therefore, having due regard to all other matters raised, it is considered that the proposal complies with the relevant Development Plan policies, as set out above and in the absence of any other material considerations, it is recommended for approval subject to conditions as set out below.

## **10. RECOMMENDATIONS**

**APPROVE subject to Section 106 Agreement to secure overage agreement so that if the total sales proceeds for the development exceed the amount predicted in the Viability Appraisal submitted with the application, the additional monies are split 50/50 with the Council to go towards the provision of affordable housing and the following conditions:**

- 1. Standard**
- 2. Amended plans**
- 3. Provision of carparking**
- 4. Provision of cycle parking**
- 5. Side windows of Bedroom 1 (Flat 8) Living Room (Flat 5) and Bedroom (Flat 13)**
- 6. 10% of energy requirements to be from decentralised/renewable/low-carbon source energy supply unless demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable.**
- 7. Submission / approval implementation of materials**
- 8. Submission / approval of landscaping**
- 9. Implementation of landscaping**
- 10. Submission / approval / implementation of boundary treatment.**
- 11. Hours of operation restrictions to be placed on the construction site; Monday – Friday 08.00 hrs to 18.00 hrs, Saturday 09.00 hrs to 14.00 hrs, with no Sunday or Bank Holiday working**
- 12. Should there be a requirement to undertake foundation or other piling on site it is recommended that these operations to be restricted to: Monday – Friday 08:30hrs – 17:30hrs; Saturday 08:30hrs – 13:00hrs; Sunday Nil**
- 13. Submission / approval / implementation of traffic noise assessment and any recommended mitigation.**
- 14. Submission / approval / implementation of details of external lighting**
- 15. Submission / approval / implementation of bin storage, for both household waste and recycling, for the size of the development.**

**16. Submission / approval / implementation of contaminated land assessment and any recommended mitigation.**





Application No: 11/3855N

Location: Land at, WESTON ROAD, CREWE, CHESHIRE, CW1 6JS

Proposal: Demolition of Existing Office Building and Erection of Industrial Unit (Use Class B8 - Storage and Distribution) with Ancillary Trade Counter Floorspace and Associated Internal Road/Footways, Car Parking and Landscaping

Applicant: Rowlinson Group Limited

Expiry Date: 26-Jan-2012

**SUMMARY RECOMMENDATION:**

APPROVE subject to conditions and S106 Legal Agreement

**MAIN ISSUES:**

- a) Principle of Development
- b) Retail & Impact on Town Centre
- c) Design & Layout
- d) Highways
- e) Residential Amenity

**1. REASON FOR REFERRAL**

This application proposes the creation of more than 1,000 square metres floorspace and is therefore a small scale major development.

**2. DESCRIPTION AND SITE CONTEXT**

The application site is situated off Weston Road in Crewe. The site is bounded by industrial and commercial properties in the Crewe Gates Industrial Estate. The site area is 0.4ha and the proposal includes the erection of a 1,152 m<sup>2</sup> gross B8 industrial unit with ancillary trade counter(s). The development is speculative and the single B8 industrial unit is designed to be subdivided into individual units flexible in size, forming a maximum of 3 units. The description of development for the application includes reference to the provision of ancillary trade counter(s). The floor plan indicates that one unit will have an approximate gross internal area of 621.2 m<sup>2</sup> and the other unit will be 530.4 m<sup>2</sup>. This second unit (530.4 m<sup>2</sup>) could be subdivided. The site is within

the settlement boundary for Crewe as designated in the adopted Crewe and Nantwich Borough Local Plan 2011.

### **3. DETAILS OF PROPOSAL**

Full planning permission is sought for the demolition of an existing office building and the erection of an industrial unit (Use Class B8 – storage and distribution) with ancillary trade counter floorspace and associated internal road / footways and, car parking and landscaping.

### **4. RELEVANT HISTORY**

P06/0330 - Change of Use from General Industry (Class B2) to General Industry and Storage and Distribution (Class B2 and B8) and Removal of Condition 7 attached to Planning Permission P97/0537 – Approved 05-Jun-2006

7/04974 - Generator room/store. – Approved 12-Feb-1979

7/05809 - Proposed tool room – Approved 23-Aug-1979

P97/0537 - Factory extension, portal framed buildings to rear and office extension – Approved 24-Jul-1997

7/10086 - Re-siting of polystyrene mouldings building – Approved 01-Jun-1983

7/19341 - Temporary siting of a portakabin. – Approved 28-Jan-1991

### **5. POLICIES**

#### **National Policy**

PPS1	‘Delivering Sustainable Development’
PPG13	‘Transport’
PPS4	‘Planning for Sustainable Economic Growth’

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

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

DP9 Reduce Emissions and Adapt to Climate Change

#### **Local Plan Policy**

BE.1 – Amenity

BE.2 – Design Standards

BE.3 – Access and Parking

BE.4 – Drainage, Utilities and Resources

BE.5 – Infrastructure

E.4 – Development on Existing Employment Areas

S.1 – New Retail Development in Town Centres

S.10 – Major Shopping Proposals

**Other Material Considerations**

‘Planning for Growth’

‘Presumption in Favour of Economic Development’

Draft National Planning Policy Framework

**6. CONSIDERATIONS (External to Planning)**

**Environmental Protection:**

No objection subject to conditions restricting hours of construction and requiring details of lighting to be submitted and approved.

**Highways:**

No objection - Accessibility is good to this site for both HGV's and cars and there is adequate room for manoeuvring and parking of large vehicles. Visibility is acceptable at this location with a good level of off street parking. The access and parking should be conditioned in accordance with the submitted plans. Any alterations to the existing access must be carried out under a section 184 licence agreement.

**8. OTHER REPRESENTATIONS**

No comments received

**9. APPLICANT'S SUPPORTING INFORMATION**

Supporting Planning Statement Incorporating a Design & Access Statement  
Transport Assessment

**10. OFFICER APPRAISAL**

**Policy**

The site is an existing employment site within Crewe. The site is not allocated for any purpose in the Local Plan. However, Policy E.4 allows for the redevelopment of sites for employment purposes. All new development should meet the requirements of general policies BE.1 - BE.5.

The description of development for the application includes a reference to the provision of ancillary trade counter(s). The application site itself is outside of Crewe Town Centre (as defined on the proposals map of the Crewe and Nantwich Local Plan 2011) Planning Policy Statement 4 (PPS4) requires retail uses to undergo a sequential test and in certain circumstances an impact assessment in order to protect the vitality and viability of existing centres.

Policy EC14 of PPS4 states that town centre policies such as the requirement for a sequential test for planning applications apply for retail uses outside of existing centres unless they are ancillary to other uses. In these circumstances, policy EC19 of PPS4 advocates the effective and

appropriate use of conditions for main town centre uses to ensure that retail ancillary elements of the scheme remain that way.

### **Principle of Development**

The change of use from the current office use to B8 use is acceptable in principle. However, the ancillary trade counter(s) needs to be strictly controlled. This is to ensure that the proposed use of the B8 unit does not result in the creation of a retail outlet or number of retail outlets outside of the town centre, which, on this scale, would require closer consideration.

There is no definition of “trade counter” in legislation, circulars and guidance. It is often considered however that the term generally refers to a discrete small area, separated from the remaining function of the unit where specialist purchases are made from either a small display or a computer. It is important that the trade counter element is a small discrete area and is subsidiary to the main function of the building. The internal floorplan does not indicate the precise extent of the trade counter as the industrial unit(s) are speculative.

To ensure that the trade counter remains ancillary to the main use of the industrial unit(s), it is recommended that an appropriately worded condition is attached to any approval. This should include prior written approval of the Local Planning Authority an internal floor plan indicating the extent and location of the trade counter (also including the customer access and the relationship of the sales counter with the remaining floor area). This will ensure that the trade counter will be kept as an ancillary element to protect the vitality and viability of the Crewe town centre in compliance with PPS 4.

To ensure that the product range on sale is as stated by the application, it is recommended that an appropriately worded condition is attached to any approval to restrict the sale of goods to non food goods and for the avoidance of doubt, sales of other goods such as clothing, footwear, leisure goods and non-bulky electrical goods for domestic use will not be permitted. This is to restrict the range of goods to protect the vitality and viability of Crewe Town Centre and in accordance with the provisions of PPS4.

### **Design & Layout**

The building is of a modern design which fronts onto Weston Road. Although the building would appear rather utilitarian it is considered to be appropriate in this context and a condition will be attached to ensure that the materials match those existing. The building would be seen alongside the adjacent buildings on the site and the site would also benefit from the removal of the existing building which is of a poor state of repair. The proposed building would have a ridge height of 8.4 metres and would be commensurate with the size and scale of the units at either side. The building would be set back into the site with the car park in front and the existing landscape buffer separating Weston Road with the access road would remain. The proposal would not appear overly prominent in the street scene.

### **Highways**

The proposed development would include the provision of 36 car parking spaces and the Highways Authority has raised no objection to the development. The proposal is therefore considered to be acceptable in terms of its highways/parking implications.



## **Residential Amenity**

The area is predominantly commercial and industrial with no residential properties in the immediate vicinity.

## **11. CONCLUSIONS AND REASONS FOR THE DECISION**

In conclusion, it is considered that the development of this site within the Crewe Settlement Boundary is in principle acceptable and in accordance with Policy E.4. The proposed development is considered to be acceptable in terms of its impact upon the highway network with appropriate car-parking provision. The proposal will have minimal impact upon the street scene and neighbouring amenity and subject to conditions, the trade counter element of the scheme is considered to be acceptable.

## **12. RECOMMENDATION:**

APPROVE subject to the following conditions:

### **Conditions**

- 1. Commence development within 3 years**
- 2. Development in accordance with approved drawings**
- 3. Submission of details/samples of external materials**
- 4. Implementation of detailed access and junction plans**
- 5. Car parking to be provided in accordance with the approved plan prior to the development being brought into use**
- 6. Cycle Parking details to be submitted and agreed**
- 7. Drainage details to be submitted and agreed**
- 8. External lighting details to be submitted and agreed**
- 9. No external storage**
- 10. No mezzanine floors**
- 11. Trade Counters details to be submitted and agreed**
- 12. Restriction on the sale of goods to non - food goods.**
- 13. Prevent sub-division of any of the units**
- 14. Bin Storage details to be submitted and agreed**
- 15. Limits on hours of construction including delivery vehicles.**



Application No: 11/4222N

Location: PRG ENGINEERING, LIGHTWOOD GREEN AVENUE, AUDLEM

Proposal: Proposed Extension to Existing Industrial Building and Enlargement of Rear Parking and Vehicle Turning Area

Applicant: PRG Engineering

Expiry Date: 09-Jan-2012

**SUMMARY RECOMMENDATION**

Approve with conditions

**MAIN ISSUES**

- Principle of Development
- Impact on Character and Appearance of Streetscene and Open Countryside
- Impact on the Amenity of Neighbouring properties
- Impact on Highway Safety

**REASON FOR REFERRAL**

This application was to be dealt with under the Council's scheme of delegation. However, the application has been called in by Cllr Rachel Bailey to ensure that Highways benefits are acceptable and to consider the impact of the loss of open countryside and the impact on the amenity of the neighbouring bungalow.

The application was deferred from the Southern Planning Committee on 25<sup>th</sup> January 2012 for a further plan to be provided to demonstrate sufficient space for turning, parking and access within the site.

**DESCRIPTION OF SITE AND CONTEXT**

The application site is an industrial unit which is located within the Open Countryside as defined by the Local Plan Proposals Map. The building is an L shaped structure of part brick and part metal clad construction with a height of approximately 7m to ridge. Vehicular access is off Lightwood Green Avenue with an existing parking, turning and external storage

area to the rear. The application property is an isolated industrial premises located on an otherwise residential cul de sac.

## **DETAILS OF PROPOSAL**

This application proposes the construction of an extension to the existing building which would be sited to the rear of the existing building. The extension would be 11.5m in width, 19.2m in length, 5m to eaves and 6.2m to ridge. The extension would be constructed from part blockwork and part plastic coated steel cladding. The extension would be in General Industrial (B2) use.

The scheme also includes the change of use of paddock land to the rear of the property to allow additional land for HGV turning and parking. The amended plan shows that the scheme includes an extension of the curtilage into the paddock at a reduced depth of between 2m and 11.5m at a length of 64m.

In addition to the above, proposals include the widening of the existing point of access.

## **RELEVANT HISTORY**

**P05/0437** – Planning permission approved for Single Storey Extension To Workshop on 24<sup>th</sup> May 2005.

**P99/0962** – Planning permission approved for Extension on 30<sup>th</sup> March 2000.

**P96/0952** – Planning permission approved for Workshop extension on 29<sup>th</sup> May 1997.

**P94/0881** – Positive certificate issued for Certificate of proposed lawful use for general industrial purpose for the manufacture of agricultural and vehicle transportation trailers on 9<sup>th</sup> March 1995.

**7/11498** – Planning permission approved for New spray shop for wood treatment on 18<sup>th</sup> October 1984.

## **POLICIES**

### **Local Plan Policy**

- NE.2 (Open Countryside)
- BE.1 (Amenity)
- BE.2 (Design Standards)
- BE.3 (Access and Parking)
- BE.4 (Drainage, Utilities and Resources)
- BE.5 (Infrastructure)
- E.6 (Employment Development with Open Countryside)
- TRAN.9 (Car Parking Standards)

## **Other Considerations**

PPS1 – Delivering Sustainable Development  
PPS7 – Sustainable Development in Rural Areas

Draft National Planning Policy Framework (2011)

## **CONSULTATIONS (External to Planning)**

**Environmental Health** – No objection subject to conditions

**Strategic Highways Manager** – This is an existing operation so the precedent of heavy traffic to and from the premises is set. The application seeks to provide access and turning into and within the site for the existing commercial buildings. Currently they can cause congestion on the public highway and there is merit in highways terms over the current arrangements. The proposals make good sense and would provide betterment in highways terms. Widening of the access can be carried out under section 184 licence. An additional plan showing access detail and turning movements would be useful. Therefore, no highways objections

## **VIEWS OF THE PARISH COUNCIL**

Two sets of comments received. Initial response states that they would like to raise concerns about access. Currently HGV's trying to enter/exit the site. Suggest a site meeting and a condition put into any approval to ensure that the applicant widens the access.

Second set of comments raise objection that:

- Concern over deliveries and site access
- Existing road very narrow and HGV's using Wood Avens Road to turn
- Damage to road surface
- Business expanded to HGV trailer construction and causing noise nuisance
- Concerns over flooding
- Odour issues
- Site unsuitable for further development

## **OTHER REPRESENTATIONS**

6 letters of objections received from 5 Lightwood Green Avenue, The Swallows, Aven House, The Holdings, Parish Council and Glenstone House (x2, one prepared by Geoff Allen Associates). The salient points being:

- Existing on street parking
- Existing road poor and HGV's use other roads to turn
- Further increase in activity would damage the road further
- Too many deliveries for road
- No footpath
- Site operates longer working hours than previously approved
- Noise has increased excessively due to nature of business
- Flooding in local area, more development would worsen this

- Nature of business causing smell and breathing problems from spraying.
- Site is unsuitable – would cause development on Green Belt
- No indication given on plans about the widening of the access
- More suitable sites for business in the area
- Development would be clearly visible from Lightwood Green Avenue and from The Holdings and adjoining field
- Proposals would lead to further loss of amenity
- Proposals contrary to Policy E.6 as Policies BE.1, BE.2, BE.3 and BE.4 would not be satisfied.
- Proposed use is incompatible with neighbouring residential uses in principle
- Proposals would bring turning movements close to the side boundary of the property and increase in noise and fumes
- Spare bedroom of Glenstone faces the site at a distance of 600mm from a conifer hedge. Proposals would increase the already unacceptable noise disturbance.
- Pollution of local drainage systems from vehicles
- Proposals would not make a positive contribution or enhance built environment. Would not be of high standard design, does not respect the pattern and form of development.
- Significant incursion into open countryside and extended curtilage unrelated to any physical or existing boundary
- Without landscaping details it would be difficult to determine whether the visual impact could be ameliorated
- Proposals use substandard point of access and junction onto Whitchurch Road and therefore will not provide for public safety.
- Concern over impact to Great Crested Newts and loss of foraging land
- In terms of DNPPF the proposals do not re-use an existing resource but extend onto a non renewable resource
- Site not sustainably located near to existing facilities or public transport
- Increasing the usage of the site would increase number of journeys

Further Objection received from Landform Highways Planning Consultants (on behalf of Glenstone). The salient points being:

- Visibility splays onto Whitchurch Road should be 160m x 2.4m in each direction. Distances of 59m (and only 70m to centreline) can be achieved in the Whitchurch direction
- Junction radii (onto Whitchurch Road) are significantly below the 15m normally required for HGV manoeuvres
- Lightwood Green Avenue is 4.8m in length for 90m reducing to 4.2m for 35m fronting the site. A 4.2m wide carriageway is too narrow to allow a HGV and car to pass. Road therefore unsuitable.
- No footways
- Tracks submitted with application show a tighter turn than is possible for a HGV of this size to show that no access improvement is required. No outbound tracks shown
- The access will need to be widened by 6m and the vehicle crossing by 15m making a total crossing width of 23m.
- The area needed to provide the turning area is less than shown on the plans and requires only a small incursion into the Open Countryside
- Site is too small for current operation

## **APPLICANT'S SUPPORTING INFORMATION**

Design and Access Statement

Additional Site Plan showing turning, parking and external storage.

Letter of comments in response to representations made.

## **OFFICER APPRAISAL**

### **Principle of development**

This application site is located within the Open Countryside. Policy NE.2 of the Local Plan only allows for appropriate development in such locations. However, Policy E.6, which relates to employment development in the Open Countryside states that employment development will be restricted to appropriate small industries and developments which are within or adjacent to existing employment areas.

The proposed development is of a relatively modest scale, in relation to the existing development on the site, and would be sited within/adjacent to an existing employment site. Therefore the proposed development is considered to be acceptable in principle. The main considerations therefore, are whether the proposed development is of acceptable design as to not cause any harm to the character and appearance of the open countryside/streetscene, and whether the proposals would result in any demonstrable harm on the amenities of nearby residential properties or highway safety issues.

Emerging Policy contained within The Draft National Planning Policy Framework states that a positive approach should be adopted towards economic growth within rural areas, through supporting the sustainable growth of rural businesses.

### **Impact on the character and appearance of the streetscene and Open Countryside**

The proposals would include the construction of an extension to the rear of the existing building. The extension would be 11.5m in width, 19.2m in length, 5m to eaves and 6.2m to ridge. Its height would match the adjacent building. As the proposed development would be sited to the rear of the property views would be limited, however there would be glimpses of the proposed development from Lightwood Green Avenue. Notwithstanding this, it would be seen in the context of the existing industrial development and would not be prominent causing no significant demonstrable harm to the character and appearance of the streetscene.

The design of the proposed extension would be block work and plastic coated metal cladding. This would be of the same appearance as the existing building and is therefore considered to be of appropriate design.

The scheme also includes an increase of the overall curtilage of the industrial building. The curtilage was previously shown to be extended into the existing paddock at a distance varying from 8m to 14m at a length of 64m. The additional plan submitted shows that such an

incursion into the open countryside would no longer be required and as such the projection into the paddock would now be between 11.5m and 2.5m in depth. Policy E.6 of the Local Plan allows for employment development adjacent to existing employment sites which this development would be. Furthermore, the proposals would not extend beyond an established boundary line further to the west and as such would not project significantly into the wider open countryside to cause adverse harm. In addition to this, it is considered that there are other highways benefits brought by the scheme which would outweigh any harm caused to the open countryside through the loss of part of the paddock as explored below.

However, it is considered that further details to ensure the acceptability of the proposal will be needed. This includes details to be submitted to show what the new boundary treatment would be, along with full details of an appropriate landscaping scheme to help to soften the impact of the proposals, and clarification over external storage. These can however be controlled via conditions.

### **Impact on the Amenity of Nearby Properties**

The proposed development would bring built form closer to an existing bungalow to the rear of the site. This dwelling is within the ownership of the applicants but understood to be privately rented out. The proposed building would be sited at a distance of 15m from windows at the front of the bungalow, however it would not be set immediately to its front. In terms of spacing standards (which are generally applied between dwellings) there is an accepted spacing standard of 13.5m between principal windows and blank elevations. This proposal would therefore satisfy that accepted spacing standard and would not result in any significant harm on the amenities of that property through loss of daylight.

