

# Southern Planning Committee

## Agenda

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**Date:** Wednesday, 12th December, 2012  
**Time:** 1.00 pm (PLEASE NOTE CHANGE OF TIME)  
**Venue:** Council Chamber, Municipal Buildings, Earle Street, Crewe  
CW1 2BJ

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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 disclosable pecuniary and non-pecuniary interests and for Members to declare if they have pre-determined any item on the agenda.

3. **Minutes of Previous Meeting** (Pages 1 - 12)

To approve the minutes of the meeting held on 21 November 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 or requests for further information

[Speakingatplanning@cheshireeast.gov.uk](mailto:Speakingatplanning@cheshireeast.gov.uk) 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. **12/2808N Land at 2 Railway Bridge Cottages, Baddington Lane, Baddington, Nantwich CW5 8AD: Change of Use of Land to Use as a Residential Caravan Site Including Extension of Existing Hardstanding for Mr J Florence**  
(Pages 13 - 28)

To consider the above planning application.

6. **12/3847C Thimswarra Farm, Dragons Lane, Moston, Sandbach, Cheshire CW11 3QB: Change of Use of Land to use as a Residential Caravan Site for Two Gypsy Families, including Laying of Hardstanding and Driveway for Mr Lawrence Newbury** (Pages 29 - 56)

To consider the above planning application.

7. **12/3603C Land on the south side of Dragons Lane, Dragons Lane, Moston, Sandbach, Cheshire, CW11 3QB: The use of land for the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hard standing and utility/ dayrooms ancillary to that use for Martin Smith** (Pages 57 - 86)

To consider the above planning application.

8. **12/3735N Alvaston Hall Hotel, Peach Lane, Wistaston, Crewe CW5 6PD: Alterations and Extensions to Existing Hotel/Leisure Site Including Part Demolition of Existing Buildings, New Build Bedroom Accommodation, Extension and Refurbishment of Dining/Cabaret/ and Lounge Areas with Associated Parking and Landscape Works for Mr Simon Thompson, Bourne Leisure** (Pages 87 - 100)

To consider the above planning application.

9. **12/3741C 21, Shearbrook Lane, Goostrey CW4 8PR: First Floor Extension to Existing Property and Single Storey Side and Rear Extension for Mr J Cartwright** (Pages 101 - 108)

To consider the above planning application.

10. **12/3807C Land Adjacent to Rose Cottages, Holmes Chapel Road, Somerford, Congleton: Proposed Residential Development Comprising of 25 no. Dwellings (inc. 7no. Affordable Units) Together with the Creation of a New Access for Bloor Homes J Wilson S Owen Stracey & So, Joint Application**  
(Pages 109 - 138)

To consider the above planning application.

11. **12/3879N Office Premises, The Former Genus PLC, Rookery Farm Road, Tarporley, Cheshire: Outline application for re-submission of application 12/3086N - demolition of existing steel portal vacant office building. Construction of four dwellings with associated garage, access and parking for Genus Plc** (Pages 139 - 150)

To consider the above planning application.

12. **12/3902N 2, Cedar Grove, Nantwich CW5 6GZ: Proposed Dwelling In Curtilage Of Beech House 2 Cedar Grove for Mr & Mrs W J Green** (Pages 151 - 160)

To consider the above planning application.

13. **12/4082C Tall Ash Farm Triangle, Buxton Road, Congleton, Cheshire CW12 2DY: Construction of Three New Residential Dwellings (Resubmission of Application Reference 12/0106C) for P, J & Ms M Hudson** (Pages 161 - 172)

To consider the above planning application.

14. **12/4087N T I Midwood & Co, Green Lane, Wardle, Cheshire CW5 6BJ: The erection of a replacement storage and distribution unit, including details of access, appearance, layout and scale (details of landscaping reserved for subsequent approval), following the demolition of the existing building on the site for T I Midwood and Co Ltd** (Pages 173 - 180)

To consider the above planning application.

15. **12/4107N Former Site of Earl Of Crewe Hotel, Nantwich Road, Crewe, Cheshire CW2 6BP: Construction of new Foodstore with associated car parking, servicing facilities and landscaping for C/O Agent, Aldi Stores Ltd**  
(Pages 181 - 196)

To consider the above planning application.

16. **12/3740N Cedar Court, Corbrook, Audlem, Crewe, CW3 0HF: Proposed alterations to Cedar Court to provide a 35 bedroom Nursing Home within the existing building for which planning permission has been granted for a Nursing Home (Ref: 10/4845N and 11/4578N) for Morris & Company Limited**  
(Pages 197 - 204)

To consider the above planning application.

17. **12/2225C Land at 50A, Nantwich Road, Middlewich, Cheshire CW10 9HG: Residential Development Comprising Demolition of Existing Bungalow & Outbuildings & Erection of 24 Dwellings Including Access, Parking, Landscaping & Associated Works for P E Jones (Contractors) Limited**  
(Pages 205 - 222)

To consider the above planning application.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Southern Planning Committee**  
held on Wednesday, 21st November, 2012 at Council Chamber, Municipal  
Buildings, Earle Street, Crewe CW1 2BJ

**PRESENT**

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

Councillors Rhoda Bailey, D Bebbington, P Butterill, R Cartlidge, J Clowes,  
W S Davies, P Groves, A Kolker, D Marren, M A Martin, S McGrory, D Newton  
and A Thwaite

**NON-COMMITTEE MEMBERS IN ATTENDANCE**

Councillors S Corcoran and B Moran

**OFFICERS PRESENT**

Rachel Goddard (Senior Lawyer)  
Ben Haywood (Principal Planning Officer)  
Chris Hudson (Principal Forestry and Arboricultural Officer)  
Neil Jones (Principal Development Officer – Highways Development)  
David Malcolm (Southern Area Manager – Development Management)  
Julie Zientek (Democratic Services Officer)

**Apologies**

None

**81 DECLARATIONS OF INTEREST**

The following declarations were made in the interests of openness:

With regard to application number 12/3076C, Councillor Rhoda Bailey declared that she had previously assisted the applicant with a case that went to appeal.

With regard to application number P09/0014, Councillors R Cartlidge and P Groves declared that they had been appointed as Council representatives on the Board of Wulvern Housing but that they had not actively promoted the application.

Councillor P Butterill declared that, notwithstanding the publication in the press of a letter from her regarding development on Greenfield sites, she had kept an open mind with respect to all the applications on the agenda for the current meeting, and that she would consider each item on its merits, having heard the debate and all the information.

Councillor D Bebbington declared that, notwithstanding the publication in the press of a letter from him regarding the Keep it Green Campaign, he had kept an open mind with respect to all the applications on the agenda for the current meeting, and that he would consider each item on its merits, having heard the debate and all the information.

Councillor J Clowes declared that, as Health and Adult Social Care Portfolio Holder, she had no conflict of interest with regard to application numbers 12/3877N and 12/3740N.

With regard to application number 12/2225C, Councillor S McGrory declared that he was a member of Middlewich Town Council, and that he had had various contacts regarding the application but had not expressed an opinion.

With regard to application numbers 12/3603C, 12/1650C and 12/1455C, Councillor G Merry declared that she was a member of Sandbach Town Council, but that she had not taken part in any discussions in respect of the applications.

## **82 MINUTES OF PREVIOUS MEETING**

RESOLVED – That the minutes of the meeting held on 31 October 2012 be approved as a correct record and signed by the Chairman.

### **83 12/3603C LAND ON THE SOUTH SIDE OF DRAGONS LANE, DRAGONS LANE, MOSTON, SANDBACH, CHESHIRE CW11 3QB: THE USE OF LAND FOR THE STATIONING OF CARAVANS FOR RESIDENTIAL PURPOSES FOR 4 NO. GYPSY PITCHES TOGETHER WITH THE FORMATION OF ADDITIONAL HARD STANDING AND UTILITY/ DAYROOMS ANCILLARY TO THAT USE FOR MARTIN SMITH**

The Chairman reported that this application had been withdrawn from the agenda to enable officers to address ecological issues that had been raised prior to the meeting.

### **84 12/3458N WADES GREEN FARM, MINSHULL LANE, CHURCH MINSHULL, NANTWICH, CHESHIRE CW5 6DX: ERECTION OF AN AGRICULTURAL BUILDING FOR BARN EGG PRODUCTION FOR IAN HOCKNELL, I & K HOCKNELL**

Note: Councillor P Butterill left the meeting and returned during consideration of this item but did not take part in the debate or vote.

Note: Mr I Pick (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, for the reasons set out in the report, the application be APPROVED subject to the following conditions:

1. Standard
2. Plans
3. Materials
4. Drainage
5. Landscaping Submitted
6. Landscaping Implemented
7. External Lighting
8. Method for the Control of Flies
9. Treatment of Manure from Site
10. The Auto Start Generator and Ridge Fans to be Installed and Maintained in Accordance with Manufactures Instructions
11. Surfacing Materials

**85 12/3076C BETCHTON COTTAGE FARM, CAPPERS LANE, BETCHTON, CHESHIRE CW11 2TW: EXTENSION OF SITE AREA AND CONSTRUCTION OF A HARD STANDING FOR STORAGE OF SKIPS FOR TOM GARDINER, WILLIAM BEECH SKIP HIRE LTD**

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

RESOLVED – That authority be DELEGATED to the Development Management and Building Control Manager in consultation with the Chairman to approve the application for the reasons set out in the report, subject to no new issues being raised following the advertisement of the application as a departure from policy

and the following conditions:

1. Time limit.
2. Compliance with the approved plans.
3. Skips stored on the site shall not exceed a height of 2.5m from ground level.
4. Submission and implementation of a tree and hedgerow protection scheme.
5. Submission and implementation of details of the post and rail fence at the north western end of the site.
6. Retention of hedgerow.
7. Hours of use to be consistent with the main site.

**86 12/2225C LAND AT 50A, NANTWICH ROAD, MIDDLEWICH, CHESHIRE CW10 9HG: RESIDENTIAL DEVELOPMENT COMPRISING DEMOLITION OF EXISTING BUNGALOW & OUTBUILDINGS & ERECTION OF 24 DWELLINGS INCLUDING**

**ACCESS, PARKING, LANDSCAPING & ASSOCIATED WORKS FOR P E JONES (CONTRACTORS) LIMITED**

Note: Councillor M Martin arrived during consideration of this item but did not take part in the debate or vote.

Note: Mr G Kench (on behalf of a local representative group), Mr B Cole (objector) and Ms H Hartley (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

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

RESOLVED – That the application be DEFERRED to allow officers to seek clarification regarding the width of the access off Nantwich Road and its suitability for construction vehicles, and to undertake further discussions with the applicant regarding pepper-potting of the affordable housing.

**87 12/3877N LAND ADJOINING THE BRIDGE INN, BROAD STREET CREWE: EXTENSION TO TIME LIMIT ON PLANNING PERMISSION 10/0196N: CONSTRUCTION OF OLD PERSONS RESIDENTIAL CARE HOME COMPRISING 46 SINGLE BEDROOMS AND 20 INDEPENDENCY UNITS, OF 2 STOREYS PLUS ATTIC DORMERS FOR MR J WARTERS, TWO DALES LIMITED**

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

RESOLVED

- (a) That, for the reasons set out in the report, the application be APPROVED subject to the following conditions:
1. Standard time 3 years
  2. Materials to be as per the letters of 13<sup>th</sup> September 2010 & 16<sup>th</sup> March 2011
  3. Surfacing materials as per the attachments to the letter of 22<sup>nd</sup> July
  4. Landscape scheme as per plan reference REV A
  5. Landscape scheme to be completed in accordance with the approved details
  6. Boundary treatment as per the attachments to the letter of 22<sup>nd</sup> July 2010 and attached to the e-mail of 7<sup>th</sup> March 2011 from Andy Pyatt
  7. Provide car parking as shown on the approved plan
  8. Drainage details as per plans reference 2500MM/D1 and 1130/11
  9. Access to be constructed to CE spec
  10. Footpath link to front of site to be provided in accordance with plan reference 1130/21 Revision G
  11. Access to 175 Broad Street to be retained

12. Approved plans
13. Obscure glazing to be provided and retained
14. The noise attenuation measures described in paragraph 2.1 Traffic Noise Assessment and paragraph 2.2 Entertainment Noise Assessment of the Technical Report dated 7<sup>th</sup> October 2009 should be undertaken by the developer.
15. Window reveals of 55mm to be provided to all windows and doors
16. Restrict use of the site to use class C2 (Residential Institutions)
17. Cycle parking as per the agreed details
18. Gas Absorption Heat Pump to be provided and retained
19. Detail of window design details as attached to e-mail of 23<sup>rd</sup> July 2010

- (b) That, 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 Development Management and Building Control Manager be granted delegated authority to do so in consultation with the Chairman of the Southern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

**88 12/1650C WATERWORKS HOUSE, DINGLE LANE, SANDBACH  
CW11 1FY: DEMOLITION OF EXISTING TWO-STOREY DWELLING,  
REMOVAL OF WATER TREATMENT STORAGE AND SETTLEMENT  
TANKS, CONSTRUCTION OF 12 TWO-STOREY DETACHED  
DWELLINGS TOGETHER WITH ASSOCIATED CAR PARKING AND  
LANDSCAPING WORKS, CLOSURE OF VEHICULAR ACCESS  
ONTO DINGLE LANE AND FORMATION OF NEW ACCESS ONTO  
TIVERTON CLOSE FOR THE WATERWORKS TRUST**

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

Note: Councillor B Moran (Ward Councillor), Councillor S Corcoran (Visiting Member), Mr T Waite (objector) and Mr S Harris (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

Note: Following the public speaking, Councillor D Newton declared that he knew the applicant and withdrew from the meeting during consideration of this item.

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

RESOLVED – That, contrary to the planning officer's recommendation for approval, the application be REFUSED for the following reason:

The proposed development would have an unacceptable adverse impact on the Wildlife Corridor that is not outweighed by other matters of overriding interest namely housing land supply. The development is therefore contrary to Policies GR1 and NR4 of the adopted Congleton Borough Local Plan First Review 2005. The proposal would not represent sustainable development as it would not conserve or enhance the natural environment and would be contrary to paragraph 109 of the NPPF.

**89 12/3431N LAND TO THE NORTH OF EARLE STREET, CREWE, CHESHIRE CW1 2AL: PROPOSED NEW BUILD TOOL AND PLANT HIRE UNIT (USE CLASS SUI-GENERIS), INCLUDING SITE ACCESS, CAR PARKING, LANDSCAPING AND ASSOCIATED INFRASTRUCTURE FOR CARL BANKS, P.E.T. HIRE CENTRE LIMITED**

Note: Councillor S McGrory left the meeting prior to consideration of this application.

Note: Ms C Clarke (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application, a written update and a site plan which was circulated at the meeting.

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

1. Standard Time Limit
2. Plan References
3. Materials
4. Details of Secured Covered Cycle Parking to be Submitted and Agreed in Writing
5. Surfacing Materials to be submitted and agreed
6. Details of Boundary Treatment to be submitted and approved
7. Details of the bin storage area to be submitted and agreed in writing
8. Landscaping submitted
9. Landscaping implemented
10. Windows in the side elevation facing Greystone Park at first floor level to be obscurely glazed
11. No subdivision
12. Drainage scheme to be submitted and approved in writing
13. Contaminated land report
14. Car parking and turning areas to be made available prior to the first occupation of the building
15. The building shall be for the sale/hire of tools and plant only
16. Floor Floating
17. Hours of Construction

- |  |                             |                    |
|--|-----------------------------|--------------------|
|  | Monday – Friday             | 08:00 to 18:00 hrs |
|  | Saturday                    | 09:00 to 14:00 hrs |
|  | Sundays and Public Holidays | Nil                |
18. Hours of Operation
19. No external lighting
20. Pile foundations
- |  |                            |                   |
|--|----------------------------|-------------------|
|  | Monday – Friday            | 09:00 – 17:30 hrs |
|  | Saturday                   | 09:00 – 13:00 hrs |
|  | Sunday and Public Holidays | Nil               |
21. Trade Counter

**90 P09/0014 LAND AT 2 & 4 HEATHFIELD AVENUE AND 29, 29A & 31 HIGHTOWN: DEMOLITION OF EXISTING BUILDINGS AND ERECTION OF NEW BUILDINGS AND REDEVELOPMENT OF EXISTING LINK HOUSE TO PROVIDE 35 APARTMENTS AND TWO RETAIL UNITS WITH ASSOCIATED INFRASTRUCTURE FOR R.G. HARRIS LTD**

Note: Having declared that they had been appointed as Council representatives to Wulvern Housing, Councillors R Cartlidge and P Groves withdrew from the meeting during consideration of this item.

Note: Mr G Allen and Mr N Powell (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 clarifying that RES 7 as modified was not a saved policy, but that the application was policy compliant.

RESOLVED – That, for the reasons set out in the report, the application be APPROVED, subject to the satisfactory completion of a Section 106 agreement to secure:

- Provision of commuted sum in lieu of on site provision of children’s play equipment and casual recreational open space -£17,500.
- Provision of 11 affordable housing units Including a cascade for the occupation of the dwellings -
  - 1 Crewe
  - 2 Cheshire East

and the following conditions:

1. A03FP - Commencement of development (3 years)
2. A03AP - Development in accord with approved plans (numbered)
3. A02EX – Details of Proposed Materials
4. No demolition during bird breeding season or site checked by Ecologist
5. 10/% renewable energy provision
6. Access and car parking to be provided

7. Cycle rack details and to be provided
8. Solar panels to be provided and maintained and method statement
9. Landscaping
10. Landscaping implementation
11. Boundary treatment
12. Waste management plan
13. Sustainable urban drainage measures
14. Noise attenuation
15. Lighting scheme
16. Finished floor levels
17. Details of features for birds

**91 12/3164C LAND SOUTH OF PORTLAND DRIVE, SCHOLAR GREEN  
CHESHIRE: PLOT SUBSTITUTION OF PLOTS 14-40 AND  
ELEVATIONAL VARIATIONS TO PLOTS 7-13 AND 41-52 OF  
PREVIOUSLY APPROVED APPLICATION 08/0712/FUL FOR BEN  
BAILEY HOMES**

Note: Mr C Oxley (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 a written update.

RESOLVED – That, for the reasons set out in the report, the application be APPROVED, subject to the satisfactory completion of a Section 106 agreement to link the scheme to the earlier permission

and the following conditions:

1. Standard time limit
2. Development in accordance with the approved and amended plans
3. Submission and approval of external materials and finishes
4. Submission of details of landscaping to include details of boundary treatments
5. Submission of arboricultural statement for retained trees
6. Details of drainage
7. Hours of piling restricted
8. Hours of construction restricted
9. Gas monitoring
10. Protected species
11. No works within bird breeding season without survey
12. Submission of details of levels
13. Obscured glazing
14. Removal of permitted development rights for openings

**92 12/3294N WARDLE BRIDGE FARM, NANTWICH ROAD, WARDLE  
CW5 6BE: DEVELOPMENT OF NEW AGRICULTURAL MACHINERY  
DEALERSHIP COMPRISING OF SHOWROOM, WORKSHOP, PARTS  
COUNTER, ANCILLARY RETAIL SALES AND OFFICE BUILDING;**

**EXTERNAL NEW AND USED VEHICLE DISPLAY AREAS; CAR PARKING AND ASSOCIATED LANDSCAPING, FOLLOWING DEMOLITION OF EXISTING BUILDINGS AND STRUCTURES ON SITE FOR AGRICULTURAL MACHINERY (NANTWICH) LTD**

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 satisfactory completion of a Section 106 agreement to secure a financial contribution of £3,000 for the introduction of a weight restriction on the railway bridge to the right of the site, as Members considered that, in accordance with the Community Infrastructure Levy Regulations 2010, it was 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 because it would pay for an order to restrict the size/weight of vehicles travelling to/from the site in the vicinity of the school

and the following conditions:

- 1 Standard
- 2 Reference to plans.
- 3 Materials
- 4 Construction of parking and access
- 5 Submission / approval and implementation of travel plan
- 6 Submission / approval of landscaping
- 7 Implementation of landscaping
- 8 Construction Hours limited to Monday – Friday 08:00 to 18:00 hrs; Saturday 09:00 to 14:00 hrs; Sundays and Public Holidays Nil
- 9 Submission / approval and implementation of external lighting
- 10 Building to be used for the display, sale, storage and repair of agricultural machinery with ancillary offices / retail sales only
- 11 The unit shall not be used for retailing any goods other than those genuinely associated with a an agricultural machinery dealership, and shall not be used for the retailing of any of the following goods:
  - Fashion clothing and footwear (other than country, equestrian and leisure clothing and footwear normally retailed within a country store);
  - Fashion accessories, including jewellery, cosmetics, toiletries and pharmaceutical products; books, newspapers and magazines (other than specialist publications or animal health products normally retailed within a country store);
  - Electrical goods (other than those which would normally be retailed within a country store);

- Kitchenware or goods associated with cookery
- 12 Widening of left turn radius off A51
- 13 Layby/passing bay between site and A51
- 14 Provision of ghost island/right turn off A51

**93 12/3007N LOWER FARM, WHITCHURCH ROAD, BURLEYDAM SY13  
4AT: CONVERSION OF EXISTING REDUNDANT MILKING BARN  
TO CREATE 9 RESIDENTIAL UNITS AND SUBDIVISION OF THE  
EXISTING FARMHOUSE INTO 2 SEPARATE RESIDENTIAL UNITS  
(EQUATING TO 11 DWELLINGS ON SITE), WITH ASSOCIATED  
WORKS FOR I BARTON**

Note: Councillor M Boffey (on behalf of Dodcott-Cum-Wilkesley Parish Council) and Ms S Nicholls (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 report of the site inspection.

**RESOLVED**

- (a) That, for the reasons set out in the report, the application be APPROVED subject to the following conditions:
1. Standard – 3 years
  2. Materials to be submitted and approved
  3. Removal of all permitted development rights including no insertion of rooflights or other openings and no closing of existing openings.
  4. No rebuilding permitted; repair and refurbishment only
  5. Curtilage of dwellings should not extend beyond that illustrated in submitted drawings.
  6. Window reveal to be 100mm
  7. Demolition of existing buildings prior to occupation of the dwellings
  8. Provide car parking spaces prior to occupation
  9. Drainage details to be submitted and approved
  10. Landscaping to be submitted
  11. Landscaping to be completed
  12. Boundary treatment to be submitted and approved
  13. Rainwater goods to be black and metal
  14. Surfacing Materials to be submitted and approved
  15. Retention of window shutters
  16. Conservation style roof lights
  17. Timber doors and frames
  18. Contaminated Land
  19. Bin storage to be submitted and approved
  20. Approved plans
  21. Development to be carried out in accordance with Protected Species Mitigation Measures
  22. External lighting to be submitted and approved
  23. Works within the bird breeding season

24. Re-designed access to accommodate refuse vehicles
25. Hours of construction
26. Five metre buffer to Barnett Brook
27. Communal bin store

(b) That, 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 Development Management and Building Control Manager be granted delegated authority to do so in consultation with the Chairman of the Southern Planning Committee, provided that the changes do not exceed the substantive nature of the Committee's decision.

**94 12/1455C LAND ON THE CORNER OF MOSS LANE AND STATION ROAD, ELWORTH, SANDBACH, CHESHIRE: OUTLINE PLANNING PERMISSION (WITH ACCESS FROM STATION ROAD APPLIED FOR) FOR THE ERECTION OF UP TO 41 DWELLINGS FOR REVELAN GROUP PLC**

Note: Councillor S Corcoran (Visiting Member) and Mr A Dodson (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 report of the site inspection.

RESOLVED – That, for the reasons set out in the report, the application be APPROVED, subject to the satisfactory completion of a Section 106 agreement to secure the following:

- Provision of 30% affordable housing units – 65% to be provided as social rent/affordable rent with 35% intermediate tenure
- A commuted sum payment of £15,963.75 maintenance of on site POS
- Commuted sums for enhanced Provision of £12,361.95 and Maintenance sum of £40, 297.50 in lieu of Children's and Young persons provision
- A commuted payment of £75,924.03 towards primary school education and £81,713.45 secondary school education

and the following conditions:

1. Standard outline
2. Submission of reserved matters (landscaping, external appearance, layout and scale)
3. Approved plans
4. Scale Parameters - no higher 2 ½ storey
5. Landscaping to include boundary treatments

6. Contaminated land investigation (Phase 1)
  7. Hours of construction/demolition
  8. Details of pile driving operations
  9. Submission of Environmental Management Plan (noise and air quality during demolition and construction)
  10. Scheme to accord with Flood risk Assessment
  11. Scheme of surface water regulation to be submitted
  12. Only foul drainage to be connected to sewer
  13. Retention of important trees
  14. Submission of Comprehensive tree protection measures
  15. Implementation of Tree protection
  16. Timing of the works and details of mitigation measures to ensure that the development would not have a detrimental impact upon breeding birds.
  17. Submission of details of boundary treatment
  18. open plan estate
  19. Provision of 2 m wide pavement to Station road/ Elton Crossing Road
  20. Existing access to be closed off and made to adoptable standards
  21. Private maintenance contract to be submitted and approved for Public Open Space
  22. Existing vehicular access to be closed off and made up to adoptable standards as pavement
  23. Renewable Energy
- 95 **12/3740N CEDAR COURT, CORBROOK, AUDLEM, CREWE, CW3 0HF: PROPOSED ALTERATIONS TO CEDAR COURT TO PROVIDE A 35 BEDROOM NURSING HOME WITHIN THE EXISTING BUILDING FOR WHICH PLANNING PERMISSION HAS BEEN GRANTED FOR A NURSING HOME (REF: 10/4845N AND 11/4578N) FOR MORRIS & COMPANY LIMITED**

Note: Councillors R Cartlidge, M Martin and D Newton left the meeting prior to consideration of this application.

The Committee considered a report regarding the above planning application.

RESOLVED – That the application be DEFERRED to allow officers to consider a more restrictive condition on occupation and assess whether the rooms meet current standards.

The meeting commenced at 2.00 pm and concluded at 7.12 pm

Councillor G Merry (Chairman)

Application No: 12/2808N

Location: Land at 2, Railway Bridge Cottages, BADDINGTON LANE,  
BADDINGTON, NANTWICH, CW5 8AD

Proposal: Change of Use of Land to Use as a Residential Caravan Site Including  
Extension of Existing Hardstanding

Applicant: Mr J Florence

Expiry Date: 09-Oct-2012

**SUMMARY RECOMMENDATION:** Approve subject to conditions

**MAIN ISSUES:**

- Procedural Matters;
- Main Issues;
- Principles of Development;
- Sustainability;
- Impact on the Character and Appearance of the Open Countryside;
- Amenity;
- Demonstrable Need;
- Precedent;
- Highways;
- Ecology;
- Human Rights and Race Relations
- Drainage; and
- Other Matters

**REFERRAL**

The application has been referred to Committee at the discretion of the Development Management & Building Control Manager due to the considerable public interest in the application, and the current limited policy position with regard to Gypsy/Traveller Sites.

**DESCRIPTION OF SITE AND CONTEXT**

The application site lies in an area of open countryside approximately 3.1km away from Nantwich. The application site is located on the south side of Baddington Lane, which forms the northern boundary. The application site is bounded to the east and south by post and rail fences and open fields beyond them. Whereas, to the west are a pair of semi detached cottages. It is noted that the applicant owns no. 2 Railway Bridge Cottage, which immediately adjoins the application site. At the time of the site visit the ménage had been covered in

hardstanding and there were a number of touring caravans. The application site is located wholly within the open countryside.

## **DETAILS OF PROPOSAL**

This is a full application for a change of use of land to use as a residential caravan site including extending the existing hardstanding at land adjacent to 2 Railway Bridge Cottages, Baddington Lane, Baddington, Nantwich.

## **RELEVANT HISTORY**

No relevant site history

## **POLICIES**

### **National Policy**

The application should be determined in accordance with national guidance set out in:

National Planning Policy Framework  
Planning Policy for Traveller Sites

### **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:

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

### **Structure Plan**

HOU6 (Gypsy Caravan Sites)

### **Other Documents**

Interim Strategy on Gypsy and Traveller Accommodation Needs

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

**United Utilities:** No objections

**Environmental Health:** No objection subject to a condition relating to external lighting and the following:

The proposed site, if permitted, will require a caravan site licence and as part of this licence there is a requirement for paved road ways, caravan/chalet hard standings and lighting.

It is noted that the application is for residential caravans these can take the form of very large chalets or "twin units". The plans suggest caravans of differing sizes e.g. a chalet /mobile home and a touring caravan. This use must be clarified and caravan type controlled by condition. The site appears to be 4 pitches of 2 caravans per pitch equalling 8 caravans in total.

The definition of a caravan is very broad and clarity needs to be stipulated and controlled.

Previous site permissions for example have restricted a pitch to be a 1 chalet/mobile home and 1 touring caravan.

There shall be a minimum spacing of 6 meters between caravans.

There shall be recreational space provided that is at least 10% of the site area.

Any residential caravan structure shall meet the British Standard 3632:2005 which ensure a suitable standard for park/residential homes.

There is a suggestion in the public consultation that the site may be used as a Gypsy and Traveller (Romany) site, this would also need clarification as in planning terms the application does not state this thus the special housing needs of the Traveller community may not be applicable. Also as the application does not refer to the Travelling community then the cultural need for additional structures for amenity/shower toilet buildings and day rooms will not be required as they will be in the caravan units themselves. Thus permitted development rights and their need should be considered in planning terms.

The foul waste/sewer system will need to be approved by the LPA and it is for the planning department to decide if this information together with any percolation test needed, prove capacity and function before the application is considered or imposed as a condition if permitted.

There shall be a condition prohibiting the use of generators on site to prevent noise disturbances, the electrical supply shall be from an approved mains supply.

The planning department may wish to consider controlling work activities and vehicle sizes on site.

**Contaminated Land:** No objections subject to a contaminated land condition

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

The Parish Council objects to the proposed development for the following reasons:

- The development is in the open countryside;

- The development is visual intrusion on the open countryside in which the site is situated;
- The development will have a detrimental effect on surrounding properties; and
- Access to and from the site is a concern due to its position on such a busy road

### **OTHER REPRESENTATIONS**

Two letters of support (from the same address) have been received. The salient points raised are as follows:

- We are totally happy with this application on all counts. We are the direct neighbours of the applicant, our house being part of the semi-detached property. We have lived here for 26 years;
- This application for four families and amenities required on the land attached to the property is in our view very good. The families are quiet, polite, tidy, and good-neighbourly. The family are of Romany origin and adhere to the true principles of Romany traditions. We are very pleased to welcome them to our neighbourhood. We feel that any adverse remarks regarding this issue would be uneducated and prejudiced;
- The site is kept in a clean and tidy condition

Six letters of objection have been received. The salient points raised in the letters of objection are as follows:

- The site has been developed without planning permission when everyone else has to wait until permission has been granted before any building takes place;
- I now see several caravans parked there with people obviously living in them and also a mobile home. This is a flagrant flaunting of the planning laws that every citizen is supposed to abide by;
- The proposal will set a precedent and the site may continue to grow;
- I have sent the letter below to Cheshire East council which is self explanatory and I wonder if there is anything that you can do to help me prevent this application being granted or at least being prevented in the short term until more information can be obtained about the developers intentions.
- We understand that traveller sites are required and as below Cheshire East has allocated 2 sites locally as being suitable on their own land. Indeed one is less than 1 mile away from the proposed site. Surely it would be better to take forward one of these options in preference to a private individuals site (of which I have working knowledge of ) and can be very difficult to control expansion/activities on.
- We would like to respectfully request that a decision on the above planning application is deferred until such time that full consideration has been given to the Governments National Planning Policy framework
- We believe that locally, sites in Stapeley Broad Lane and Hack Green have already been identified as potentially suitable traveller sites by Cheshire East Council on their own land which can always be controlled tightly with respect to development now and in the future.
- We believe the new policy states that new developments should not dominate the nearest settled community which the above may do should it expand .How can we

prevent this happening if the development was granted? We understand that the residents of the site will be family members but how extended will this family become in the future? How many caravans will be located in years to come?

- We also believe that the application contravenes the new planning policy for traveller sites which states traveller sites (temporary or permanent) in the green belt are inappropriate developments.
- The proposal will have a detrimental impact on the character and appearance of the area;
- I have not been notified of the proposal;
- The proposal will have a significant detrimental impact on the residential amenity.
- The proposal will generate more vehicular movements and the access to the site is dangerous and as such is likely to have a impact on highway safety;
- The increase in hardstanding will exacerbate flooding in the area

## **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**

### **Procedural Matters**

It is noted that work has already commenced on the site and a large amount of hardstanding had already been laid and there were also a number of caravans. According to Section 73A of the 1990 Town and Country Planning Act specifically provides that a grant of planning permission can be given for a development that has already taken place.

### **Main Issues**

The main issues in this case are:

- (a) Whether the site is in an appropriate location for the scale of use proposed having particular regard to accessibility to services and facilities as well as other sustainability considerations referred to in the Local Plan and Planning Policy for Traveller Sites;
- (b) The effect of the proposed development on the character and appearance of the area; and
- (c) Whether, if there is any harm and conflict with policy, there are material considerations which outweigh the harm and conflict, including the need for more gypsy sites in the area, the likelihood and timescale for identified needs to be met through the development plan system, the applicants and intended occupiers personal and family circumstances and accommodation alternatives.

### **Principles of Development**

As with national planning guidance, Policy NE.2 (Open Countryside) of the Local Plan seeks to safeguard the countryside for its own sake and prevent non-essential development that may cause harm to the character and appearance and openness of the countryside.

However, policies within the development plan, in conjunction with national planning guidance and advice in Planning Policy for Traveller Sites, accept that outside Green Belt areas, rural settings are acceptable in principle for gypsy and traveller caravan sites. The applicant argues that a degree of harm to the character and appearance of the countryside is unavoidable but points out that Government advice suggests that in most cases this visual harm can be satisfactorily mitigated with appropriate landscaping. However, whilst the need for gypsy and traveller accommodation is a consideration, both development plan policies and Government guidance require, in addition, consideration of the impact on the surrounding area, neighbouring amenity, highway safety, the need to respect the scale of the nearest settled community and also the availability of alternatives to the car in accessing local services.

### **Sustainability**

Planning Policy for Travellers Sites clearly enunciates that travellers sites should be sustainable economically, socially and environmentally and states that local authority planning policies should

- a) Promote peaceful and integrated co-existence between the site and the local community;
- b) Promote, in collaboration with commissioners of health services, access to appropriate health services;
- c) Ensure that children can attend school on a regular basis;
- d) Provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment
- e) Provide proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well being of any travellers that may locate there or on others as a result of new development;
- f) Avoid placing undue pressure on local infrastructure and services;
- g) Do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans;
- h) Reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability

It is clear that the key principals of national and local planning policies are to promote sustainable patterns of development in order to reduce the need to travel and the dependence on the private car. The nearest service centre to the application site is Nantwich and there is a distance of approximately 3.1km separating the two sites. Therefore, it is considered that the application site is in an isolated rural setting and is removed from any settlement, shop(s), school(s), community facilities or place(s) of employment. Dragons Lane is typical of many rural highways being twisty, unlit and without footways. The road is wide enough for vehicles to pass each other with relative ease.

As previously stated the Planning Policy for Traveller Sites has an intention, amongst other things, to create and support sustainable, respectful and inclusive communities where gypsies

and travellers have fair access to suitable accommodation, education and health and welfare provision. The document clearly acknowledges that '*Local Planning Authorities should strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated within the development plan*' (paragraph 23). However, it does not state that gypsy/traveller sites cannot be located within the open countryside.

The document makes it clear that sustainability is important and should not only be considered in terms of transport mode and distance from services. But other factors such as economic and social considerations are important material considerations. It is considered that authorised sites assist in the promotion of peaceful and integrated co-existence between the site and the local community. A settled base ensures easier access to a GP and other health services and that any children are able to attend school on a regular basis. It is widely recognised that gypsies and travellers are believed to experience the worst health and education status of any disadvantaged group. In addition, a settled base can result in a reduction in the need for long distance travelling and the possible environmental damage caused by unauthorised encampment. Furthermore, the application site is not located in an area at high risk of flooding. These are all benefits to be considered in the round when considering issues of sustainability.

It is considered that the location of the site is such that it is almost inevitable that the private car will be needed to access even those facilities relatively close to the site. It is generally acknowledged that as distance increases the likelihood of car use becomes generally greater. According to Policy RES.13 (Sites for Gypsies and Travelling Show people) criterion (4) states that proposal should be '*within easy reach of local services and facilities*'. The policy does not elaborate on how far away a service is before it is not within easy reach. However, it is considered given the location of the site, the surrounding highway network, the lack of street lighting and pavements in the area. It is considered that the main mode of transport will be by the private car, and as such the site is not in a wholly sustainable location.

Whilst the proposal is for four pitches which would increase 'unsustainable trips' from the application site, as a matter of fact and degree these trips would all still only be of a relatively short nature. It is difficult to state at what level the number of pitches would have to be before that impacted so significantly to refuse on sustainability grounds. For example, the recent temporary consent at New Start Park, Reaseheath which is also not sustainable was for 8 pitches, which was only 1.7km away.

Nevertheless, it is considered that the application site is not in a wholly sustainable location and the proposal would moderately conflict with advice advocated within Policies RES.13 (Sites for Gypsies and Travelling Showpeople) and HOU6 (Gypsy Caravan Sites).

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

The application site is broadly rectangular in shape and is part of a much larger site, which is owned by the applicant. According to the submitted plans the proposal is for four pitches and each pitch will incorporate a mobile home, a touring caravan, and an existing stable building to provide toilet, bathroom and laundry facilities.

All of the pitches are accessed from the existing access road and the pitches are located on a former ménage and the surrounding cartilage. The ménage has been resurfaced. The application site is at a lower level than Baddington Lane and the site is screened on this

boundary by mature hedgerows. The remainder of the application site is demarcated by post and rail fencing with open fields located to the north and east. However, to the south are a few cottages, one of which is owned by the applicant.

The application site is located wholly within an area of open countryside and the area is generally characterised by agricultural fields bounded by native hedgerows. Local Plan policy makes it clear that gypsy sites are acceptable in principle in the countryside. However, the more recent document Planning Policy for Traveller Sites states that local planning authorities should strictly limit new traveller sites within the open countryside that is away from existing settlements. However, this policy does not state that gypsy/traveller sites cannot be located within the open countryside. It is acknowledged that the caravans may be visible in the public realm but this does not necessarily equate to visual harm.

According to policy NE.2 (Open Countryside) permits uses which are appropriate to a rural area. Furthermore, paragraph 12 of Planning Policy for Traveller Sites states *'When assessing the suitability of sites in rural or semi rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest community'*. Paragraph 22 states when assessing planning applications local planning authorities should consider the following issues

- The existing level of local provision and need for sites;
- The availability (or lack) of alternative accommodation for the applicants;
- Other personal circumstances of the applicant;
- That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
- That they should determine applications for sites from any travellers and not just those with local connections.

Therefore, both local and national policy accepts that gypsy sites can be located within rural areas. It is acknowledged that some degree of encroachment and visual impact will be derived from the location of gypsy sites within rural locations. Policy RES.13 criterion (vi) states that proposals *'should avoid visual encroachment into the open countryside'* and criterion (vii) stipulates that proposals *'should have substantial natural screening or include proposals to provide such screening'*.

It is considered that views of the development would be limited to glimpses of the roofs and higher sections of walls of the mobile homes and stable block. However, in order to mitigate the visual presence of the development a landscaping condition will be attached to the decision notice which will help to reinforce the perimeter hedgerows that already exist.

Overall, it is considered that any visual harm or physical encroachment that might harm the character and appearance of the countryside would be small and it is considered that providing controlling conditions relating to landscaping and boundary treatment will help to mitigate any negative externalities associated with the proposal. Therefore, it is considered that the proposal complies with Policy BE.2 (Design Standards) and advice advocated within the National Planning Policy Framework and Planning Policy for Traveller Sites.

## **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
- does not cause an increase in air, noise, water pollution

which might have an adverse impact on the use of land for other purposes.

It is considered that the redevelopment of the site for industrial purposes is considered to be compatible with the surrounding land uses. The proposal is unlikely to result in noise, air or water pollution. However, a principle consideration in determining this application is its effect upon the amenity of adjacent occupants and in this respect Policy BE.1 requires that development does not have a prejudicial impact on the amenity of occupiers in an adjacent property.

The nearest residential property is located immediately to the south of the application site (no.2 Railway Bridge Cottage). This property is owned by the applicant. Attached to this building is no. 1 Railway Bridge Cottage, it is considered given no. 2 will screen the majority of the application and the separation distances and boundary treatment will all help to mitigate any negative externalities.

Located on the opposite side of Baddington Lane is a converted barn complex and former farmhouse. There is a distance of approximately 80m separating the barns from where the caravans are sited. As previously stated the site on this boundary is demarcated by mature native hedgerow. Overall it is considered given the separation distances, intervening road, difference in levels and boundary treatment will help to mitigate any negative externalities. It is considered that the proposal complies with Policy BE.1 (Amenity).

The proposal will negligible impact on other properties in the locality.

### **Demonstrable Need**

Planning Policy for Traveller sites advocates that local planning authorities should ensure that their policies promote peaceful and integrated co-existence between the site and the local community and ensure that traveller sites are sustainable economically, socially and environmentally. The key characteristics identified for a mixed community are a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people. The need to take account of the diverse range of housing requirements across an area, including the need to accommodate Gypsies and Travellers, is an important consideration.

A sequential approach to the identification of sites in Site Allocations Development Plan Document (DPD) is advocated, requiring Local Planning Authorities to consider locations in or near existing settlements with access to local services first. Local Planning Authorities should be able to release sites for development sequentially, with sites being identified in DPDs being used before windfall sites. However, at present the Council has not produced a DPD and no

suitable alternative sites have been identified as part of the Local Development Framework process.

Additionally, Planning Policy for Traveller Sites clearly states in paragraph 9 criterion (a) that local planning authorities should, in producing their Local Plan identify and update annually, a supply of specific deliverable site sufficient to provide five years worth of sites against their locally set targets. However, at present the Council does not have a five year supply of traveller sites. Furthermore, as previously stated, no specific site provision is made for gypsies and travelers in the development plan at present.

This document goes on to state that if a *'local planning authority cannot demonstrate an up-to-date five year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision'* (paragraph 25). It is considered in light of the lack of availability of a five year supply of gypsy/traveller sites and given the factors already cited any permission which should be granted will be for a temporary four year period. This will allow the Council to see if any more sustainable and deliverable sites can be identified and brought forward.

Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) was completed in May 2007. In Cheshire East, the GTAA identified an overall need for between 37-54 permanent residential pitches and 10 pitches for transit provision by 2016. The Council are part of the Strategic Gypsy & Traveller Partnership across the sub region and together the authorities have secured future funding from the Homes and Communities Agency (HCA) to deliver new sites. Previously this funding was accessed to extend the council run site, Astbury Marsh, by 2 pitches (which have now been constructed).

Since the GTAA in May 2007, when the number of pitches was 101, there have been four new sites approved with permanent permission, giving an additional 11 pitches and 2 sites with temporary permission for 9 pitches (temporary permissions do not count towards the GTAA figures). The application for 10 pitches at Parkers Road, Crewe was withdrawn. A recent application for Land off Spinks Lane, Pickmere (12/1113M) for 3no. pitches was refused planning permission on the 8<sup>th</sup> August 2012 and land lying to the north west of Moor Lane, Wilmslow (12/1144M) was refused planning permission on the 6<sup>th</sup> July 2012.

Furthermore, an appeal decision at land at Wynbunbury Lane, Stapeley (November 2009) found that *'there is undoubtedly an immediate need for further pitch provision both in Cheshire East and regionally'*.

This view was further endorsed at a more recent appeal decision at New Start Park, Wettenhall Road, Reaseheath (APP/R0660/A/10/2131930 January 2011) which stated *'that there is little or no prospect of the Council being able to successfully address the challenge in Circular 01/2006 to increase significantly the number of gypsy and traveller sites in appropriate locations. I conclude that there is an urgent and substantial unmet need for permanent residential pitches for gypsies and travellers in Cheshire East which needs to be addressed'*.

The GTAA is the most up to date document the Council has in relation to need for Gypsy/Traveller sites. Therefore, it is an important material consideration, which is regularly used by the Council in assessing applications. Furthermore, Planning Inspectors have never questioned the validity of the GTAA and they also use it to assess any Appeals. Indeed the

recent Inspectors decision was based upon the GTAA figures and considered that the need identified was 47 to 64 pitches to 2016. The appeal identified the need to be 14 and 31 pitches (although this included 24 pitches approved nearly 3 years but has yet to be implemented).

The Council are to appoint consultants to redo the GTAA (as agreed by Cabinet on the 23<sup>rd</sup> July 2012) in 2013. Following on from the new GTAA the Council will make specific land allocations which are likely to be made in due course as part of the Local Plan. The Council concedes that the relevant Development Plan Document is unlikely to be adopted before December 2014. Therefore, it is unlikely that sites allocated would, in all probability, begin to become available until at least mid-2015. Therefore, it is considered that a temporary consent, which is in line with the other recent Appeal decisions and to assess whether any other more sustainable sites come forward, is justifiable in this instance.

### **Precedent**

A number of objectors are concerned that if this application is approved a precedent will be set for other similar types of development in the immediate area. However, this is a hypothetical situation and all cases must be determined on their own merits and any future applications would need to be considered against the circumstances applicable at that time.

A recent appeal decision for a similar type of development at Thimswarra Farm, Moston, Sandbach stated *"I give little weight to fears that a grant of planning permission in this case would set a precedent for the provision of further gypsy/traveller pitches in the locality."*

Although appeal decisions are a material consideration in the assessment of applications, this statement therefore demonstrates that each application must be determined on its merits, and refusing the application on precedent grounds is not a sufficient justification, to sustain at any future Appeal.

### **Highway**

The application site is accessed directly off Baddington Lane. The access is already in situ and serves the former stable block and ménage. Baddington Lane is wide enough for two vehicles to pass each other with relative ease although there are no footpaths along the carriageway. The existing access road, which serves the application site runs parallel to the adjacent Baddington Lane (albeit there is a significant difference in levels) which is separated by a mature native hedgerow. There is sufficient space within the curtilage of the site for vehicles to be parked clear of the public highway and to maneuver so that they can enter/leave the site in a forward gear.

A number of objectors are concerned that if planning permission is approved for the proposed development, it will lead to an intensification of large vehicles using the local highway network. Whilst the concerns of the objectors are noted, it is considered prudent to attach conditions relating to the size of vehicles entering/leaving the site and for no commercial activities to take place on the land. Colleagues in Highways have been consulted but no response has been received at the time of writing this report. Once the Highways Engineers response has been received Members will be reported to in the update report.

### **Ecology**

There are a number of ponds within the immediate locality and as such there is a potential that the proposal may have detrimental impact on protected species. The Council's ecologist comments are outstanding and will be reported in an update to Members.

### **Human Rights and Race Relations**

It is right and proper that Local Planning Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned. Article 8 of the Human Rights Act 1988 states that everyone has the right to respect for his private and family life, his home and his correspondence. It adds there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals or the protection of the rights and freedoms of others.

The applicants are Travellers, a racial group protected from discrimination by the Race Relations Act 1976. Further, Article 14 of the Human Rights Act states that the enjoyment of the rights and freedoms set forth in that Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

In this particular case, the determination of this application will have a direct impact on the occupier's rights given that the application site has been laid out and is being occupied. Nevertheless, should the application be refused, the applicant has a right of appeal and any resultant enforcement proceedings would only be taken following due consideration of the aforementioned rights.

The impact of the development on the rights of the local residents has been fully assessed; both in this report and accordingly any impact are considered acceptable.

### **Drainage**

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. Advice advocated within the NPPF 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. 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 sufficiently 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.

A number of objectors are concerned about how the development will be drained. According to the submitted application forms the proposed method for drainage would be via a package treatment plant. It is considered prudent to attach a condition relating to drainage scheme, if planning permission is to be approved. Colleagues in United Utilities have been consulted

and have raised no objections. Therefore, it is considered that the application is in accordance with policy BE.4 (Drainage, Utilities and Resources).

### **Other Matters**

Several objectors have stated that there are sufficient pitches within the Borough and in any event existing sites could be expanded. Whilst the concerns of the objectors are noted, every application must be judged on its own individual merits and this application cannot be refused on the hypothetical situation that other travellers may want to construct additional pitches at some site in the future. If additional pitches are sought this will necessitate a new application and the proposal will be assessed on its merits.

Within the letters of objection it has been raised that public consultation has not been carried out. The application consultation process was dealt with in line with the Council's Publicity and Neighbour Notification procedure. This procedure is derived from the General Development Procedure Order 1995 (as amended) and Circular 15/92 – Publicity for planning applications, which outlines the statutory procedures for any applications for development. In this instance the proposed development is considered a minor development and the procedure requires either, neighbours which adjoin the development site to be consulted by letter or a site notice to be erected adjacent to the development site where there are no identifiable adjacent neighbours to the site (usually within rural locations). Whilst no neighbours immediately adjoin the site (apart from the applicant's property), neighbour notifications were sent to a number of residential properties. In addition, a site notice was displayed. It is considered that the Local Planning Authority has sufficiently consulted on the proposed development.

One of the letters of objection states that the application site is located within the Greenbelt. However, this is not the case and the whole of the application site is located wholly within the Open Countryside.

A number of objectors have requested whether the application can be made personal to the applicant. However, officers are concerned that a personal condition does not comply with the relevant tests and as such should be attached to the decision notice.

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

It is acknowledged that the site is poorly located in order to access shops, services and other community facilities and the site is located in a moderately unsustainable location. However, there is a substantial and unmet identified need for gypsy and traveller site provision within Cheshire East which needs to be addressed urgently. To date no sites have been identified through the Local Plan process and are unlikely to be so until 2014 at the earliest.

Furthermore, in the context of Planning Policy for Traveller Sites, the impact of the proposed development on the surrounding countryside could be satisfactorily mitigated, the site is within the Open Countryside as opposed to Green belt.

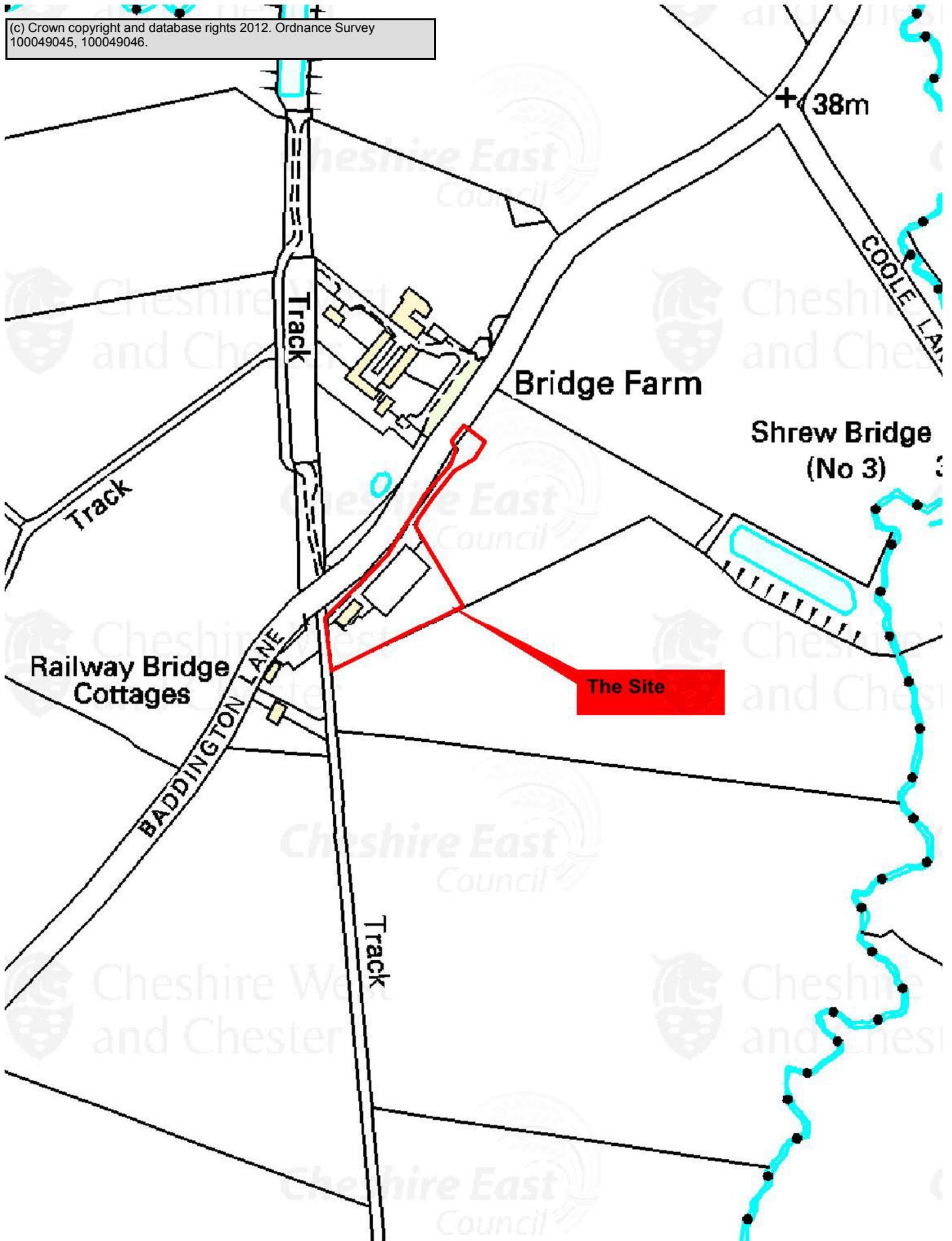
Therefore, whilst there are elements of the application which would need addressing via condition such as drainage and landscaping; it is considered that the need outweighs any perceived harm and the use of the site as a residential gypsy site accommodating 4 pitches would not conflict with Planning Policy for Traveller Sites or relevant national or local planning

policies. However, due to the location of the site in a unsustainable location, the application is therefore recommended for approval, albeit with a temporary consent for four years, in order to assess whether more sustainable sites will be allocated.