The proposed development would be sited 5m from the boundary with the dwelling to the rear, between which would be an existing single storey structure. The proposed development is therefore unlikely to cause any demonstrable harm through overbearing. The proposed built development would not cause any harm to the amenities of the properties to the north and south of the site through overbearing or loss of daylight.

Concern has been raised from the property to the south, Glenstone House, that the proposals would cause further harm to their amenities. This property is sited very close to the boundary of the application site (at a distance of 600mm), and it is understood that there is a bedroom window facing the boundary. This is an existing relationship between that property and the application site. There is an existing hours of operation condition on the site which restricts the site operating at unsociable hours. Whilst there likely to be an increase in activity at the site resulting from the proposed development, the additional impact would not be so significant to justify a refusal of this scheme do to the existing relationship, scale of proposals and restriction of hours of operation.

Furthermore, no objections have been raised from Environmental Health and have not suggested noise mitigation measures. This is because this is an existing noise generating employment site. As this is only an extension to an existing premises it is considered that it would be unreasonable to alter the operations of the whole unit in terms of hours of operation or hours of deliveries.



### **Impact on Highway Safety**

The application proposals include the widening of the existing access to allow greater ease of access for HGV's visiting the site. The scheme also includes an increase in the level of turning space within the site so that HGV's can enter and exit the site in a forward gear. It is understood that at present HGV's when making deliveries often block Lightwood Green Avenue. This appears to be a significant benefit to the scheme and could be considered to provide weight against any harm that may be caused on the character and appearance of the Open Countryside.

The Strategic Highways Manager has raised no objection to the proposed development. The Strategic Highways Manager notes that this is an existing operation and therefore the precedent of HGV movements to and from the site is set. The existing site arrangements cause HGV to park on and congest the public highway. The proposed development would widen the access and allow for access and egress in a forward gear through the provision of a suitable turning area. As such the proposals would provide highways betterment. The proposed development is therefore considered to be in accordance with Policy BE.3 of the Local Plan.

### **Impact on Protected Species**

The proposed development does not fall within any of the criteria within the "*Guidance on Local Requirements for the Validation of Planning Applications: Biodiversity and Geodiversity Conservation Statements*". Therefore there is no requirement to consider the impact on Protected Species further as the proposals are likely to cause no impact on Protected Species.

### **Drainage and Flooding Issues**

Concern has been raised with regard to the impact that the proposed development could have on Drainage and Flooding issues, the concerns of neighbours is noted. However, it is considered that any additional drainage issues which could arise from this development could be mitigated through a satisfactory drainage condition for surface water run-off. The site is not located within Flood Zone 2 or 3 which are at greater risk of flooding than the application site.

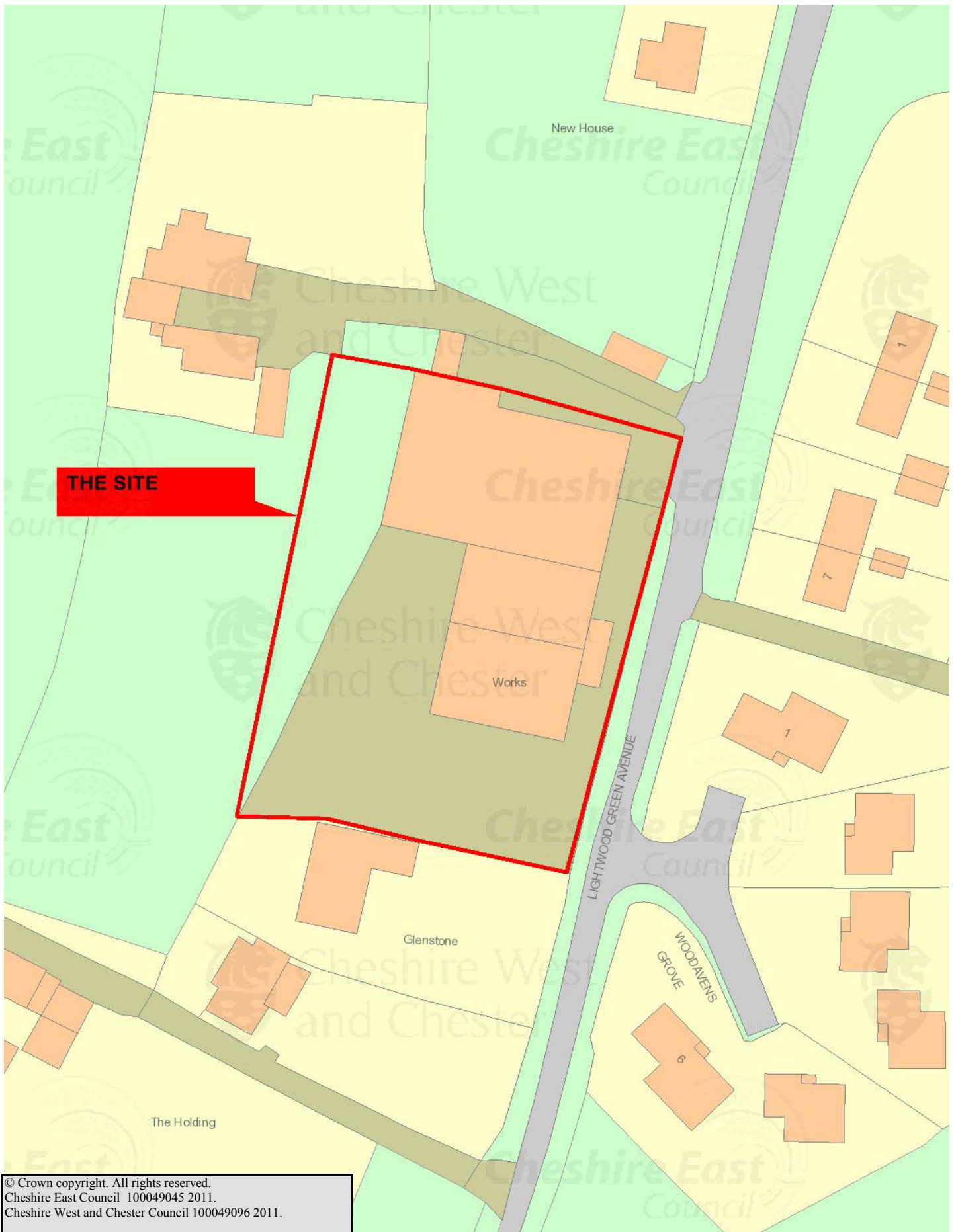
### **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The proposed development forms employment development which is adjacent to an existing employment site within the Open Countryside. The scale of the proposed development is considered to be appropriate and is therefore acceptable. The design of the proposed extension is considered to be acceptable and there would not be any significant harm caused to the amenity of neighbouring properties. It is considered that any harm to the Open Countryside through an increase in curtilage would in this instance be balanced by the benefits which would arise from improvements to Highway safety. The proposal is therefore in compliance with Policies NE.2 (Open Countryside), BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Access and Parking), BE.4 (Drainage, Utilities and Resources), BE.5 (Infrastructure), E.6 (Employment Development with Open Countryside) and TRAN.9 (Car Parking Standards) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

## **RECOMMENDATIONS**

**Approve subjection to the following conditions:**

- 1) Standard Time Limit (3 years)**
- 2) Development to be carried out in accordance with the Approved Plans**
- 3) Materials to be submitted and approved by the Local Planning Authority**
- 4) Details of Surfacing Materials to be submitted**
- 5) External storage to be limited to extent shown on approved plan**
- 6) Details of Boundary treatment and road side gate to be submitted and approved**
- 7) Detailed Landscaping scheme to be submitted**
- 8) Landscaping scheme to be implemented**
- 9) Car Parking Layout to be carried out in compliance with approved plan**
- 10) Proposed access improvements to be carried out to an adoptable standard and implemented prior to first occupation of extension**
- 11) Details of any lighting to be submitted prior to implementation**
- 12) Details of drainage to be submitted and approved**



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Application No: 12/0253C

Location: SMALLWOOD STORAGE LTD, MOSS END FARM, MOSS END LANE, SMALLWOOD, SANDBACH, CW11 2XQ

Proposal: Reserved Matters Application for 11/0627C - Demolition of Existing Buildings and Erection of 15 Dwellings and Associated Infrastructure Works

Applicant: Rowland Homes Limited

Expiry Date: 12-Apr-2012

#### **SUMMARY RECOMMENDATION**

**Approve subject to conditions**

#### **MAIN ISSUES**

- **Principle of Development**
- **Highway Safety**
- **Ecology**
- **Trees and Landscape**
- **Footpath**
- **Affordable Housing**
- **Contaminated Land**
- **Open Space**
- **Design and Layout**
- **Residential Amenity**
- **Flooding**

#### **REFERRAL**

The application has been referred to planning committee because it is for more than 10 dwellings and is therefore a major development.

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

The site measures approximately 1.79ha and is located off Moss End Lane, which is a narrow single track road, running between the A50 and A534 in Smallwood near Arclid. The site is currently used as a haulage yard with 40,000 sq.ft of modern warehousing for palletized goods and raw materials and a further 50,000sq. ft of external storage. It also

includes a 50 tonne weighbridge. The business runs a fleet of HGV's transporting plastics, food products, timber steel etc.

## **2. DETAILS OF PROPOSAL**

Members may recall that outline planning permission with all matters reserved except for means of access, was granted in 2011 for demolition of the existing warehouse and erection of a residential development of 15 dwellings utilising the existing access.

This application seeks approval of the reserved matters which comprise appearance, landscaping, layout and scale.

## **3. RELEVANT PLANNING HISTORY**

The planning history for the site includes a number of applications relating to the existing use as a haulage and storage business and the outline planning approval (11/0627C) referred to above.

## **4. PLANNING POLICIES**

### **National Policy**

PPS 1 Delivering Sustainable Development  
PPS 3 Housing  
PPS7 Sustainable Development in Rural Areas  
PPG13 Transport  
PPS23 Planning and Pollution Control

### **Regional Spatial Strategy**

DP1 – Spatial Principles  
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  
MCR4 – South Cheshire

### **Local Plan Policy**

PS8 Open Countryside  
NR4 Non-statutory sites  
GR1 New Development  
GR2 Design  
GR3 Residential Development  
GR5 Landscaping  
GR9 Accessibility, servicing and provision of parking

GR14 Cycling Measures  
GR15 Pedestrian Measures  
GR17 Car parking  
GR18 Traffic Generation  
NR1 Trees and Woodland  
NR3 habitats  
NR5 Habitats  
H2 Provision of New Housing Development  
H6 Residential Development in the Open countryside  
H13 affordable Housing and low cost housing  
E10 Re-use and redevelopment of existing employment sites

### **Other Material Considerations**

Cheshire East Interim Housing Policy  
Cheshire East Interim Affordable Housing Policy

## **4. OBSERVATIONS OF CONSULTEES**

### **Jodrell Bank**

No objection subject to incorporation of electromagnetic screening measures.

### **United Utilities**

- No objection to the proposal subject to provision of a separate metered supply to each unit.

### **Public Rights of Way Unit**

- The property is adjacent to public footpath Smallwood No. 10 as recorded on the Definitive Map held at this office (working copy extract attached). This footpath was diverted under the Highways Act 1980 Section 119 in September 2007.
- The PROW Unit cannot authorise any additional gates on the footpath unless the structure is required to prevent the ingress and egress of animals onto agricultural land. If this is the case the landowner must apply in writing to the PROW Unit for authority to do so, under the Highways Act 1980 Section 147. It should also be noted that the footpath is 2 metres wide throughout except for where it is restricted by the steps and existing kissing gates.
- Although it appears unlikely that the proposal would affect the public right of way, the PROW Unit would expect the Development Management department to add an advice note to any planning consent to ensure that developers are aware of their obligations

### **Environmental Health**

- The comments which were submitted with the initial application still apply.

### **Highways**

- This is a reserve matters application for 15 dwellings. There have been no previous highways objection to this proposal and the layout provided, is suitable in part for adoption by CEC.
- The highways authority has no objection to this proposal.
- The developer will need to enter into a section 38 agreement 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 condition.
  - Submission and approval of a scheme to limit the surface water run-off generated by the proposed development,
- The submitted Drainage Strategy explains that the discharge of surface water from the proposed development is to discharge to an existing pond, which does not discharge to a watercourse. This is acceptable in principle. During times of severe rainfall overland flow of surface water could cause a flooding problem. The site layout is to be designed to ensure that existing and new buildings are not affected and therefore the following condition is recommended
  - Submission and approval of a scheme to manage the risk of flooding from overland flow of surface water,
- The sewage generated by the proposed development should ideally be connected to the foul sewer. Should this be considered impractical, the applicant would need to apply for formal permission to discharge treated effluent into the environment, whilst at the same time, demonstrating that sewer connection is not possible. The proposal by the applicant to discharge effluent to the landlocked pond would not be acceptable.
- Should connection to the foul sewer prove impossible then the preferred option would be for a discharge to a properly engineered soakaway system, possibly incorporating a raised mound. The least favoured option would be for a discharge direct to the River Croco. There should be no discharge to any of the local ponds.

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

- No comments received at the time of report preparation

### **6. OTHER REPRESENTATIONS**

A letter of objection has been received from Little Moss End Farm making the following points:

- In respect of the outline application concerns were expressed on a number of issues, but particularly with respect to the proximity of the one of the proposed houses to both their own house and the associated barn conversion which they also own.



- Also raised the issue that the development encroaches onto their land to the rear of the barn conversion. Notwithstanding our concerns (which were never addressed) the application was approved.
- The current application remains for 15 houses, but shows a different arrangement of larger houses. Plot 15 in particular is now a large 2 storey detached house, sited within 2m of the rear of the barn conversion. The original layout with the outline application showed a much smaller dwelling with a single storey detached garage adjacent to the rear of our converted barn. Given the juxtaposition of the buildings in this part of the site, surely the previous arrangement in the outline application had less of an impact on their amenity.
- Strongly object to the change in property type and layout for plot 15 in this application.
- In addition to the main objection detailed also have concerns that building such a property so close to the barn could undermine the foundations of this historic building and would affect occupiers 'right to light' to specifically the bathroom window
- The application boundary still encroaches onto their land. Although they are having separate discussions with the developer on this matter, they would like to put on record a continued objection to this application until such a time that this is resolved.

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

- Supporting Statement
- Drainage Statement

## **8. OFFICER APPRAISAL**

### **Principle of Development**

The site lies within the Open Countryside as defined in the Congleton Borough Local Plan First Review, where, according to Policy PS8 and H6 new residential development will not be permitted, unless it is for one of a number of purposes including, inter alia, the re-use or redevelopment of existing employment sites in accordance with policy E10.

This 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.

Members may recall that at its meetings on 13<sup>th</sup> July 2011, Southern Planning Committee approved an outline application for demolition of the exiting warehouse and erection of a residential development of 15 dwellings utilising the existing access. The granting of the previous planning permission established the acceptability in principle of residential development on this site and the loss of the existing employment site. Given that this is an application for approval of reserved matters and that any consent is only operative by virtue

of the outline planning permission this application does not present an opportunity to re-examine the acceptability in principle of residential redevelopment if this site.

The main issues in the consideration of this application are the acceptability of the revised scheme in terms of highway safety, ecology, trees and landscape, footpath, affordable housing, contaminated land, open space, design and layout, residential amenity and flooding

### **Highway Safety.**

Through the granting of the outline permission, the principle of developing 15 dwellings on this site has already been established as being acceptable in terms of traffic generation. The access arrangements to the site were also approved at the outline stage. Therefore, the only highways issues which can be examined as part of this reserved matters submission are those relating to parking provision and internal layout of roads within the site.

Each proposed property benefits from a minimum of 2 off road parking, which is considered to be adequate. With regard to the design of the internal roads, the Highways Engineer has examined the layout plans, and raised no objection and therefore it is not considered that a refusal on highway grounds could be sustained.

### **Ecology**

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

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

and provided that there is

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

The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 2010 which contain two layers of protection

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

Local Plan Policy [insert policy number and summary of content as appropriate]

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

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

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

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

In this case, the Council's Ecologist has examined the outline application was satisfied that the proposal would not adversely impact on designated wildlife sites. However, he did concluded that without appropriate mitigation the development could adversely impact on legally protected species, namely bats and great crested newt. Satisfactory outline mitigation proposals were submitted in support of that application to protect and enhance protected species. Conditions were therefore imposed on the outline consent to cover implementation of detailed mitigation proposals. These required the submission of detailed proposals for the incorporation of features into the scheme suitable for use by roosting bats and a detailed method statement covering mitigation for great crested newts as outlined in the supporting Phase 1 Habitats Survey Report. A condition was also imposed to prevent any commencement of works between 1<sup>st</sup> March and 31<sup>st</sup> August unless a detailed survey is required to check for nesting birds. These conditions will also apply to the Reserved Matters approval, and therefore the proposal remains acceptable in ecological terms.

### **Trees and Landscape.**

Most of the site area is covered by existing buildings and hard standing. There is a line of well established trees running along the north and part of the western boundary. There are also some younger trees planted on the bund which extends along the north western boundary. The submission includes a tree survey and a plan indicating recommended tree root protection areas.

The existing large storage buildings, caravans and vehicles are all visible from viewpoints on the local road network and from the public footpath but existing vegetation provides a degree of screening from roadside views.

The Senior Landscape Officer has examined the proposals and commented that overall the proposed layout appears to be sympathetic to the site. The retention of the mature trees around the site periphery is welcomed. The landscape proposals are generally acceptable. However, she suggests the addition of a native species hedgerow to supplement the post and rail fence to the west and south west boundary to the western and southern boundaries.

The Landscape Officer has also expressed concern regarding the existing bunding located to the north/ north west / south west of the site. The main section is planted with young trees and the public footpath runs along the top. The submitted plans indicate the majority of the bunding retained, albeit reduced in height and a further bund formed. No details of proposed levels are provided. Whilst bunding may have been necessary/ appropriate in connection with the existing site use, and would provide a degree of screening of the new development from the open countryside, it is not essential and could in itself be considered a somewhat incongruous feature. The existing mature trees should provide a degree of screening and the plans indicate additional hedge planting. She therefore suggests that all the bunding (and the immature trees thereon) should be removed. A post and rail boundary fence with a hedge or mixed native species planting to the footpath side could then form the boundary between the plots and the footpath and supplementary planting could be provided on the opposite side of the footpath providing screening from the open countryside. The footpath could then be at the general lower ground level, removing the need for the existing steps and the proposed 1.2m closed boarded fencing which is proposed on top of the bund to protect the gardens of the plots at the western end of the site from overlooking by users of the footpath.

The suggestion of removing the bund has been made to the developer and a response was awaited at the time of report preparation. A further update on this matter will be provided prior to committee. If the bund is to be retained, it is considered that additional planting would be required in order to soften its impact on the character and appearance of the surrounding countryside. Also, given its prominent location on top of the bund, the closed boarded fencing, which is out of keeping with the rural character of the site's location should be removed and replaced with a more appropriate post and rail fencing with native hedge planting. These can be secured by condition.

With the exception of the fence referred to above, the proposed boundary treatments which comprise post and rail fencing to external site boundaries, close boarded fencing between rear gardens and 1.8m brick screen walls between gardens and communal areas / access roads are considered to be acceptable and in keeping with the rural area.

## **Footpath**

Condition 20 of the outline consent requires that the Reserved Matters Application make provision for the accommodation of the public footpath which crosses the site unless a formal diversion application has first been approved. The existing footpath runs along the northern site boundary before climbing a number of steps and running along the top of the bund to the western boundary. No change to this arrangement is proposed as part of this application. Therefore, whilst a consultation response from the Public Rights of Way

Officer was awaited at the time of report preparation, it is not considered that the treatment of the public footpath through the site gives any cause for concern.

### **Affordable Housing**

A financial contribution of £239,400 towards off-site affordable housing provision was secured under a Section 106 Agreement attached to the outline consent.

### **Contaminated Land**

The supporting documentation submitted with the outline application suggested that there was not a significant risk of ground contamination on the site. However, it was recommended that prior to redevelopment of the site the developer undertakes an intrusive investigation to target the risks to the proposed development as identified in the conceptual site model. The Council's Contaminated Land Officer examined the contents of the report and the proposals and raised no objection subject to an appropriate condition to secure a full ground investigation and any necessary mitigation measures. These conditions will also apply to the Reserved Matters approval, and therefore the proposal remains acceptable in contaminated land terms.