**Approve subject to the following conditions:**

- 1. Temporary Permission for a four year period**
- 2. Plan References**
- 3. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 1 Annex 1 of Planning Policy for Traveller Sites**
- 4. There shall be no more than four pitches on the site and there shall be no more than eight caravans stationed at any time, of which only four caravans shall be a residential mobile home**
- 5. No External Lighting**
- 6. Details of a landscaping scheme to be submitted and approved in writing**
- 7. Landscaping scheme to be implemented**
- 8. Details of a drainage scheme to be submitted and approved in writing**
- 9. No vehicles over 3.5 tonnes shall be stationed, parked or stored on the site**
- 10. No commercial activities shall take place on the land, including the storage of materials**
- 11. Details of the porous surfacing materials to be submitted and approved in writing**
- 12. Details of Boundary Treatment to be submitted and approved in writing**
- 13. If the site is no longer required as a gypsy site all the structures shall be removed within 3 months and the land returned to its former use**
- 14. Contaminated Land Report**

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Application No: 12/3847C

Location: THIMSWARRA FARM, DRAGONS LANE, MOSTON, SANDBACH, CHESHIRE, CW11 3QB

Proposal: CHANGE OF USE OF LAND TO USE AS A RESIDENTIAL CARAVAN SITE FOR TWO GYPSY FAMILIES, INCLUDING LAYING OF HARDSTANDING AND DRIVEWAY

Applicant: MR LAWRENCE NEWBURY

Expiry Date: 03-Dec-2012

**SUMMARY RECOMMENDATION:** APPROVE subject to the receipt of a statement stating where the horses will be grazed and confirmation of land ownership.

In the event that the above are not received: REFUSE on the grounds of insufficient information relating to grazing of horses and land ownership.

**MAIN ISSUES:**

- Site History;
- Procedural Matters;
- Main Issues;
- Principle of Development;
- Sustainability;
- Impact on Character and Appearance of the Open Countryside;
- Assessment;
- Amenity; Ecology;
- Impact on SSSI (Sandbach Flashes);
- Demonstrable Need;
- Human Rights;
- Precedent;
- Highways;
- Gas Pipeline;
- Drainage; and
- Other Matters

**REFERRAL**

The application has been referred to Committee at the discretion of the Development Management & Building Control Manager due to the considerable public interest in the application, and the current limited policy position with regard to Gypsy/Traveller Sites.

**DESCRIPTION OF SITE AND CONTEXT**

The application site is located in the corner of a (much larger) field on the south side of Dragons Lane. The site is in a fairly prominent position adjacent to the junction of Dragon Lane and Plant Lane. The north and east site boundaries are demarcated by mature native hedgerows, which are punctuated at sporadic intervals with trees. On the eastern boundary of the application a close boarded timber fence has been erected. The site will be accessed directly from Dragons Lane. Beyond the gate is an extensive area of hardstanding. The application site is located wholly within the open countryside.

## **DETAILS OF PROPOSAL**

This application is for a change of use of land to use as a residential caravan site for two gypsy families including the laying of hardstanding and driveway at land adjacent to Thimswarra Farm, Dragons Lane, Moston, Sandbach.

## **RELEVANT HISTORY**

09/2358C - Retrospective Application for Change of Use from Agricultural Land to a Site for a Mobile Home for Occupation by an English Traveller who has Ceased to Travel Due to Ill Health and long Standing Disability – Refused – 17<sup>th</sup> March 2011

11/3548C – Change of Use of Land to Use as Residential Caravan Site for One Gypsy Family with Two Caravans, Including Laying of Hardstanding and Erection of Stables – Refused – 23<sup>rd</sup> February 2012. Allowed on Appeal (APP/R0660/A/12/2173171) – 14<sup>th</sup> September 2012 for a Four Year Period.

## **POLICIES**

### **National Policy**

The application should be determined in accordance with national guidance set out in:

National Planning Policy Framework  
Planning Policy for Traveller Sites

### **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:

- GR1 (New Development)
- GR2 (Design)
- GR6 (Amenity and Health)
- GR9 (Accessibility, Servicing and Parking Provision)
- GR17 (Car Parking)
- GR19 (Infrastructure)
- GR20 (Public Utilities)
- PS8 (Open Countryside)
- H6 (Residential Development in the Open Countryside and the Green Belt)

- H7 (Residential Caravans and Mobile Homes)
- H8 (Gypsy Caravan Sites)

### **Structure Plan**

HOU6 (Gypsy Caravan Sites)

### **Other Documents**

Interim Strategy on Gypsy and Traveller Accommodation Needs

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

**Gypsy Liaison Officer:** No objections subject to the grant of a temporary consent.

**Canal and River Trust:** No comments

**Ecologist:** No objections

**Natural England:** No objections

**United Utilities:** No comments received at the time of writing this report

**Environment Agency:** No objections subject to the following advice:

If any waste is to be used on site, the applicant will be required to obtain the appropriate exemption or authorisation from us. We are unable to specify what exactly would be required if anything, due to the limited amount of information but a U1 exemption is likely to be required.

**Highways:** No comments received at the time of writing this report

**Environmental Health:** No objection subject to conditions relating to no external lighting and hours of construction.

### **SITE LICENCE**

If planning permission were granted a site licence would be required under the Caravan Sites and Control of Development Act 1960. The site licence will have to be in the name of the land owner. The following conditions will need to be taken into consideration that may have a bearing on planning:

**Site boundaries**, should be clearly marked i.e. with fences or hedges.

**Roads, gateways and footpaths** - Must be of suitable material/construction, be of a minimum width of 3.7 metres, be suitably lit and have adequate access for emergency services etc. Suitably surfaced parking spaces shall be provided where necessary to meet the additional requirements of the occupants and visitors.

**Drainage sanitation and washing facilities** - There must be provision of a foul drainage system made. Prior to its installation details of the foul waste package plant shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Each caravan standing should be capable of being connected to foul drainage. Where this provision is for a mobile home/chalet type then this connection **MUST** be made

Each caravan standing should have it's own water supply, W.C, W.H.B, shower or bath (hot & cold water).

Where the WC and related WHB facilities are not present, or there is a cultural aversion to these facilities being provided with in a caravan/mobile home they should be provided in an building that meets building regulations, thus giving it suitable insulation and frost protection.

Each hard standing should have adequate surface water drainage.

**Hard-standing** - Every caravan should stand on a concrete or other suitable hard- standing which should extend over the whole area occupied by the caravan placed upon it, and should project a sufficient distance outwards from its entrance to enable occupants to enter and leave safely.

**Miscellaneous** - The pitches will remain under one ownership for the lifetime of the site. There should be a minimum distance of 3 metres from the siting of a caravan/mobile home to the boundary of the site. Clarification that the amenity space is included within the application area is required and this will be maintained as and when necessary. This department would have to issue a caravan site licence if this application is permitted.

The planning department needs to establish the applicable ethnicity or other qualification requirement as claimed in the application (Gypsy/Traveller) and to state if permission granted this ethnic restriction, as the provision will count towards the Gypsy and Traveller Housing Needs assessment.

The planning department may wish to consider restricting any work use at the site and a maximum vehicle weight at the site to control the potential for work activities

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

### **Warmingham Parish Council object for the following reasons:**

Applications 12/3847C and 12/3603C (re-submission of 12/0971C) should be considered together as they are in effect on the same field. The potential for expansion of the site to its full size of 11 acres by any number of small applications or, indeed, unauthorised occupations, is a very real possibility and therefore a problem which must be considered.

The previous submission by Warmingham Parish Council regarding 11/3548C and 12/0971C, a copy of which is included, holds good for both the new applications.

The site referred to as Land off Dragon's Lane (12/3603C) is for four pitches i.e. eight more caravans and associated vehicles. The site referred to as Thimswarra Farm (12/3847C) has recently been granted permission, following appeal, for one gypsy family only, with one

residential pitch and no more than two caravans in total, but is now applying for an extension of the site to accommodate two more pitches i.e. four more caravans and associated vehicles.

The judgement found that that “the presence of a mobile home and touring caravan on the appeal site would be likely to cause discernible, albeit limited, harm to the character and appearance of the countryside” and conflicted with “saved LP Policies H8, GR1 and GR2 and national policy in the PPTS and NPPF.”

The inspector found that “the occupiers of the appeal site would rely almost exclusively on private motorised vehicles for day-to-day travel needs” thus breaching the principles of sustainability for such sites. He found that this adverse effect on the countryside would be limited by the fact that “the scheme concerns only a single gypsy/traveller pitch.”

He also found that the site may have no access to mains electricity and that “this might necessitate the use of a small generator which, inevitably, could cause noise.” An increase in the number of pitches - a possible 14 caravans in total considering both applications 12/3847 and 12/3603C - could lead to a much larger noise pollution issue.

If this extended site had been the subject of the appeal, it is clear that the conflict with the regional and national saved policies regarding sustainable development would have been given more weight and may well have led to the appeal being refused. So, this further application coming so soon after the appeal judgement is an obvious attempt to navigate around the planning rules, which are there to prevent the encroachment of development on the open countryside.

The inspector found that there was a substantial need for gypsy and traveller pitch provision in Cheshire East, but this does not equate to a need for more provision in the Brereton Rural Ward and, more particularly, in Moston Parish, especially when other wards have few or no traveller sites. Brereton Rural and Moston are well served by existing traveller sites, at least one of which has vacant pitches.

The issue of English versus Irish travellers should not be acceptable as an argument for these pitches being unavailable for certain categories of gypsy - this would not be allowed in any other area of civil interaction under the discrimination laws.

The inspector also found that the “location of the appeal site is far from ideal.” Such being the case, CEC should not have abandoned its search for more appropriate sites. A well-run council site, with clear boundaries, would fulfil the Borough’s obligation to provide more pitches far better than allowing the intrusion on open countryside of sites where enforcement of planning conditions is extremely problematic.

The inspector concluded “that planning permission should be granted for the residential use of the land for a temporary period of four years, to cater for the Appellant’s short term needs” only. He also found “there to be a significant difference between the two schemes in terms of scale and detail” referring to Applications

11/3548C and 12/0971C.

That “significant difference” therefore means that the appeal judgement should not be used as a precedent for resolving this and any further planning applications relating to this site or adjoining sites.

The conditions attached to the decision state that “to minimise conflict with the principles of sustainable development, the residential element of the use must be restricted to a single pitch with no more than two caravans, only one of which shall be a residential mobile home” and that “no commercial use, other than the parking of one commercial vehicle used by the residential occupiers of the site and storage of equipment therein, shall take place on the site.”

This is a very strong endorsement of the fact that the 2 larger sites (12/3847 C and 12/3603C) currently under consideration would have an unacceptable impact on the character of the area and the safety of nearby lanes.

**Moston Parish Council:** Objects for the following reasons

The original application for this site was refused by the Borough Council but given temporary approval at appeal. The inspector considered that the small scale of the development, for one gypsy family and two caravans would not have a significant effect on the local environment or services on the community. This further proposal would clearly have a greater effect on the locality and its services.

The site is not sustainable due to the distance from local services and facilities contrary to Policies GR1 (new development) and H8 (Gypsy Caravan Sites) of the Congleton Borough Local Plan First review 2005 and Policy HOU6 (Gypsy Caravan Sites) of the Cheshire Structure Plan and the guidance contained within Circular 01/2006. The distance of the site from schools, shops and other local services would inevitably lead to increased traffic on unsuitable narrow lanes.

The Inspector’s report following the Appeal on the adjoining site found that there was a substantial need for traveller sites in Cheshire East but that does not mean they should all be in Moston. Presently there are 14 privately owned traveller site in Cheshire East, 10 of which are in CW10 and CW11. Six of these sites are in Moston. The Parish Council feels very strongly that these sites should be allocated more evenly throughout the Borough.

The original approval was based on the stated premise that the owner would use a majority of the land for grazing horses and live on the site to attend to these horses. The intention now is to develop this grazing land negating the original reason for the development.

**OTHER REPRESENTATIONS**

64 Letters of objection have been received regarding the proposed development. The salient points raised in the letters of objection are:

- It is unfair that Cheshire East Council is imposing this number of Travellers on the Parish of Moston;
- The proposal would detract from the essentially agricultural nature of the area;
- The application requires the fundamental change of use of a field from agriculture to developed residential occupancy;
- The proposal will dominate the local area and the settled community;
- The proposal is a commercial operation;
- Other sites in the area are not being fully utilised;

- The GTAA is out date and ambiguous and is open to legal challenge;
- The proposal will lead to an increase in fly tipping and litter;
- Too much development in the locality already;
- The site is totally unsustainable;
- The proposal is contrary to national and regional policy;
- There are already a large number of Traveller sites in the locality;
- Brownfield sites should be used before Greenfield sites;
- There is no requirement for additional sites in the locality;
- The previous applicant was ordered off the site due to it being a Greenfield site and objections from residents;
- The Planning Department have not advised against this application in order to reduce Cheshire East's obligations to meet target numbers of Traveller pitches;
- The roads are very narrow in the locality and the proposal will exacerbate highway safety issues;
- The proposal is more akin to a small housing estate in the open countryside;
- The proposal if allowed would open the floodgates to similar development;
- There are already Traveller sites not being used to full capacity;
- Moston is an Area of Natural Outstanding Beauty;
- The proposal will lead to high demand for local facilities;
- Its not fair that Travellers are given preferential treatment;
- The current application should be refused on the same grounds as the previous application. Furthermore, due to the materials, scale and design make the proposal even more unacceptable in the open countryside. The proposal is not in keeping with the local environment;
- The proposed caravans and buildings will appear as alien and inappropriate development out of keeping with the local environment;
- The site have a detrimental impact on the character and appearance of the area;
- The proposed access involves the removal of large swathe of native hedgerow and the bridging of an established roadside ditch of at least 1m. This would require major construction work and involve the destruction of established field lines and habitats;
- The application site is located in a wholly unsustainable location and is contrary to both local and national policy;
- The claim in the applicant's Design & Access statement that there is a recognized need for this type of development in the area must be rejected. The Parish of Moston has within or close by a disproportionate number of gypsy/traveller pitches in relation to other areas of Cheshire East.
- The development would have a negative impact on the surrounding countryside and there is an abundance of unoccupied caravan pitches on well equipped and well managed traveller caravan sites within a distance of less than two kilometres of Dragons lane;
- Amenities such as electricity, water, and waste would need to be supplied and the collection of refuse. The utility/day rooms are these to be paid for by the council or by the applicants including council tax;
- I believe there is a Gas pipeline running across this area which if disturbed could become a hazard;
- The Gypsy community is already being well catered for in the area and there are several sites which currently operate close to the land proposed in this application. These sites most certainly do not seem to be over crowded and any potential residents would find space. Moston is one of the few areas around which still holds a vested

agricultural interest and the land surrounding should be encouraged to continue in this vain as opposed to granting planning applications of these sorts which inevitably have a snowball effect.

- I believe consultees should know the address of the Applicant. In the Application the Applicant states via the Agent that he is the owner of the proposed development site. If this is his address then I would like to know if he is living there legally. There is currently a caravan and building adjacent to the proposed development;
- The existing caravan and building are not shown on the Site Layout.
- The application forms have been completely incorrectly and the Design and Access statement is misleading;
- The application site is located within the open countryside. The Local Plan seeks to safeguard the countryside for its own sake and keep development to a minimum in order to protect its character and amenity. The establishment of permanent, brick built day rooms and the siting of mobile homes will diminish from the openness and character of the area;
- In accordance with the Planning Policy for Traveller Sites issued by Central government in 2012 Cheshire East is required to "use a robust evidence base to establish accommodation needs [to inform the preparation of local plans and] make planning decisions". There is no supporting evidence that there is a need other than the applicants own wishes. Until such time that all available traveller sites in the council area are fully occupied (with residents), no new sites should be approved;
- Moston already has 7 Gypsy sites within 3 miles of the village. Any further additions to this would only further add tensions and have a negative impact on the relationship between the residents and the Gypsy's. The ratio of Gypsy's in the area is very high in comparison to other areas of the Cheshire East Council and as part of the Government's plans to reduce tensions surely this would be more beneficial to be spread out as opposed to be concentrated in an area.
- Moston is a very small rural village with no amenities what so ever. Further planning application of any description should be seriously considered for their viability let alone an application for up to 8 families/homes. The roads are already in a poor state of repair and have to withstand a surprisingly high volume of traffic from people taking short cuts to HGV's in the area;
- There are already over 3 gypsy caravan sites within 2 miles of the proposed new open countryside site and these existing sites have adequate empty pitches so there is no need for any additional sites;
- The great number of gypsy sites in the area is causing local unrest and further destruction of Cheshire open countryside is undesirable;
- As the police will no doubt inform you the crime rate has soared in the vicinity. We ourselves have been victims of theft;
- Approval of this application would lead to increased tensions between the Gypsy population and local residents who would feel aggrieved that the countryside had been spoilt by this development. It should also be noted that the Moston / Middlewich area already has more than its fair share of Gypsy sites – none of which appear to be near capacity;
- I have been unable to find a planning notice attached to the site during the consultation period.
- An Environmental survey would raise further issues that are as yet not apparent, however, by the very presence of such a compound and unsuitable use the natural habitat and wild life would be significantly affected;

- If the proposal is allowed it will set a precedent for similar developments in the locality;
- The lanes giving access to this site are unsuitable for the sort of traffic the development would generate;
- The intrusive development is contrary to policies GR1 and GR2 of the adopted Congleton Borough Local Plan;
- The Council have already made a ruling that this is an unsuitable site for development;
- The Council should be consistent with their previous decision and refuse this application;
- The proposal is not in keeping with the rural vernacular and will have a detrimental impact on the visual character and appearance of the area;
- The proposal if allowed will affect property values in the area;
- The proposal will have a significant detrimental impact on the enjoyment of residential amenities;
- The area is swarming with Great Crested Newts and no Protected Species Survey has been submitted with the application.

### **Letter from Action Moston dated 7<sup>th</sup> November 2012**

In September 2012 temporary permission was granted on appeal for 1 gypsy family on the holding known as Thimswarra Farm (App/R0660/A/12/2173171).

The Appeal decision stated in the schedule of conditions (no. 6) that “no more than one residential pitch shall be provided. No more than 2 caravans shall be stationed on the land at any one time, only one of which shall be a residential mobile home.”

Now less than a month after the Appeal decision date, Application 12/3847C has been submitted for ‘change of use of the remainder of Thimswarra Farm for use as a residential caravan site for 2 additional Gypsy families, each with 2 caravans ...extension of the access driveway ...laying of hardstanding for vehicle parking and manoeuvring and ...underground cess-tanks’.

The Travellers’ agent (Philip Brown Associates) stated on behalf of the appellant that “the appeal site would only accommodate one family”. Philip Brown Associates is now submitting Application 12/3847C for change of use to extend into the remainder of Thimswarra Farm. The agent also clearly stated in the original Design & Access statement (Application 11/3548C) that the majority of the land holding would remain as grass used for the grazing of horses. New hedgerows would be planted along the open boundaries of the caravan site in order to contain the residential use and prevent encroachment into the adjoining paddock. It is this very paddock that Application 12/3847C proposes to change into residential use including positioning of 4 caravans, laying of hardstanding for driveways and vehicle parking, etc. The grazing will therefore be removed which raises the issue that the Planning Inspector allowed permanent permission for a stable block so that the appellant could live on the site and look after his horses.

Other aspects of the Inspector’s decision are also significant:

- a) The Inspector referred to the Enforcement Notice (App/R0660/C/10/2140668) stating that all structures on the site must be removed (enactment date 14<sup>th</sup> June 2012). In paragraphs 2 & 3 his decision clearly includes the entrance gates and

driveway/hardstanding, the very same items as being used to access the extended Thimswarra site. This means that Application 12/3847C intends to use gates and an access way that should not exist under enforcement.

- b) There are references throughout the Appeal decision concerning the small size of the development that reduces the acknowledged local and environmental harm. It is stated that this small development would not dominate any settled community. It would not place additional pressure on local schools or community facilities and would not increase local tensions (para. 17, 24 & 47). The additional 2 pitches renders the site no longer small. The application now places residential development directly opposite the house and entrance of the nearest established property.
- c) The Inspector acknowledges (para. 19, 20, 21, 22, 23, 24, 26) that new Traveller site development in open countryside should be strictly limited and that the appeal site is far from ideal, is not sustainable, causes harm to the character and appearance of the countryside and in many ways is contrary to NPPF/PPTS. The Inspector continues to maintain that the modest size of this development minimises the harm. This application trebles the size and the harm.
- d) The decision states that residential use would effectively preclude most types of agricultural use but the parcel of land is too small for this to be a significant consideration (para. 44). Now of course the further residential development affects a larger piece of land i.e. the remainder of the land holding. This removes the whole holding (0.65 hectare) from any agricultural use.

This application is based on exactly the same grounds of need as those cited in the original application (11/3548C) for one family i.e. itinerant, camping illegally, need lawful accommodation, need to access health and education etc. As with that application none of this has any proof.

This larger application is even more unsuitable than the previous application (11/3548C) for Thimswarra Farm. It is totally inappropriate to a green field site with no facilities such as electricity or tapped water. It will seriously affect the character and appearance of the open countryside. As a location it is wholly unsustainable as has previously been ruled. It is not close to health, educational or satisfactory shopping facilities. There is no public transport, no street lighting or pavements/walkways. The site is contrary to NPPF/PPTS (para. 11, 21 & 23).

The applied for residential development is not a small area nor insignificant in scale and size. The land and countryside will be adversely affected by this application because of the extensive hardstanding and driveways and the damage to native wildlife habitats. The Planning Department has confirmed that the applicant has not conducted/submitted any surveys concerning bio-diversity and geological conservation.

There are two applications currently being made for adjoining land in the same field – these are this application 12/3847C and 12/3603C. Given the size of each application area, the overall effect will be a residential development that dominates the local residences and represents a total of 7 pitches (19 units including a stable block) and parking for at least 14 vehicles. This not a brownfield site suitable for redevelopment but a green field site of agricultural land being developed for residential use. There is another 5 acres in this field which is being sold off piecemeal.

The withdrawal of plans for a Traveller site at Coppenhall and the failure to seek any other suitable site has led the Council to seize the opportunity of windfall sites that they do not have to purchase, develop or maintain. Cheshire East Council has failed to provide a plan to identify and deliver suitable sites to meet Gypsy and Traveller needs. Consequently, they have been forced to rely on the out of date and unreliable GTAA target figures. These have been used to override all considerations of suitability, sustainability, use of the open countryside, as well as the interests and views of the local community. The Localism Act 2011 urges Councils to consult with local people who are affected. Cheshire East Council is failing the residents and ratepayers of Moston by not giving any weight to their views.

### **An Email dated 1<sup>st</sup> November 2012 From Action Moston**

As you will be aware, since the introduction of the Localism Act (2011) the power to decide on local issues has been decentralized and local councils are now able to set their own agendas, dependent upon their own regional needs. The Act urges councils to engage in full consultation with neighbourhoods in order that local people are able to influence the planning decisions which directly affect them.

In the past a Regional Spatial Strategy (RSS), although never approved and awaiting revocation, was used to create long-term plans for an area and, in order to determine the needs of the Gypsy and Traveller communities (GTC), the Office for the Deputy Prime Minister ordered the creation of Gypsy and Traveller Accommodation and Related Services Assessments (GTAAs). One of the functions of the GTAA was to identify the number of pitches that would be required for each region. In 2006, Salford University was commissioned to compile the North-West's version of the report. Over the past few years the GTAA has been used as an unquestioned reference to the exact number of Gypsy and Traveller pitches that will be required by 2016.

There are a number of points that we wish to draw to your attention.

The GTAA was commissioned by Central Government. Therefore due to the Localism Act, Local Authorities are no longer required to use the figures in the GTAA as a benchmark.

In 2009 two of the authors (Niner and Brown) of our regional GTAA wrote a critical review of it entitled "First steps towards regional planning for Gypsy and Traveller sites in England (2009)." This concluded that whilst the GTAA was a reasonable starting point for collecting a range of data about the GTC they did not use a reliable and robust method of collecting that data.

They claim that there is no reliable way to calculate the actual need for pitches, partly because of the lack of effective relations between planning and the GTC and partly because there is no idea of their actual population numbers. It is very difficult to assess the needs of a population which is by its very definition travelling. Niner and Brown point out that GTAAs were regionally conducted. However, the GTC cannot be expected to plan their journeys based on the varying findings of the different local authorities.

The following excerpt from this article sums up the effect of these issues:

“The level of predictability implied in making precise estimates of pitch requirements may simply not apply to Gypsies and Travellers, whose whole culture is based on adaptation to circumstances rather than long-term future plans and intentions.” (Niner and Brown, 2009) They concluded that the poor structure of the GTAA rightly leaves it open to be challenged.

National Planning Policy Framework 2012 (NPPF) reinforces the Localism Act and, in its introduction to the specific section on Planning Policy for Traveller Sites (PPTS), it states that Local Planning Authorities should make their own assessment of need for the purposes of planning. They should also use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions. The NPPF/PPTS also states that Local Planning Authorities should identify and update annually a supply of specific deliverable sites against their locally set targets. Cheshire East Council (CEC) has so far failed to produce a local plan and local targets to meet GTC needs. Recent attempts to provide sites have been ad hoc and unsuccessful. Failures to secure the Saxon Cross bid and the withdrawal of the application at Parkers Road, Coppenhall, have exacerbated the situation. We fear that ‘windfall sites’, often on totally unsuitable agricultural land, are now being seen as an easy and cheap option.

Open countryside, green-field and green-belt, are all highly protected areas unless an argument can be made for “exceptional circumstances”. As the GTAA has been criticised by its own authors as not fit for purpose, it should not be used as proof of an exceptional circumstance i.e. lack of available sites/shortfall of target pitches.

We now turn to the implications of the issues we raise above.

We have been resisting unsuitable gypsy/traveller applications for residential development in an unsustainable location in the open countryside since 2009. Some of you will be aware of these applications on a large field on Dragons Lane/Plant Lane, Moston, Sandbach, Cheshire. These are applications 09/2358C, 11/3548C, 12/0971C, 12/3603C and 12/3847C.

Application 11/3548C (Thimswarra Farm) has been granted temporary permission for 4 years on Appeal and this has resulted in a resubmission of 12/0971C (with the new number 12/3603C) and a new application to extend the Thimswarra appeal site (12/3847C).

Our attempts to resist these applications are being seriously hindered by:

The heavy reliance by the Planning Department, the Inspectorate and the Applicants themselves on GTAA figures (now we hope we have proved as unreliable and defunct) Cheshire East Council’s lack of a clear and well defined strategic plan for identifying suitable and sustainable site provision for delivery over the next 3 to 5 years. A seeming reluctance by Cheshire East Council to embrace and implement modern legislation as contained in the Localism Act and NPPF/PPTS.

In his recent decision on Appeal APP/R0660/A/12/2173171 (Thimswarra Farm - 14 September 2012) the Planning Inspector clearly states the exceptional circumstance for allowing the temporary permission of the site for four years was in order to give the Council a three year time frame for providing alternative, suitable permanent sites.

Although we are aware that there is, at present, a move to produce a strategic plan and submit planning applications for sites, we fear this is in such an early and unformed stage it will not assist in preventing the unsuitable developments we are resisting. We are deeply concerned that Cheshire East Council will allow the development of this field and these sites as an easy option in the meantime. We do not have 2000 local residents to protest. This is a small hamlet with just a small population, highlighting the fact that further development will overwhelm the area and its residents. Do not assume, however, that the lack of residents equals a lack of opposition to this development.

We need Cheshire East Council to accelerate its planning process and provide a clearly defined and achievable plan for Gypsy & Traveller provision within a determined time scale and sooner rather than later. We ask for assurances that it is fulfilling the requirements of the Localism Act and is responding to local interests and needs. We demand that it no longer relies on faulty data and it complies with the guidance in the NPPF concerning sustainable development and the strict limits to be applied to development in the open countryside. We request that Planning Department Officers representing Council cases at Committee and at Appeal be conversant with new legislation, are fully briefed and able confidently to outline the Council's prepared plan for site provision or at least able to demonstrate that one is in progress. We also question why the Council is not attempting to secure brownfield sites which are recommended in the NPPF/PPTS and for which we understand that there is Central Government funding. There are numerous such sites in Cheshire East.

Unless Councillors and Officers take action, irreversible damage will be inflicted on the countryside and Cheshire East residents. If Cheshire East Council had fulfilled its obligation to the people it represents and already provided suitable new sites then we would not be in this situation now.

## **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**

### **Site History**

Members may recall that a similar application (11/3548C) was submitted on a parcel of land to the north of the application site, which is edged in blue on this application. Members of the Southern Planning Committee refused planning permission on the 15<sup>th</sup> February 2012. The reason for refusal was as follows:

*'The location of the site represents an unsustainable form of development due to the distance from local services and facilities contrary to Policies GR1 (New Development) and H8 (Gypsy Caravan Sites) of the adopted Congleton Borough Local Plan First Review 2005 and Policy HOU6 (Gypsy Caravan Sites) of the Cheshire Structure Plan and the guidance contained within Circular 01/2006.'*

Upon receipt of the decision notice the applicant appealed against the decision of the Council and was subsequently granted temporary consent (APP/R0660/A/12/2173171 on the 14<sup>th</sup> September 2012) for a four year period.

In reference to the above Appeal the Inspector concluded that *'the Appellants pressing need for settled site provides the justification for granting planning permission in this case'*. However, the Inspector went on to state *'I must bear in mind that Policy H of the PPTS specifies that new traveller site development in open countryside should be strictly limited and that, consequently, the location of the appeal site is far from ideal. It is also pertinent that new pitches are likely to become available through the development plan process by 2015. This being so, I conclude that planning permission should be granted for the residential use of the land for a temporary period of four years, to cater for the Appellant's short term needs. This also provides the Council with a reasonable opportunity to deliver site allocations as part of the development plan'*. Therefore, whilst the Inspector acknowledged there was a need for the additional pitches, he tempered this by stating additional, more sustainable sites may come forward over the next few years.

However, significant weight must be attached to this Inspectors Decision, there has not been any change in policy or other material circumstances to differ from the opinion opined by the Inspector. It is the decision of the LPA to determine how much weight should be given to various factors. It is considered that given the factors cited above considerable weight must be afforded to the Inspectors decision and it cannot lightly be put aside.

### **Procedural Matters**

A number of objectors have stated the location and block plans submitted with the application are incorrect. They make specific reference that the caravan and other associated development, including the decked area and pergola on the adjoining parcel of land are not shown.

Whilst the location and block plans should wherever possible be accurate the application is submitted in relation to development located within the defined application area denoted by the red line. It is not a requirement of the Town and Country Planning Applications Regulations 1988 or the Council's validation documents to ensure that all buildings/structures outside the application area are shown accurately and/or correctly named. Buildings around the site are shown to help locate the application site but the detailed relationship of individual buildings to the application site will need to be assessed by means of a site inspection.

Therefore, whilst it is acknowledged that the applicant has not shown the adjacent caravan on the location or block plans. It is not considered that local residents have been prejudiced and all their comments have been taken into account.

### **Main Issues**

The main issues in this case are:

- (a) Whether the site is in an appropriate location for the scale of use proposed having particular regard to accessibility to services and facilities as well as other sustainability considerations referred to in the Local Plan and Planning Policy for Traveller Sites;
- (b) The effect of the proposed development on the character and appearance of the area; and
- (c) Whether, if there is any harm and conflict with policy, there are material considerations which outweigh the harm and conflict, including the need for more gypsy sites in the area, the likelihood and timescale for identified needs to be met through the development plan system, the applicants and intended occupiers personal and family circumstances and accommodation alternatives.

### **Principles of Development**

As with national planning guidance, Policy PS8 (Open Countryside) of the Local Plan seeks to safeguard the countryside for its own sake and prevent non-essential development that may cause harm to the character and appearance and openness of the countryside.

However, policies within the development plan, in conjunction with national planning guidance and advice in Planning Policy for Traveller Sites, accept that outside Green Belt areas, rural settings are acceptable in principle for gypsy and traveller caravan sites. The applicant argues that a degree of harm to the character and appearance of the countryside is unavoidable but points out that Government advice suggests that in most cases this visual harm can be satisfactorily mitigated with appropriate landscaping. However, whilst the need for gypsy and traveller accommodation is a consideration, both development plan policies and Government guidance require, in addition, consideration of the impact on the surrounding area, neighbouring amenity, highway safety, the need to respect the scale of the nearest settled community and also the availability of alternatives to the car in accessing local services.

### **Sustainability**

Planning Policy for Travellers Sites clearly enunciates that travellers sites should be sustainable economically, socially and environmentally and states that local authority planning policies should

- a) Promote peaceful and integrated co-existence between the site and the local community;
- b) Promote, in collaboration with commissioners of health services, access to appropriate health services;
- c) Ensure that children can attend school on a regular basis;
- d) Provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment
- e) Provide proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well being of any travellers that may locate there or on others as a result of new development;
- f) Avoid placing undue pressure on local infrastructure and services;
- g) Do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans;

- h) Reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability

It is clear that the key principals of national and local planning policies are to promote sustainable patterns of development in order to reduce the need to travel and the dependence on the private car. It is noted that buses travel along Dragons Lane at various intervals in the day. The nearest service centre to the application site is Elworth and there is a distance of approximately 2.5km separating the two sites. Therefore, it is considered that the application site is in an isolated rural setting and is removed from any settlement, shop(s), school(s), community facilities or place(s) of employment. Dragons Lane is typical of many rural highways being twisty, unlit and without footways. The road is wide enough for vehicles to pass each other with relative ease.

As previously stated the Planning Policy for Traveller Sites has an intention, amongst other things, to create and support sustainable, respectful and inclusive communities where gypsies and travellers have fair access to suitable accommodation, education and health and welfare provision. The document clearly acknowledges that *'Local Planning Authorities should strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated within the development plan'* (paragraph 23). However, it does not state that gypsy/traveller sites cannot be located within the open countryside.

The document makes it clear that sustainability is important and should not only be considered in terms of transport mode and distance from services. But other factors such as economic and social considerations are important material considerations. It is considered that authorised sites assist in the promotion of peaceful and integrated co-existence between the site and the local community. A settled base ensures easier access to a GP and other health services and that any children are able to attend school on a regular basis. It is widely recognised that gypsies and travellers are believed to experience the worst health and education status of any disadvantaged group. In addition, a settled base can result in a reduction in the need for long distance travelling and the possible environmental damage caused by unauthorised encampment. Furthermore, the application site is not located in an area at high risk of flooding. These are all benefits to be considered in the round when considering issues of sustainability.

It is considered that the application site is within a reasonable walking/cycling distance of the services and facilities available in Elworth. It is noted that bus services operate along this stretch of Dragons Lane, but these appear to be irregular and infrequent. Furthermore, no bus stops have been identified in close proximity to the application site and the nearest bus is on London Road approximately 2km away from the application site.

It is considered that the location of the site is such that it is almost inevitable that the private car will be needed to access even those facilities relatively close to the site. It is generally acknowledged that as distance increases the likelihood of car use becomes generally greater. According to Policy H.8 (Gypsy Caravan Sites) criterion (x) states that proposal should be *'wherever possible, within 1.6km (1 mile) of existing local shops, community facilities, primary school and public transport facilities'*, the advice is qualified by the term 'wherever possible'. It does not therefore rule out sites which are further away. Furthermore, the policy does not

specify the modes of transport are to be utilised. However, it is considered given the location of the site, the surrounding highway network and the lack of street lighting and pavements in the area, the main mode of transport will be the private car. It is considered that trips to access facilities required for day to day living would be relatively short and, necessarily, limited in number by the fact that the scheme concerns only four gypsy/traveller pitches.

The Inspector commented that *“trips to access facilities required for day-to-day living would be relatively short and, necessarily, limited in number by the fact that the scheme concerns only a single gypsy/traveller pitch.”* It is not considered that there is a significant difference between one pitch and two pitches in terms of scale.

While clearly there would be a two fold increase with the site for two pitches which would increase ‘unsustainable trips’, as a matter of fact and degree these trips would all still only be of a relatively short nature. It is difficult to state at what level the number of pitches would have to be before that impacted so significantly to refuse on sustainability grounds. For example, the recent temporary consent at New Start Park, Reaseheath which is also not sustainable was for 8 pitches.

Overall, it is considered that the application site is not in a wholly sustainable location and the proposal would moderately conflict with advice advocated within Policies H.8 (Gypsy Caravan Sites) and HOU6 (Gypsy Caravan Sites).

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

The application site is broadly triangular in shape. According to the submitted plans the proposal is for two pitches and each pitch will incorporate a mobile/static home and a touring caravan. According to the submitted plans each of the pitches will be enclosed by a post and rail fence and will be landscaped. The two pitches will be located off the access road, which runs north east to south west. Each of the pitches will incorporate a turning area so that vehicles can enter/leave the site in a forward gear. The proposed development will be erected on land, which according to the recent Appeal was to be set aside for grazing of horses.

It is also noted that whilst the plans indicate that a post and rail fence will be erected along the eastern boundary, at the time of the site visit a close boarded timber fence measuring approximately 2m in height was being erected along this boundary. It is considered that the close boarded timber fence appears very domestic in appearance and is at odds with the local rural vernacular. Therefore, a condition will be attached to the decision notice requesting details of the boundary treatment and remove PD rights for the erection of any other type of fence. It is noted that the application site is bounded by mature native hedgerows along the north facing boundary of the site, which fronts on to Dragon Lane. The plans show that there will be extensive areas of landscaping around the periphery of the site and this will help to assimilate the proposal into the local environment.

The application site is located wholly within an area of open countryside and the area is generally characterised by agricultural fields bounded by native hedgerows. Local Plan policy makes it clear that gypsy sites are acceptable in principle in the countryside. However, the more recent document Planning Policy for Traveller Sites states that local planning authorities should strictly limit new traveller sites within the open countryside that is away from existing settlements. However, this policy does not state that gypsy/traveller sites cannot be located

within the open countryside. It is acknowledged that the caravans may be visible in the public realm but this does not necessarily equate to visual harm.

Notwithstanding the above, according to the plans which were approved on Appeal, the land which the proposed caravans are to be sited was to be used for the grazing of horses. However, as the caravans will now be sited on this land, there is no grazing land available for the horses. The applicant's agent has been approached to withdraw the stable block which was approved under the previous scheme, but is unwilling to do this. The agent was then advised to show where the horses will be grazed, but this information has not been received at the time of writing this report. Furthermore, there appears to be some discrepancies regarding land ownership. The agent states that Mr. Sheridan owns the land to the north of the application site, but this is highlighted in blue, which would indicate that the current applicant Mr. Newbury. Again, the agent has been requested to clarify this issue, but this has not been received at the time of writing this report. It is considered that in the absence of the aforementioned information that the application be refused on grounds of insufficient information.

## Assessment

According to policy PS8 (Open Countryside) permits uses which are appropriate to a rural area. Furthermore, paragraph 12 of Planning Policy for Traveller Sites states '*When assessing the suitability of sites in rural or semi rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest community*'. Paragraph 22 states when assessing planning applications local planning authorities should consider the following issues

- The existing level of local provision and need for sites;
- The availability (or lack) of alternative accommodation for the applicants;
- Other personal circumstances of the applicant;
- That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
- That they should determine applications for sites from any travellers and not just those with local connections.

Therefore, both local and national policy accepts that gypsy sites can be located within rural areas. It is acknowledged that some degree of encroachment and visual impact will be derived from the location of gypsy sites within rural locations. Policy H.8 criterion (iv) stipulates that proposals should be '*adequately screened and landscaped*' and criterion (iii) states that proposals should be '*an appropriate scale which would not detract from the value of the surrounding landscape*'.

The proposal is for the siting of 2no.static caravans, 2no. touring caravan and the associated hardstanding and boundary treatment. It is considered that the visual impact of the development to a large extent is reduced by the fact that the existing boundary treatment to the north and west of the application site will be screened by mature native hedgerow. The applicant is intending to use the existing access arrangements, which were granted approval upon Appeal.

It is considered that views of the development would be limited to glimpses of the roofs of the mobile homes and tourers. However, in order to mitigate the visual presence of the development a landscaping condition will be attached to the decision notice which will help to reinforce the perimeter hedgerows that already exist. It is noted that the boundary treatment along the southern and eastern boundaries of the application site comprises a post and rail fence and this permits views into the site. Therefore, these boundaries will also need to be adequately screened and will be conditioned accordingly.

Overall, it is considered that any visual harm or physical encroachment that might harm the character and appearance of the countryside would be small and it is considered that providing controlling conditions relating to landscaping and boundary treatment will help to mitigate any negative externalities associated with the proposal. Therefore, it is considered that the proposal complies with Policy GR2 (Design) and advice advocated within the National Planning Policy Framework and Planning Policy for Traveller Sites.

### **Amenity**

Policy GR6 (Amenity and Health) states that development will be permitted provided that the proposal would not have an unduly detrimental effect on amenity due to loss of privacy, loss of sunlight and daylight, visual intrusion, environmental disturbance or pollution, traffic generation, access and parking.

The nearest residential properties are those located to the south west (Ivy Cottage Farm) and west (Woodville Farm) which are sited approximately 20m and 200m respectively away from the application site. As previously stated, the site is demarcated by a mature native hedgerow, which is punctuated at irregular intervals with mature trees (on the north and west boundaries). It is considered the distances between the existing properties and the application site and the intervening vegetation/road will minimise any loss of amenity through overlooking or over domination. Furthermore, colleagues in Environmental Health have raised no objections. It is considered that the proposal complies with policy GR6 (Amenity and Health).

### **Ecology**

A number of local residents claim that there a number of ponds within the local vicinity which are used by Great Crested Newts. Furthermore, they claim that if the proposal is allowed may have a detrimental impact on other protected species or birds. The Councils ecologist has been consulted and states that the *'proposed site is located on land that appears to be limited nature conservation value additionally I do not anticipate there being any reasonable likely protected species issues associated with the proposed development'*.

Overall, it is considered that the proposal will not have a detrimental impact on any protected species and the proposal is in accordance with policy local plan policy and advice advocated within the NPPF.

### **Impact on SSSI**

According to Policy NR2 (Statutory Sites) clearly states that proposals for development that would result in the loss or damage of the following sites of nature conservation or geological importance will not be permitted

- RAMSAR Sites (Wetlands of International Importance)
- Sites of Special Scientific Interest (SSSI's)
- Any site or habitat supporting species that are protected by law

The policy goes on to state that developers will be required to submit a comprehensive assessment of a proposals impact on nature conservation as part of an application to develop a site which may affect any of the above.

According to the proposals map, the application site is located approximately 800m away from Sandbach Flashes which is a SSSI. Colleagues in Natural England have recently been consulted regarding the application and they state that 'Due to the small scale of the proposals the development is unlikely to have a significant effect on the Sandbach Flashes SSSI'.

Overall, it is considered that the proposed development will not have a significant detrimental impact on the SSSI and proposal is broadly in accordance with policy NR2.

### **Demonstrable Need**

Planning Policy for Traveller sites advocates that local planning authorities should ensure that their policies promote peaceful and integrated co-existence between the site and the local community and ensure that traveller sites are sustainable economically, socially and environmentally. The key characteristics identified for a mixed community are a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people. The need to take account of the diverse range of housing requirements across an area, including the need to accommodate Gypsies and Travellers, is an important consideration.

A sequential approach to the identification of sites in Site Allocations Development Plan Document (DPD) is advocated, requiring Local Planning Authorities to consider locations in or near existing settlements with access to local services first. Local Planning Authorities should be able to release sites for development sequentially, with sites being identified in DPDs being used before windfall sites. However, at present the Council has not produced a DPD and no suitable alternative sites have been identified as part of the Local Development Framework process.

Additionally, Planning Policy for Traveller Sites clearly states in paragraph 9 criterion (a) that local planning authorities should, in producing their Local Plan identify and update annually, a supply of specific deliverable site sufficient to provide five years worth of sites against their locally set targets. However, at present the Council does not have a five year supply of traveller sites. Furthermore, as previously stated, no specific site provision is made for gypsies and travelers in the development plan at present.

This document goes on to state that if a *'local planning authority cannot demonstrate an up-to-date five year supply of deliverable sites, this should be a significant material consideration*

*in any subsequent planning decision'* (paragraph 25). It is considered in light of the lack of availability of a five year supply of gypsy/traveller sites and given the factors already cited any permission which should be granted will be for a temporary five year period. This will allow the Council to see if any more sustainable and deliverable sites can be identified and brought forward.

Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) was completed in May 2007. In Cheshire East, the GTAA identified an overall need for between 37-54 permanent residential pitches and 10 pitches for transit provision by 2016. The Council are part of the Strategic Gypsy & Traveller Partnership across the sub region and together the authorities have secured future funding from the Homes and Communities Agency (HCA) to deliver new sites. Previously this funding was accessed to extend the council run site, Astbury Marsh, by 2 pitches (which have now been constructed).

Since the GTAA in May 2007, when the number of pitches was 101, there have been four new sites approved with permanent permission, giving an additional 11 pitches and 2 sites with temporary permission for 9 pitches (temporary permissions do not count towards the GTAA figures). The application for 10 pitches at Parkers Road, Crewe was withdrawn. A recent application for Land off Spinks Lane, Pickmere (12/1113M) for 3no. pitches was refused planning permission on the 8<sup>th</sup> August 2012 and land lying to the north west of Moor Lane, Wilmslow (12/1144M) was refused planning permission on the 6<sup>th</sup> July 2012.

Furthermore, an appeal decision at land at Wynbunbury Lane, Stapeley (November 2009) found that *'there is undoubtedly an immediate need for further pitch provision both in Cheshire East and regionally'*.

This view was further endorsed at a more recent appeal decision at New Start Park, Wettenhall Road, Reaseheath (APP/R0660/A/10/2131930 January 2011) which stated *'that there is little or no prospect of the Council being able to successfully address the challenge in Circular 01/2006 to increase significantly the number of gypsy and traveller sites in appropriate locations. I conclude that there is an urgent and substantial unmet need for permanent residential pitches for gypsies and travellers in Cheshire East which needs to be addressed'*.

A number of objectors have questioned the validity and accuracy of the GTAA. The objectors claim that *'the GTAA has been criticised by its own authors as not fit for purpose, it should not be used as proof of an exceptional circumstance i.e. lack of available sites/shortfall of target pitches'*. However, the GTAA is the most up to date document the Council has in relation to need for Gypsy/Traveller sites. Therefore, it is an important material consideration, which is regularly used by the Council in assessing applications. Furthermore, Planning Inspectors have never questioned the validity of the GTAA and they used it when assessing any Appeals.

The Council are to appoint consultants to redo the GTAA (as agreed by Cabinet on the 23<sup>rd</sup> July 2012) in 2013. Following on from the new GTAA the Council will make specific land allocations which are likely to be made in due course as part of the Local Development Framework. The Council concedes that the relevant Development Plan Document is unlikely to be adopted before December 2014. Therefore, it is unlikely that sites allocated would not,

in all probability, begin to become available until at least mid-2015. Therefore, it is considered that a temporary consent, which is in line with the neighbouring site and to assess whether any other more sustainable sites come forward, is justifiable in this instance.

The objectors are concerned that there are already a disproportionately large number of Traveller sites within the immediate locality and the proposal if allowed will exacerbate tensions between the local settled community and gypsies. Whilst the concerns of the local residents are noted it is not considered that the amount of Traveller sites in the locality has a detrimental impact on the local community. Furthermore, the Inspector at the previous Appeal stated *'Whilst I acknowledge the presence of a number of gypsy and traveller sites in the vicinity of Moston and Warmingham, I am not persuaded that these are either so numerous or so concentrated as to have a discernible effect on the character of the locality that would be exacerbated by the current proposal. Moreover, I find the limited scale of the latter to be such that the level of activity generated would not, in all likelihood, be so significant as to affect the general perception of the wider locality's prevailing sense of place'*. It is the case officer opinion that the proposal if approved will not have a discernible impact on the local community.

### **Human Rights and Race Relations**

It is right and proper that Local Planning Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned. Article 8 of the Human Rights Act 1988 states that everyone has the right to respect for his private and family life, his home and his correspondence. It adds there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals or the protection of the rights and freedoms of others.

The applicants are Travellers, a racial group protected from discrimination by the Race Relations Act 1976. Further, Article 14 of the Human Rights Act states that the enjoyment of the rights and freedoms set forth in that Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

In this particular case, the determination of this application will not have a direct impact on the occupier's rights given that the application site has not been laid out or is being occupied. Should the application be refused, the applicant has a right of appeal and any resultant enforcement proceedings would only be taken following due consideration of the aforementioned rights.

The impact of the development on the rights of the local residents has been fully assessed; both in this report and accordingly any impact are considered acceptable.

### **Precedent**

A number of objectors are concerned that if this application is approved a precedent will be set for other similar types of development in the immediate area. However, appeal decisions

generally are material considerations all cases must be determined on their own merits and any future applications would need to be considered against the circumstances applicable at that time.

The recent appeal decision on the adjacent site commented "*I give little weight to fears that a grant of planning permission in this case would set a precedent for the provision of further gypsy/traveller pitches in the locality. Whilst the recent refusal for four pitches on the adjacent site may yet be subject to appeal, each proposal falls to be assessed primarily on its own merits. In any event, I find there to be significant differences between the two schemes in terms of scale and detail.*"

This therefore demonstrates that each application must be dealt with on its merits, although as mentioned earlier the recent appeal decision is a significant material consideration.

### **Highways**

The application site will be accessed directly off Dragons Lane. The highway is wide enough for two vehicles to pass with relative ease although there are no footpaths along the carriageway. According to the submitted plans the application site will be accessed via the existing access which serves the single plot to the north. The gate is set back approximately 6m from the edge of the public highway. The access road which serves the two pitches lies immediately adjacent to a proposed post and rail fence (according to the submitted plans). The case officer considers it prudent to attach a condition relating to surfacing materials, in the event that planning permission is approved. There is sufficient space within the curtilage of the site for vehicles to be parked clear of the public highway and to maneuver so that they can enter/leave the site in a forward gear. A number of objectors are concerned that if planning permission is approved for the proposed development, it will lead to an intensification of large vehicles utilising the local highway network. Whilst the concerns of the objectors are noted, it is considered prudent to attach conditions relating to the size of vehicles entering/leaving the site and for no commercial activities to take place on the land. Colleagues in Highways have been consulted but at the time of writing this report no comments had been received. Members will be updated in the update report once a response from Highways has been received.

### **Gas Pipeline**

There is a high pressure gas pipeline running through the land which is owned by the applicant. The applicant states that no operational development is proposed in the vicinity of the pipeline. The minimum distance is 60m from the development to the gas pipeline. Colleagues at the National Grid have been consulted and raise no objection subject to a number of informatives.

### **Drainage**

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. Advice advocated within the NPPF 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. 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 sufficiently 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.

A number of objectors are concerned about how the development will be drained. According to the submitted application forms the proposed method for drainage would be via a cess pit. The case officer considers it prudent to attach a condition relating to drainage scheme, if planning permission is to be approved. Overall, it is considered that the application is in accordance with policy GR19 (Infrastructure).

### **Other Matters**

A number of objectors have stated that if planning permission is approved for the proposed development it will have a detrimental impact on house prices in the locality. Whilst the concerns of the objectors are noted, issues to do with devaluation of properties are not a material planning consideration and as such are not a sufficient justification for warranting a refusal of this application. Unfortunately, the planning system is not here to duplicate other legislation, for example, issues to do with crime can be dealt with by Police, littering and fly tipping can both be addressed via Environmental Health. The relevant material considerations with regards to this application have been fully addressed in the above report.

Several objectors have stated that there are sufficient pitches within the Borough and in any event existing sites could be expanded. Whilst the concerns of the objectors are noted, every application must be judged on its own individual merits and this application cannot be refused on the hypothetical situation that other travellers may want to construct additional pitches at some site in the future. If additional pitches are sought this will necessitate a new application and the proposal will be assessed on its merits.