### **Open Space**

The proposal does not make any provision for on-site public open space. The developer has previously provided, and the Council has accepted, a financial appraisal which demonstrates that the viability of this site is marginal. Any proposal to provide either on-site open space or a contribution towards off-site provision would render the scheme unviable. This would prevent the redevelopment of a brownfield site and the relocation and expansion of an existing business, which is currently poorly located.

Previous appeal decisions have established that viability is a significant and material consideration in the determination of planning applications.

The only way in which viability could be improved would be to increase the number of dwellings on site which would be undesirable in design terms and would detract from the open character and appearance of the countryside. This is also an important material consideration, given the unusual and sensitive location of this site.

The developer has stated that they would have no objection to the £239,400 affordable housing contribution which has already been secured, and accounted for in the viability appraisal, being divided between public open space and affordable housing. However, it is considered that it would be undesirable to reduce the affordable housing contribution that has been secured.

Therefore, for the reasons set out above, Members may recall that at its meeting on 7<sup>th</sup> December 2011, Southern Planning Committee considered a report relating to this matter and agreed with Officer's assessment that the exceptional circumstances surrounding these in this case, are significant material considerations that warrant the setting aside of established local plan policy and supplementary planning guidance in respect of public open space provision. Accordingly, Members resolved to approve the application subject

to conditions as set out below, and the signing of a Section 106 agreement to secure £239,400 towards affordable housing provision but without any requirement to make any provision for public open space.

Given that this is an application for approval of reserved matters and that any consent is only operative by virtue of the outline planning permission this application does not present an opportunity to re-examine these issues.

### **Design and Layout**

As stated above, considerable pre-application discussions have taken place between officers and the developer in order to secure a layout which is in keeping with the character of the surrounding development. The layout, for which approval is sought comprises 3 very large detached dwellings, each with a detached garage building, which will create the appearance of a series of large farmhouses, with associated stables / outbuildings. To the rear of each of the large properties is a series of other smaller detached and linked-detached properties arranged around 2 communal courtyards, which will create the appearance of ranges of traditional agricultural buildings or barns that would have been associated with the large farmhouses. This is reminiscent of the traditional farmsteads within the area, such as the one that stands on the opposite side of Moss End Lane close to the site access. The layout is therefore considered to be appropriate in design terms and in keeping with the character and appearance of the open countryside.

To turn to the elevational detail of the scheme, the “farmhouses” are large double fronted properties incorporating features such as half timber detailing to the gables, arched window heads and small open porches which are typical of some of the grander farmhouses to be found in this part of Cheshire. The “barn style” dwellings incorporate features much as “pitching eyes”, large “cart entrances” and “threshing barn door” features as well as brick vent details typical of traditional Cheshire brick barns. Many of these features can be found on the farmhouse and converted barns opposite the site entrance.

Efforts have been made to vary the design in terms of materials and architectural detailing between plots which accommodate the same house type in order to create an impression of an organic and incremental development which is characteristic of rural areas and to help the development to appear less suburban.

It is therefore, considered on the basis of the information that has been submitted that a design for the proposed dwellings has been achieved which would be appropriate for the site and in keeping with the character of the surroundings.

### **Residential Amenity**

The surrounding development comprises Moss End House, a bungalow located to the east of the site, Little Moss End House, a substantial detached property located to the south of the site and an outbuilding within the grounds of Little Moss End House which has been converted to a separate dwelling.

The Council's Supplementary Planning Guidance (SPG) recommends that minimum distances of 21.3m be maintained between principal elevations and 13.7m between a principal elevation and a flank elevation.

As originally submitted, the site plan showed the flank elevation of Plot 15 located only 2m away from the rear elevation of the converted barn at Little Moss End House. Although this was below the recommended 13.7m, it would not have obscured any principal windows. The only window affected would have been a first floor bathroom window, which is considered to be a secondary window. The principal windows in the rear elevation of the barn are located at the southern end of the elevation, and would not have faced the gable of plot 15.

However, the site boundary appeared to include an area of domestic curtilage belonging to Little Moss End House. Whilst land ownership is not a consideration in the determination of applications, had the developer failed to secure ownership of this area of land from the neighbouring property, plot 15, a substantial dwelling would have been deprived of a rear garden. Consequently it would not comply with the requirement for a minimum of 65sq.m. of private amenity space as set out the Councils SPG. If the developer was able to successfully negotiate the purchase of this land, the barn conversion would have been left without any private amenity space and any boundary treatment erected between the two properties would have obscured the principal windows in the rear elevation of the barn, referred to above.

Therefore an amended plan has been submitted showing plot 15 re-sited to fall in line with plots 12 to 14. In order to accommodate this change, the house type on plot 12 has been changed from a "Type 3" to a "Type 5" and plot 14 has been changed from a "Type 5" to a "Type 6". Consequently, all of these plots now directly face the rear elevation of the barn conversion. However, the recommended minimum distance of 21.3m will be achieved between the principal elevations, and therefore, the proposal as now submitted will not have any adverse impact on the privacy and amenity of the existing or proposed dwellings. Distances in excess of 21.3m will be maintained between the proposed dwellings, the existing bungalow at Moss End House, and the main dwelling at Little Moss End House.

Excluding the properties referred to above, the nearest neighbouring dwellings are the farmhouse and barn conversions on the opposite side of Little Moss End Lane to the south east. These are located over 150m from the site and therefore do not raise any concerns in terms of residential amenity.

To turn to amenity standards within the site, the proposed layout provides for the minimum separation distances set out the Councils SPG and each dwelling would benefit from a minimum of 65sq.m. of private amenity space which also accords with the provisions of the Councils guidance.

On this basis it is considered that in amenity terms the proposal complies with Policies GR1, GR2 and GR6 of the local plan and the advice contained within the adopted SPG.

## **Flooding**

As part of the Reserved Matters submission, the developer has submitted a drainage statement which recommends:

- Foul drainage to be to a private foul drainage layout and ultimately to a Package Treatment Plan located away from the development in the adjacent field. The outfall from which will either be to ground via a land drainage field or to the pond.
- Formal consent to the discharge arrangement will be required from the Environment Agency
- Surface water drainage to be discharged to the exiting pond at similar rates to the equivalent existing impermeable areas. As the pond is not connected to the water course, there is no impact on the watercourse and downstream catchment due to the slight rise in impermeable area.
- SUDS techniques will be used where possible to improve water quality and may consist of water butts and filter trenches. Infiltration techniques are not considered to be viable due to a high water table
- The minimum finished floor level of the development may be set a 789.8m which will ensure the development has sufficient freeboard to the adjacent pond water level of 75.8m

The Environment Agency has examined the report and raised no objection subject to the imposition of a number of conditions. However, all of the conditions in question have already been applied to the outline consent, which remains the controlling permission, and therefore no further conditions are considered to be necessary at the Reserved Matters stage.

## **9. CONCLUSION**

In summary, the principle of residential redevelopment of this site has been established by the previous outline approval. In this case, for viability reasons, and given the constraints of the site it at the outline stage it was considered to be appropriate to accept a commuted sum in lieu of on-site provision of affordable housing and to waive the requirement to provide on-site public open space provision of a financial contribution towards off-site provision. This has been reflected in the reserved matters submission, which does not provide an opportunity to reexamine any of these issues.

The proposal is considered to be acceptable in terms of highway safety, ecology, trees and landscape, drainage, contaminated land, design and layout, and residential amenity. Consequently, it complies with the relevant local plan policies and accordingly, it is recommended for approval.

## **10. RECOMMENDATION**

**APPROVE** subject to the following conditions:

- 1. Plans**
- 2. Revised scheme of landscaping / boundary treatment to the western boundary**
- 3. Electromagnetic Screening**





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Application No: 12/0344N

Location: CHURCH BANK COTTAGE, WYCHE ROAD, BUNBURY, TARPORLEY, CHESHIRE, CW6 9PN

Proposal: Proposed Two Storey Side Extension And Single Storey Sunroom

Applicant: Mr & Mrs R Parr

Expiry Date: 20-Mar-2012

**SUMMARY RECOMMENDATION:** Approve subject to conditions

**MAIN ISSUES:**

- List Description;
- Principle of Development;
- Design and Listed Building Issues;
- Assessment Against Policy BE.7 (Conservation Areas); and
- Amenity

**REFERRAL**

This application is to be dealt with under the Council's delegation scheme. However, Councillor Jones has requested that it be referred to Committee for the following reason:

*'This is an extension within the conservation area and the design also is of concern. The parish council have requested a closer review of this application'*

**DESCRIPTION OF SITE AND CONTEXT**

The applicant's property is a relatively large two storey semi detached property, located directly opposite St. Boniface church. The applicants dwellinghouse is a Grade II Listed Building, timber framed with white infill panels under a slate roof. Attached to the rear of the property is a large two storey extension constructed out of red facing brick under a concrete tile roof, this extension is well set back and is attached to the host property by a two storey link extension. The modern extension incorporates a number of features which are not very sympathetic to the character and appearance of the host dwelling. The applicant's property is located wholly within the Bunbury Conservation Area and Settlement Boundary.

**DETAILS OF PROPOSAL**

This is a full application for a single storey side extension and single storey sun room at Church Bank Cottage, Wyche Road, Bunbury.

## **RELEVANT HISTORY**

P08/0269 – Listed Building Consent for removal and rebuild of top six courses on chimney – Approved – 24<sup>th</sup> April 2008  
P00/0534 – Listed Building Consent for External Alterations (Paint Work) – Refused – 14<sup>th</sup> September 2000  
7/05465 – Listed Building Consent to Carry out Renovation and Rehabilitation of Timber Framed House – Approved – 19<sup>th</sup> July 1979  
7/05464 – Alterations and Extension – Approved – 19<sup>th</sup> July 1979  
7/04627 – Listed Building Consent – Alterations and Extensions – Approved – 14<sup>th</sup> December 1978  
7/04626 – Alterations and Extension – Approved – 14<sup>th</sup> December 1978

## **POLICIES**

### **National Policy**

The application should be determined in accordance with national guidance set out in:

PPS1: Delivering Sustainable Development  
PPS5: Planning for the Historic Environment

### **Local Policy**

The principle issue surrounding the determination of this application is whether the development is in accordance with the following policies within the Borough of Crewe and Nantwich Replacement Local Plan 2011:

BE.1 (Amenity)  
BE.2 (Design Standards)  
BE.3 (Access and Parking)  
BE.4 (Drainage Utilities and Resources)  
BE.7 (Conservation Areas)  
BE.9 (Listed Buildings: Alterations and Extensions)  
RES.11 (Improvements and Alterations to Existing Dwellings)

### **Other Material Considerations**

SPD - Extensions and Householder Development

## **CONSIDERATIONS (External to Planning)**

**United Utilities:** No objections

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

No comments received at the time of writing this report

## **OTHER REPRESENTATIONS**

No representations received

## **APPLICANT'S SUPPORTING INFORMATION**

### **Design and Access Statement**

A Design and Access statement has been submitted to accompany the application. This is available on the application file and provides an understanding of the proposal and why it is required.

## **OFFICER APPRAISAL**

### **List Description**

The list description for the property states:

*'Cottage late C17, plastered brick nogged timber frame with tile roof. Single storey and attic, 9 panel bays. Sandstone plinth, timbers in small framing with angle and passing braces. Windows inserted within frame panels. C20 wing added (west), and linked by corridor unit, of no interest.*

*Interior: Bevelled beams and exposed joists, timbers exposed in internal wall'.*

### **Principle of Development**

The principle issues surrounding the determination of this application are whether the development would adversely impact upon the residential amenity of neighbouring properties and would respect the pattern, character and form of the surroundings, in accordance with policies RES.11 (Improvements and Alterations to Dwellings), BE.1 (Amenity), BE.2 (Design Standards), BE.7 (Conservation Areas) and BE.9 (Listed Buildings: Alterations and Extensions) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The main thrust of the Local Plan policies is to achieve a high standard of design, respect the pattern, character and form of the surrounding area, not adversely affect the street scene by reason of scale, height, proportions or materials used.

Development Control guidance advocated within PPS 1 places a greater emphasis upon Local Planning Authorities to deliver good designs and not to accept proposals that fail to provide opportunities to improve the character and quality of an area. It is considered that this proposal does not detract from the character of the host property and will not have a detrimental impact on the appearance of the area and is in accordance with advice stated within PPS 1.

The recently adopted SPD entitled 'Extensions and Householder Development' is another material planning consideration. This document builds upon guidance given above and advocates good quality design.

## **Design and Listed Building Issues**

PPS1 states that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted. Good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.

The applicant is proposing on erecting a single storey side extension incorporating a mono pitch roof, which will be attached to the south facing side of the existing two storey rear extension. The single storey extension will project out approximately 2.2m by 4.5m wide and is 3.5m high to the ridge tapering down to 2.3m. According to the submitted plans the proposed extension will be constructed out of facing brick under a tile roof, which will be secured by condition, if planning permission is to be approved. Located on the front of the extension is a set of bi-fold doors and a window located on either side. On the west facing elevation is a small window. Due to the location of the extension, it will be screened by the host property and will not be visible from the public realm.

In addition to the above, the applicant is proposing on erecting a single storey side extension on the north facing elevation of the existing two storey outrigger. This extension will measure 3.3m deep by 4.9m wide and is 3.3m high to the eaves and 5.2m high to the apex of the ridge. The proposed extension will be constructed out of facing brick under a tile roof. The proposed extension will incorporate a pitched roof, which is in keeping with the host property.

The pitch of the roof of the extension is similar in pitch to the host property and on the west facing roof plane are two rooflights, which will be conditioned to be 'conservation area style'. According to the submitted plans there will be 3no. windows, one on each elevation. It is considered that the design and scale of the proposed apertures are in keeping with the host property and will not appear as alien or incongruous features.

It is not considered that the extensions would dominate or overwhelm the existing dwelling, or be read as a particularly prominent or obtrusive feature. The size of the proposed extensions sits comfortably with the modest scale of the Listed Building and will not appear as over dominant. Overall, it is considered that the proposal does not detract from the character or setting of the building concerned. Therefore, the proposal is in accord with policies BE.2 (Design Standards) and BE.9 (Listed Buildings: Alterations and Extensions) and advice advocated within the SPD – 'Extensions and Householder Development'.

In addition to the above, the applicant is proposing on altering the existing fenestration on the two storey rear extension, which detracts from the character and appearance of the host property and the conservation area. The proposed alterations to the fenestration are more sympathetic to the host building.

## **Assessment against Policy BE.7 (Conservation Areas)**

Policy BE.7 states that an alteration or extension of a building will not be permitted unless it would harmonise with the building and the conservation area by:

- *Retaining, and where necessary, restoring traditional features such as shop fronts, boundary walls, paved surfaces and street furniture;*
- *Reflecting the scale, form and character of the building;*
- *Using materials traditionally characteristic of the area*

The aim of the conservation area is to conserve and enhance the special character of these areas by preserving existing buildings and features and promoting their appropriate enhancement.

Policy BE.7 states that development including the alteration or extension of a building will not be permitted unless it harmonises with the building and the conservation area. The case officer noted that attached to the rear elevation of the host property is an existing 2 storey extension, which appears to have been constructed approximately 20 years ago. It is considered that the proposed development as amended will not have a detrimental impact on the street scene or the conservation area. The proposal has been amended so that it is more sympathetic to the host property and the alterations do not appear obtrusive. The Conservation Officer has been consulted regarding the application and does not raise any objections. It is considered that the proposal complies with policies BE.2 (Design Standards) and BE.7 (Conservation Areas).

### **Amenity**

Policy BE.1 (Amenity) states that development will be permitted provided that the development is compatible with surrounding land uses, does not prejudice the amenity of future or neighbouring occupiers, does not prejudice the safe movement of traffic and does not cause an increase in air, noise, water pollution which might have an adverse impact on the use of land for other purposes.

The proposal will have a negligible impact on the residential amenities of the occupiers of the property to the north (Church Farm) of the application site. The case officer noted that the applicant's garden steeply rises away from the property, which will help to screen the majority of the single storey side extension. Furthermore, this boundary is heavily vegetated and Church Farm is set much further back in to its plot. It is considered given the scale, design, topography and boundary treatment will help to mitigate any negative boundaries and the proposal complies with policy BE.1 (Amenity).

It is not considered that the proposal will have a detrimental impact on the residential amenities of the occupiers of the property located to the south of the application site. This property is the other part of the semi. The boundary treatment separating the two properties comprises a 1.8m high (approx) fence, which will help to screen the majority of the proposal and alleviate any problems associated with it.

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

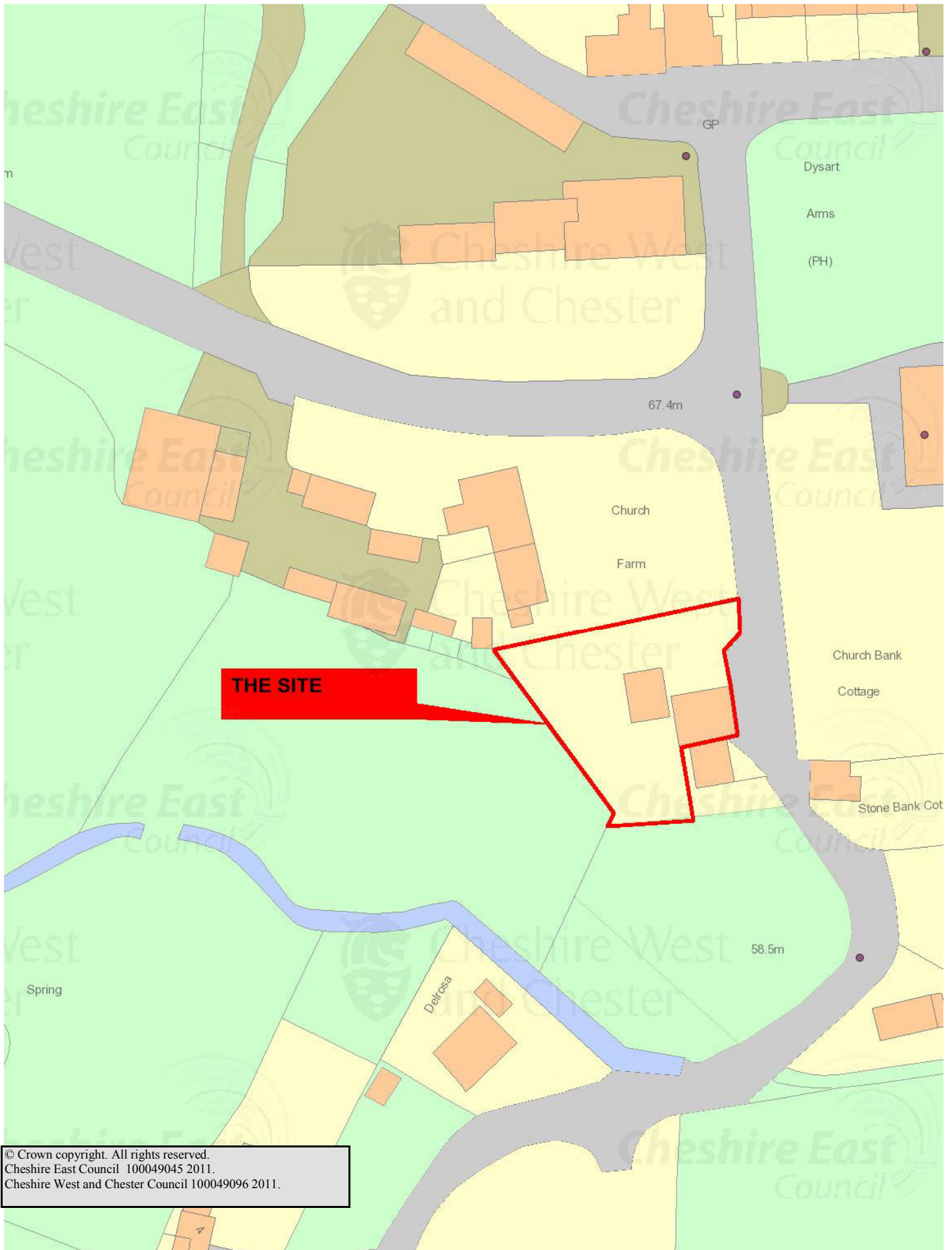
The proposed development would not significantly impact upon the surrounding neighbouring amenity and the design of the proposal is in keeping with the character of the host dwelling and the street scene. Furthermore, it is considered that the development would not appear out of character and would help to preserve and enhance the Conservation Area and therefore complies with Policies RES. 11 (Improvements and Alterations of Existing Dwelling),

BE.1 (Amenity), BE.2 (Design Standards), BE.7 (Conservation Areas), BE.9 (Listed Building: Alterations and Extensions) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and advice contained within PPS 1: Delivering Sustainable Development and PPS5: Planning for the Historic Environment.