Within the letters of objection it has been raised that public consultation has not been carried out. The application consultation process was dealt with in line with the Council's Publicity and Neighbour Notification procedure. This procedure is derived from the General Development Procedure Order 1995 (as amended) and Circular 15/92 – Publicity for planning applications, which outlines the statutory procedures for any applications for development. In this instance the proposed development is considered a minor development and the procedure requires either, neighbours which adjoin the development site to be consulted by letter or a site notice to be erected adjacent to the development site where there are no identifiable adjacent neighbours to the site (usually within rural locations). No neighbours immediately adjoin the application site. Therefore, a site notice was displayed. Further, consultations were also sent to neighbours who made objections to previous applications. It is considered that the Local Planning Authority has sufficiently consulted on the proposed development.

An objector states that local residents should know the location of the applicant and the address should be completed on the application form. However, the applicant's agent is acting on behalf of the applicant and it is not considered that local residents have been prejudiced by not knowing where the applicant currently resides.

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

It is acknowledged that the site is poorly located in order to access shops, services and other community facilities and the site is located in a moderately unsustainable location. However, there is a substantial and unmet identified need for gypsy and traveller site provision within Cheshire East which needs to be addressed urgently. To date no sites have been identified through the Local Plan process are unlikely to be so until 2014 at the earliest.

Furthermore, in the context of Planning Policy for Traveller Sites, the impact of the proposed development on the surrounding countryside could be satisfactorily mitigated, the site is within the Open Countryside as opposed to Green belt. The recent appeal decision is an important significant material planning consideration.

Therefore whilst there are elements of the application which would need addressing via condition such as drainage and landscaping; on balance it is considered that the benefits of the application would outweigh any perceived harm and therefore it is found that the use of the site as a residential gypsy site accommodating 2no. pitches would not conflict with Planning Policy for Traveller Sites or relevant national or local planning policies. The application is therefore recommended for approval accordingly subject to appropriate controlling conditions.

### **APPROVE subject to the following conditions:**

- 1. Temporary Permission for a four year period**
- 2. Plan References**
- 3. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 1 Annex 1 of Planning Policy for Traveller Sites**
- 4. There shall be no more than two pitches on the site and there shall be no more than four caravans stationed at any time, of which only two caravans shall be a residential mobile home**
- 5. No External Lighting**
- 6. Details of a landscaping scheme to be submitted and approved in writing**
- 7. Landscaping scheme to be implemented**
- 8. Details of a drainage scheme to be submitted and approved in writing**
- 9. No vehicles over 3.5 tonnes shall be stationed, parked or stored on the site**
- 10. No commercial activities shall take place on the land, including the storage of materials**
- 11. Details of the porous surfacing materials to be submitted and approved in writing**
- 12. Details of Boundary Treatment to be submitted and approved in writing**
- 13. Hours of Construction**

<b>Monday to Friday</b>	<b>0800 to 1800 hours</b>
<b>Saturday</b>	<b>0900 to 1400 hours</b>
<b>Sundays and Bank Holidays</b>	<b>Nil</b>

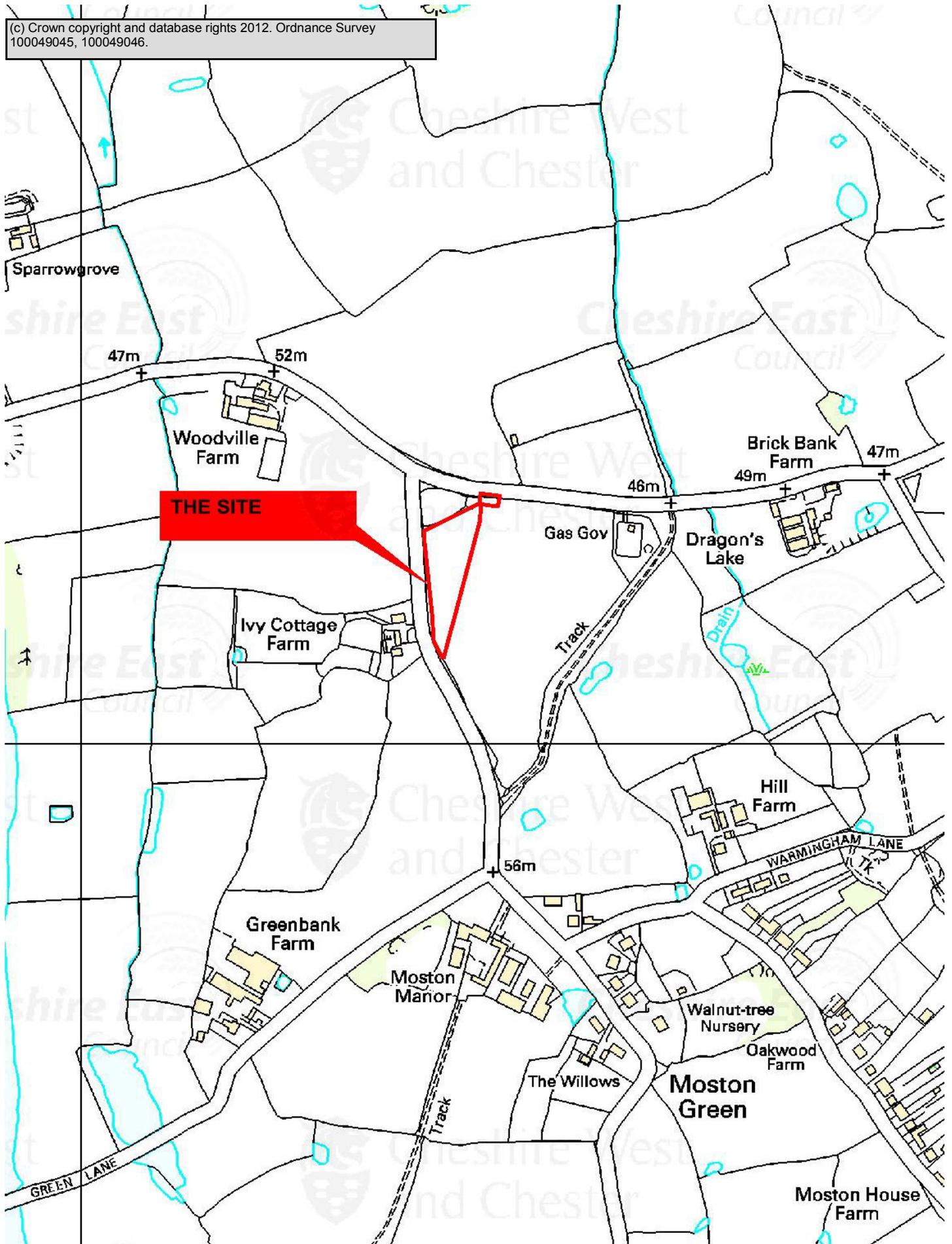
- 14. If the site is no longer required as a gypsy site all the structures shall be removed within 3 months and the land returned to its former use**
- 15. Remove PD rights for walls/fences – no permission for the existing 2m high timber fence**

**In the event that the additional information relating to land ownership details and where the horses will be grazed:**

**REFUSE for the following reason:**

**1. In the opinion of the Local Planning Authority the applicant has provided insufficient information to determine whether they own the land and where their horses will be grazed as such the proposal is contrary to policies H6 (Residential Development in the Open Countryside and the Green Belt), H7 (Residential Caravans and Mobile Homes) and H8 (Gypsy Caravan Sites) of the Borough of Congleton Local Plan First Review**

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Application No: 12/3603C

Location: Land on the south side of Dragons Lane, Dragons Lane, Moston, Sandbach, Cheshire, CW11 3QB

Proposal: The use of land for the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hard standing and utility/ dayrooms ancillary to that use.

Applicant: Martin Smith

Expiry Date: 13-Nov-2012

**SUMMARY RECOMMENDATION:** Approve subject to conditions and the receipt of a satisfactory hedgerow assessment.

**MAIN ISSUES:**

- Site History;
- Procedural Matters;
- Main Issues;
- Principle of Development;
- Sustainability;
- Impact on the Character and Appearance of the Open Countryside;
- Assessment;
- Dayrooms/Utility Blocks;
- Refuse Stores;
- Amenity;
- Ecology;
- Demonstrable Need;
- Human Rights and Race Relations;
- Precedent;
- Highways;
- Gas Pipeline;
- Drainage; and
- Other Matters

**REFERRAL**

The application has been referred to Committee at the discretion of the Development Management & Building Control Manager due to the considerable public interest in the application, and the current limited policy position with regard to Gypsy/Traveller Sites.

**DESCRIPTION OF SITE AND CONTEXT**

The application site lies in an area of open countryside approximately 4.8km northwest of Sandbach. The application site is located on the south side of Dragons Lane which forms its northern boundary. The site is bounded to the east and south by open fields. The application site has an area of 0.64 hectares in an ownership of 1.66 hectares. The northern site boundary is demarcated by mature native hedgerows. Located immediately to the west of the site is a static caravan and pergola (at the time of the site visit). The application site is located wholly within the open countryside.

This is a full application for the use of land for the stationing of caravans for residential purposes for 4no. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use at land on the south side of Dragons Lane, Dragons Lane, Moston, Sandbach.

### **RELEVANT SITE HISTORY**

12/0971C - The use of land for the stationing of caravans for residential purposes for 4 no. gypsy pitches together with the formation of additional hard standing and utility/ dayrooms ancillary to that use - Refused – 19<sup>th</sup> June 2012

### **POLICIES**

#### **National Policy**

The application should be determined in accordance with national guidance set out in:

National Planning Policy Framework  
Planning Policy for Traveller Sites

#### **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:

- GR1 (New Development)
- GR2 (Design)
- GR6 (Amenity and Health)
- GR9 (Accessibility, Servicing and Parking Provision)
- GR17 (Car Parking)
- GR19 (Infrastructure)
- GR20 (Public Utilities)
- PS8 (Open Countryside)
- H6 (Residential Development in the Open Countryside and the Green Belt)
- H7 (Residential Caravans and Mobile Homes)
- H8 (Gypsy Caravan Sites)

#### **Structure Plan**

HOU6 (Gypsy Caravan Sites)

## Other Documents

Interim Strategy on Gypsy and Traveller Accommodation Needs

## CONSIDERATIONS

**Highways:** No objections subject to conditions relating to the access being constructed prior to occupation and under a Section 184 licence, the access as per the drawings and any gates set back 5.5m and open inwards.

**United Utilities:** No objections

**Ecologist:** No objections subject to a condition relating to breeding birds.

**Natural England:** No objections

**Gypsy Liaison Officer:** No objections subject to a condition for temporary consent only.

**Environmental Health:** No objection subject to conditions relating to hours of construction and details of external lighting to be submitted and approved.

If planning permission were granted a site licence would be required under the Caravan Sites and Control of Development Act 1960. The site licence will have to be in the name of the land owner. The following conditions will need to be taken into consideration that may have a bearing on planning:

1. **Site boundaries**, should be clearly marked i.e. with fences or hedges.
2. **Roads, gateways and footpaths** must be of suitable material/construction, be of a minimum width of 3.7 metres, be suitably lit and have adequate access for emergency services etc. Suitably surfaced parking spaces shall be provided where necessary to meet the additional requirements of the occupants and visitors.
3. **Drainage sanitation and washing facilities.** There must be provision of a foul drainage system made. Prior to its installation details of the foul waste package plant shall be submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details. Each caravan standing should be capable of being connected to foul drainage. Where this provision is for a mobile home/chalet type then this connection **MUST** be made. Each caravan standing should have it's own water supply, W.C, W.H.B, shower or bath (hot & cold water). Where the WC and related WHB facilities are not present, or there is a cultural aversion to these facilities being provided with in a caravan/mobile home they should be provided in an building that meets building regulations, thus giving it suitable insulation and frost protection. Each hard standing should have adequate surface water drainage.
4. **Hard-standing.** Every caravan should stand on a concrete or other suitable hard-standing which should extend over the whole area occupied by the caravan placed upon

it, and should project a sufficient distance outwards from its entrance to enable occupants to enter and leave safely.

- 5. Miscellaneous** The four pitches will remain under one ownership for the lifetime of the site.

There should be a minimum distance of 3 metres from the siting of a caravan/mobile home to the boundary of the site.

Clarification that the amenity space is included within the application area is required and this will be maintained as and when necessary.

**Contaminated Land:** No objection subject to the following 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 National Planning Policy Framework 2012 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.

**Canal and River Trust:** No comments to make

**Environment Agency:** No objections subject to a condition relating to drainage

**National Grid:** No objections subject to the following comments/informatives

- No buildings should encroach within the Easement strip of the pipeline – Feeder 21 Elworth to Mickle Trafford and Feeder 21 Warburton to Audley
- We would draw your attention to the Planning (Hazardous Substances) Regulations 1992, the Land Use Planning rules and PADHI (Planning Advice for Developments near Hazardous Installations) guidance published by the HSE, which may affect this development.
- A National Grid representative will be available to monitor the works to ensure they comply with our specification T/SP/SSW/22.

#### **Pipeline Crossings**

- Where existing roads cannot be used, construction traffic should ONLY cross the pipeline at previously agreed locations.
- All crossing points will be fenced on both sides with a post and wire fence and with the fence returned along the easement for a distance of 6 metres.
- The pipeline shall be protected, at the crossing points, by temporary rafts constructed at ground level. The third party shall review ground conditions, vehicle types and crossing frequencies to determine the type and construction of the raft required.
- The type of raft shall be agreed with National Grid prior to installation.

- No protective measures including the installation of concrete slab protection shall be installed over or near to the National Grid pipeline without the prior permission of National Grid.
- National Grid will need to agree the material, the dimensions and method of installation of the proposed protective measure.
- The method of installation shall be confirmed through the submission of a formal written method statement from the contractor to National Grid.
- Please be aware that written permission is required before any works commence within the National Grid easement strip.
- A National Grid representative shall monitor any works within close proximity to the pipeline to comply with National Grid specification T/SP/SSW22.
- A Deed of Indemnity is required for any crossing of the easement

### **Cables Crossing**

- Cables may cross the pipeline at perpendicular angle to the pipeline i.e. 90 degrees.
- A National Grid representative shall supervise any cable crossing of a pipeline.
- Clearance must be at least 600mm above or below the pipeline.
- Impact protection slab should be laid between the cable and pipeline if cable crossing is above the pipeline.
- A Deed of Indemnity is required for any cable crossing the easement.
- Where a new service is to cross over the pipeline a clearance distance of 0.6 metres between the crown of the pipeline and underside of the service should be maintained. If this cannot be achieved the service shall cross below the pipeline with a clearance distance of 0.6 metres.
- CP (Cathodic Protection) Interference Testing may be required, both pre and post energisation of the wind turbine generators. Any mitigation measures must be implemented immediately in accordance with:

### **British Standards**

- BS EN 13509:2003 - Cathodic protection measurement techniques
- BS EN 12954:2001 - Cathodic protection of buried or immersed metallic structures – General principles and application for pipelines
- BS 7361 Part 1 - Cathodic Protection Code of Practice for land and marine applications
- National Grid Management Procedures

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

#### **Warmingham Parish Council objects for the following**

Applications 12/3847C and 12/3603C (re-submission of 12/0971C) should be considered together as they are in effect on the same field. The potential for expansion of the site to its full size of 11 acres by any number of small applications or, indeed, unauthorised occupations, is a very real possibility and therefore a problem which must be considered.

The previous submission by Warmingham Parish Council regarding 11/3548C and 12/0971C, a copy of which is included, holds good for both the new applications.

The site referred to as Land off Dragon's Lane (12/3603C) is for four pitches i.e. eight more caravans and associated vehicles. The site referred to as Thimswarra Farm (12/3847C) has recently been granted permission, following appeal, for one gypsy family only, with one residential pitch and no more than two caravans in total, but is now applying for an extension of the site to accommodate two more pitches i.e. four more caravans and associated vehicles.

The judgement found that that "the presence of a mobile home and touring caravan on the appeal site would be likely to cause discernible, albeit limited, harm to the character and appearance of the countryside" and conflicted with "saved LP Policies H8, GR1 and GR2 and national policy in the PPTS and NPPF."

The inspector found that "the occupiers of the appeal site would rely almost exclusively on private motorised vehicles for day-to-day travel needs" thus breaching the principles of sustainability for such sites. He found that this adverse effect on the countryside would be limited by the fact that "the scheme concerns only a single gypsy/traveller pitch."

He also found that the site may have no access to mains electricity and that "this might necessitate the use of a small generator which, inevitably, could cause noise." An increase in the number of pitches - a possible 14 caravans in total considering both applications 12/3847 and 12/3603C - could lead to a much larger noise pollution issue.

If this extended site had been the subject of the appeal, it is clear that the conflict with the regional and national saved policies regarding sustainable development would have been given more weight and may well have led to the appeal being refused. So, this further application coming so soon after the appeal judgement is an obvious attempt to navigate around the planning rules, which are there to prevent the encroachment of development on the open countryside.

The inspector found that there was a substantial need for gypsy and traveller pitch provision in Cheshire East, but this does not equate to a need for more provision in the Brereton Rural Ward and, more particularly, in Moston Parish, especially when other wards have few or no traveller sites. Brereton Rural and Moston are well served by existing traveller sites, at least one of which has vacant pitches.

The issue of English versus Irish travellers should not be acceptable as an argument for these pitches being unavailable for certain categories of gypsy - this would not be allowed in any other area of civil interaction under the discrimination laws.

The inspector also found that the "location of the appeal site is far from ideal." Such being the case, CEC should not have abandoned its search for more appropriate sites. A well-run council site, with clear boundaries, would fulfil the Borough's obligation to provide more pitches far better than allowing the intrusion on open countryside of sites where enforcement of planning conditions is extremely problematic.

The inspector concluded "that planning permission should be granted for the residential use of the land for a temporary period of four years, to cater for the Appellant's short term needs" only.

He also found "there to be a significant difference between the two schemes in terms of scale and detail" referring to Applications

11/3548C and 12/0971C.

That "significant difference" therefore means that the appeal judgement should not be used as a precedent for resolving this and any further planning applications relating to this site or adjoining sites. The conditions attached to the decision state that "to minimise conflict with the principles of sustainable development, the residential element of the use must be restricted to a single pitch with no more than two caravans, only one of which shall be a residential mobile home" and that "no commercial use, other than the parking of one commercial vehicle used by the residential occupiers of the site and storage of equipment therein, shall take place on the site."

This is a very strong endorsement of the fact that the 2 larger sites (12/3847 C and 12/3603C) currently under consideration would have an unacceptable impact on the character of the area and the safety of nearby lanes.

**Moston Parish Council objects for the following reasons:**

Moston Parish Council urge the Borough Council to refuse this application on the following grounds:-

We believe this is a resubmission of application 12/0971C which was refused in June 2012.

The decision notice for application 12/0971C states that the "location of the site represents an unsustainable form of development", was "contrary to policies GRI, H8, and HOU6 and the guidance contained within the National Planning Policy Framework relating to sustainable development and paragraphs 11, 21 and 23 of the Planning Policy for Traveller Sites".

The resubmission is accompanied by a covering letter stating that "This application has been resubmitted as appeal decision APP/R0660/A/12/2173171 on the adjoining land represents a material change in circumstances. Given that the two refusals were on similar grounds we now expect a grant of permission to follow." The grounds are not similar and there is no reason for a grant of permission.

There are significant differences between the recently approved appeal site (Thimswarra Farm) and this resubmitted application.

the appeal decision only grants temporary permission for 4 years.

this permission was granted for one pitch/one family because it was a very small development which would reduce its local and environmental impact

the appeal was allowed specifically to provide a settled base for one family to benefit from educational and health care opportunities.

the resubmitted application 12/3603C is entirely different in size.

it is for a much larger site, for 8 caravans, 4 brick utility buildings,

it involves the creation of a new entrance.

it will bring more traffic onto country lanes.

this application is totally inappropriate to a green field site with no facilities. It will seriously affect the character and appearance of the open countryside. As a location it is totally unsustainable as has previously been ruled and is contrary to paragraph 21 (NPPF/PPTS). It is not close to health, educational or satisfactory shopping facilities. There is no public transport, no street lighting or pavements/walkways.

because of its size it cannot be said to comply with paragraph 23 (NPPF/PPTS) which states that local planning authorities should strictly limit new Traveller site development in open countryside.

If this application were allowed (in addition to the approved appeal site) it will dominate the local settled community with no hope of promoting peaceful and integrated co-existence and would place undue pressure on the local infrastructure contrary to paragraphs 11 and 23 (NPPF/PPTS).

A further material consideration has arisen. Application 12/3847C has been made to extend the appeal site (Thimswarra Farm) by another 2 pitches (4 caravans, hard standing, extended driveway etc.).

Planners, Inspectorate and other authorities have constantly said that each application should be judged on its own merits. This is now not the case as the applicant for application 12/3603C bases his resubmission on the Thimswarra appeal decision. If this resubmitted application is allowed and also the extension of Thimswarra Farm, the number of units on this greenfield site will be 19 (14 caravans, 4 buildings and 1 substantial stable block, parking for at least 14 vehicles plus all the attendant hard standing, driveways, utilities and amenities).

So far Councillors have had the good sense to refuse the applications but Moston Parish Council and residents have found it an uphill and ongoing struggle. The Council has failed to provide a plan to meet targets for Gypsy and Traveller provision (GTAA). This is being used to override all considerations of suitability, use of the open countryside, as well as the interests and views of the local community.

## **OTHER REPRESENTATIONS**

77 Letters of objection have been received regarding the proposed development. The salient points raised in the letters of objection are:

- The proposal would detract from the essentially agricultural nature of the area;
- The application requires the fundamental change of use of a field from agriculture to developed residential occupancy;
- This is the same application as the one which was recently refused;
- The proposal will dominate the local area and the settled community;
- The proposal is a commercial operation;
- Other sites in the area are not being fully utilised;
- The GTAA is out date and ambiguous and is open to legal challenge;
- The proposal will lead to an increase in fly tipping and litter;
- Too much development in the locality already;
- The site is totally unsustainable;

- The proposal is contrary to national and regional policy;
- The previous site was approved due to it being for only one family;
- There are already a large number of Traveller sites in the locality;
- There is no existing infrastructure;
- Brownfield sites should be used before Greenfield sites;
- There is no requirement for additional sites in the locality;
- The previous applicant was ordered off the site due to it being a Greenfield site and objections from residents;
- The Planning Department have not advised against this application in order to reduce Cheshire East's obligations to meet target numbers of Traveller pitches;
- The roads are very narrow in the locality and the proposal will exacerbate highway safety issues;
- The proposal is more akin to a small housing estate in the open countryside;
- The proposal if allowed would open the floodgates to similar development;
- There are already Traveller sites not being used to full capacity;
- Moston is an Area of Natural Outstanding Beauty;
- The proposal will lead to high demand for local facilities;
- All the reasons for refusal remain the same: unsustainability, remoteness from essential services, damage to the character and appearance of the open countryside, size, domination of the local settled community, pressure on local infrastructure, abuse of a greenfield site, environmental and ecological damage. If this application (12/3603C) is to be judged on its own merits as we are always being told is the case, then it should be refused;
- The applicant has chosen the expedient route deciding not to appeal the original refusal (costly and time-consuming) but to resubmit the application because of a recent Appeal decision on adjoining land in the same field (APP/R0660/A/12/2173171 – Thimswarra Farm);
- The applicant attempts to justify this resubmission because he claims that the two sites had been refused on similar grounds. Apart from the fact that his application was refused on the additional grounds that it was contrary to latest guidance in the NPPF/PPTS (paragraphs 11, 21, 23), there are huge differences in the two sites and reasons for refusal;
- They differ significantly in size, scale, design, and purpose. In his Decision on the Thimswarra appeal, the Inspector drew attention to these differences and stated specifically (in paragraph 46) that the Appeal site could not be used as a precedent for the much larger site application (12/0971C now 12/3603C);
- The permission for the Thimswarra site is temporary for 4 years. It was granted because of a single family's claimed needs and because it was such a small development. The Appeal Decision is littered with references to 'single pitch', 'one family', 'limited scale', and 'small size of development'.
- Its not fair that Travellers are given preferential treatment;
- The current application should be refused on the same grounds as the previous application. Furthermore, due to the materials, scale and design make the proposal even more unacceptable in the open countryside. The proposal is not in keeping with the local environment;
- The proposed caravans and buildings will appear as alien and inappropriate development out of keeping with the local environment;
- The site have a detrimental impact on the character and appearance of the area;

- The proposed access involves the removal of large swathe of native hedgerow and the bridging of an established roadside ditch of at least 1m. This would require major construction work and involve the destruction of established field lines and habitats;
- The application site is located in a wholly unsustainable location and is contrary to both local and national policy;
- The claim in the applicant's Design & Access statement that there is a recognized need for this type of development in the area must be rejected. The Parish of Moston has within or close by a disproportionate number of gypsy/traveller pitches in relation to other areas of Cheshire East.
- The previous application for planning was deemed an inappropriate and unsustainable residential development in open countryside, then surely this application, which is far larger, should also be rejected on the same grounds;
- The development would have a negative impact on the surrounding countryside and there is an abundance of unoccupied caravan pitches on well equipped and well managed traveller caravan sites within a distance of less than two kilometres of Dragons lane;
- I believe if we allow 4 caravans to use this land it will just escalate out of control and more and more caravans will take up residence as they have done in other areas of Cheshire
- Amenities such as electricity, water, and waste would need to be supplied and the collection of refuse. The utility/day rooms are these to be paid for by the council or by the applicants including council tax;
- I believe there is a Gas pipeline running across this area which if disturbed could become a hazard;
- The Gypsy community is already being well catered for in the area and there are several sites which currently operate close to the land proposed in this application. These sites most certainly do not seem to be over crowded and any potential residents would find space. Moston is one of the few areas around which still holds a vested agricultural interest and the land surrounding should be encouraged to continue in this vain as opposed to granting planning applications of these sorts which inevitably have a snowball effect.
- I believe consultees should know the address of the Applicant. In the Application the Applicant states via the Agent that he is the owner of the proposed development site. If this is his address then I would like to know if he is living there legally. There is currently a caravan and building adjacent to the proposed development;
- The existing caravan and building are not shown on the Site Layout.
- The application forms have been completely incorrectly and the Design and Access statement is misleading;
- The application site is located within the open countryside. The Local Plan seeks to safeguard the countryside for its own sake and keep development to a minimum in order to protect its character and amenity. The establishment of permanent, brick built day rooms and the siting of mobile homes will diminish from the openness and character of the area;
- In accordance with the Planning Policy for Traveller Sites issued by Central government in 2012 Cheshire East is required to "use a robust evidence base to establish accommodation needs [to inform the preparation of local plans and] make planning decisions". There is no supporting evidence that there is a need other than the applicants own wishes. Until such time that all available traveller sites in the council area are fully occupied (with residents), no new sites should be approved;
- Moston already has 7 Gypsy sites within 3 miles of the village. Any further additions to this would only further add tensions and have a negative impact on the relationship between

the residents and the Gypsy's. The ratio of Gypsy's in the area is very high in comparison to other areas of the Cheshire East Council and as part of the Government's plans to reduce tensions surely this would be more beneficial to be spread out as opposed to be concentrated in an area.

- Moston is a very small rural village with no amenities what so ever. Further planning application of any description should be seriously considered for their viability let alone an application for up to 8 families/homes. The roads are already in a poor state of repair and have to withstand a surprisingly high volume of traffic from people taking short cuts to HGV's in the area;
- There are already over 3 gypsy caravan sites within 2 miles of the proposed new open countryside site and these existing sites have adequate empty pitches so there is no need for any additional sites;
- The great number of gypsy sites in the area is causing local unrest and further destruction of Cheshire open countryside is undesirable;
- For waste products a large Water Treatment Plant is proposed. The volume of waste from a site with potentially 20+ inhabitants a soakaway would be inadequate to manage the resultant effluent due to the high water table and heavy clay soils. This could potentially be a health hazard;
- As the police will no doubt inform you the crime rate has soared in the vicinity. We ourselves have been victims of theft;
- There are 4 brick built 8 x 5 m buildings which are totally unsuitable for a countryside location. Coupled with the parking hard standing, refuse bays and roads on the site it will resemble a small housing estate – in open countryside & isolated from the village envelope. It will no doubt be a blot on the landscape;
- Approval of this application would lead to increased tensions between the Gypsy population and local residents who would feel aggrieved that the countryside had been spoilt by this development. It should also be noted that the Moston / Middlewich area already has more than its fair share of Gypsy sites – none of which appear to be near capacity;
- I have been unable to find a planning notice attached to the site during the consultation period.
- An Environmental survey would raise further issues that are as yet not apparent, however, by the very presence of such a compound and unsuitable use the natural habitat and wild life would be significantly affected;
- If the proposal is allowed it will set a precedent for similar developments in the locality;
- The lanes giving access to this site are unsuitable for the sort of traffic the development would generate;
- The intrusive development is contrary to policies GR1 and GR2 of the adopted Congleton Borough Local Plan;
- The Council have already made a ruling that this is an unsuitable site for development;
- The Council should be consistent with their previous decision and refuse this application;
- The proposal is not in keeping with the rural vernacular and will have a detrimental impact on the visual character and appearance of the area;
- The proposal if allowed will affect property values in the area;
- The proposal will have a significant detrimental impact on the enjoyment of residential amenities;
- The area is swarming with Great Crested Newts and no Protected Species Survey has been submitted with the application.

## Action Moston

This application is a resubmission of application 12/0971C that was refused by the Southern Planning Committee in June 2012.

The decision notice for application 12/0971C states that “the location of the site represents an unsustainable form of development” and was “contrary to policies GR1, H8, and HOU6 and the guidance contained within the National Planning Policy Framework relating to sustainable development and paragraphs 11, 21 and 23 of the Planning Policy for Traveller Sites”.

The resubmission is accompanied by a covering letter stating that “This application has been resubmitted as appeal decision APP/R0660/A/12/2173171 on the adjoining land represents a material change in circumstances. Given that the two refusals were on similar grounds we now expect a grant of permission to follow.” The grounds are not similar and there is no reason for a grant of permission.

1. There are significant differences between the recently approved appeal site (Thimswarra Farm) and this resubmitted application:
  - a) the appeal decision only grants temporary permission for 4 years
  - b) this permission was granted for one pitch/one family because it was a very small development which would reduce its local and environmental impact
  - c) the appeal was allowed specifically to provide a settled base for one family to benefit from educational and health care opportunities
  - d) the resubmitted application 12/3603C is entirely different in both size and purpose
  - e) it is for a much larger site, for 8 caravans, 4 brick utility buildings, at least 8 parking spaces, hardstanding, as well as driveways, refuse and sewage disposal facilities, water and electricity supplies
  - f) it is the size of a small housing estate turning a piece of prime agricultural land in the open countryside into an intensive and intrusive residential site
  - g) it involves the creation of a new entranceway and the grubbing out of native hedgerow
  - h) it will bring more traffic onto overburdened country lanes
  - i) the application is not designed to provide an established base for one family and its needs but is intended as a site for lettings by one owner landlord. The design and access statement specifies no individual or family need. It merely states that the pitch occupants wish to maintain ‘a gypsy lifestyle’.
2. This application is totally inappropriate to a green field site with no facilities such as electricity or tapped water. It will seriously affect the character and appearance of the open countryside. As a location it is wholly unsustainable as has previously been ruled and is contrary to paragraph 21 of NPPF/PPTS. It is not close to health, educational or satisfactory shopping facilities. There is no public transport, no street lighting or pavements/walkways.
3. Because of its size it cannot be said to comply with paragraph 23 of NPPF/PPTS which states that local planning authorities should strictly limit new Traveller site development in open countryside.
4. The land and countryside will be adversely affected by this application because of its scale, extensive hardstanding and driveways and the damage to native and long standing hedgerows and wildlife habitats. There is no evidence that the applicant has conducted any

surveys concerning bio-diversity and geological conservation. The statements on the application form concerning trees and hedges are incorrect.

5. If this application is allowed (in addition to the approved appeal site) it will dominate the local settled community with no hope of promoting peaceful and integrated co-existence and will place undue pressure on the local infra-structure contrary to paragraphs 11 and 23 of NPPF/PPTS.
6. A further material consideration has arisen. Application 12/3847C has been made to extend the appeal site (Thimswarra Farm) by another 2 pitches (4 caravans, hardstanding, extended driveway etc.).
7. Planners, Inspectorate and other authorities have constantly told us that each application should be judged on its own merits. This is now not the case as the applicant for application 12/3603C bases his resubmission on the Thimswarra appeal decision. We therefore have the right to object to all these linked applications and again point out that they are adjoining and in the same field. If this resubmitted application is allowed and also the extension of Thimswarra Farm, the number of units on this greenfield site will be 19 (14 caravans, 4 buildings and 1 substantial stable block), parking for at least 14 vehicles plus all the attendant hardstanding, driveways, utilities and amenities. There is also another 5 acres in this field which is being sold off piecemeal.
8. The withdrawal of plans for a Traveller site at Coppenhall and the failure to seek any other suitable site has led the Council to seize the opportunity of windfall sites that they do not have to purchase, develop or maintain. Cheshire East Council has failed to provide a plan to identify and deliver suitable sites to meet Gypsy and Traveller needs. Consequently, they have been forced to rely on the out of date and unreliable GTAA target figures. These have been used to override all considerations of suitability, sustainability, use of the open countryside, as well as the interests and views of the local community. The Localism Act 2011 urges Councils to consult with local people who are affected. Cheshire East Council is failing the residents and ratepayers of Moston by not giving any weight to their views.

#### **An Email dated 1<sup>st</sup> November 2012 From Action Moston**

As you will be aware, since the introduction of the Localism Act (2011) the power to decide on local issues has been decentralized and local councils are now able to set their own agendas, dependent upon their own regional needs. The Act urges councils to engage in full consultation with neighbourhoods in order that local people are able to influence the planning decisions which directly affect them.

In the past a Regional Spatial Strategy (RSS), although never approved and awaiting revocation, was used to create long-term plans for an area and, in order to determine the needs of the Gypsy and Traveller communities (GTC), the Office for the Deputy Prime Minister ordered the creation of Gypsy and Traveller Accommodation and Related Services Assessments (GTAAs). One of the functions of the GTAA was to identify the number of pitches that would be required for each region. In 2006, Salford University was commissioned to compile the North-West's version of the report. Over the past few years the GTAA has been used as an unquestioned reference to the exact number of Gypsy and Traveller pitches that will be required by 2016.

There are a number of points that we wish to draw to your attention.

The GTAA was commissioned by Central Government. Therefore due to the Localism Act, Local Authorities are no longer required to use the figures in the GTAA as a benchmark.

In 2009 two of the authors (Niner and Brown) of our regional GTAA wrote a critical review of it entitled "First steps towards regional planning for Gypsy and Traveller sites in England (2009)." This concluded that whilst the GTAA was a reasonable starting point for collecting a range of data about the GTC they did not use a reliable and robust method of collecting that data.

They claim that there is no reliable way to calculate the actual need for pitches, partly because of the lack of effective relations between planning and the GTC and partly because there is no idea of their actual population numbers. It is very difficult to assess the needs of a population which is by its very definition travelling. Niner and Brown point out that GTAA's were regionally conducted. However, the GTC cannot be expected to plan their journeys based on the varying findings of the different local authorities.

The following excerpt from this article sums up the effect of these issues:

"The level of predictability implied in making precise estimates of pitch requirements may simply not apply to Gypsies and Travellers, whose whole culture is based on adaptation to circumstances rather than long-term future plans and intentions." (Niner and Brown, 2009)

They concluded that the poor structure of the GTAA rightly leaves it open to be challenged.

National Planning Policy Framework 2012 (NPPF) reinforces the Localism Act and, in its introduction to the specific section on Planning Policy for Traveller Sites (PPTS), it states that Local Planning Authorities should make their own assessment of need for the purposes of planning. They should also use a robust evidence base to establish accommodation needs to inform the preparation of local plans and make planning decisions. The NPPF/PPTS also states that Local Planning Authorities should identify and update annually a supply of specific deliverable sites against their locally set targets. Cheshire East Council (CEC) has so far failed to produce a local plan and local targets to meet GTC needs. Recent attempts to provide sites have been ad hoc and unsuccessful. Failures to secure the Saxon Cross bid and the withdrawal of the application at Parkers Road, Coppenhall, have exacerbated the situation. We fear that 'windfall sites', often on totally unsuitable agricultural land, are now being seen as an easy and cheap option.

Open countryside, green-field and green-belt, are all highly protected areas unless an argument can be made for "exceptional circumstances". As the GTAA has been criticised by its own authors as not fit for purpose, it should not be used as proof of an exceptional circumstance i.e. lack of available sites/shortfall of target pitches.

We now turn to the implications of the issues we raise above.

We have been resisting unsuitable gypsy/traveller applications for residential development in an unsustainable location in the open countryside since 2009. Some of you will be aware of these applications on a large field on Dragons Lane/Plant Lane, Moston, Sandbach, Cheshire. These are applications 09/2358C, 11/3548C, 12/0971C, 12/3603C and 12/3847C.

Application 11/3548C (Thimswarra Farm) has been granted temporary permission for 4 years on Appeal and this has resulted in a resubmission of 12/0971C (with the new number 12/3603C) and a new application to extend the Thimswarra appeal site (12/3847C).

Our attempts to resist these applications are being seriously hindered by:

The heavy reliance by the Planning Department, the Inspectorate and the Applicants themselves on GTAA figures (now we hope we have proved as unreliable and defunct)  
Cheshire East Council's lack of a clear and well defined strategic plan for identifying suitable and sustainable site provision for delivery over the next 3 to 5 years  
A seeming reluctance by Cheshire East Council to embrace and implement modern legislation as contained in the Localism Act and NPPF/PPTS.

In his recent decision on Appeal APP/R0660/A/12/2173171 (Thimswarra Farm - 14 September 2012) the Planning Inspector clearly states the exceptional circumstance for allowing the temporary permission of the site for four years was in order to give the Council a three year time frame for providing alternative, suitable permanent sites.

Although we are aware that there is, at present, a move to produce a strategic plan and submit planning applications for sites, we fear this is in such an early and unformed stage it will not assist in preventing the unsuitable developments we are resisting. We are deeply concerned that Cheshire East Council will allow the development of this field and these sites as an easy option in the meantime. We do not have 2000 local residents to protest. This is a small hamlet with just a small population, highlighting the fact that further development will overwhelm the area and its residents. Do not assume, however, that the lack of residents equals a lack of opposition to this development.

We need Cheshire East Council to accelerate its planning process and provide a clearly defined and achievable plan for Gypsy & Traveller provision within a determined time scale and sooner rather than later. We ask for assurances that it is fulfilling the requirements of the Localism Act and is responding to local interests and needs. We demand that it no longer relies on faulty data and it complies with the guidance in the NPPF concerning sustainable development and the strict limits to be applied to development in the open countryside. We request that Planning Department Officers representing Council cases at Committee and at Appeal be conversant with new legislation, are fully briefed and able confidently to outline the Council's prepared plan for site provision or at least able to demonstrate that one is in progress. We also question why the Council is not attempting to secure brownfield sites which are recommended in the NPPF/PPTS and for which we understand that there is Central Government funding. There are numerous such sites in Cheshire East.

Unless Councillors and Officers take action, irreversible damage will be inflicted on the countryside and Cheshire East residents. If Cheshire East Council had fulfilled its obligation to the people it represents and already provided suitable new sites then we would not be in this situation now.

## **APPLICANTS 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**

### **Site History**

Members may recall that a similar application (12/0971C) was submitted on the same parcel of land. This application was for the use of land for the stationing of caravans for residential purposes for 4no. gypsy pitches together with the formation of additional hard standing and utility/dayrooms ancillary to that use. This application was refused planning permission on the 19<sup>th</sup> June 2012 by Members of the Southern Planning Committee for the following reason:

*'The location of the site represents an unsustainable form of development due to the distance from local services and facilities contrary to Policies GR1 (New Development) and H8 (Gypsy Caravan Sites) of the adopted Congleton Borough Local Plan First Review 2005 and Policy HOU6 (Gypsy Caravan Sites) of the Cheshire Structure Plan and the guidance contained within the National Planning Policy Framework relating to sustainable development and paragraphs 11, 21 and 23 of the Planning Policy for Traveller Sites'.*

Located immediately to the west of the current application site was another site for 1no. gypsy pitch, which was also refused planning permission by Members of the Southern Planning Committee on the 15<sup>th</sup> February 2012 and was subsequently granted temporary consent upon Appeal (APP/R0660/A/12/2173171) on the 14<sup>th</sup> September 2012 for a four year period.

In reference to the above Appeal the Inspector concluded that *'the Appellants pressing need for settled site provides the justification for granting planning permission in this case'*. However, the Inspector went on to state *'I must bear in mind that Policy H of the PPTS specifies that new traveller site development in open countryside should be strictly limited and that, consequently, the location of the appeal site is far from ideal. It is also pertinent that new pitches are likely to become available through the development plan process by 2015. This being so, I conclude that planning permission should be granted for the residential use of the land for a temporary period of four years, to cater for the Appellant's short term needs. This also provides the Council with a reasonable opportunity to deliver site allocations as part of the development plan'*.

Therefore, whilst the Inspector acknowledged there was a need for the additional pitches, he tempered this by stating additional, more sustainable sites may come forward over the next few years.

There has not been any change in policy or other material circumstances to differ from the opinion made by the Inspector. It is the decision of the LPA to determine how much weight should be given to various factors. However, it is considered that given the factors cited above considerable weight must be afforded to the Inspectors decision and it cannot lightly be put aside.

### **Procedural Matters**

A number of objectors have stated the location and block plans submitted with the application are incorrect. They make specific reference that the caravan and other associated development, including the decked area and pergola on the adjoining parcel of land are not shown.

Whilst the location and block plans should wherever possible be accurate the application is submitted in relation to development located within the defined application area denoted by the red line. It is not a requirement of the Town and Country Planning Applications Regulations 1988 or the Council's validation documents to ensure that all buildings/structures outside the application area are shown accurately and/or correctly named. Buildings around the site are shown to help locate the application site but the detailed relationship of individual buildings to the application site will need to be assessed by means of a site inspection.

Therefore, whilst it is acknowledged that the applicant has not shown the adjacent caravan on the location or block plans. It is not considered that local residents have been prejudiced and all their comments have been taken into account.

In addition to the above, the objectors state that the application forms have completed incorrectly, specifically they state that the applicant is not going to remove any hedgerow. However, as a new access will be formed, this will require the removal of a small section of hedgerow. The agent has been requested to submit an amended form and also to undertake a hedgerow assessment. At the time of writing this report neither the form or assessment had been completed. Members will be advised in the update report.

### **Main Issues**

The main issues in this case are:

- (a) Whether the site is in an appropriate location for the scale of use proposed having particular regard to accessibility to services and facilities as well as other sustainability considerations referred to in the Local Plan and Planning Policy for Traveller Sites;
- (b) The effect of the proposed development on the character and appearance of the area; and
- (c) Whether, if there is any harm and conflict with policy, there are material considerations which outweigh the harm and conflict, including the need for more gypsy sites in the area, the likelihood and timescale for identified needs to be met through the development plan system, the applicants and intended occupiers personal and family circumstances and accommodation alternatives.

### **Principles of Development**

As with national planning guidance, Policy PS8 (Open Countryside) of the Local Plan seeks to safeguard the countryside for its own sake and prevent non-essential development that may cause harm to the character and appearance and openness of the countryside.

However, policies within the development plan, in conjunction with national planning guidance and advice in Planning Policy for Traveller Sites, accept that outside Green Belt areas, rural settings are acceptable in principle for gypsy and traveller caravan sites. The applicant argues that a degree of harm to the character and appearance of the countryside is unavoidable but

points out that Government advice suggests that in most cases this visual harm can be satisfactorily mitigated with appropriate landscaping. However, whilst the need for gypsy and traveller accommodation is a consideration, both development plan policies and Government guidance require, in addition, consideration of the impact on the surrounding area, neighbouring amenity, highway safety, the need to respect the scale of the nearest settled community and also the availability of alternatives to the car in accessing local services.

## **Sustainability**

Planning Policy for Travellers Sites clearly enunciates that travellers sites should be sustainable economically, socially and environmentally and states that local authority planning policies should

- a) Promote peaceful and integrated co-existence between the site and the local community;
- b) Promote, in collaboration with commissioners of health services, access to appropriate health services;
- c) Ensure that children can attend school on a regular basis;
- d) Provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment
- e) Provide proper consideration of the effect of local environmental quality (such as noise and air quality) on the health and well being of any travellers that may locate there or on others as a result of new development;
- f) Avoid placing undue pressure on local infrastructure and services;
- g) Do not locate sites in areas at high risk of flooding, including functional floodplains, given the particular vulnerability of caravans;
- h) Reflect the extent to which traditional lifestyles (whereby some travellers live and work from the same location thereby omitting many travel to work journeys) can contribute to sustainability

It is clear that the key principals of national and local planning policies are to promote sustainable patterns of development in order to reduce the need to travel and the dependence on the private car. It is noted that buses travel along Dragons Lane at various intervals in the day. The nearest service centre to the application site is Elworth and there is a distance of approximately 2.4km separating the two sites. Therefore, it is considered that the application site is in an isolated rural setting and is removed from any settlement, shop(s), school(s), community facilities or place(s) of employment. Dragons Lane is typical of many rural highways being twisty, unlit and without footways. The road is wide enough for vehicles to pass each other with relative ease.

As previously stated the Planning Policy for Traveller Sites has an intention, amongst other things, to create and support sustainable, respectful and inclusive communities where gypsies and travellers have fair access to suitable accommodation, education and health and welfare provision. The document clearly acknowledges that '*Local Planning Authorities should strictly limit new traveller site development in the open countryside that is away from existing settlements or outside areas allocated within the development plan*' (paragraph 23). However, it does not state that gypsy/traveller sites cannot be located within the open countryside.

The document makes it clear that sustainability is important and should not only be considered in terms of transport mode and distance from services. But other factors such as economic and social considerations are important material considerations. It is considered that authorised sites assist in the promotion of peaceful and integrated co-existence between the site and the local community. A settled base ensures easier access to a GP and other health services and that any children are able to attend school on a regular basis. It is widely recognised that gypsies and travellers are believed to experience the worst health and education status of any disadvantaged group. In addition, a settled base can result in a reduction in the need for long distance travelling and the possible environmental damage caused by unauthorised encampment. Furthermore, the application site is not located in an area at high risk of flooding. These are all benefits to be considered in the round when considering issues of sustainability.

The Inspector on the recent appeal found that sustainability objectives in terms of travel distances to facilities were not met. Furthermore it was found that the Dragons Lane was not a safe place to walk due to high vehicle speeds, and also that the designated cycle route was unlikely to be used by young families.

It is considered that the location of the site is such that it is almost inevitable that the private car will be needed to access even those facilities relatively close to the site. It is generally acknowledged that as distance increases the likelihood of car use becomes generally greater. According to Policy H.8 (Gypsy Caravan Sites) criterion (x) states that proposal should be *'wherever possible, within 1.6km (1 mile) of existing local shops, community facilities, primary school and public transport facilities'*, the advice is qualified by the term *'wherever possible'*. It does not therefore rule out sites which are further away. Furthermore, the policy does not specify the modes of transport are to be utilised. However, it is considered given the location of the site, the surrounding highway network and the lack of street lighting and pavements in the area, the main mode of transport will be the private car.

The Inspector commented that *"trips to access facilities required for day-to-day living would be relatively short and, necessarily, limited in number by the fact that the scheme concerns only a single gypsy/traveller pitch."* A further comment is made within the Inspectors decision that he considered there to be a significant difference between one pitch and four pitches in terms of scale.

While clearly there would be a four fold increase with the site for four pitches which would increase *'unsustainable trips'*, as a matter of fact and degree these trips would all still only be of a relatively short nature. It is difficult to state at what level the number of pitches would have to be before that impacted so significantly to refuse on sustainability grounds. For example, the recent temporary consent at New Start Park, Reaseheath which is also not sustainable was for 8 pitches.

Nevertheless, it is considered that the application site is not in a wholly sustainable location and the proposal would moderately conflict with advice advocated within Policies H.8 (Gypsy Caravan Sites) and HOU6 (Gypsy Caravan Sites).

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

The application site is broadly rectangular in shape and is part of a much larger site, which is owned by the applicant. According to the submitted plans the proposal is for four pitches and

each pitch will incorporate a mobile home, a touring caravan, a dayroom/utility room and a bin storage area. Each of the pitches will be enclosed by a post and rail fence or a close boarded timber fence (it is considered that a close boarded timber fence will appear as incongruous feature and a condition relating to boundary treatment will be attached to any decision). All of the pitches are located around the proposed access road, which is in the shape of a letter 'T'. The access road sweeps around to the north and a new access will be formed on the south side of Dragons Lane. The case officer noted that the application site is bounded by mature native hedgerows around the north facing boundary of the site, which fronts on to Dragon Lane. The plans show that there will be extensive areas of landscaping around the periphery of the site and this will help to assimilate the proposal into the local environment. Located to the west of the application site the applicant is proposing on installing a Klargest treatment plant.

The application site is located wholly within an area of open countryside and the area is generally characterised by agricultural fields bounded by native hedgerows. Local Plan policy makes it clear that gypsy sites are acceptable in principle in the countryside. However, the more recent document Planning Policy for Traveller Sites states that local planning authorities should strictly limit new traveller sites within the open countryside that is away from existing settlements. However, this policy does not state that gypsy/traveller sites cannot be located within the open countryside. It is acknowledged that the caravans may be visible in the public realm but this does not necessarily equate to visual harm.

According to policy PS8 (Open Countryside) permits uses which are appropriate to a rural area. Furthermore, paragraph 12 of Planning Policy for Traveller Sites states *'When assessing the suitability of sites in rural or semi rural settings, local planning authorities should ensure that the scale of such sites does not dominate the nearest community'*. Paragraph 22 states when assessing planning applications local planning authorities should consider the following issues

- The existing level of local provision and need for sites;
- The availability (or lack) of alternative accommodation for the applicants;
- Other personal circumstances of the applicant;
- That the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites;
- That they should determine applications for sites from any travellers and not just those with local connections.

Therefore, both local and national policy accepts that gypsy sites can be located within rural areas. It is acknowledged that some degree of encroachment and visual impact will be derived from the location of gypsy sites within rural locations. Policy H.8 criterion (iv) stipulates that proposals should be *'adequately screened and landscaped'* and criterion (iii) states that *proposals should be 'an appropriate scale which would not detract from the value of the surrounding landscape'*.

The proposal is for the siting of 4no.static caravans, 4no. touring caravan, 4no. dayroom/utility blocks, 4 no. refuse bin stores and the associated hardstanding and boundary treatment. It is considered that the visual impact of the development to a large extent is reduced by the fact that the existing boundary treatment to the north of the application site will be screened by mature native hedgerow. The applicant is proposing to put in a new access to the site on the south side of Dragons Lane, which will necessitate the removal of a stretch of hedgerow.

It is considered that views of the development would be limited to glimpses of the roofs and higher sections of walls of the mobile homes and utility blocks. However, in order to mitigate the visual presence of the development a landscaping condition will be attached to the decision notice which will help to reinforce the perimeter hedgerows that already exist. It is noted that the boundary treatment along the southern boundary of the application site comprises a post and rail fence and this permits views into the site. Therefore, this boundary will also need to be adequately screened and will be conditioned accordingly.

Overall, it is considered that any visual harm or physical encroachment that might harm the character and appearance of the countryside would be small and it is considered that providing controlling conditions relating to landscaping and boundary treatment will help to mitigate any negative externalities associated with the proposal. Therefore, it is considered that the proposal complies with Policy GR2 (Design) and advice advocated within the National Planning Policy Framework and Planning Policy for Traveller Sites.

### **Dayrooms/Utility Blocks**

According to the submitted plans each of the pitches will include a Dayroom/Utility block. The proposed dayroom will measure approximately 7.7m long by 4.9m wide and is 2.3m high to the eaves and 4.3m high to the apex of the ridge. The buildings will be constructed out facing brick under a slate roof, which will be conditioned, if planning permission is to be approved. It is considered that the use of these materials is similar to other similar types of structures e.g. garages within the locality and as such not of place.

The footprint of the proposed dayrooms are primarily rectangular in form and the total footprint of the buildings are approximately 38sqm. It is considered that the scale and massing of the proposed buildings are relatively modest and serve the purpose for which they are intended. Each of the dayrooms will incorporate a personnel door and window on the south facing elevation and similar sized windows on the north and east facing elevations. It is noted on the west facing elevation are two smaller apertures. Internally the buildings will comprise a kitchen, day room, wash room and bathroom. Whilst encouraging good design, the NPPF states 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 the proposed development.

### **Refuse Stores**

Each pitch will also comprise a refuse store which will measure approximately 2.1m wide by 1.3m deep and is 1.2m high. The refuse stores will be enclosed with a close boarded timber enclosure. The bin enclosure is large enough to accommodate 3no. wheelie bins.