**Approve subject to the following conditions:**

- 1. Standard Time Limit**
- 2. Plan References**
- 3. Materials to be submitted and approved**
- 4. Doors/Windows Fabricated out of Timber**
- 5. Conservation Area Roof Lights**





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Application No: 12/0392N

Location: Former Millfields Public House Site, BLAGG AVENUE, NANTWICH

Proposal: Extension to Time Limit for Approved Planning Application P09/0109 for Demolition of Existing Public House and Erection of Residential Development comprising of 12 Two Bedroom Houses and 2 One Bedroom Flats

Applicant: Mrs Susan J Stott

Expiry Date: 09-May-2012

#### **SUMMARY RECOMMENDATION**

**Approve with conditions**

#### **MAIN ISSUES**

- **Principle of Development**
- **Material Changes since the grant of Planning Permission**

#### **REASON FOR REFERRAL**

This application is referred to Southern Planning Committee as the development relates to the extension in time to a major planning application.

#### **1. DESCRIPTION OF SITE AND CONTEXT**

The site is located within the settlement boundary of Nantwich as defined by Policy RES.2 (Unallocated Housing Sites) of the Borough of Crewe and Nantwich Replacement Local Plan 2011. The site was occupied by a Public House which has now been demolished and is within a predominantly residential area although there is a convenience store to the north on Meeanee Drive.

The majority of the surrounding housing stock is two storey with some single storey bungalows. The site is broadly rectangular in shape and mainly comprises hardstanding which previously served as car parking and the public house. The site has several vehicular access points from Harding Road, Blagg Avenue and Hinde Street.

#### **2. DETAILS OF PROPOSAL**

This application is for the extension to the time limit condition to planning permission P09/0109. This permission relates to the redevelopment of 12 no two bedroom houses and 2 no one bedroom flats. The proposed development comprises a single linear terraced block fronting onto

Blagg Avenue behind a 1 metre high brick wall and decorative railing. Vehicular access, parking and amenity areas are proposed to the rear. The proposed development would be predominantly two storeys with the exception of a central three storey element in line with the end of Cope Avenue.

### **3. RELEVANT HISTORY**

P09/0109 - Demolition of Existing Public House and Erection of Residential Development Comprising 12 Two Bedroom Houses and 2 One Bedroom Flats – Approved 8<sup>th</sup> June 2009  
P05/0939 – Construction of five two storey dwellings - Refused 23<sup>rd</sup> August 2005  
P94/0893 – Outline application for residential development - Refused 12<sup>th</sup> January 1995

### **4. POLICIES**

#### **Local Plan policy**

RES.2 (Unallocated Housing Sites)  
BE.1 (Amenity)  
BE.2 (Design Standards)  
BE.3 (Access and Parking)  
BE.4 (Drainage, Utilities and Resources)  
BE.5 (Infrastructure)  
BE.6 (Development on Potentially Contaminated Land)  
NE.9 (Protected Species)  
NE.17 (Pollution Control)

#### **National policy**

PPS1 (Delivering Sustainable Development)  
PPS3 (Housing)  
PPS9 (Biodiversity and Geological Conservation)  
PPG13 (Transport)  
PPS23 (Planning and Pollution Control)

#### **Other Material Planning Considerations**

Supplementary Planning Document on Development on Backland and Gardens  
Communities and Local Government Guidance: Greater Flexibility for Planning Permissions  
Draft Interim Policy on the Release of Housing Land  
'Planning for Growth'  
'Presumption in Favour of Economic Development'  
Draft National Planning Policy Framework

### **5. CONSULTATIONS (External to Planning)**

**Environmental Health** – No objection

### **6. VIEWS OF THE TOWN COUNCIL**

No comment

## **7. OTHER REPRESENTATIONS**

Letters of representation have been received from the occupants of 25 & 27 Meeanee Drive raising the following points:

- No objection to the development
- When the pub was demolished the boundary treatment has been damaged and this should be replaced
- The site is in a dangerous condition and the following works should be undertaken; the site should be fenced off, the pool should be filled in, the fence should be repaired, the site should be tidied up as it is currently being used for dumping rubbish

## **8. APPLICANT'S SUPPORTING INFORMATION**

No supporting information

## **9. OFFICER APPRAISAL**

### **Principle of Development**

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

The Government's advice is for Local Planning Authorities to take a positive and constructive approach towards applications that improve the prospects of sustainable development being brought forward quickly. It is the Government's advice for Local Planning Authorities to only look at issues that may have changed significantly since that planning permission was previously considered to be acceptable in principle.

In short, it is not intended for Local Planning Authorities to re-open debates about principles of any particular proposal except where material circumstances have changed, either in development plan policy terms or in terms of national policy or other material considerations such as Case Law.

### **MATERIAL CHANGES IN POLICY/CIRCUMSTANCES SINCE PREVIOUS APPLICATION**

The original application was determined under the Borough of Crewe and Nantwich Replacement Local Plan 2011 which is still the prevailing Development Plan for the

The Council has recently adopted a Draft Interim Policy on the Release of Housing Land. It is not considered that the contents of this Policy would affect this application given that the originally approved scheme would have been considered in relation to the 5 years housing land supply for the Borough.

Changes in national guidance relate to the statements on 'Planning for Growth' and the 'Presumption in Favour of Economic Development' together with the Draft National Planning

Policy Framework. It is considered that these statements and the draft NPPF would add support for the approval of this planning application.

The original application was subject to extensive pre-application negotiations between the Case Officer and the applicant's agent. It is considered that the layout, design of the building, access and parking provision which was accepted in 2009 is still acceptable in this location and will respect the character and appearance of the site and would not have a detrimental impact upon residential amenity.

## **11. CONCLUSIONS**

There have been no material changes in circumstance which would warrant a different decision on this application since the previous application was determined.

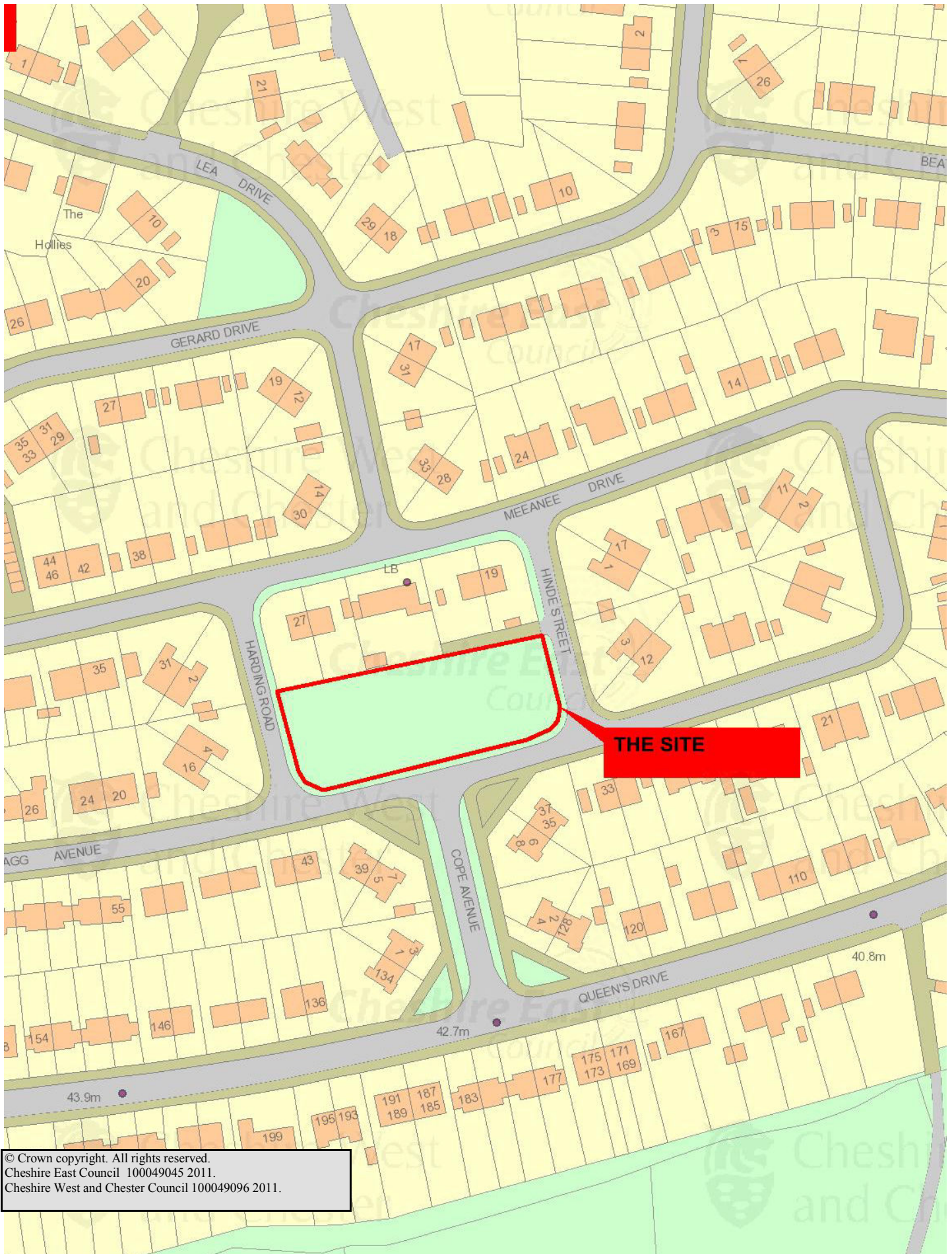
## **12. RECOMMENDATIONS**

### **Approve subject to conditions**

- 1. Standard time**
- 2. Approval of materials**
- 3. Approval of surfacing materials**
- 4. Provision of car parking spaces**
- 5. Details of covered and secure cycle storage to be submitted to and approved in writing by the Local Planning Authority and retained thereafter**
- 6. Diversion of public sewer**
- 7. Drainage details to include for sustainable drainage measures (SUDS) to be submitted and approved and thereafter implemented**
- 8. Approved points of access to be constructed to Cheshire East Council standards and remaining existing access to be stopped up**
- 9. Details of all boundary treatments to include fencing at rear of the site adjoining properties on Meeanee Drive to be submitted and approved in writing by the Local Planning Authority and retained thereafter**
- 10. Details of landscaping to be submitted to and approved in writing by the Local Planning Authority**
- 11. Approved landscaping to be implemented**
- 12. Provision of bin storage areas**
- 13. Removal of permitted development rights for extensions and detached structures**
- 14. Approved plans**

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 Southern Planning Committee is delegated authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.





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Application No: 12/0457N

Location: Land off Wyche Lane Bunbury

Proposal: Extension to Time Limit on Application P07/0867 for 10 Affordable Houses

Applicant: Muir Group Housing Association Ltd

Expiry Date: 03-May-2012

**SUMMARY RECOMMENDATION:**

**Approve subject to Section 106 Agreement and conditions.**

**MAIN ISSUES: The main issue is whether or not there have been any significant material changes in policy/circumstances since the application was previously approved.**

**REFERAL**

The application has been referred to Southern Planning Committee because it is a major development

**DESCRIPTION OF SITE AND CONTEXT**

Full planning permission was granted in March 2009 for an affordable housing development of ten houses along the frontage of the former football field, situated between the village centre and the area of Higher Bunbury to the east.

The scheme comprises 3 pairs of semi-detached dwellings fronting onto the road and a single larger detached dwelling at 90 degrees to the road. A further block of 3 mews houses is located to the rear of the site. A parking court has been provided in the centre of the site, with areas of open space to the rear corners. Vehicle access to the parking court is from a single T junction midway along the site frontage.

**DETAILS OF PROPOSAL**

This application seeks permission to extend the time limit imposed on the planning permission to allow a further 3 years for commencement of development.

**RELEVANT HISTORY**

7/12804	(1986)	Outline planning application for speculative housing development - refused and appeal dismissed – 1986
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P04/0594	(2004)	Outline Application for Housing for Affordable Use – Refused
P04/0545	(2004)	10 Two Storey Houses – Refused. Appeal dismissed 6 <sup>th</sup> June 2006.
P07/0867	(2009)	10 Affordable Houses - Approved
11/2575N	(2011)	Variation of condition 2 and 17 of planning permission 07/0867 – Withdrawn

## **POLICIES**

### **National Policy**

PPS 1 Delivering Sustainable Development  
PPS 3 Housing  
PPS7 Sustainable Development in Rural Areas

### **Local Plan Policy**

- NE.2 (Open countryside)
- BE.1 (Amenity)
- BE.2 (Design Standards)
- BE.3 (Access and Parking)
- RES.5 (Housing In The Open Countryside)
- RES.8: (Affordable Housing In Rural Areas Outside Settlement Boundaries -Rural Exceptions Policy)

## **OBSERVATIONS OF CONSULTEES**

### **Highways**

The Strategic Highways Manager has no comment or objection to make with regard to the above development proposals.

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

No comments received at the time of report preparation.

## **OTHER REPRESENTATIONS:**

Letters of objection have been received from York Cottage, Dorwood and Edinbane making the following points:-

- A case has not been made sufficiently for affordable housing
- Traffic in the lane – only .2m wide in places is increasing as car ownership increases in some cases to beyond 2 cars per house.
- Shopping delivery vans are a common sight now every day as are other delivery vans most commonly linked to internet shopping. This traffic usage will only increase.

- These vans will make old people prisoners in their homes
- Will the Council be able to make it safe for them to walk to the shops and to the surgery or will the Council provide free transport.
- There will be significant difficulty arising over the land behind the proposed house in respect of its ownership, future usage and access
- The distribution of a significant area of green corridor and hedgerow linking two areas of the village is highly injurious to village as a whole and should resisted.
- Over the last four years new homes have been built that have caused more traffic in general around the village and congestion in many areas.
- Traffic census? The traffic situation is so acute that the Bunbury Parish Council have felt that due to the increase in traffic, a 20mph speed limit is soon to be introduced on School Lane and Bunbury Lane.
- Are new affordable homes still needed?
- Where is the environmental impact assessment and what does it say?
- Is there adequate sewer capacity? I believe that United Utilities are pumping sewage out of the system into tankers on a regular basis.
- Are there any spare School places?

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

- Covering letter

#### **OFFICER APPRAISAL**

#### **SCOPE OF THIS APPLICATION**

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

The Government's advice is for Local Planning Authorities to take a positive and constructive approach towards applications that improve the prospects of sustainable development being brought forward quickly. It is the Government's advice for Local Planning Authorities to only look at issues that may have changed significantly since that planning permission was previously considered to be acceptable in principle.

In short, it is not intended for Local Planning Authorities to re-open debates about principles of any particular proposal except where material circumstances have changed, either in development plan policy terms or in terms of national policy or other material considerations such as Case Law.

#### **MATERIAL CHANGES IN POLICY/CIRCUMSTANCES SINCE PREVIOUS APPLICATION**

The application remains unchanged from the previous approval and there are considered to be no change in circumstances or Local Plan policy that would warrant an objection to the proposal.

With regard to need for affordable housing, the Housing Officer has confirmed that there is no recent localised housing needs survey specifically for Bunbury Parish. However, the 2010 Cheshire East Strategic Housing Market Assessment was a comprehensive study of housing throughout Cheshire East undertaken by an independent research firm on behalf of Cheshire East Council. The assessment provides evidence of the housing need in the geographical area of Bunbury which includes the parishes of Alpraham, Bunbury, Calveley and Wardle. The assessment demonstrates a net housing need in the above 4 parishes of 30 homes required in the 5 years from the date of the publication of the report.

Cheshire Homechoice is the 'choice based lettings' system that is used throughout Cheshire East. It started in April 2010 and took over from the previous housing waiting lists. People in need of affordable housing now register with Cheshire Homechoice. This allows those registered to apply for affordable homes that become available on a weekly basis in Cheshire East. Successful applicants are chosen as a result of their suitability. Applicants state what would be their preferred location for a home and can have their local connection verified. This is particularly important in rural areas where Cheshire Homechoice adhere to a community connection criteria.

Interrogation of Cheshire Homechoice shows that since Cheshire Homechoice started 8 people have been allocated homes in Bunbury, the majority of them in the new scheme at Oak Gardens. There are currently 55 people registered who have placed Bunbury as their first choice for location of a home. Of these, 38 have had their local connection to Bunbury Parish verified.

The above demonstrates that there is still a significant need for affordable housing in the Parish of Bunbury. Consequently, it is not considered that there have been any changes in circumstances in terms of need for affordable housing which would warrant a refusal of the application.

The landscape officer has confirmed that there have been no changes in circumstances in terms of trees and hedgerows on the site and taking into account the previous approval, subject to the use of similar conditions, there is no forestry or landscape comment.

Whilst the concerns of neighbouring occupiers are noted, in the absence of any objection from the Strategic Highways Manager, it is not considered that any increase in traffic on Wyche Lane over the last 5 years is sufficient to substantiate a reason for refusal.

At the time of report preparation the comments of the Council's ecologist were awaited in respect of whether an updated protected species survey would be required to identify any changes in habitats on site since the previous application. A further updated will be provided on this issue to Members prior to their meeting.

With the exception of the position of the access into the field to the rear, which is the subject of a separate application for variation of conditions (12/0459N refers) considered elsewhere on the agenda, the design and layout of the scheme remain the same as previously approved. The surrounding development has also remained unchanged since the time of the previous application. Consequently no new design or amenity issues are raised. The proposed relocation of the access to the land at the rear is considered to be acceptable for the reasons set out in the report relating to application 12/0459N. It is not considered that

there have been any other material changes in circumstances relating to this site since the previous approval.

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

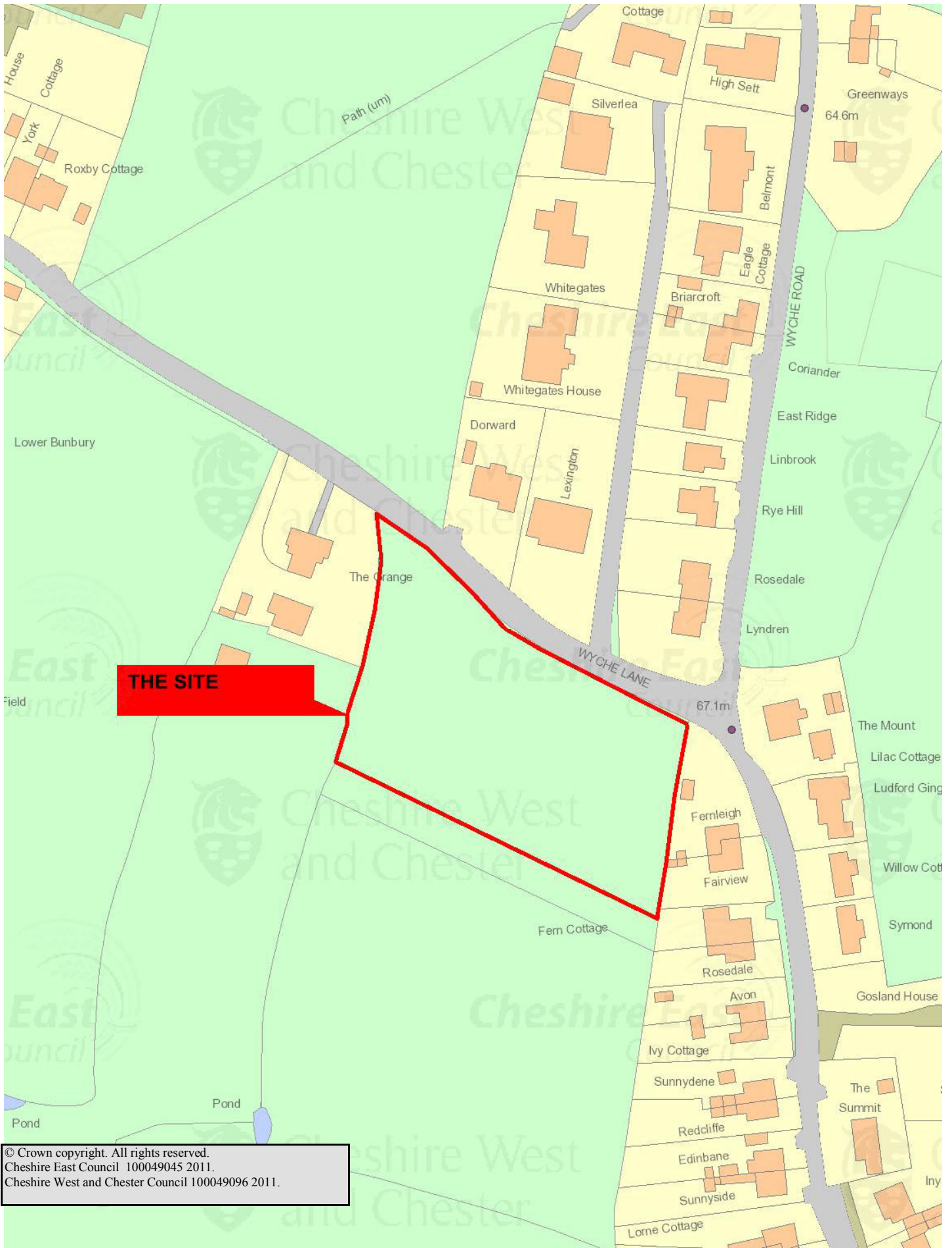
It is considered that there have not been any significant, material changes since application P07/0867 was permitted. Therefore, it is recommended that the application to extend the period of permission should be approved, subject to a Deed of Variation to the existing Section 106 Agreement to reference the new permission and conditions. The conditions proposed are as per the previous consent with the exception of condition 17 and condition 2.