### **Amenity**

Policy GR6 (Amenity and Health) states that development will be permitted provided that the proposal would not have an unduly detrimental effect on amenity due to loss of privacy, loss of sunlight and daylight, visual intrusion, environmental disturbance or pollution, traffic generation, access and parking.

The nearest residential properties are those located to the south west (Ivy Cottage Farm) and west (Woodville Farm) which are sited approximately 170m and 220m respectively away from the application site. As previously stated, the site is demarcated by a mature native hedgerow, which is punctuated at irregular intervals with mature trees. It is considered the distances between the existing properties and the application site and the intervening vegetation will minimise any loss of amenity through overlooking or over domination. Furthermore, Environmental Health have raised no objections. It is considered that the proposal complies with policy GR6 (Amenity and Health).

## **Ecology**

A number of local residents claim that there a number of ponds within the local vicinity which are used by Great Crested Newts. Furthermore, they claim that if the proposal is allowed may have a detrimental impact on other protected species or birds. The Councils ecologist has been consulted and states that the 'proposed site is located on land that appears to be limited nature conservation value additionally I do not anticipate there being any reasonable likely protected species issues associated with the proposed development'. The Ecologist goes on to state 'The proposed access off Dragons Lane would however result in the loss of hedgerow. Hedgerows are a biodiversity Action Plan priority and hence a material consideration. Therefore, if planning consent is granted I recommend conditions are attached to ensure that appropriate replacement hedgerow planting in undertaken to compensate for that lost as part of the landscaping scheme for the site'. Overall, it is considered that the proposal will not have detrimental impact on any protected species subject to conditions relating to landscaping and breeding birds shall be attached to the decision to the notice, if planning permission is to be approved

## **Impact on SSSI**

According to Policy NR2 (Statutory Sites) clearly states that proposals for development that would result in the loss or damage of the following sites of nature conservation or geological importance will not be permitted

- RAMSAR Sites (Wetlands of International Importance)
- Sites of Special Scientific Interest (SSSI's)
- Any site or habitat supporting species that are protected by law

The policy goes on to state that developers will be required to submit a comprehensive assessment of a proposals impact on nature conservation as part of an application to develop a site which may affect any of the above.

According to the proposals map, the application site is located approximately 800m away from Sandbach Flashes which is a SSSI. Colleagues in Natural England have been consulted regarding the application and they state that 'Due to the small scale of the proposals the development is unlikely to have a significant effect on the Sandbach Flashes SSSI'.

Overall, it is considered that the proposed development will not have a significant detrimental impact on the SSSI and proposal is broadly in accordance with policy NR2.

## **Demonstrable Need**

Planning Policy for Traveller sites advocates that local planning authorities should ensure that their policies promote peaceful and integrated co-existence between the site and the local community and ensure that traveller sites are sustainable economically, socially and environmentally. The key characteristics identified for a mixed community are a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people. The need to take account of the diverse range of housing requirements across an area, including the need to accommodate Gypsies and Travellers, is an important consideration.

A sequential approach to the identification of sites in Site Allocations Development Plan Document (DPD) is advocated, requiring Local Planning Authorities to consider locations in or near existing settlements with access to local services first. Local Planning Authorities should be able to release sites for development sequentially, with sites being identified in DPDs being used before windfall sites. However, at present the Council has not produced a DPD and no suitable alternative sites have been identified as part of the Local Development Framework process.

Additionally, Planning Policy for Traveller Sites clearly states in paragraph 9 criterion (a) that local planning authorities should, in producing their Local Plan identify and update annually, a supply of specific deliverable site sufficient to provide five years worth of sites against their locally set targets. However, at present the Council does not have a five year supply of traveller sites. Furthermore, as previously stated, no specific site provision is made for gypsies and travelers in the development plan at present.

This document goes on to state that if a *'local planning authority cannot demonstrate an up-to-date five year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision'* (paragraph 25). It is considered in light of the lack of availability of a five year supply of gypsy/traveller sites and given the factors already cited any permission which should be granted will be for a temporary five year period. This will allow the Council to see if any more sustainable and deliverable sites can be identified and brought forward.

Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) was completed in May 2007. In Cheshire East, the GTAA identified an overall need for between 37-54 permanent residential pitches and 10 pitches for transit provision by 2016. The Council are part of the Strategic Gypsy & Traveller Partnership across the sub region and together the authorities have secured future funding from the Homes and Communities Agency (HCA) to deliver new sites. Previously this funding was accessed to extend the council run site, Astbury Marsh, by 2 pitches (which have now been constructed).

Since the GTAA in May 2007, when the number of pitches was 101, there have been four new sites approved with permanent permission, giving an additional 11 pitches and 2 sites with temporary permission for 9 pitches (temporary permissions do not count towards the GTAA figures). The application for 10 pitches at Parkers Road, Crewe was withdrawn. A recent application for Land off Spinks Lane, Pickmere (12/1113M) for 3no. pitches was refused planning permission on the 8<sup>th</sup> August 2012 and land lying to the north west of Moor Lane, Wilmslow (12/1144M) was refused planning permission on the 6<sup>th</sup> July 2012.

Furthermore, an appeal decision at land at Wynbunbury Lane, Stapeley (November 2009) found that *'there is undoubtedly an immediate need for further pitch provision both in Cheshire East and regionally'*.

This view was further endorsed at a more recent appeal decision at New Start Park, Wettenhall Road, Reaseheath (APP/R0660/A/10/2131930 January 2011) which stated *'that there is little or no prospect of the Council being able to successfully address the challenge in Circular 01/2006 to increase significantly the number of gypsy and traveller sites in appropriate locations. I conclude that there is an urgent and substantial unmet need for permanent residential pitches for gypsies and travellers in Cheshire East which needs to be addressed'*.

A number of objectors have questioned the validity and accuracy of the GTAA. The objectors claim that *'the GTAA has been criticised by its own authors as not fit for purpose, it should not be used as proof of an exceptional circumstance i.e. lack of available sites/shortfall of target pitches'*. However, the GTAA is the most up to date document the Council has in relation to need for Gypsy/Traveller sites. Therefore, it is an important material consideration, which is regularly used by the Council in assessing applications. Furthermore, Planning Inspectors have never questioned the validity of the GTAA and they also use it to assess any Appeals. Indeed the recent Inspectors decision was based upon the GTAA figures and considered that the need identified was 47 to 64 pitches to 2016. The appeal identified the need to be 14 and 31 pitches (although this included 24 pitches approved nearly 3 years but has yet to be implemented).

The Council are to appoint consultants to redo the GTAA (as agreed by Cabinet on the 23<sup>rd</sup> July 2012) in 2013. Following on from the new GTAA the Council will make specific land allocations which are likely to be made in due course as part of the Local Plan. The Council concedes that the relevant Development Plan Document is unlikely to be adopted before December 2014. Therefore, it is unlikely that sites allocated would, in all probability, begin to become available until at least mid-2015. Therefore, it is considered that a temporary consent, which is in line with the neighbouring site and to assess whether any other more sustainable sites come forward, is justifiable in this instance.

The objectors are concerned that there are already a disproportionately large number of Traveller sites within the immediate locality and the proposal if allowed will exacerbate tensions between the local settled community and gypsies. Whilst the concerns of the local residents are noted it is not considered that the amount of Traveller sites in the locality has a detrimental impact on the local community. Furthermore, the Inspector at the previous Appeal stated *'Whilst I acknowledge the presence of a number of gypsy and traveller sites in the vicinity of Moston and Warmingham, I am not persuaded that these are either so numerous or so concentrated as to have a discernible effect on the character of the locality that would be exacerbated by the current proposal. Moreover, I find the limited scale of the latter to be such that the level of activity generated would not, in all likelihood, be so significant as to affect the general perception of the wider locality's prevailing sense of place'*. It is not considered that another 4no. pitches will not have a discernible impact on the local community.

## **Human Rights and Race Relations**

It is right and proper that Local Planning Authorities should consider the consequences of refusing or granting planning permission, or taking enforcement action, on the rights of the individuals concerned. Article 8 of the Human Rights Act 1988 states that everyone has the

right to respect for his private and family life, his home and his correspondence. It adds there shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well being of the country, for the prevention of disorder or crime, for the protection of health or morals or the protection of the rights and freedoms of others.

The applicants are Travellers, a racial group protected from discrimination by the Race Relations Act 1976. Further, Article 14 of the Human Rights Act states that the enjoyment of the rights and freedoms set forth in that Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

In this particular case, the determination of this application will not have a direct impact on the occupier's rights given that the application site has not been laid out or is being occupied. Should the application be refused, the applicant has a right of appeal and any resultant enforcement proceedings would only be taken following due consideration of the aforementioned rights.

The impact of the development on the rights of the local residents has been fully assessed; both in this report and accordingly any impact are considered acceptable.

### **Precedent**

A number of objectors are concerned that if this application is approved a precedent will be set for other similar types of development in the immediate area. However, this is a hypothetical situation and all cases must be determined on their own merits and any future applications would need to be considered against the circumstances applicable at that time.

The recent appeal decision on the adjacent site commented "*I give little weight to fears that a grant of planning permission in this case would set a precedent for the provision of further gypsy/traveller pitches in the locality. Whilst the recent refusal for four pitches on the adjacent site may yet be subject to appeal, each proposal falls to be assessed primarily on its own merits. In any event, I find there to be significant differences between the two schemes in terms of scale and detail.*"

This therefore demonstrates that each application must be dealt with on its merits, although as mentioned earlier the recent appeal decision is a significant material consideration.

### **Highways**

The application site will be accessed directly off Dragons Lane. The highway is wide enough for two vehicles to pass with relative ease although there are no footpaths along the carriageway. According to the submitted plans the proposed access gates will be set back approximately 16.5m from the edge of the highway, which will allow vehicles towing caravans to be parked clear of the public highway and will reduce the amount of queuing. It is considered that there are good views in either direction. The surface to the entrance will be formed out of tarmac. However, it is considered that the use of tarmac is an inappropriate surfacing material in this open countryside location and a condition relating to surfacing

materials will be attached to any permission. Beyond the access gates the access road sweeps around to the east and terminates in turning head. There is sufficient space within the curtilage of the site for vehicles to be parked clear of the public highway and to maneuver so that they can enter/leave the site in a forward gear. A number of objectors are concerned that if planning permission is approved for the proposed development, it will lead to an intensification of large vehicles utilising the local highway network. Whilst the concerns of the objectors are noted, it is considered prudent to attach conditions relating to the size of vehicles entering/leaving the site and for no commercial activities to take place on the land. Colleagues in Highways have been consulted and raise no objection to the proposal. Therefore, it is considered that the proposal complies with policy GR9 (Accessibility, Servicing and Parking Provision) and there is insufficient justification to warrant a refusal and sustain it at any future Appeal on highways grounds.

### **Gas Pipeline**

There is a high pressure gas pipeline running through the land which is owned by the applicant. The applicant states that no operational development is proposed in the vicinity of the pipeline. The minimum distance is 60m from the development to the gas pipeline. Colleagues at the National Grid have been consulted and raise no objection subject to a number of informatives.

### **Drainage**

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. Advice advocated within the NPPF 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. 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 sufficiently 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.

A number of objectors are concerned about how the development will be drained. According to the submitted plans/application forms the proposed method for drainage would be via a package treatment plant. It is the Council's understanding that a drainage pipe will connect all of the static caravans and dayrooms/utility rooms. The drains will then connect up to a Klargester treatment plant. It is considered prudent to attach a condition relating to drainage scheme, if planning permission is to be approved. Colleagues in United Utilities have been consulted and have raised no objections. Therefore, it is considered that the application is in accordance with policy GR19 (Infrastructure).

### **Other Matters**

The objectors have stated that the proposed application site will be enclosed by a close boarded timber fence of unspecified height and as such will have a detrimental impact on the character and appearance of the locality. The concerns of the objector are noted and a condition relating to boundary treatment will be attached to any permission.

A number of objectors have stated that if planning permission is approved for the proposed development it will have a detrimental impact on house prices in the locality. Whilst the concerns of the objectors are noted, issues to do with devaluation of properties are not a material planning consideration and as such are not a sufficient justification for warranting a refusal of this application. Unfortunately, the planning system is not here to duplicate other legislation, for example, issues to do with crime can be dealt with by Police, littering and fly tipping can both be addressed via Environmental Health. The relevant material considerations with regards to this application have been fully addressed in the above report.

Several objectors have stated that there are sufficient pitches within the Borough and in any event existing sites could be expanded. Whilst the concerns of the objectors are noted, every application must be judged on its own individual merits and this application cannot be refused on the hypothetical situation that other travellers may want to construct additional pitches at some site in the future. If additional pitches are sought this will necessitate a new application and the proposal will be assessed on its merits.

Within the letters of objection it has been raised that public consultation has not be carried out. The application consultation process was dealt with in line with the Councils Publicity and Neighbour Notification procedure. This procedure is derived from the General Development Procedure Order 1995 (as amended) and Circular 15/92 – Publicity for planning applications, which outlines the statutory procedures for any applications for development. In this instance the proposed development is considered a minor development and the procedure requires either, neighbours which adjoin the development site to be consulted by letter or a site notice to be erected adjacent to the development site where there are no identifiable adjacent neighbours to the site (usually within in rural locations). No neighbours immediately adjoin the application site. Therefore, a site notice was displayed on the 1<sup>st</sup> October 2012. Further, consultations were also sent to neighbours who made objections to 12/0971C. It is considered that the Local Planning Authority has sufficiently consulted on the proposed development.

An objector states that local residents should know the location of the applicant and the address should be completed on the application form. However, the applicant's agent is acting of the applicant and it is not considered that local residents have been prejudiced by not knowing where the applicant currently resides.

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

It is acknowledged that the site is poorly located in order to access shops, services and other community facilities and the site is located in a moderately unsustainable location. However, there is a substantial and unmet identified need for gypsy and traveller site provision within Cheshire East which needs to be addressed urgently. To date no sites have been identified through the Local Plan process and are unlikely to be so until 2014 at the earliest.

Furthermore, in the context of Planning Policy for Traveller Sites, the impact of the proposed development on the surrounding countryside could be satisfactorily mitigated, the site is within the Open Countryside as opposed to Green belt.

While each site must be dealt with on its merits there are clearly strong parallels with the recent appeal decision on the adjacent site that must be weighted accordingly. While the site remains

in an unsustainable location it is not consider that the scale of the scheme is so significantly different to determine a different outcome than that of the appeal scheme.

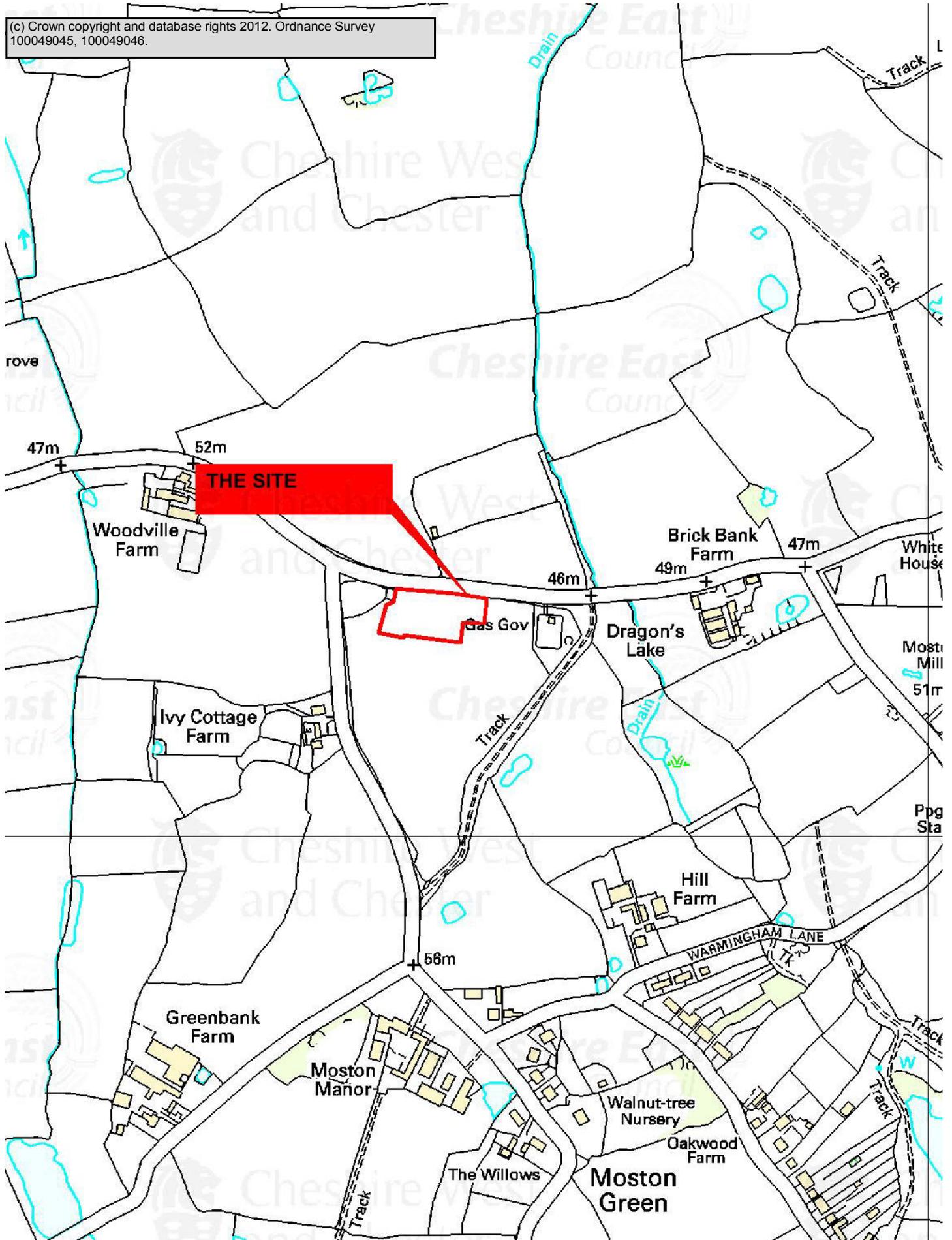
Therefore whilst there are elements of the application which would need addressing via condition such as drainage and landscaping; it is considered that the need outweighs any perceived harm and the use of the site as a residential gypsy site accommodating 4 pitches would not conflict with Planning Policy for Traveller Sites or relevant national or local planning policies. The application is therefore recommended for approval, albeit with a temporary consent for four years.

**Approve subject to the following conditions:**

- 1. Temporary Permission for a four year period**
- 2. Plan References**
- 3. Materials for the Dayroom/Utility Block**
- 4. The site shall not be occupied by any persons other than gypsies and travellers as defined in paragraph 1 Annex 1 of Planning Policy for Traveller Sites**
- 5. There shall be no more than four pitches on the site and there shall be no more than eight caravans stationed at any time, of which only four caravans shall be a residential mobile home**
- 6. No External Lighting**
- 7. Details of a landscaping scheme to be submitted and approved in writing**
- 8. Landscaping scheme to be implemented**
- 9. Details of a drainage scheme to be submitted and approved in writing**
- 10. No vehicles over 3.5 tonnes shall be stationed, parked or stored on the site**
- 11. No commercial activities shall take place on the land, including the storage of materials**
- 12. Details of the porous surfacing materials to be submitted and approved in writing**
- 13. Details of Boundary Treatment to be submitted and approved in writing**
- 14. Details of the Materials used to construct the Dayroom/utility block to be submitted and approved in writing**
- 15. Details of Timber Stain for the Bin Enclosures to be submitted and approved in writing**
- 16. Hours of Construction**

<b>Monday to Friday</b>	<b>0800 to 1800 hours</b>
<b>Saturday</b>	<b>0900 to 1400 hours</b>
<b>Sundays and Bank Holidays</b>	<b>Nil</b>
- 17. Access to be constructed in accordance with the approved plans**
- 18. Gates to be set back a minimum of 5.5m and open inwards**
- 19. If the site is no longer required as a gypsy site all the structures shall be removed within 3 months and the land returned to its former use**
- 20. Breeding Birds**
- 21. Hedgerow Assessment**

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Application No: 12/3735N

Location: ALVASTON HALL HOTEL, PEACH LANE, WISTASTON, CREWE, CW5 6PD

Proposal: Alterations and Extensions to Existing Hotel/ Leisure Site Including Part Demolition of Existing Buildings, New Build Bedroom Accommodation, Extension and Refurbishment of Dining/ Cabaret/ and Lounge Areas with Associated Parking and Landscape Works.

Applicant: Mr Simon Thompson, Bourne Leisure

Expiry Date: 28-Dec-2012

#### **SUMMARY RECOMMENDATION**

**APPROVE** subject to the receipt of amended plans and arboricultural method statement and no objection, the Council's Landscape Officer and conditions.

**In the event that the above are not received or an objection is raised: REFUSE** on grounds of impact on mature trees of amenity value.

#### **MAIN ISSUES**

**Principle of development**  
**Layout and Design**  
**Trees and Landscape**  
**Ecology**  
**Residential Amenity**  
**Highway Safety**

#### **REFERRAL**

The application has been referred to planning committee because it is a major development.

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

Alvaston Hall is a half timbered Victorian country house which is now in use as a hotel. The building was rebuilt by Francis Massey in the early 1800's before being heavily altered again in 1896 by Manchester Industrialist, Arthur Knowles. The house is typical of the fashionable styles of the era and is characterised by its marked lack of symmetry, half timber framing, pinnacles, rested ridge tiles, clock tower and gargoyles above the porch. The building is not listed.

Since its conversion to a hotel, the original building has been heavily extended in a number of phases. The complex is arranged in an L-shape, around a central parking area, Bowling Green and garden. To the south of the original hall is a large 2 storey bedroom extension, built in a mock half-timbered style, known as "The Limes". To the north side, is a range of former outbuildings, arranged around 2 courtyards, which have been converted into a number of uses including bedrooms and linked to the hall in an ad-hoc arrangement, by a large cabaret room. Beyond these buildings, adjacent to the northern boundary is a further series of linked buildings, which have developed in an incremental fashion to form a further function room, known as the Cheshire Barn, and a leisure club and swimming pool. A further modern detached bedroom block, known as Bunbury House, which is of poor architectural quality also stands on the north side of the car park in front of the Leisure Club.

Bunbury House was built c.1970 and needed improvements to room acoustic insulation and upgrading of thermal insulation among other improvements. Prior to the recent development the hotel was able to accommodate 334 guests on site. Recent improvements to Bunbury House have resulted in a net loss of guest rooms, in order to accommodate larger, better equipped bedroom accommodation.

## **2. DETAILS OF PROPOSAL**

The site benefits from a recent planning permission (Application No. 10/2200N Approved with conditions: 25-Nov-2010) that gave permission for alterations and extensions to the existing buildings on the site resulting in an additional 67 guest rooms on the site. This application seeks consent for a revised programme of extension, alteration and refurbishment.

The main house will be retained at the centre of the site together with existing additional buildings that have been added overtime. The existing car park is to be removed and replaced by a landscaped garden and a new car park created away from the main building to the south west of the site.

A single storey extension to the existing dining and cabaret building will provide ancillary accommodation to facilitate the increase in guest numbers. The existing dining and cabaret room will be reconfigured and extended to provide for the increased number of guests, and will have access to an external terrace which will look out onto the proposed landscaping to the west, thereby benefitting from the afternoon/evening sun.

An additional single storey extension to the reception café/bar will replace an existing domestic style conservatory and increase the available lounge space for the additional guests. The extension to the café/bar will form an infill between the reception and bedroom blocks. The proximity to the reception and existing accommodation makes this an ideal location for additional accessible lounge space and the west facing windows and terrace will also gain the warmth of the evening sun.

Grove House will be demolished and Bunbury House will be subsumed within the footprint of a new bedroom accommodation wing. The proposed bedroom wing wraps around from the new cabaret and dining extension towards the north of the site, creating rooms which are primarily south or west facing, benefitting from views across the newly formed landscape. The new development will provide an additional 110 guest rooms. Grove House

will be demolished and 15 courtyard bedrooms will be re-allocated for staff use. This will result in a total net increase of guest accommodation of 67 rooms, which is the same number of rooms associated with the recently approved scheme (App. No. 10/2200N) resulting in a total guest capacity of 468. The new bedroom accommodation is a mixture of two and three storeys.

### 3. RELEVANT PLANNING HISTORY

- 4/5/10054 Convert buildings to 8 room hotel
- 4/5/10115 Renovation and change of use of buildings to hotel accommodation
- 4/5/4035 Change of use to residential hotel
- 4/5/4241 Alterations and extensions
- 4/5/4662 Extensions to form dance hall
- 4/5/8489 Convert outbuildings for motel and letting accommodation
- 4/5/8907 Extension to dining room
- 7/03058 Extensions to hotel facilities to form toilet bloc
- 7/04388 conversion of outbuildings
- 7/05185 South wing extensions to form 16 bedrooms
- 7/08672 Extensions and alterations to existing banqueting hall
- 7/09012 Bedroom block and leisure facility
- 7/09476 Extensions to rear of kitchen area to form additional bedroom
- 7/09889 Bedroom block and leisure facility
- 7/10503 Revised siting of bedroom block
- 7/11002 Leisure complex – revised scheme
- 7/11667 Extensions to form kitchen and detached garage
- 7.12739 Walkway and staff bedroom block
- 7/14132 Alterations and extension to restaurant and covered way
- 7/16428 Extension to form 20 bedroom block
- P04/0090 Three storey extension (12 Additional Bedrooms)
- P93/0644 Extension to function suite
- P94/1028 Walkway extensions
- P96/0609 Dining Room extensions / widening car park access road
- P97/0374 Covered way, office extension and alterations to elevations
- P98/0227 Extension to form shop
- 10/2200N Proposed Extension of Existing Hotel and Complex Including a New Extension (Adding 68 Rooms), a New Reception Extension, Refurbishment and Extension to Existing Cabaret Room and Bar and Bunbury House Accommodation, New Courtyard Block (11 Rooms) and the Refurbishment and Extension of Existing Spa Facilities.

### 4. PLANNING POLICIES

#### Local Plan Policy

- NE.2 Open Countryside
- NE.5 Nature Conservation and Habitats
- NE.9 Protected Species
- NE.20 Flood Prevention
- BE1 Amenity

BE2	Design Standards
BE3	Access and Parking
BE4	Drainage Utilities and Resources
TRAN 9	Car Parking Standards
RT6	Recreational Uses in the Open Countryside
RT7	Visitor Accommodation

### **National Policy**

National Planning Policy Framework

## **5. OBSERVATIONS OF CONSULTEES**

### **Environmental Health**

No objection to the above application subject to the following comments with regard to contaminated land

- Part of the extension is proposed over an area which may be a potentially infilled former pond.
- As such, and in accordance with the NPPF, this section recommends that the following condition be attached should planning permission be granted:
  - Should any adverse ground conditions be encountered during excavation works, all work in that area should cease and this section be contacted for advice.