For the reasons set out in the report relating to application 12/0459N (considered elsewhere on this agenda) it is recommended that condition 2 relating to adherence to approved plans is varied to allow the position of access to land at the rear to be amended and condition 17 which restricts use of the said access to maintenance vehicles only is removed. An additional condition requiring the access track to be surfaced using "Top-trek" or a similar material (details to be submitted and agreed) is also recommended.

## **RECOMMENDATION**

**APPROVE** subject to the following:

- **A Deed of Variation to the existing Section 106 Agreement to reference the new permission**
- **The following conditions:**
  1. **Standard Time Limit**
  2. **Amended plans**
  3. **Materials**
  4. **Remove permitted development rights – extensions and ancillary buildings**
  5. **Access to be constructed to sub-base level prior to first occupation**
  6. **Landscaping scheme to be submitted**
  7. **Implementation / maintenance of landscaping**
  8. **Boundary treatment to be submitted and implemented**
  9. **Full drainage details to be submitted and implemented.**
  10. **Obscure glass to first floor window in east gable of unit 1.**
  11. **Scheme of tree protection to be submitted and agreed**
  12. **No lighting of fires / storage of materials etc. in protected area**
  13. **Specification for paths / drives etc. under trees to be submitted and agreed**
  14. **Implementation of wildlife mitigation measures.**
  15. **Hedgerow removal to take place outside bird nesting season**
  16. **Details of finished floor levels to be submitted and agreed**
  17. **Track to be surfaced using "Top-trek" or a similar material – details to be submitted and agreed.**



Application No: 12/0459N

Location: Land off Wyche Lane Bunbury

Proposal: Variation of Condition 2 and Removal of Condition 17 Relating to Access on Application P07/0867 (10 Affordable Houses)

Applicant: Muir Group Housing Association Ltd

Expiry Date: 28-Mar-2012

**SUMMARY RECOMMENDATION:**

**APPROVE** subject to a Deed of Variation to the existing Section 106 Agreement to reference the new permission and conditions.

**MAIN ISSUES**

- **Appropriateness of Condition 17**
  - *Background*
  - *Government Advice*
  - *Necessary*
  - *Relevant to Planning*
  - *Relevant to the development to be permitted;*
  - *Enforceable;*
  - *Precise*
  - *Reasonable in all other respects*
- **Acceptability of Proposed Amendments to Approved Plans**
  - *Background*
  - *Visual Impact*
  - *Amenity*
  - *Highway Safety*

**REFERRAL**

The application has been called into committee by Councillor Michael Jones because he considers this to be the same as the earlier application which he has already called in to the Southern Committee. This has potential design issues and green space impact. It also may contradict an Inspectors planning refusal.

On 7 March 2012 a report came before members of this committee which related to an appeal for non determination of an application (number 11/2423N) to vary conditions 2 and 17 of planning permission P07/0867. That report flagged up the prospect of receiving a future report on an application (number 12/0459N) to vary those same

conditions. The decision made on 7 March 2012 was to 'endorse the view that the application would have been approved subject to a deed of variation to the existing s106 agreement to reference the new permission and conditions'. The purpose of the decision was to provide officers with a stance to adopt at appeal. The committee had no power to decide the application because it had been appealed.

Members may have some concerns as to whether this committee is the appropriate decision maker in the current application, having (as quoted above) already endorsed a view. It was therefore felt that members would appreciate advice on this issue and this is set out below.

Members of the committee should bear in mind that they must determine each application on its own merits, that they are not obliged to reach a decision which is the same as a view they have previously endorsed and that they should only take account of relevant matters. Furthermore, members should approach decisions with an open mind and whilst a predisposition may be acceptable, predetermination is not, because it is unfair.

Prior involvement, in terms of endorsing a view, could give the appearance of having irrelevant considerations in mind when taking a subsequent decision.

Section 25 of the Localism Act 2011 makes it clear that if a councillor has given a view on an issue, this does not show that the councillor has a closed mind on that issue.

Members should carefully consider their positions on an individual basis to ensure that they feel able to approach the decision on the current application afresh, taking all material considerations into account. Having considered their positions, members should only participate in the debate and vote if they are able to confirm that they have kept an open mind.

Members should not feel they have predetermined this application simply because they have previously endorsed a view, provided they have kept an open mind

The chair will give an opportunity at the start of the meeting for members to make appropriate declarations.

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

Full planning permission was granted in March 2009 for an affordable housing development of ten houses along the frontage of the former football field, situated between the village centre and the area of Higher Bunbury to the east.

The scheme comprises 3 pairs of semi-detached dwellings fronting onto the road and a single larger detached dwelling at 90 degrees to the road. A further block of 3 mews houses is located to the rear of the site. A parking court has been provided in the centre of the site, with areas of open space to the rear corners. Vehicle access to the parking court is from a single T junction midway along the site frontage.

The permission was subject to a number of conditions including the following:



*2. This permission shall refer to drawing no.'s 0340-07A, 0340-08A, 0340/401 (excluding block plan), 0340/400B and 0340-10,*

*Reason: For the avoidance of doubt and to comply with Policy BE.2 (Design Standards) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.*

and

*17. The use of the access gate at the land to rear of site shall be restricted to vehicles being used in connection with the maintenance of that land only and for no other purpose.*

*Reason:- To protect the character and appearance of the open countryside and the amenity of neighbouring occupiers in accordance with Policies NE.2 (Open Countryside) and BE.1 (Amenity) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.*

This application seeks consent for a variation of condition 2 relating to adherence to the approved plans to allow the position of access to land at the rear to be amended and the removal of condition 17 which restricts use of the said access to maintenance vehicles only.

Members may recall that a report relating to a previous identical application was considered by Southern Planning Committee at the last meeting. In that case the applicants, who wish to make a start on site in the near future, had appealed against non-determination of the application. In such cases the matter is taken out of the hands of the Local Planning Authority and the determination is made by the Secretary of State. Therefore the purpose of the previous report was merely to seek the committee's resolution as to what its decision would have been had it been able to determine the application, and this will form part of the Authority's Statement of Case on the appeal.

Due to the time delays involved in the Appeal process, the applicant has submitted a second identical application, which is the subject of this report, in the hope of receiving a formal determination from the Local Planning Authority in advance of a decision being made through the Appeal process. The applicant has indicated that if this application is successful they would be willing to withdraw the present appeal against non-determination.

## **2. PREVIOUS RELEVANT DECISIONS**

7/12804	(1986)	Outline planning application for speculative housing development - refused and appeal dismissed – 1986
P04/0594	(2004)	Outline Application for Housing for Affordable Use – Refused
P04/0545	(2004)	10 Two Storey Houses – Refused. Appeal dismissed 6 <sup>th</sup> June 2006.

P07/0867 (2009) 10 Affordable Houses - Approved

11/2575N (2011) Variation of condition 2 and 17 of planning permission 07/0867 –  
Withdrawn

### **3. PLANNING POLICIES**

#### **National Policy**

PPS 1 Delivering Sustainable Development  
PPS 3 Housing  
PPS7 Sustainable Development in Rural Areas

#### **Local Plan Policy**

- NE.2 (Open countryside)
- BE.1 (Amenity)
- BE.2 (Design Standards)
- BE.3 (Access and Parking)
- RES.5 (Housing In The Open Countryside)
- RES.8: (Affordable Housing In Rural Areas Outside Settlement Boundaries -Rural Exceptions Policy)

#### **Other Material Considerations**

Circular 11/95 Use of Conditions in Planning Permission

### **4. OBSERVATIONS OF CONSULTEES**

None received at the time of report preparation.

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

Bunbury Parish Council supports the above planning application. The Parish Council requests that conditions are added to any approval restricting the surface of the proposed accessway to Toptrek or an alternative agricultural surface.

### **6. OTHER REPRESENTATIONS:**

Letters of objection have been received from Inyanga, Dorward, Whitegates, Ivy Cottage, Redcliffe, Sunnyside, The Summit, Isle O'Tycin, Lynton, Edinbane Cottage, Long Acre, Aisling, Fern Cottage, Ludford Ginger and The Brambles, Wyche Lane; 4 The Acreage; Hillview, Whitchurch Road; 17 Darkie Meadow; 1 The Hawthornes, The Chantry House and Vergers Cottage, Wyche Road; The Croft and Ericeira, Bunbury Lane, making the following points:

## Site History

- Specific conditions had been laid down in planning application P07/0867 by an Appeal Court judge, specifically to limit the development of the field behind Wyche Lane to that development approved in P07/0867.
- Muir Group gave specific assurances at a public meeting concerning no further development of the remainder of the field as clause 2 and clause 17 of the original application would stop this from happening
- This and the strip of land to be transferred to the Parish Council was to be the village's security blanket. .
- Muir Group has started on site.
- There have been extensive changes to the site plans.
- The assurance given by Muir at the public meeting and the decisions of an Appeal Court judge both appear to be being ignored or brushed under the carpet by Muir
- The Borough Council is surely there to respect and comply with the law and respond to the promise made to the population it is there to defend.
- The land was subject to an appeal by Muir Housing Association against the refusal of its original application to build 10 houses on the land in Wyche Lane. The Inspector concluded in paragraph 23 of her decision as follows: "I have found that even though the level of need is so compelling as to outweigh in principle the harm arising from development of this site, the proposal as it stands is unacceptable because the layout of the rear access road and parking areas. On this ground alone, the appeal fails" (Paragraphs 13 and 14 give the reasoning)
- Permission was subsequently given to build the 10 houses when a new application was made but access to the rear of the houses had to be restricted to agricultural access only and the piece of land which was no longer to be developed by Muir would be gifted to the Bunbury Parish Council
- What is the point of having Planning Inspectorates and spending enormous amounts of state money to hold such inquiries then to have the Council override the Inspectors Decision by agreeing to an application to have conditions overturned.
- The proposal will enlarge the entrance to the land which is to be given to the Parish Council to 4.5m and also to provide a road and drainage to the land at the rear which is totally unnecessary. This being all agricultural land which the Inspector deemed should not be built on in the future.
- The Inspector at the appeal stated "At the enquiry it was confirmed that the Appellant no longer intended to pursue a second phase. Even so the layout of the scheme to the rear of the houses, in terms of access road and parking areas, still reflects that earlier intention with the result that the access to the rear field has been designed to a higher standard that would normally be associated with a simple field access." This suggests that she was not happy with Muir's stated intention not to try to develop the remainder of the field. The Inspector went on to say in paragraph 14 of her report that "The fact that the layout of this scheme would be compatible with further residential development is therefore of great concern to me since it would make the land to the rear more attractive to potential developers."

- When permission was eventually granted the access to the rear of houses was to be restricted to agricultural access only so that the field could be dealt with on an agricultural basis and a strip of land immediately behind the houses should be gifted / sold to Bunbury Parish Council for the benefit of the local community.
- Now quite out of the blue, Muir have returned seeking to vary the original planning application by stating in their application "Condition 17 as constituted may have the effect of constraining unnecessarily some future possible lawful use (whether or not planning permission is necessary) of the land edged blue and the adjacent accommodation land to which it in turn gives access". The land edged blue refers to the land to be passed to the Parish Council
- From the application it can be seen that it was submitted after a meeting was held between Muir and Council officers where the principle of the application was agreed. Since when have Council officers been given permission to go along with over ruling the decision of one of Her Majesty's Inspectors. If they now have this sort of power what is the point of having the Planning Inspectorate.
- Why does the access road now need to be brought up to highway standard and widened to 4.5m as the land being passed to the Parish Council will not be developed and the agricultural land to the rear of that only needs an access wide enough to accommodate agricultural vehicles and the standard of the road surface needs only to be hardcore with a top dressing with no services. This is what the Inspector feared would happen.
- The only reason for wanting these 2 conditions removing would be to allow further development of the land behind the already approved development. These conditions were put in place when the application was finally approved in order to protect this land from being over developed. The Council should not be allowed to remove these conditions, which were approved by the planning inspector in March 2009.
- The variation re-introduces the explicit extendibility of the layout in the future in relation to development of the fields at the rear and is thereby completely contrary to the ruling given by the Inspector.
- The later/final Planning Application only subsequently received approval on the grounds that the Inspectors concerns to ensure that no further development took place to the rear of these new dwellings were addressed by a) gift to the community of a buffer strip immediately to the rear of this development to prevent further future development and b) access through the current development up to (but no through) this buffer strip being restricted to agricultural use presumably at best an unmade narrow width farm track / gate without any services (lighting, drainage etc.) . The buffer strip has no value whatsoever if it has a significant public right of way right through it to the land at the rear.
- The stated boundary fence and existing field gate within it to which this proposed through route leads were not there when this development application finally received approval in 2009. They were erected afterwards – presumably speculatively.
- What possible lawful use can the applicant argue that would need a significant vehicle access but not planning approval as it seems unlikely there could be any
- Granting this variation would also be contrary to the clear intent of the approved Bunbury Village Design Statement to "Have regard for the individual identities of the four Bunbury's, in particular the remaining open space between Higher and Lower Bunbury acknowledged as extremely important in retaining their separate

identities – a defining characteristic of the settlement.” Approval of this variation application would explicitly destroy the historic green corridor between the two distinctive identities of the settlements of Lower and Higher Bunbury – fundamentally changing the character of the village

- Their original submission was clearly unacceptable even upon Appeal to the Secretary of State and nothing has changed. How can there now be any intent to undermine the outcome of the Public Inquiry, particularly by means of a low key variation application.
- Muir Group is reneging on their previous agreement not to develop the land and to gift it to the Parish in a most underhand manner.
- Furthermore it was universally understood that access from the new development would only be into and not right through the buffer strip –
- Why can the existing agricultural access not be retained, as this would appear to be possible without any significant detriment to the layout of the development? It has been adequate as it is for decades – if retained it would be very similar to the existing access on the same side of the lane some 400m or so to the east.
- Removal of Condition 17 is contrary to the decisions and agreement already reached and the planning authority should retain full control over further use of the land edged blue to ensure that the developers do what has already been agreed. Regarding Condition 2, the variation needs clarification. What is the access along the westerly boundary? Appropriate conditions should be imposed to cover its use and maintenance. If, as a matter of practicality, more general access is needed this could be allowed in the same position as on the original plan and to the original dimensions and standard of construction. The right of way should not be constructed in a manner that it could be adopted as a road in the future.
- The proposed 4.45m right of way in the centre of the development is too big and out of all proportion for what is required for what in all events is still agricultural land and should be restricted to the original plan.
- This planning application only finally gained approval following a public enquiry and after being referred to an Appeal Court judge. Clauses 2 and 17 that the Muir Group are now seeking to have removed give assurances to the residents of Wyche Lane and the broader Bunbury village community that there will be no further development of the fields behind the planned housing development.
- As part of gaining acceptance, the Muir Group Housing Association agreed to gift a strip of land to the Parish Council in order to satisfy the concerns of the Inspector that there would be no further development beyond the 10 houses proposed. It appears that the Muir Group are now attempting to renege on their promises.
- Residents object to the removal of essential restrictions (as deemed by a senior Planning Inspector following a public enquiry) to restrict potential further development in a sensitive, rural location.
- The proposed 4.5 metre right-of-way and access gateway in the centre is too big and out of proportion for requirements and surrounding roads and ways. (However, it is perhaps noteworthy that a 4.5 metre access-way would permit entry by construction vehicles to the fields behind). Existing agricultural access should be sufficient as it has been to date for farming and recreational uses.

- This is unacceptable conduct of the Muir Group Housing Association (MGHA). Promises made and assurances given in public consultation are now being withdrawn by this action.
- Furthermore, condition 15 of the original permission has not been complied with as the hedge was removed in June for the construction of the road. The hedge had not been previously netted to stop birds nesting.
- Initial planning permission granted by an Appeal Court judge specifically limited the right of access to an agricultural access and the proposed variation contravenes that original approval. If the land directly behind the proposed housing is to be managed by the Parish Council for the local community there is absolutely no need for the access to be greater in width than an agricultural gate and of no greater construction than an agricultural road. It certainly does not need to be of highway standard in either construction or width. It was an application that contained access to a higher standard than agricultural standard that was rejected in 2006 and only subsequently granted after that access had been amended to agricultural status. Therefore this condition should stand.
- Residents are deeply suspicious of the need to vary the original application of the land is to remain for Parish community use and a field beyond that.
- This proposed variation reintroduces future development of the fields at the rear of the ten dwellings. The whole purpose of the buffer strip and access restricted to agricultural use was to limit future development in the field beyond; to change that now would make a mockery of previous rulings.
- If Muir consider themselves to be in a cleft stick that is of their own making and is not of itself a reason to seek a variation some 5 years after their open meeting with residents of Bunbury Village to the very carefully defined conditions of the Inspector who considered their Appeal against the Planning Committee's original decision.
- There is an apparent lack of good faith on their part in seeking a potential for the breaking of undertakings given to the Village by them at that open meeting and, the reasons they give for seeking the variations are not themselves one usually considered relevant to planning.
- Contract and land law in the first instance should define the nature and extent of any easement giving rights of access in favour of one parcel of land over another, not planning law save to the extent that, on planning grounds, it may be necessary to impose conditions on the Applicants land which may prevent a development taking place unless the owner of the adjoining dominant land relaxes or releases any right of access in favour of that land, a matter which will not directly affect the Local Planning Authority when it imposes planning conditions.
- If the Planning Committee considers that there should be any variation of the Inspectors decision the condition as to any access in favour of the land to the rear should presumably mean the width of any access should also be limited to that necessary for the agricultural user.
- The statements "Muir has no intention of developing any further homes on any part of the site at Wyche Lane", and "the land shaded green, yellow and orange to be gifted to the Parish Council" do not reassure local residents in any way whatsoever. It is not Muir's current intentions that concern residents.

- The gifted strip has no value at all in restricting development of the land behind if the proposed Amendment to include a highway width vehicular public right of way through it is accepted (not shown on the original Planning Approval).
- Residents accept that Muir did secure an option on the whole of the field as stated but it is not now the case that Muir neither own nor have any control over the land to the rear of the intended gifted strip. It is the intentions of these other landowners and / or option holders that concern residents
- Muir could sell on the option to purchase the land to another developer. Are the new option holders then going to be bound by these promises?
- If Muir is still seeking to withdraw from this option entirely why can they not enter into an option agreement with the Parish Council for the whole of the field to be gifted rather than just the shaded area? Alternatively why can Muir not retain the existing agricultural entrance to the field off Wyche Lane with a farm track along the boundary which appears feasible if space is not taken up with a right of way through the middle of the development?
- The variation seeks to change the width of the track into the field from 3m to 4.5m, to comply with the provisions of Section 38 of the Highways Act 1980. The Act states that there must be a 4.5m wide road with a 2m curb and path on each side for the roadway with full use. This would be an 8.5m wide road into a field. However, if the road is restricted use, only one of the curbs or paths can be reduced to 1m, which would be a total width of 7.5m road into a field .The retained land was to be a ransomed strip and donated to the Parish Council as a public relations exercise. This retained land with a 3m access track through it would provide total confidence to the people of Bunbury that the field could not be developed. The retained land with a 4.5m (or is it 8.5m) roadway running through it was useless for the purpose that it was offered in the first place i.e. a ransom strip.

### **Highway Safety / Infrastructure**

- Overdevelopment of site leading to dangerous levels of traffic on narrow country lane with no pavement
- Over the years Wyche Lane has been a quiet and peaceful lane to live on. However, the lane is very dangerous for a person with limited mobility with too many cars and lorries moving along it even without the new development. When the new buildings are built and all those new people have cars it will make things much worse. Elderly people will be scared to, leave their gardens
- If the changes applied for lead to further development behind the new buildings and all those people have cars it will make Wyche Lane a death trap for people with limited mobility. They would not be able to walk to the shop. Will the Council provide them with a free taxi?
- The traffic situation between the site of P07/0867 and the village is already not good with a further 20 vehicles from this development using the road possibly twice or three times daily it will be bad and if the variation is allow to pass and further houses are built then it will be intolerable bearing in mind that the road is single track in places with no footpath for pedestrians.
- The infrastructure of the village is not capable of either handling the further traffic or indeed providing access to such a development. The primary school would not

be able to handle the additional influx of children that a major development would create.

- Bunbury has already been overdeveloped and yet more houses will spoil this once pretty village still further.
- Another concern for people living in Wyche Road is that this small lane will be used as a short cut by those wishing to join the A51 at Alpraham. Wyche Road is very narrow and has no pavements. There is concern for small children living on the lane
- Bunbury School is full to capacity. Muir Group should be building extra classrooms to accommodate more pupils

### **Neighbour Amenity**

- The new houses should be at the same level as the existing bungalows and not where they can look over the hedge

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

- Covering letter

## **8. OFFICER APPRAISAL**

### **Main Issues**

The previous approval established the acceptability in principle of 10 affordable dwellings on this site. The scheme which was granted planning permission can still be implemented and therefore this proposal does not represent an opportunity to revisit the principle of residential development on this site.

The main issues in the consideration of this application, therefore, are, firstly, the appropriateness of condition 17 which restricts use of the access to land at the rear to maintenance vehicles only, and, secondly, the acceptability in terms of highway safety, amenity and visual impact, of the proposed amendment to the approved plans to allow the said access to be repositioned.

### **Appropriateness of Condition 17**

#### ***Background***

In 2004 the applicants applied for planning permission for 10 affordable houses on the site (application P04/0545 refers.) The proposed site layout (see drawing 0340-11 in key plans bundle) involved frontage development, with a 5.5m wide access road to adaptable standards, running at 90 degrees to Wyche Lane, from the access point midway along the frontage, to the back of the site. An access road / parking area, stretched across the majority of the width of the rear boundary. This was because, at the time, a second phase of development was proposed on land to the south of the application site. However, the application was refused on the grounds that:



*The proposals would seriously diminish the physical gap which exists between the village centre and Higher Bunbury, detrimental to the distinctive character of the village, by reason of their scale, layout and design. The proposals would therefore result in demonstrable harm to the character of the settlement, in conflict with Policies BE.2 (Design Standards) and RES.8 (Affordable Housing in Rural Areas) of the Adopted Crewe and Nantwich Local Plan, and Policy RES.9 ((Affordable Housing in Rural Areas Outside Settlement Boundaries) of the Replacement Local Plan 2011 (Second Deposit Draft) as amended by the Proposed Modifications document.”*

The applicant's Appealed against the decision and the Appeal was subsequently dismissed on 6<sup>th</sup> June 2006. The Inspector commented that:

*“It is also material, in my view that the original intention was to develop a second phase of eight dwellings on part of the field to the rear of the appeal site. At the Inquiry, it was confirmed that the Appellant no longer intends to pursue this second phase. Even so, the layout of the scheme to the rear of the houses, in terms of the access road and parking areas still reflects that earlier intention with the result that the access to the rear field has been designed to a higher standard than would normally be associated with a simple field access. This is a sensitive location in a village which has a history of strong development interest. Also, it is reasonable to expect that, in time, the proposed houses would come to be accepted as part of the built up area. The fact that the layout of this scheme would be compatible with further residential development is therefore of great concern to me since it would make the land to the rear more attractive to potential developers. At the same time, since the issues associated with achieving an acceptable access from Wyche Lane would have been overcome, such pressure for development would be more difficult to resist.”*

The Inspector concluded that the evidence showed that the need for affordable housing in Bunbury is significant, is long standing and has provided exceeding difficult to address. On the other hand, development in this location would be harmful to Wyche Lane and would erode the gap between Higher and Lower Bunbury, threatening this important characteristic of the settlement. However any other rural exception site around Bunbury would be likely to raise similar difficult matters because, by definition, they would be outside the settlement boundary. In principle, therefore, she considered that the need for affordable housing should prevail in this instance.

However she continued to have strong reservations as to the layout of the rear access road and parking area. These aspects of the scheme would reflect the original intention to develop the land to the rear for housing. In the circumstances, she considered that they would be highly likely to expose this land to considerable developer interest, making further erosion of the gap more difficult to resist. She recognised that the Council would be under no obligation to permit such development but by the same token, she considered that since this proposal was put forward as an exception to normal planning controls, it should be designed as such. Whilst access to the field would be required, the form in which it was proposed was not essential to allow the development to proceed so that the harm associated with it would not be outweighed by the identified housing need. In conclusion, she found that, even though the level of need was so compelling as to

outweigh, in principle, the harm arising from development on this site, the proposal as it stood was unacceptable because of the layout of the rear access road and parking areas. On this ground alone, the appeal failed and planning permission was refused.

The applicants submitted a revised scheme in 2007 (P07/0867 refers) which went a considerable way towards addressing the previous Inspectors concerns (see drawing no. 0340-400 in key plans bundle). It comprised 3 pairs of semi-detached dwellings fronting onto the road and a single larger detached dwelling at 90 degrees to the road. A further block of 3 mews houses were located to the rear of the site. Vehicle access was from Wyche Lane into a parking court at the centre of the site and areas of open space were provided to the rear corners of the site. As a result rear gardens and landscaped areas adjoin the field to the rear and with the exception of a narrow access gate, for maintenance purposes, no access roads or hardstanding were adjacent to this boundary.

The land immediately to the south of the application site, which had been acquired by the applicant, and was initially intended for use as part of a phase 2 development, (see land edged blue on location plan in key plans bundle) was to be gifted to the Parish Council for community use.

Planning Officers were satisfied that this had overcome the Inspector's previous concerns as set out above. However, Crewe and Nantwich Borough Council Planning Committee Members wished to have greater reassurance over the future use of the land to the rear and at their meeting to consider the application, resolved to approve subject to an additional condition, the access to the land at the rear, shown on the site layout plan was to be used for maintenance purposes only.

When the applicants acquired the site, they also took out an option to purchase further land, beyond the land edged blue, to the south of the application site (known as "the Retained Land" and edged green on the location plan in the key plans bundle). This was originally intended to be used, along with the blue edged land, as a phase 2 development. This option has less than 2-years left to run and the applicant has made it clear that they have no intention to take-up this Option and acquire this land and no plans, be they immediate or long term, to develop any further housing at Wyche Lane over and above the planned 10 affordable houses.

However, when the applicant acquired the application site from the then owners they were insistent that the access road was built to good standard without any access restrictions. As such the Contract (TP1) stated that the applicant must provide an access road "*to the satisfaction of the Local Highways Authority or to an adoptable standard*", and provide "*a right of way at all times for all purposes in connection with the occupation of the Retained Land*". Planning Condition 17, which restricted the access to maintenance uses only is at odds with the "*all uses*" obligation and as such the applicants have had to seek the removal of this Condition.

### **Government Advice**

Advice on the use of conditions can be found in "Circular 11/95: Use of Conditions in Planning Permission". According to the Circular,

*“Secretaries of State take the view that conditions should not be imposed unless they are both necessary and effective, and do not place unjustifiable burdens on applicants. As a matter of policy, conditions should only be imposed where they satisfy all of the tests described in paragraphs 14-42. In brief, these explain that conditions should be:*

- i. necessary;*
- ii. relevant to planning;*
- iii. relevant to the development to be permitted;*
- iv. enforceable;*
- v. precise; and*
- vi. reasonable in all other respects.”*

The Circular continues by stating at para.15 that *“the same principles, of course, must be applied in dealing with applications for the removal of a condition under section 73 or section 73A: a condition should not be retained unless there are sound and clear-cut reasons for doing so.”*

Therefore, in order to determine whether the conditions serve a useful purpose it is necessary to examine it in the light of these tests.

### **Necessary**

In considering whether a particular condition is necessary, authorities should ask themselves whether planning permission would have to be refused if that condition were not to be imposed. If it would not, then the condition needs special and precise justification.

It is clear from the history of the site that Planning Committee Members imposed the condition to prevent further development on land to the rear. The question is therefore, whether, without the condition, the Council would have refused the application on the grounds that it could potentially result in further development of land to the rear.

It is a fundamental planning principle that planning permission for an otherwise acceptable development, cannot be refused on the grounds that it may be the pre-cursor to a less desirable planning application.

This question has been considered by previous Appeal Inspectors on a number of occasions. In one remarkably similar case falling within the administrative district of Kerrier Borough Council, a housing development was proposed on the edge of a village. The local planning authority were prepared to grant permission if the applicant was prepared to enter into an agreement preventing any further development of his land adjoining. This he refused to do and the development was refused. At appeal the Local Planning Authority argued that the agreement was necessary in order to prevent a precedent being set. An Inspector reasoned that the Council had accepted that development of this land was acceptable on its own. It was inequitable if planning permission were denied because of unwillingness to enter into an agreement. He could

understand the Council's concern over precedent but reliance should be placed on powers it already enjoyed.

In another case from Bracknell Forest Borough Council 46 houses were proposed on hospital land within a built-up area. One of the objections was that to allow the appeal would "open the floodgates" to more housing with access to a residential road. An inspector observed that the site could be developed in isolation. It was not for him to prescribe any ceiling for future development or set any numerical restraint in terms of highway capacity etc. Any future applications would have to be evaluated on the basis of its own merits.

In Hereford City it was proposed to develop the site of another former hospital. The site was located beyond the edge of Hereford and the local authority feared that a precedent would be set for the development of further open land between the city and the appeal site. An inspector retorted that the Council had sufficient powers to prevent the spread of development.

Therefore, even if condition 17 were removed, the development of the land to the rear would still require a further planning permission before any development could take place. The Council would have the opportunity to assess any such application on its own individual merits in the light of the planning policies in place at that time.

Furthermore, the imposition / retention of condition 17 cannot prevent the submission of further applications for development of the land to the rear. Any such application would also constitute a variation / removal of conditions 17 and any permission granted pursuant to the application would override the provisions of the said condition.

Consequently, the condition serves no useful purpose in preventing further development of the land to the rear and planning permission could not have been refused if that condition were not imposed. In the absence of any other special and precise justification, having regard to the provisions of Circular 11/95, it is concluded that the condition is unnecessary and should be removed.

### ***Relevant to Planning***

Given that the reason for the imposition of the condition was to ensure that the Local Planning Authority could retain control over the use of the land to the rear, the condition is considered to be relevant to planning, as it is intended to meet broader planning objectives.

### ***Relevant to the development to be permitted;***

According to paragraph 25, of Circular 11/95 to meet this test, the need for the condition must be created by the new development. It must not be imposed to deal with an existing problem. Given that the condition in question has been written specifically to restrict access through the new development only, it is considered to meet this objective.

### ***Enforceable;***

It would be easy to determine whether or not the access was being used by vehicles not associated with the maintenance of the land and therefore the condition is considered to be enforceable.

### ***Precise***

The condition is specific and clear in its requirements and it is therefore considered to be in accordance with the precision test.

### ***Reasonable in all other respects***

According to paragraph 35 of Circular 11 / 95 "*a condition may be unreasonable because it is unduly restrictive*", for example where it would put a severe limitation on the freedom of owners to use their land for any lawful purpose. Restricting the use of the access to maintenance vehicles prevents its use in connection with agriculture which is the lawful use of the retained land. It would also prevent the Parish Council from using the access in connection with the community use of the blue edged land for any purpose other than maintenance and it is therefore considered to be unreasonable.

## **Acceptability of Proposed Amendments to Approved Plans**

### ***Background***

As stated above Contract (TP1) also required that the applicant must provide an access road "*to the satisfaction of the Local Highways Authority or to an adoptable standard*". The exact location of the access road was left open but the position of the access gate to the retained land was specified (point B on the location plan).

The applicant's intention was to negotiate with the land owner an agreed access road to the back land tying-in with the existing planning permission. However the land ownership had changed and the new owner, was adamant that all conditions within the TP1 must be adhered to. The owner has threatened an injunction to stop the development until the applicants provide evidence that all of his rights were not affected.

The applicants state that they have worked closely with the Parish Council to come up with a proposal that met with their approval, allowed all the TP1 obligations to be addressed and allowed the Parish Council the maximum usage of the retained land.

The applicants have taken legal advice that the access road should be at 4.5m to ensure that there would be no possibility of the retained land seeking action against the "*all uses*" clause of the TP1. The applicants also argue that an access road of this width will also allow better access arrangements to the land being gifted to the Parish allowing for better on-going management of this amenity area.

Muir state that ideally they would have provided this access road from the existing access gate (as per the planning permission) running in a straight line to the retained land. However this proposal would need the permission of owner of the retained land to alter the position of the access gate to the retained land, (Point B) and this would not

have been forthcoming. The alternative was to provide a dog legged or angled road between the two gates; this would have significantly reduced the usable space of the amenity land to be gifted to the Parish. The proposal, in Muir's opinion, provides the optimum solution to provide good and clear access across their land, the amenity land to be gifted to the Parish and to the retained land.

The applicants state that their proposal to pave this access road relates purely to a desire to minimise on-going maintenance costs that will have to be included in the Service Charge to their residents. As Muir has the obligation to maintain this access road any temporary surface will increase on-going costs, which will have to be transferred to their residents, affecting the affordability of the scheme. The initial capital cost of a paved road can be capitalised and not charged to the residents. The applicant's argue that a paved access road will also aid in the on-going management of the amenity land.

### ***Visual Impact***

It is acknowledged that, the original position of the proposed access from the development would have resulted in a winding track across the Parish Council land, given that the access gate to the retained land at Point B is fixed, and the owner of the retained land is unwilling to enter into negotiation to relocate it. It is also acknowledged that this would limit the usability for the Parish Council and would have also increased the length of the track and thereby its visual impact on the character and appearance of the open countryside.

Residents have raised concern about the width of the access track. As shown on the proposed plans, this would be 4.5m and not 8.5m as some residents have suggested. The track would not involve the construction of pavements or footways as some objectors have suggested. Although at 4.5m wide the access will be wider than the average farm track, the straighter route will reduce its overall impact on the character and appearance of the open countryside. Furthermore, it would appear that resident's principal concern with a track of this width is that it may give rise to further development, rather than the visual impact of the proposal. However, as has been stated above, the application cannot be refused on these grounds.

The track would be surfaced with "Toptrek", a recycled material made from a mixture of tarmac and other waste materials ground up and screened to a particular size from 10mm down to dust. It has been used by organisations such as Natural England and The Peak District National Park Authority in a variety of sensitive and rural locations, where a paved surface is required, which has a less urban and harsh appearance than tarmac. This would help to minimise the visual impact of the track and can be secured through condition. Subject to compliance with such a condition the proposal is considered to be acceptable in visual impact terms.

### ***Amenity***

The existing access route from Wyche Lane, through the site to the land to the rear, is somewhat tortuous, involving two 90 degree turns and passing through the parking court of the development. The straighter access route will allow large agricultural and

maintenance vehicles to pass more easily through the development, with less potential for conflict with parked cars or disturbance to the amenity of the prospective residents.

In terms of residential amenity of neighbouring dwellings, the track will be sited further from the existing dwellings fronting Wyche Lane to the east of the site, than as approved. This will result in an improvement in their residential amenity. It will be located closer to the property known as The Grange, to the west of the site, but a separation distance of over 60m will be maintained, and therefore no adverse effect on the living conditions of its occupants is anticipated.

### ***Highway Safety***

Any proposal for a change of use of the land to the rear would require a further planning application and would need to be considered on its own merits at the time. This would include a consideration of traffic generation. The proposed change to the access arrangements to the rear of the site, will not in itself, increase traffic generation to or from the site. The straighter access through the site will also generate a minor improvement in highway safety within the site. Therefore, whilst resident's comments about traffic and highway safety on Wyche Lane are noted, it is not considered that a refusal on highway safety grounds could be sustained, particularly in the absence of any objection from the Highways Department.

The proposal to relocate the access to the land to the rear is therefore considered to be acceptable and in accordance with the relevant local plan policies.

## **9. CONCLUSIONS**

Full planning permission was granted in March 2009 for an affordable housing development of ten houses along the frontage of the former football field, situated between the village centre and the area of Higher Bunbury to the east. The scheme comprises 3 pairs of semi-detached dwellings fronting onto the road and a single larger detached dwelling at 90 degrees to the road. A further block of 3 mews houses is located to the rear of the site. A parking court has been provided in the centre of the site, with areas of open space to the rear corners. Vehicle access to the parking court is from a single T junction midway along the site frontage. The permission was subject to a number of conditions

This application seeks consent for a variation of condition 2 relating to adherence to approved plans to allow position of access to land at the rear to be amended and the removal of condition 17 which restricts use of the said access to maintenance vehicles only.

Planning Officers have carefully considered condition 17, and are of the opinion that it does not meet the Circular 11/95 Tests. Firstly, it is unreasonable as it restricts access for the owner of the land behind and the Parish Council. It is also unreasonable because it would restrict use of the access for other perfectly legitimate activities e.g. agriculture. Secondly, it is unnecessary, as it was added to prevent development of the land at the rear for further housing. However, such development would, require planning permission in its own right and would need to be judged on its merits at the time. Furthermore, even

if the condition were retained, an application for further housing could still be made and approved, it would merely constitute removal of the condition as well as permission for housing, as part of the same application / permission. It is therefore recommended that Members raise no objection to the removal of this condition.

With regard to the variation of condition 2, the relocation of the access to the land at the rear is considered to be appropriate and reasonable, as it will make it easier for agricultural vehicles to pass through the development. This will be of benefit to residents of the new properties, in terms of amenity, and the convenience of the Parish Council and the owner of the remaining land to the rear in terms of ease of access to their land. Although at 4.5m wide the access will be wider than the average farm track. However, the straighter route will reduce its overall impact on the character and appearance of the open countryside. Furthermore, it is considered that the proposed “Top-trek” surfacing will be help to ensure that it remains agricultural in appearance and in keeping with the rural character of the surrounding area. The proposal will have no greater impact on residential amenity or highway safety than the approved scheme.

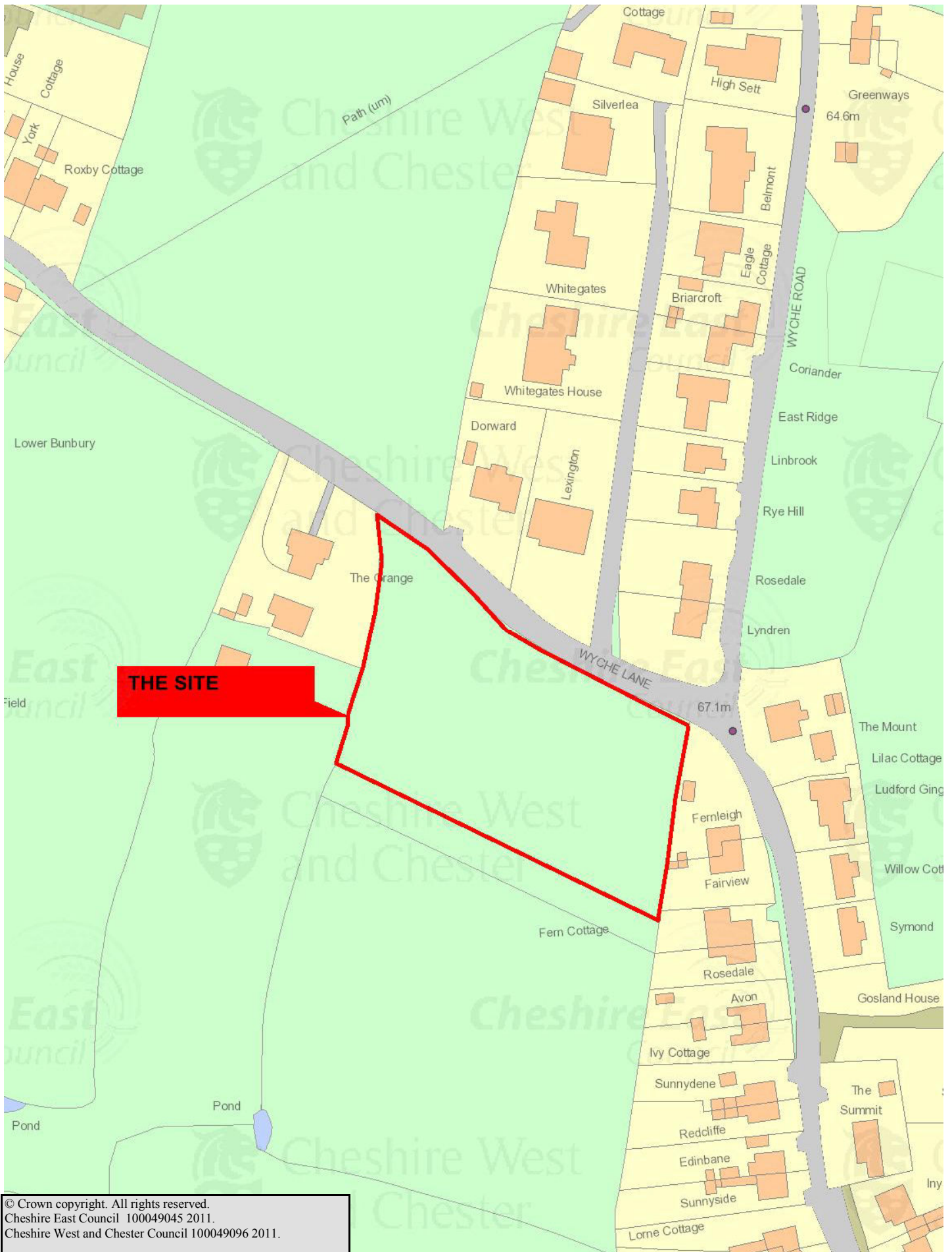
It is therefore recommended that the Committee resolve to approve the application subject to a Deed of Variation to the existing Section 106 Agreement as set out below.

## **10. RECOMMENDATIONS**

**APPROVE** subject to the following:

- **A Deed of Variation to the existing Section 106 Agreement to reference the new permission**
- **The following conditions:**
  - 1. Standard Time Limit**
  - 2. Amended plans**
  - 3. Materials**
  - 4. Remove permitted development rights – extensions and ancillary buildings**
  - 5. Access to be constructed to sub-base level prior to first occupation**
  - 6. Landscaping scheme to be submitted**
  - 7. Implementation / maintenance of landscaping**
  - 8. Boundary treatment to be submitted and implemented**
  - 9. Full drainage details to be submitted and implemented.**
  - 10. Obscure glass to first floor window in east gable of unit 1.**
  - 11. Scheme of tree protection to be submitted and agreed**
  - 12. No lighting of fires / storage of materials etc. in protected area**
  - 13. Specification for paths / drives etc. under trees to be submitted and agreed**
  - 14. Implementation of wildlife mitigation measures.**
  - 15. Hedgerow removal to take place outside bird nesting season**
  - 16. Details of finished floor levels to be submitted and agreed**
  - 17. Track to be surfaced using “Top-trek” or a similar material – details to be submitted and agreed.**





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Application No: 11/4399C

Location: 94, MACCLESFIELD ROAD, HOLMES CHAPEL, CW4 8AL

Proposal: Extension to Garage to Form Home Working Office (Resubmission of 11/2081C)

Applicant: Mr John Pattison

Expiry Date: 26-Jan-2012

**SUMMARY RECOMMENDATION:** That the Committee endorse the view that the application would have been APPROVED subject to conditions

**MAIN ISSUES:**

- Principle of Development;
- Policy;
- Design;
- Amenity;
- Area of Special County Value;
- Trees;
- Highways; and
- Other Matters

**REFERRAL**

This application is to be dealt with under the Council's delegation scheme. However, Councillor Gilbert has requested that it be referred to Committee for the following reasons:

- (1) Whether in light of the previous application the proposal is appropriate having regard to its size and location; and
- (2) Whether it is appropriate to allow potential employment site in a small residential enclave in a rural location.

In addition to the above the applicant has now appealed against non-determination of the application. In such cases the matter is taken out of the hands of the Local Planning Authority and the determination is made by the Secretary of State.

Therefore, the purpose of this report is merely to seek the committee's resolution as to what its decision would have been, had it been able to determine the application, and this will form part of the Authority's Statement of Case on the Appeal. It is generally accepted that failure to do this, with the case for the Authority relying on officer level views, will result in less weight being given to the Authority's case, and there may be possible cost implications.

## **DESCRIPTION OF SITE AND CONTEXT**

The application relates to a 2 storey semi detached property which has been constructed out of facing brick under a concrete tile roof. The applicant's property has been extended extensively in the past and located to the front of the property is a detached double garage, which is the subject of this application. The applicant's property is accessed via a private road, which also serves several other properties. Located to the north of the application site is a large wooded area and on the periphery of the boundary separating the applicant's property from Macclesfield Road are a number of large trees. The applicant's property is located wholly within the open countryside and within an Area of Special County Value.

## **DETAILS OF PROPOSAL**

This is a full application for a garage extension to form home working office (resubmission of 11/2081C) at 94 Macclesfield Road, Holmes Chapel.

## **RELEVANT HISTORY**

11/2081C – Garage Extension and Conversion of Existing Garage to Home Working Office – Refused – 28<sup>th</sup> July 2011  
APP/RO660/D/11/2144889 - Exterior Stairs and First Floor Extension to Garage to Form Home Working Office for Home Owner – Dismissed – 17<sup>th</sup> March 2011  
10/2627C – Exterior Stairs and First Floor Extension to Garage to Form Home Working Office for Home Owner – Refused – 25<sup>th</sup> November 2010  
09/3339C – Extension of Existing Detached Garage to Form Ancillary Accommodation – Withdrawn – 13<sup>th</sup> November 2009  
34546/3 – Rear Single Storey Extension – Approved – 24<sup>th</sup> July 2002  
28652/3 – Extensions, Alterations Re-roofing of Existing Bungalow and New Double Garage – Approved – 7<sup>th</sup> March 1997

## **POLICIES**

### **National Policy**

The application should be determined in accordance with national guidance set out in:

PPS1: Delivering Sustainable Development  
PPS7: Sustainable Development in Rural Areas

### **Local Policy**

The principle issue surrounding the determination of this application is whether the development is in accordance with the following policies within the Congleton Borough Local Plan First Review 2005:

PS8 Open Countryside  
PS9 Areas of Special County Value  
H16 Extensions to Dwellings in the Open Countryside and Green Belt  
GR1 General Criteria  
GR2 Design

GR6 Amenity and Health  
GR9 Accessibility, Servicing and Parking Provision  
NR1 Trees and Woodlands

### **CONSIDERATIONS (External to Planning)**

**Highways:** No objections

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

No objection

### **OTHER REPRESENTATIONS**

Letters of objection have been received from Saltersford House, Macclesfield Road and 96 Macclesfield Road. The salient points raised in the objection letters are:

- This application is not for a home office in the accepted sense i.e. where an individual is able to conduct some work rather than going to the main office, but an application to extend an existing business. It also invalidates the suggestions in the supporting Design and Access statement that the proposal would lead to reduced motor car mileage as the business is already operating at this address;
- The application should not be approved from a road safety aspect and if the business continues operating from these premises it should be allotted a business rate and potential expansion prohibited;
- Currently, approximately 75% of the applicant's garage is used as an office. In addition to this, there is an office within the house which the Council had previously approved as a bedroom and bathroom;
- This application includes the plan to have a total of 2 parking spaces. David Lloyd-Griffiths stated in his appeal document dated 18<sup>th</sup> January 2011 that "to use the original garage as an office would deny the applicant two car parking spaces resulting in vehicles being parked outside the garage, which the applicant considers presents an unnecessary visual intrusion and reduces the site's capacity for guest vehicles".
- We currently encounter commercial vehicles turning round in our drive as there is insufficient space for them to do this on the applicant's property. This happens 3-4 times each week and this is likely to increase if there is additional office space;
- The applicant only has "right of way" through our land to his dwelling and NOT to offices. Please take note of the boundaries; and
- Cheshire Highways have previously objected about the volume of traffic that would be created when a further development at Saltersford Farm was submitted. This was passed on the proviso that they used a separate entrance to their property.

### **APPLICANT'S SUPPORTING INFORMATION**

#### **Design and Access Statement**

1 letter of support from David Lloyd Griffiths (Agent). The salient points raised in the letter of support are:

- The application is a modest in scale and confined in its purpose;
- The design of the proposed extension is in keeping with its setting;
- The presence of this enlarged building will have no prominence and certainly its modest scale will not have any adverse impact on the ASCV;
- The boundary treatment will help to reduce its prominence and screen the majority of the proposal;
- The boundary separates the garage from the proliferation of mainly industrial buildings, fuel tanks etc;
- This proposed and modest extension facilitates home working in a space separate from the domestic quarters, where such activity currently takes place, it does not indicate or represent any intensified activity within the curtilage of the application site;
- The garage is not currently used as an office and no commercial activities currently place from it;
- The proposal will not be detrimental to highway safety.

## **OFFICER APPRAISAL**

### **Principle of Development**

The dwellinghouse is located within the Open Countryside and Area of Special County Value where extensions to residential properties are acceptable in principle subject to their impact upon the character of the original dwellinghouse, the surrounding area, and neighbouring amenity and privacy.

### **Policy**

Policy GR1 states inter alia that all development should conserve or enhance the character of the surrounding area and not detract from its environmental quality. Policy GR2 states inter alia that planning permission will only be granted where the proposal is sympathetic to the character and form of the site and the surrounding area in terms of the height, scale form and grouping of buildings, and the visual, physical and functional relationship of the proposal to neighbouring properties, the street scene and to the locality generally.

### **Design**

The proposed development is located within the residential curtilage of a dwelling within the Open Countryside which is acceptable in principle providing that the design is appropriate which will not result in harm to the character and appearance of the Open Countryside, which should be protected for its own sake, and that the development does not give rise to any detrimental impact on the amenities of adjacent properties or highways issues.

It is proposed to covert part of the existing garage into a home office and a new extension will be located at the front of the existing building. The proposed extension will measure approximately 3.9m long by 6.2m wide and is 2.5m high to the eaves and 4.5m high to the apex of the pitched roof. The eaves and ridge height are similar to the existing garage. The proposed garage extension will be constructed out of red facing brick under a concrete tile roof and this could be secured by planning condition. Located on the front of the garage are two up and over garage doors with a brick header coarse above, which are separated from each other by a brick pier and on the side elevation facing the applicants garden is a large

window. The footprint of the proposed structure is primarily rectangular in form and the total footprint of the building is approximately 63.86msq (the footprint of the proposed extension is 24.18msq). It is considered that the scale and massing of the proposal is in keeping with the host property and the area.

The existing garage stands forward from the front elevation of the applicant's property and backs onto Macclesfield Road. The boundary separating the applicant's property from Macclesfield Road is demarcated by a number of mature trees. The land on which the garage is located is higher than some of the surrounding land, which slopes steeply away from the applicant's property. Although it would be visible from the shared access road to the applicants dwellinghouse and the neighbouring properties, it is considered given the size and scale of the resultant garage that it will not be overly prominent when viewed from Macclesfield Road.

Additionally, it is considered that the overall bulk and mass of development would mean that the structure would appear as ancillary to the host dwelling and would be of a modest size, and does not fight for dominance with the host dwelling. Accordingly, it is considered that the proposal is in accordance with policies GR1 (General Criteria) and GR2 (Design) of the Local Plan, which seek to secure good design.

### **Amenity**

The proposed development is located approximately 15m from the front elevation of number 96 Macclesfield Road, the closest neighbour. It is noted that there will be two new 'up and over' garage doors on the front elevation and a window on the side elevation facing the applicants garden. Overall, it is not considered that the proposal will result in any significant loss of privacy, overshadowing or over domination of no. 96.

The objectors are concerned that the applicant is running a business from the garage. However, the applicant has stated he does not run a business from the garage. He currently works from home and he wishes to utilise the garage as a home office, to separate it from the domestic property. Using a garage as a home office does not necessary require planning permission providing that the use is incidental to the enjoyment of the dwellinghouse. However, if the garage was used as a commercial enterprise at an intensity which resulted in a material change of use, this would require planning permission.

### **Area of Special County Value**

The applicants property is located in an area designated as a Area of Special County Value and as such the proposal will be assessed against Policy PS9. This policy states that within this designated area, development which would damage the character or features for which the Area of Special County Value has been designated will not be permitted. As previously stated it is considered due to the size and scale of the proposal will not have a detrimental impact on the character of the ASCV and the proposal is in accord with policy PS9 (Areas of Special County Value).

### **Trees**

There are a number of large mature trees within the application site. The landscape officer has been consulted and the proposal will not have any significant detrimental impact on the trees which are protected by a TPO. However, in order to accommodate the proposal a couple of fruit trees will need to be felled, which will result in the loss of some screening. The landscape officer confirms there is no objection to the removal of these trees.

## **Highways**

According to the submitted plans and application forms the proposal would not result in the loss of any off street parking spaces. According to the submitted plans the remaining garage (including the extension) will measure approximately 6.5m long by 5.3m wide (internally). According to the Local Plan the minimum internal space for a double garage is 4.8m long by 4.8m. Therefore, the proposed garage is long/wide enough to accommodate vehicles. Notwithstanding this, there is sufficient parking provision within the applicants curtilage for vehicles to be parked clear of the public highway. Highways have been consulted and raised no objections. Therefore, it is considered that the proposal is in accordance with policy GR9 (Accessibility, Servicing and Parking Provision) of the adopted Congleton Borough Local Plan.

## **Other Matters**

Issues to do with land ownership or rights of access are private legal matters between the parties involved and are not material planning considerations.

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

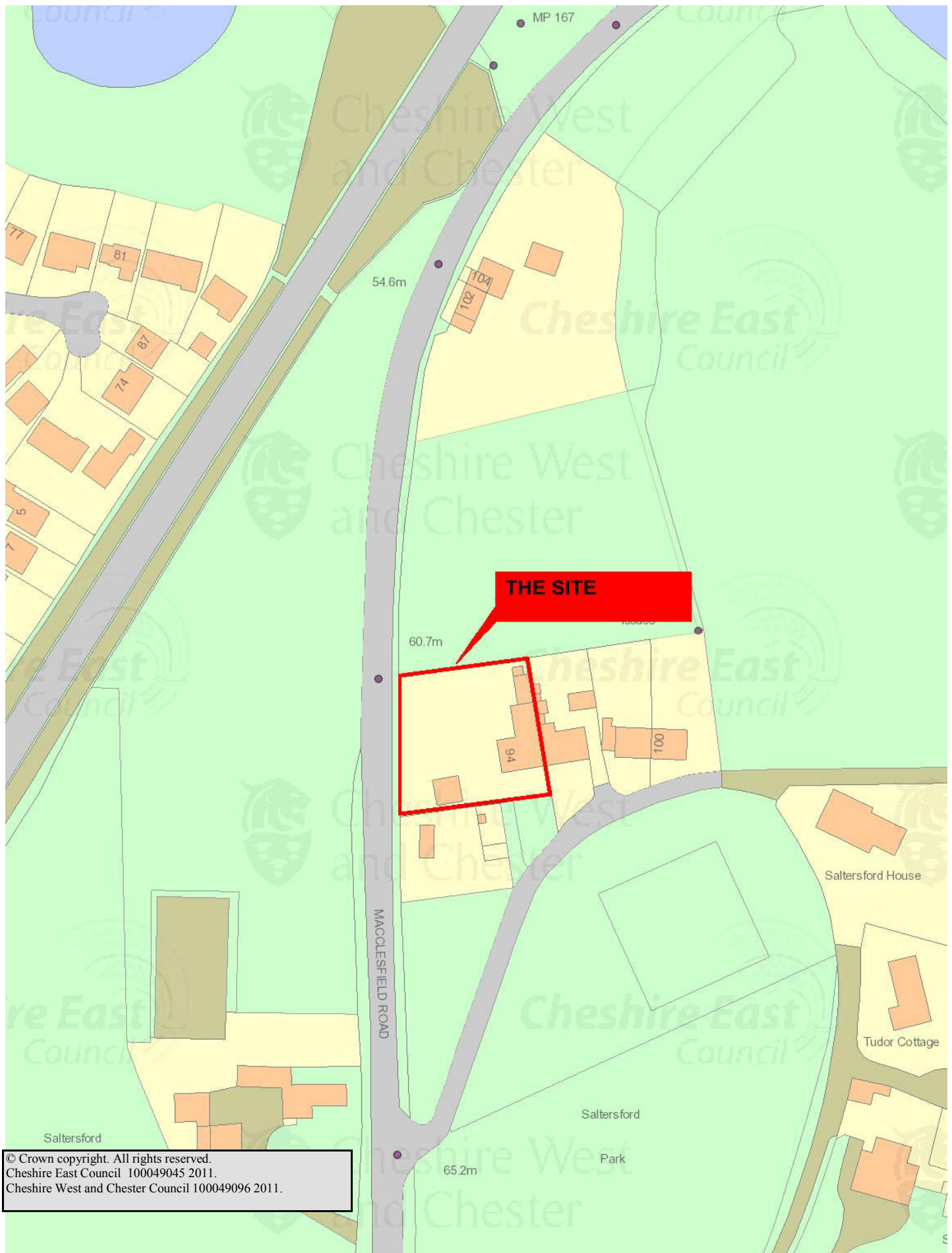
The proposed garage respects the character and appearance of the existing site and the surrounding area and will not have a significant impact upon neighbouring amenity. The proposal is of a suitable design appropriate to the purpose it will serve in keeping with Policy GR2 (Design). The proposal therefore complies with Policies GR1 (General Criteria), GR2 (Design), GR6 (Amenity and Health), GR9 (Accessibility, Servicing and Parking Provision), PS9 (Areas of Special County Value), H16 (Extensions to Dwellings within the Open Countryside and Green Belt), PS8 (Open Countryside) of the adopted Congleton Borough Local Plan First Review 2005.

It is therefore recommended that the Committee endorse the view that the application would have been approved subject to conditions, as set out below.

**That the Committee endorse the view that the application would have been APPROVED subject to the following conditions:**

- 1. Standard Time Limit**
- 2. Plans**
- 3. Details of Materials to be submitted and approved in writing by the Local Planning Authority.**





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## CHESHIRE EAST COUNCIL

### SOUTHERN PLANNING COMMITTEE

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**Date of meeting:** 28 March 2012  
**Report of:** Stephen Irvine,  
Development Management and Building Control Manager.  
**Title:** Appeals in January and February 2012  
**Portfolio Holder** Cllr Rachel Bailey

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#### **1.0 Report Summary**

- 1.1 This report summarises the Council's appeals record for the first two months of the year.

#### **2.0 Decision Required**

- 2.1 For noting by the Southern Planning Committee

#### **3.0 Recommendation**

- 3.1 That the Committee note the Council's appeal's performance for January and February 2012 (77.77%) and its success in most instances in defending planning appeals.
- 3.2 That the Committee note the reasons the Council lost some appeals and a recent Cheshire West appeal that raised issues in relation to housing land supply.

#### **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**

- 7.1 The Council fought a total of 122 appeals in 2011.

- 7.2 The Council's record in 2011 was as follows:

Performance

Appeals Dismissed: 87 (71.3%)

Appeals allowed: 35 (28.7%)

**8.0 2012 Performance**

- 8.1. The full list of appeals determined in this period is attached as Appendix 1.
- 8.2. It shows that the Council dealt with 19 appeals during the period that had the following results:
- 13 appeal cases dismissed.
  - 2 appeal cases part-dismissed and part-allowed.
  - 3 appeal cases allowed.
  - 1 appeal withdrawn.
- 8.3. The Council were successful in 77.77% of its appeals. This is well above the Government target of 60%. It is also above last year's figure of 71.3% and target figure for 2012 of 74%.

**Cases that were allowed**

- 8.4. In relation to the three cases the Council lost, two were overturned officer recommendations. Specifically the lost cases were:

11/0573M - MINSHULL LANE, CHURCH MINSHULL

This application was for a poultry house and feed hopper.

The application was called into Southern Planning Committee. Whilst it was recommended for approval by Officers, the Committee choose to refuse the application on the grounds that the proposal:

- Would not create or maintain employment or involve the diversification of a farm business.
- Was unacceptable in terms of the design of the proposed building and its isolation in the context of its surroundings.

The Inspector considered the land use, character and appearance, noise impact and highways issues the case raised, but concluded that the land use was appropriate and it would not have a harmful impact on the character and appearance of the surrounding area in any way.

As such, he allowed the appeal.

11/1742M - 11 WOODVALE ROAD, KNUTSFORD, CHESHIRE, WA16 8QF

This application was for a two-storey extension to the front and rear, plus an additional rear single-storey extension.

The Council refused the application on the grounds that the proposed extension, by reason of its height, depth and position, coupled with the change

in levels, would be oppressive, overbearing and result in a loss of outlook to the first floor bedroom window to 13 Woodvale Road.

The Inspector agreed that the main issues were the effect of the extension on the street scene and on living conditions at number 13. However, he found that:

*“the degree of harm would (not) be so significant as to justify refusal of the proposal and there would be no overlooking of or loss of privacy at No.13”.*

As such, he allowed the appeal.

11/1469N - LAND IN FRONT OF THE CHESHIRE CHEESE, CREWE ROAD, SHAVINGTON CUM GRESTDY, CREWE

This application was for a 12.5m high telephone mast, following negotiations with Officers to reduce the height of the mast from over 15m in height.

The application was called into Southern Planning Committee. There were a considerable number of objections to the scheme. Whilst it was recommended for approval by Officers, the Committee choose to refuse the application on visual amenity grounds and failure to consider alternative sites.

The Inspector considered the main issues to be the effect of the mast on the character and appearance of the streetscene and whether there were other preferable locations for it. He also covered concerns on highways safety and health. He concluded that the mast:

*“..... would not have a significantly detrimental effect on the character and appearance of the street scene along Crewe Road and that there are no other preferable locations where the mast could be erected”.*

As such he allowed the appeal.

**Part dismissed and part allowed cases**

- 8.5. In relation to the part dismissed / part allowed cases, one was a Committee overturn. These cases are summarised below.

10/4431C - BURNS GARAGES LTD, CANAL STREET, CONGELTON

This application was for security fencing to a car parking area.

The Council refused the application on the basis that:

- The development was an intrusive feature which had a harmful effect on the character and appearance of the Grade II Listed and Locally Listed Cockshuts Path and its setting.
- The development had a detrimental impact upon the appearance and setting of the Moody Street conservation area when viewed in the context of the approach from Cockshuts Path.

- The cumulative impact of the unauthorised and unsympathetic development had an overall negative impact on the character and appearance of the area and the streetscene.

The Inspector dismissed the appeal in relation to the boundary wall to Cockshuts Path, arguing that this part of the fence affected the listed path and its setting. However, he allowed the appeal relating to the remainder of the development, arguing it:

*“preserves the character and appearance of the Conservation Area and the setting of St Peter’s Church”.*

11/1550N - OAKSIDE, 37 CREWE ROAD, HASLINGTON

This proposal was for the erection of a wall, pillars and railings to the from boundary.

The application was called into Southern Planning Committee. Whilst the proposal was recommended for approval by Officers, the Committee choose to refuse the application on the grounds that the proposed rear verandah would be overbearing and an unneighbourly form of development which would impact on the amenity of the adjacent property.

The Inspector disagreed with the Committee’s view, feeling that the proposed veranda:

*“would not harm the living conditions of the occupiers of 33 Crewe Road in any way”.*

However, he dismissed the appeal against refusal arguing that:

*“the completed boundary wall and pillars along with the proposed railings would harm the character and appearance of the street scene ...”*

contrary to the views of both the Committee and Officers.

**Committee Overturns that were won**

- 8.6. There were also two cases where Officer reasons for approval were overturned by Members and the refusal was won on appeal. These cases were:

11/1722C - 14 SMITHFIELD LANE, SANDBACH

This application was for the demolition of an existing house and erection of 5 two-storey houses.

The application was forwarded to Southern Planning Committee for approval. However, the Committee disagreed and refused permission on the grounds that the form and layout of the proposed development was not sympathetic to the character of the surrounding area.

On appeal, the Inspector held that the development would be harmful to the established character of the area and unsympathetic to the height, scale, form and grouping of buildings. As such, he dismissed the appeal.

11/2520C - THE SANDPIPER, 62 THE HILL, SANDBACH

This application was for an external staircase and timber exit gate.

Officers recommended this application for approval. However, the matter was called into Southern Planning Committee on the grounds of the height of the dwellings, the development not being in keeping with the surrounding area, plus loss of privacy and amenity concerns.

Following debate, Southern Planning Committee considered the staircase would:

- result in disturbance and a loss of amenity to residential properties
- would not provide adequate and safe provision for access and egress by pedestrians to the public highway, due to the dangers posed by vehicles reversing out of driveways in Booth Avenue.

On appeal, the Planning Inspector considered that ASB and noise on Booth Avenue would outweigh any advantage that would result in more convenient access created by the staircase. He therefore dismissed the appeal on these grounds. However, he did not consider that the gate created access or highways safety issues and therefore felt this element of the scheme was acceptable.

## **9.0 Other planning appeals**

APP/A0665/A11/2159006 - LAND BOUNDED BY ASH ROAD, CHESTER ROAD AND FOREST ROAD IN CUDDINGTON, NORTHWICH

- 9.1 Officers consider that another case in the neighbouring borough of Cheshire West and Chester Council is also worth noting because of its relevance to issues being considered in Cheshire East and because it has been referred to by agents at Strategic Planning Board recently.
- 9.2 The land in question is defined as 'open countryside'.
- 9.3 The application was for outline planning permission for up to 150 units, including access, public open space and associated works. 30% affordable housing was proposed.
- 9.4 Whilst it was a large site within Environmental Impact thresholds, the Inspector held it would not give rise to significant environmental effects. Consequently, it was not EIA development.
- 9.5 There were a considerable number of objections to the application from residents and the Parish Council about:

- the extension of the village into the countryside,
- the impact of the dwellings on the quality of village life,
- pressure on resources and facilities,
- the need for more housing,
- traffic congestion and access for emergency vehicles (residents presented their own traffic survey),
- parking problems,
- dangers to bike riders,
- loss of water pressure,
- power cuts,
- impact on badgers and wildlife,
- impact on the sewerage system,
- capacity of schools,
- whether there was sufficient play space for additional children,

amongst other concerns.

9.6. The Inspector considered that the case turned on whether the:

- i) Current requirements for housing would warrant the scheme,
- ii) Development of this green-field site would undermine the planned housing objectives, the spatial vision for the area or wider policy aims,
- iii) Proposal would damage the character of the village, the appearance of the countryside or any feature that ought to be preserved,
- iv) Scheme should be curtailed until suitable improvements are made to the Cuddington Waste Water Treatment Works.

9.7. Cheshire West only has a housing land supply of 2.3 years, a decline (of some 40%) from 2010's 3.8 years. Furthermore, they had no appropriate mechanism or policy proposed to address this situation.

9.8. The Inspector concluded that:

*"The evidence adduced demonstrates a deteriorating deficiency in the 5-year housing supply currently culminating in a substantial shortfall. Moreover, in the circumstances that pertain, I consider that there is no adequate 'management measure' to address that shortfall and no reasonable prospect of one being available shortly. Hence, there is a clear failure to demonstrate a 5-year supply of deliverable sites and, in accordance with PPS3, favourable consideration should be given to this application for housing, subject to the advice in paragraph 69.*

9.9 The Inspector then went on to consider whether the scheme would provide a good mix of high quality housing and entail the efficient use of a suitable, environmentally sustainable site. He also considered whether this scheme would *"risk lifting the lid on development beyond settlement boundaries thereby encouraging housing on large areas of countryside and undermining the regeneration of Northwich"*



9.10 He concluded that:

*“... the prospect of a deluge of development in the countryside remains largely speculative. Moreover, even if inconceivable levels of investment and an unimaginable change in market conditions were to ‘encourage’ the imminent provision of all the 2754 dwellings identified, the sum total would be sufficient for barely 1.7 years; a shortfall in the 5 year supply would remain. The prospect of the posited ‘spectre’ materialising must be remote: and, the danger it might pose must be limited.*

*Nor is there any compelling evidence that permission for the appeal proposal would undermine the regeneration of Northwich”*

9.11 He went on to add that:

*“the proposal did not undermine a proper plan-led approach to development and that the proposal would properly reflect current planning aims for housing and the spatial vision .... For the area; it would also generally accord with the wider policy objectives applicable here”*

and that:

*“such a scheme would offer a sound basis for achieving a reasonably efficient use this site and for providing a ‘good mix’ of high quality housing capable of reflecting the needs of a wide cross-section of the community, including those requiring affordable dwellings”.*

and concluded that the site was in *“an inherently sustainable location”*.

9.12 The Council claimed that because the site was in open countryside, a deviation from policy was only allowed in exceptional circumstances. However, the Inspector held that that:

*“ .... a severe shortfall in housing requirements is neither countenanced by the RSS nor addressed by policy RDF2. Hence, the policy does not provide the appropriate context in which to balance the ‘need for housing’ against ‘protection for the countryside’. On the contrary, the balance is identified in PPS3. In my view, the accumulated level of the shortfall evident here would be capable of being exceptional enough for housing development to be considered favourably especially where no specific environmental damage is identified and the provisos set out in paragraph 69 of PPS3 are met”.*

He continued:

*“ .... the recent tenor of ministerial statements and the approach heralded by the draft NPPF seems to me to imply a rather more robust response to housing applications than bestowing ‘favourable consideration’ where an up-to-date 5-year supply of deliverable housing sites cannot be demonstrated.*

*For all those reasons, I consider that this scheme would meet the remaining provisos set out in paragraph 69 of PPS3. The proposal would not damage the character of the village, the appearance of the countryside or any feature that ought to be preserved. On the contrary, it would be capable of providing a wide mix of good quality housing and represent an appropriately efficient use of a highly suitable and sustainable site”.*

- 9.13. Whilst United Utilities objected to the scheme on the grounds that the incidence and volume of foul sewage spills at manholes would increase substantially, the Inspector was not convinced that the proposal would result in the problems suggested. Furthermore, he dismissed residents and the Parish Council's concerns re: traffic impact and congestion, power outages, overlooking and ecology issues.

#### Conclusion

- 9.14. The Inspectors conclusion was as follows:

*I have found that there is a deteriorating deficiency in the 5-year housing supply currently culminating in a substantial shortfall. Worse still, there is, as yet, no adequate ‘management measure’ to address that deficiency and no reasonable prospect of one being available shortly. Hence, favourable consideration should be given to this application for housing, subject to the provisos listed in paragraph 69 of PPS3. Since I consider that this scheme would properly reflect planning aims for housing and the spatial vision for the area and be capable of providing a wide mix of good quality housing on a highly suitable and sustainable site, I find that the provisos set out in paragraph 69 are met. The balance is thus in favour of developing this site just beyond the current settlement limit of Cuddington. On the evidence available, I am not convinced that the proposal would result in a significant increase in ‘spills’ of foul sewage and, given the absence of any objection from the Environment Agency, I doubt the need to limit the proposed development. Hence, and in spite of considering all the other matters raised, I find nothing sufficiently compelling to alter my conclusion that this appeal should be allowed.*

He therefore concluded that the appeal be allowed.

#### Costs Hearing

- 9.15 The appellant's (Fox Strategic Land and Property and Johnstone Godfrey) claimed that the Council behaved unreasonably as they:

- Prevented development that could properly have been permitted in the light of the Development Plan, national planning policy (PPS3) and all other material considerations.
- Prolonged proceedings by the introduction of what was effectively a new reason for refusal that remained unsubstantiated (specifically permission was refused solely because the site lies beyond the settlement limit of Cuddington and within open countryside where the erection of new buildings

would not normally be permitted and that the scheme would risk ‘lifting the lid’ on settlement boundaries and thereby erode large areas of countryside around towns and villages, jeopardise the evident urban focus of policies, impair the regeneration of Northwich and undermine the plan-led approach to development.

- Issued a reason for refusal against the professional and technical recommendation of officers. Although authorities are entitled to reach a different decision, the advice they were given was that needed to show reasonable planning grounds for doing so and produce relevant evidence on appeal to support such a decision in all respects. Cogent reasons for departing from the detailed, thorough and careful consideration of all the issues set out in the planning officer’s report were absent. Indeed, the reason for refusal asserted a breach of policy without identifying any actual harm or addressing other material considerations.

They consequently submitted a costs application against Cheshire West.

9.16 The Inspector concluded that:

*“Quite properly Councils do not have to follow the recommendations of their officers. But it seems to me that particularly cogent reasons should be required to justify departing from the sort of detailed, thorough and careful consideration of all the issues presented to them in this planning officer’s report. The bald statement that the proposal would breach the policy presumption embodied in ‘saved’ policy GS5, although correct, simply fails to acknowledge other policies in the Plan as well as any other material consideration. On the face of it such a stance would fail to fulfil the basic requirements of the Act. It would also appear to ignore, rather than accommodate, the proffered professional advice. And, the absence of any alleged harm (such as an adverse impact on the landscape, or the village, or local residents or nature conservation interests) simply serves to accentuate that deficiency.*

*I fully accept that such defects would not matter much provided evidence was to be produced at appeal stage to substantiate the reason for refusal. But the line adopted simply asserts that permission for the scheme would risk those damaging consequences flowing from the effects of prematurity and precedent. For the reasons set out in my decision letter, I consider that the evidence adduced fundamentally fails to demonstrate that the appeal proposal would entail serious risks emanating from either source. Moreover, I think that the absence of any reference to the guidance set out in the General Principles and PPS3 relating to ‘prematurity’ (explicit or otherwise as far as I can discern) confounds any realistic chance of demonstrating otherwise.*

*I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated. Hence, I allow this application for a full award of costs in the terms set out below.”*

Commentary

9.17 It should be noted that Cheshire East's housing land supply position is considerably stronger than Cheshire West's. Furthermore, the Interim Policy on Housing has been brought forward to address this situation, whilst the Planning Inspector here felt that Cheshire West had done little to address their housing shortfall in a meaningful way.

9.18 Nevertheless, this appeal shows that Inspectors are putting considerable weight on the PPS 3 housing supply argument that, if a 5-year supply of deliverable sites cannot be demonstrated, then favourable consideration should be given to applications for housing. Members and Officers should note that such an argument can outweigh a presumption against building on open countryside where no 'harm' can reasonably be identified.

9.19 Moreover:

- failure to give weight to such an argument,
- fully justify going against it,
- ignoring rather than accommodating professional advice,
- not identifying 'harm' in a refusal,

can lead to a full costs award against a Local Planning Authority, as it did in this case.

**APPENDIX 1**

**APPEAL DECISIONS JANUARY AND FEBRUARY 2012**

<u>Application number</u>	<u>Development description</u>	<u>Main Location</u>	<u>Decision description</u>	<u>Agenda description</u>	<u>Overturn Y/N</u>	<u>Appeal decision date</u>	<u>appeal decision desc</u>
09/4225M	Certificate of lawful development for a proposed swimming pool enclosure	THE GRANGE, MOSS LANE, OLLERTON, KNUTSFORD, CHESHIRE, WA16 8SH	negative certificate	Delegated Agenda	N	08/02/2012	Withdrawn
10/2984W	Application for Removal or Variation of a Condition following Grant of Planning	WHITTAKERS GREEN FARM, PEWIT LANE, BRIDGEMERE, CW5 7PP	Not determined	05.01.11- Strategic Planning Board	N	19/01/2012	Dismissed
10/4431C	Security Fencing to Retail/Service Car Parking Area	BURNS GARAGES LTD, CANAL STREET, CONGLETON, CW12 3AA	refused	Delegated Agenda	N	23/02/2012	Part allowed/part dismissed
10/4489N	Development of Land at Hall O'Shaw Street to Provide 14 Dwellings	LAND TO THE REAR OF 91, HALL O SHAW STREET, CREWE, CHESHIRE	refused	02.02.11- Southern Planning Committee	N	03/02/2012	Dismissed
11/0573N	The Erection of Poultry House and Feed Hopper with Associated Access Road	Land adjacent Minshull Lane, Church Minshull, CW5 6DX	refused	14.09.11 - Southern Planning Committee	Y	07/02/2012	Allowed
11/1742M	Construction of 2 storey side extension to front and rear	11, WOODVALE ROAD, KNUTSFORD, CHESHIRE, WA16 8QF	refused	Delegated Agenda	N	29/02/2012	Allowed
11/1469N	Proposed Vodafone Installation at Crewe Road, Crewe	LAND IN FRONT OF THE CHESHIRE CHEESE, CREWE ROAD, SHAVINGTON CUM GRESTDY, CREWE	Determination - refusal (stage 2 )	01.06.11 - Southern Planning Committee	Y	17/01/2012	Allowed
11/1550N	Remodelling of Front of Property to Restore the Nature of Original Single Proper	37, CREWE ROAD, HASLINGTON, CHESHIRE, CW1 5QR	refused	26.10.11 - Southern Planning Committee	Y	03/01/2012	Part allowed/part dismissed
11/1648N	Proposed Replacement Dwelling	WOODLANDS COTTAGE, WHITCHURCH ROAD, SPURSTOW, CHESHIRE, CW6 9RU	refused	Delegated Agenda	N	18/01/2012	Dismissed
11/1722C	Demolition of Existing House and Erection of 5no Two Storey Houses	Gwenstan, 14, SMITHFIELD LANE, SANDBACH, CHESHIRE, CW11 4JA	refused	03.08.11 - Southern Planning Committee	Y	18/01/2012	Dismissed
11/1746N	Change of Use for Land 12' Wide Adjacent to the Property. Currently in Ownership	8, KEMBLE CLOSE, WISTASTON, CW2 6XN	refused	Delegated Agenda	N	19/01/2012	Dismissed
11/1755C	Demolition of Existing Building and Erection of Three Detached Dwellings	CRANAGE NURSERIES, 79, NORTHWICH ROAD, CRANAGE, WA16 9LE	refused	Delegated Agenda	N	07/02/2012	Dismissed
11/1793N	Single Storey Extension to Rear of Property	Fields View, MIDDLEWICH ROAD, WOOLSTANWOOD, CW2 8SD	refused	Delegated Agenda	N	18/01/2012	Dismissed
11/1979M	Retrospective Planning Permission for Erection of Wooden Fence	9, OLD HALL CRESCENT, HANDFORTH, CHESHIRE, SK9 3AX	refused	Delegated Agenda	N	16/01/2012	Dismissed

11/2311N	CHANGE OF USE OF LAND FROM AGRICULTURAL TO GARDEN & DRIVEWAY/PARKING AREA	THE ASH, WOODHOUSE LANE, AUDLEM, CREWE, CW3 0DT	refused	Delegated Agenda	N	09/01/2012	Dismissed
11/2520C	A 1200 Wide Hardwood External Staircase From The Yard At The Rear	The Sandpiper, 62, THE HILL, SANDBACH, CHESHIRE, CW11 1HT	refused	14.09.11 - Southern Planning Committee	Y	18/01/2012	Dismissed
11/3071M	Erection of a single storey side extension to form new principle entrance to the	CYDONIA COTTAGE, KNUTSFORD ROAD, ALDERLEY EDGE, CHESHIRE, SK9 7SS	refused	Delegated Agenda	N	21/02/2012	Dismissed
11/3615M	Alterations to single storey dwelling	BOWESLEIGH, GREENDALE LANE, MOTTRAM ST ANDREW, MACCLESFIELD, SK10 4AY	refused	Delegated Agenda	N	03/01/2012	Dismissed
11/3790N	FIRST FLOOR EXTENSION TO PROVIDE LEVEL ACCESS SHOWER ROOM/BEDROOM AND THROUGH FL	7, BAKER CLOSE, CREWE, CW2 8GS	refused	Delegated Agenda	N	28/02/2012	Dismissed

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