### **Environment Agency**

- No comments to make on the proposed development

### **United Utilities**

- No comments received at the time of report preparation

### **Highways**

- No comments received at the time of report preparation

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

- Wistaston Parish Council has no objections

## **6. OTHER REPRESENTATIONS**

- None received at the time of report preparation.

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

- Tree Survey
- Phase I Habitat Survey
- Design and Access Statement
- Initial Bat Survey
- Bat Mitigation Strategy

## 8. OFFICER APPRAISAL

### Principle of Development

The site is located within the Open Countryside where according to Policy NE.2 only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.

However, Policy RT6 states that development proposals for recreational uses in the open countryside, as defined on the proposals map, will be permitted provided that, inter alia, they do not harm the character or appearance of the countryside; they do not harm sites of historic or archaeological importance; they can be integrated with existing visitor attractions in the borough or in the vicinity. Proposals should re-use existing buildings wherever possible. Any new buildings or structures should be sited close to any existing buildings and should blend into the surrounding landscape in design, siting, materials and landscape.

The proposal involves the extension and refurbishment of an existing hotel and leisure complex. It will therefore be integrated with an existing visitor attraction and involves the re-use existing buildings. The new build elements will be situated adjacent to the existing buildings. As a result there will be no encroachment beyond the curtilage of the hotel into undeveloped agricultural land, and the impact on the open character or appearance of the countryside will be minimal. There are no known features of historic or archaeological importance within the site.

Recent government guidance, in particular the Planning for Growth agenda, and the National Planning Policy Framework, all state that Local Planning Authorities should be supportive proposals involving economic development, except where these compromise key sustainability principles.

The NPPF states that, the purpose of planning is to help achieve sustainable development. *“Sustainable means ensuring that better lives for ourselves do not mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world.”* There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles including, an economic role – contributing to building a strong, responsive and competitive economy, as well as an environmental role – contributing to protecting and enhancing our natural, built and historic environment.

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. The document states that for decision taking this means, inter alia, approving development proposals that accord with the development plan without delay.

According to paragraph 17, within the overarching roles that the planning system ought to play, a set of core land-use planning principles should underpin both plan-making and decision-taking. According to the 12 principles planning should, inter alia, proactively drive and support sustainable economic development. The NPPF makes it clear that *“the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.”*

According to paragraphs 19 to 21, *“the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. Investment in business should not be overburdened by the combined requirements of planning policy expectations.”*

The NPPF attaches particular weight to supporting a prosperous rural economy. Paragraph 28 states that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should, inter alia, support the sustainable growth and expansion of all types of business and enterprise in rural areas, through well designed new buildings and support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.

Another important material consideration is the Written Ministerial Statement: Planning for Growth (23 March 2011) by The Minister of State for Decentralisation (Greg Clark). Inter alia, it 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.*

Furthermore, it states that when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate economic development. Local Authorities should therefore, inter alia, consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession; take into account the need to maintain a flexible and responsive supply of land for key sectors; consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits and ensure that they do not impose unnecessary burdens on development.

According to the statement, *“in determining planning applications, local planning authorities are obliged to have regard to all relevant considerations. They should ensure that they give appropriate weight to the need to support economic recovery.”*

Furthermore, the previous approval on this site established the acceptability in principle of extensions and alterations to create a net increase in the level of accommodation by 67 rooms.

Therefore having regard to the provisions of Policy RT6 and the NPPF, the proposal is considered to be acceptable in principle, subject to compliance with the other criteria set out in Policy RT6. Specifically, the proposal should blend into the surrounding landscape in design, siting, materials and landscaping, it should not harm sites of nature conservation, there must be safe vehicular access to the site, the access roads must be suitable for the likely traffic generation, car parking provision should be in accordance with adopted standards, and it should be accessible by a range of means of transport. These issues are considered in more detail below.

### **Layout and Design**

At present the building frontage and approach, is car dominated and characterised by a large expanse of tarmac and hard surfacing. Under the proposed plans the area in front of the entrance will become a drop off zone only and permanent parking will be provided away from the entrance point. This will be achieved through the relocation of the car parking to the outer parts of the site and will enable the areas immediately to the front of the building, and within the new central courtyard, to be landscaped as formal garden space.

The proposed bedroom wing, and cabaret room extension will surround and front onto the new landscaped courtyard to the north and east creating a sense of enclosure to this space, whilst benefiting from the outlook. The cabaret room will also open out onto the courtyard and gardens and includes an outdoor seating area.

The proposed car park will be porous surfaces that will ensure that surface water from these areas does not cause additional flooding problems within the site or surrounding areas. It will afford the opportunity to break up the continuous car park areas with planting and trees.

This will considerably enhance the overall appearance of the site, and the setting of the original building, particularly when viewed from the golf course to the west and will create a pleasant landscaped space which will be to the considerable benefit of hotel guests utilising bedrooms and communal facilities.

The extension to the café/bar will form an infill between the reception and bedroom blocks. The building form will appear as a modern interpretation of a traditional orangery with large glazed windows, parapet walls and large glazed lanterns to provide natural light to the room below. Owing to the nature of the surrounding buildings it is proposed that a flat roofing system be used. Whilst a flat roof would not normally be a desirable feature, it is in keeping with the overall "orangery" concept and the proposal will also result in the removal of an existing unsympathetic, conservatory structure, which has an overly "suburban" appearance and is not in keeping with the original building.

It is considered that the alterations to the courtyard rooms, the removal and replacement of the open sided walkways, and enhanced landscaping to the internal courtyards, will also improve the overall appearance of the complex and the setting of the original building.

Bunbury House is one of the most recently constructed parts of the complex. Whilst the recent alterations have improved the quality of the facilities unfortunately it is one of the poorest pieces of architecture within the site, and includes concrete walkways which run around the building. It is proposed that the building will be subsumed into the proposed bedroom extension, such that the original building will no longer be visible. This will considerably enhance the appearance of the site as a whole.

The proposed bedroom extension is three stories in overall height, and similar in overall scale and massing to the original building. The proposal includes a traditional steeply pitched roof and projecting gable elements which reflect both the original building and the modern extension to its south side. The gables and patterns of fenestration introduce a vertical element to the building, which is also reminiscent of the original building. Balconies are proposed to look out over, and take advantage of the new landscaped courtyard.

In terms of materials the building will be finished using a combination of plain tiles and render, which are the predominant feature of the main Hall and timber shingles, which are an architectural reference to the finish of the clock tower on the original stables buildings, which now form part of the hotel complex.

Changes to the existing Cabaret Room are largely internal and therefore do not raise any design concerns. The proposed cabaret room extension, whilst substantial in terms of its footprint, is single storey, and will remain subservient to the original Hall. It will be extended out from the front elevation of the existing Cabaret Room which is itself a modern addition, and therefore will not result in the loss of any existing features of architectural interest. This extension also has a traditional pitched and tiled roof and the elevational treatment is similar to that proposed for the bedroom extension. For the reasons set out above, this is considered to be appropriate and will help to create visual unity between the bedroom extension and the original building.

It is considered that the design and finish of the extensions are a modern interpretation of the architectural style of the main house. Overall it is considered that the proposed alterations and extensions will considerably enhance the overall character and appearance of the existing development within the site, and the setting of the original building. Consequently, the scheme complies with Policy BE.2 (Design Standards) of the Borough of Crewe and Nantwich Local Plan.

## **Landscape**

The site of the proposed development is a well established hotel complex with ancillary sports facilities in extensive landscaped grounds. There are a significant number of trees on the site, many of which are mature and make an important contribution to the setting of the hotel. The hotel has developed incrementally and the layout has become somewhat disjointed.

The side edged red on the submitted Location plan does not accord with the proposed site plan. It excludes parking proposed to the west. Both plans exclude an area where screen planting is shown on the site Masterplan. This issue has been raised with the applicant and an amended plan requested. A further update will be provided on this matter to Members prior to committee.

It is recognised that the reconfiguring of the site and removal of car parking from the hotel frontage could improve the landscape setting of the hotel. The proposals would result in some trees losses which would be regrettable and there are concerns regarding the extent of car parking proposed to the west. This is greater than proposed at pre-application stage and is afforded less screen planting than was previously indicated. The car park would need to be lit and screening is therefore considered to be important. The car park would take up part of a current driving range and associated ball stop fence. No details are provided of how the driving range or golf course would be reconfigured. No detailed landscape proposals have been provided.

However, an increased level of screen planting, details of lighting and a comprehensive landscape plan could be secured by condition. Screen planting would need to be secured outside the current site edged red, although this would be acceptable provided that the amended site location plan, which has been requested shows this land to be edged blue as within the applicant's control.

### **Trees**

The site contains a significant number of trees, including a prominent avenue of Limes, mature specimen trees and areas of younger planting around the periphery of the golf course. As indicated above, the proposals would involve some tree removal.

The Council's Landscape Officer has commented that whilst some of the trees proposed for removal are lower value Grade C specimens, several Grade B trees would be removed, including two prominent Pine trees to accommodate parking, and two red Horse Chestnut trees to accommodate additional bedrooms. Several retained trees would be in close proximity to development and associated works and would require comprehensive protection measures.

The Landscape Officer would have preferred to see greater separation between the coach park and associated access hardstanding and the adjacent Grade A Oak tree no. 45. It appears there is space to move the coach park south with a minor adjustment of the layout of the adjacent parking area. Should any amendments be secured, the submitted Arboricultural method statement (AMS) and Tree Protection Plan will require updating. No details of levels are provided. As there may be implications for trees the Landscape Officer suggests that these need to be secured prior to determination. This issue has been raised with the applicant and an amended plan requested. A further update will be provided on this matter to Members prior to committee.

Should the above mentioned issues be addressed, the application is deemed to be acceptable in landscape terms. However, conditions will be required to secure details of landscaping, service routes, a construction method statement, tree protection measures and an arboricultural method statement.

### **Ecology**

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the

deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate *"in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment"* among other reasons.

The Directive is then implemented in England and Wales The Conservation of Habitats and Species Regulations 2010. ("the Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

The Regulations provide that the Local Planning Authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

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

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

In this case, a significant maternity roost of a widespread bat species has been recorded at Grove House within the Alvaston Hotel complex. This building is scheduled for removal as part of the proposed development.

The Council's Ecologist has advised that in the absence of mitigation/compensation the proposed development would pose a significant risk of killing/injuring high numbers of individual bats and the loss of the roost on site as a result of the demolition of Grove House would have a High magnitude impact upon the local status of the species of bat concerned.

To mitigate the risk of killing and injuring bats the applicant's ecologist has recommended the timing of the development to avoid the most sensitive time of the year and the supervision of the works by a licensed ecologist. Proposals have also been provided for the provision of replacement roosting opportunities for bats on nearby trees and within the replacement building.

Since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations. A license under the Habitats Regulations can only be granted when:

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

As the roost identified on this site is of importance at the local scale the viability of retaining the roost undisturbed within Grove House must be considered as a 'suitable alternative' to the proposed development under the Habitat Regulations.

The applicants have made a case that their proposed development is of 'overriding public interest' due to the financial investment that the development would bring. The Council's Ecologist has advised that economic considerations can amount to being a 'public' interest. The applicants are also asserting that the proposed layout is the only one which is feasible to meet the business needs of the hotel. The Council's Ecologist has advised that based on recent experience of similar schemes it is likely that Natural England would grant a license on this basis. In terms of the final test of favourable conservation status he states that if planning consent is granted the proposed mitigation/compensation would be adequate to maintain the favourable conservation status of the species of bat concerned.

If planning consent is granted conditions would be required to ensure that the proposed development proceeds in strict accordance with the submitted Bat Mitigation Strategy dated September 2012 unless varied by a subsequent Natural England license. To avoid any adverse impacts on bats from additional lighting it is also recommended that a condition be attached requiring the proposed lighting scheme for the site to be agreed with the LPA.

The proposed development may affect breeding birds including the more widespread BAP priority species which are a material consideration for planning. If planning consent is granted the conditions would be required to safeguard breeding birds.

### **Residential Amenity**

The nearest neighbouring residential property is located approximately 100m from the proposed new development. Therefore no adverse impacts on residential amenity are anticipated.

### **Highway Safety**

Although the A530 is a busy main road, the existing access arrangements are well constructed and visibility is good in both directions. The majority of these proposals involve the improvement of existing facilities and will not result in a significant increase in the level of traffic generation from the site. Although a 68 bedroom extension is to be created, this increase will be partially off-set through the loss of a number of rooms elsewhere in the hotel. Any additional traffic generated is also likely to be in off-peak periods and the site is located on a main bus route between Crewe & Nantwich. The new car park will provide additional spaces for both cars and coaches.

No comments had been received from the Strategic Highways Manager at the time of report preparation. However, given that the proposal will result in a total net increase of guest accommodation of 67 rooms, which is the same number of rooms associated with the recently approved scheme (App. No. 10/2200N), to which highways raised no objections, it is not considered that a refusal on highways grounds could be sustained.

## **9. CONCLUSION**

In summary, the proposal involves the redevelopment and expansion of an existing tourist, leisure and recreational facility in the open countryside, which is supported, in principle by the provisions of Policy RT6 of the adopted Local Plan and NPPF. The proposal will result in a considerable enhancement in the overall appearance of the site, and the setting of the original building and will not detract from the character and appearance the open countryside.

It has been demonstrated that the proposal is acceptable in terms of its impact on, Ecology, Residential Amenity and Highway Safety and it therefore complies with Local Plan Policies NE.2 Open Countryside, NE.5 Nature Conservation and Habitats, NE.9 Protected Species, NE.20 Flood Prevention, BE1 Amenity, BE2 Design Standards, BE3 Access and Parking, BE4 Drainage Utilities and Resources, TRAN 9 Car Parking Standards, RT6 Recreational Uses in the Open Countryside and RT7 Visitor Accommodation. Therefore in the absence of any other material considerations and having due regard to all other matters raised, the proposal is considered to be acceptable and accordingly is recommended for approval subject to the receipt of amended drawings to address issues of the inaccurately drawn site boundary, lack of levels information and proximity of the proposed coach parking to Grade A Oak tree no. 45 and an updated Arboricultural Method Statement.

## **10. RECOMMENDATIONS**

**APPROVE** subject to

- **the receipt of amended drawings to address issues of the inaccurately drawn site boundary, lack of levels information and proximity of the proposed coach parking to Grade A Oak tree no. 45**
- **an updated Arboricultural Method Statement**
- **no objection from the landscape officer**

**following conditions:**

- 1. Standard**
- 2. Materials to be submitted and approved**
- 3. Provision of car parking prior to first occupation**
- 4. Cycle parking to be provided prior to first occupation**
- 5. Detailed landscape proposals.**
- 6. Submission and approval of details of service routes.**
- 7. Submission and approval of a site construction method statement to include details of demolitions works, spoil management, site compound, and**

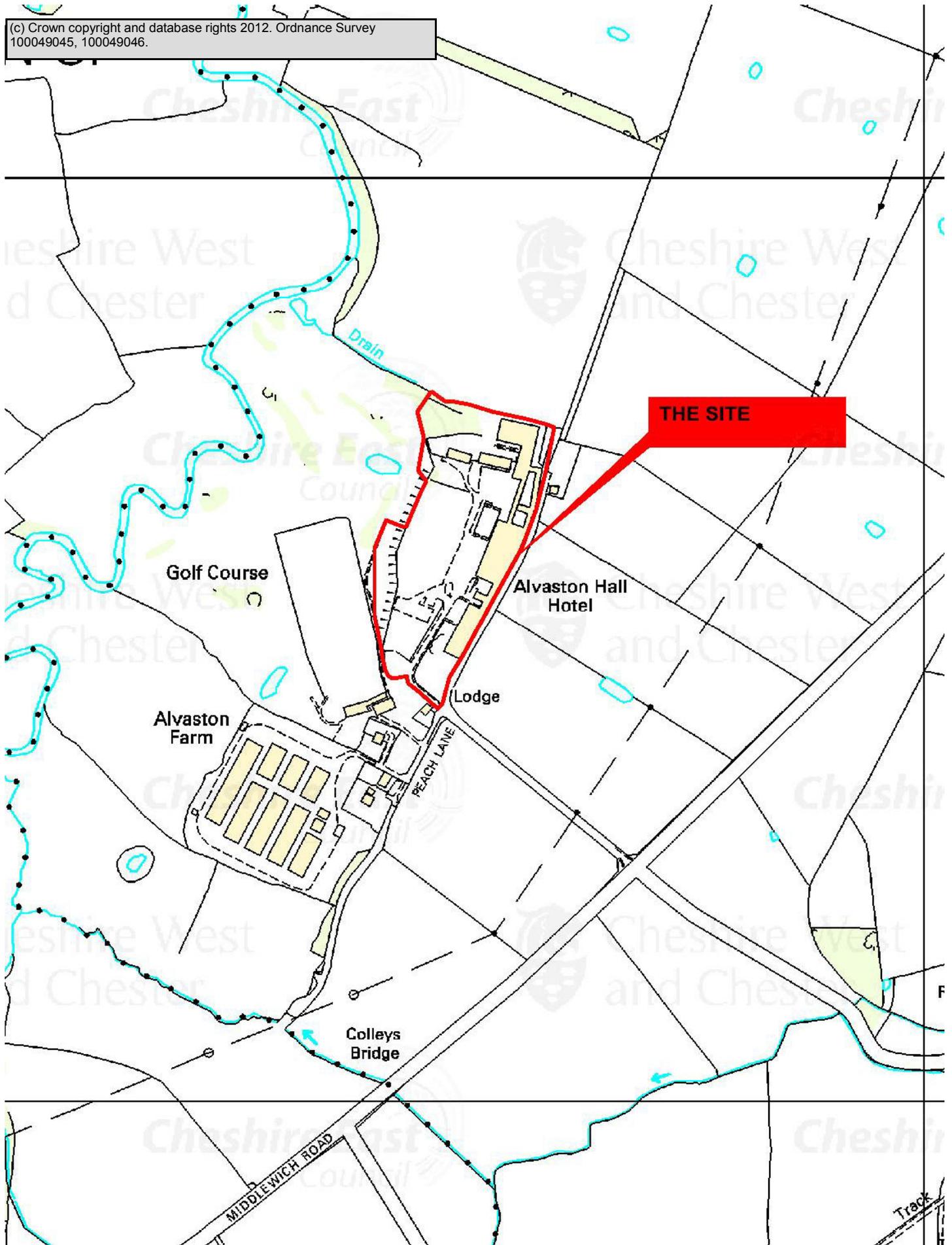
- construction routes.
8. Adherence to submitted tree protection measures.
  9. Submission and approval of a revised Arboriculture Method Statement to include:
    - (i) Contact details of all relevant parties for project including retained arboriculturalist.
    - (ii) A specified programme of arboricultural supervision and reporting for the project.
    - (iii) Any amendments required in relation to services provision.
  10. Adherence to Arboriculture Method Statement.
  11. Scheme of drainage to be submitted and implemented
  12. Submission of details of lighting
  13. Development to proceed in accordance with bat mitigation strategy
  14. Provision of features for breeding birds
  15. Breeding Bird survey prior to works commencing in nesting season.

In the event that the amended plans and method statement are not received or an objection is raised by the Council's Landscape Officer:

**REFUSE** for the following reason:

1. In the opinion of the Local Planning Authority, the proposal would have an adverse impact on Grade A mature trees of amenity value contrary to Policy NE.5 (Nature Conservation And Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011

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Application No: 12/3741C  
Location: 21, SHEARBROOK LANE, GOOSTREY, CW4 8PR  
Proposal: First Floor Extension to Existing Property and Single Storey Side and Rear Extension  
Applicant: Mr J Cartwright  
Expiry Date: 23-Nov-2012

**SUMMARY RECOMMENDATION:** Approve subject to conditions

**MAIN ISSUES:**

- Site History;
- Principle of Development;
- Policy;
- Design; and
- Amenity

**REFERRAL**

This application was to be dealt with under the Councils delegation scheme. However, Councillor Kolker has requested that it be referred to Committee for the following reason:-

*'Neighbours have complained that they will suffer loss of amenity due to the size, scale and proximity of the development'*

**DESCRIPTION OF SITE AND CONTEXT**

The applicant's property is a detached bungalow, which is well set back from Shearbrook Lane. The property is constructed out of facing brick under a concrete tile roof. Located at the side of the applicants is an attached flat roof double garage. The applicant's dwellinghouse is located within an extensive residential cartilage, which is rectangular in shape. The applicant's dwellinghouse is flanked on either side by other large detached properties. The area is predominately residential in character and is located wholly within the village settlement boundary of Goostrey

**DETAILS OF PROPOSAL**

This is a full application for the first floor extension to existing property and a single storey side and rear extension at 21 Shearbrook Lane, Goostrey.

**RELEVANT HISTORY**

12/1798C – First Floor Extension to Existing Property and Two Storey Side Extension – Refused – 19<sup>th</sup> July 2012.

## **POLICIES**

### **National Policy**

The application should be determined in accordance with national guidance set out in:

National Planning Policy Framework

### **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 Congleton Local Plan First Review 2011:

GR1 New Development

GR2 Design

GR6 Amenity and Health

GR7 Amenity and Health

PS5 Villages in the Open Countryside and Inset in the Green Belt

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

**Jodrell Bank:** No comments

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

No comments received at the time of writing this report

## **OTHER REPRESENTATIONS**

Three letters of objection have been received regarding the proposed development. The salient points raised in the letters of objection are:

- The application is no different from the one which was previously refused and therefore the objections remain valid;
- The proposal would be overwhelming and will have a detrimental impact on our outlook;
- The proposal is not similar to the neighbouring properties;
- The proposal will have a significant detrimental impact on residential amenity;
- The proposal will appear overly oppressive;
- The proposal is too far forward for existing line of houses given the height of the proposed extension;
- The proposal is too large for the existing plot; and
- The design is not in keeping with the locality.

## **APPLICANT'S SUPPORTING INFORMATION**

No supporting information submitted with the application

## **OFFICER APPRAISAL**

### **Site History**

Members may recall that a similar application (12/1798C) was submitted for a first floor extension to existing property and two storey side extension. This application was refused planning permission on the 19<sup>th</sup> July 2012 by Members of the Southern Planning Committee for the following reason:

*'The proposed development by reason of its height, design and position would have an overbearing impact and cause loss of light to the occupants of 19 Shearbrook Lane which would be harmful to the residential amenities of this property. As a result the proposed development would be contrary to Policy GR6 (Amenity and Health) of the Congleton Borough Local Plan First Review 2005'*

### **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 PS.5 (Villages in the Open Countryside and Inset in the Green Belt), GR.1 (General Criteria), GR.2 (Design), GR.6 (Amenity and Health) of the adopted Borough of Congleton Local Plan.

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 streetscene by reason of scale, height, proportions or materials used.

Development Control guidance advocated within the National Planning Policy Framework places a greater emphasis upon the Local Planning Authority to deliver good designs and not to accept proposals that fail to provide opportunities to improve the character and quality of an area. It specially states *'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'*. (para. 64). It is the opinion of the case officer 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 the NPPF.

### **Policy**

The site lies within the village of Goostrey where there is a presumption in favour of development. There is no specific policy which governs the acceptability of extensions to dwellings within settlement zone lines and therefore the generic policies relating to issues such as design, amenity and highway safety will apply.

### **Design**

The dwellinghouse is located on a residential estate comprising of other dormer bungalows which have been altered in numerous different ways. It is noted that the existing dwellinghouse is of no significant architectural merit and the proposed alterations would not significantly impact upon the dwellings character.

According to the submitted plans the applicant is proposing on increasing the ridge height of the existing bungalow. The proposed extension will measure approximately 2.5m high to the eaves (the eaves height will remain the same) and 6.7m high to the apex of the pitched roof (as measured from ground level and increase of 2.1m). The proposed extension will form a pitched roof, which is in keeping with the existing property. The pitch of the roof will be altered, but is similar in style to other properties within the immediate locality and as such will not appear overly conspicuous. The applicant has submitted a streetscene plan which shows a gradual reduction in ridge heights of no' 19 down to 23 Shearbrook Lane. This helps to retain the rhythm of the properties within the streetscene. Attached to the side of the property facing no. 23 Shearbrook Lane is a chimney, which helps to give the property a vertical emphasis.

On the front elevation of the extension at first floor level will be a large window, which is centrally located and will incorporate a soldier course directly above it. On the rear elevation of the extension will be a smaller window. It is considered that the design and proportions of the proposed apertures are in keeping with the host property and will not appear as alien or obtrusive features.

In addition to the above, the applicant is proposing on replacing the existing flat roof to the garage with a hipped roof. Previously, the applicant was proposing a first floor extension which incorporated 2no. dormer windows on the front elevation. The ridge of the proposed first floor extension was perpendicular to ridge to the ridge of the host property.

In addition, the applicant is proposing on erecting a single storey rear extension, which projects out approximately 4m by 10m wide (at the widest points) and spans the majority of the rear elevation. The extension will partially incorporate a pitched roof and a flat roof extension. The proposed extension will be constructed out of facing brick under a concrete tile roof to match the host property and this will be secured by condition, in the event that planning permission is approved.

Internally the extensions will comprise a garage, a cloakroom and an enlarged sitting room at ground floor level. Whilst, the first floor accommodation will comprise 2no. bedrooms and one will incorporate an en-suite bathroom and a dressing room.

The proposed development will incorporate 2no. pitched roof dormer windows on the side elevation facing no. 23 Shearbrook Lane. The proposed dormer windows will project approximately 2.6m by 1.8m deep. The dormers are set down from the ridge and back from the eaves and are framed by roof tiles. It is considered given the design, proportion and location of the proposed dormer extensions will not have a detrimental impact on the character and appearance of the streetscene. Furthermore, it is noted that no.23 Shearbrook Lane have similar dormer windows.

Overall, it is considered that there are a number of similar extensions within the locality and it is considered that the proposal will not form an alien or intrusive feature within the streetscene, which is contrary to advice advocated within policy GR.2 (Design) and the NPPF.

### **Amenity**

Policy GR.6 (Amenity and Health) states that development will be permitted provided that the proposal would not have an unduly detrimental effect on amenity due to loss of privacy, loss of sunlight and daylight, visual intrusion, environmental disturbance or pollution, traffic generation, access and parking.

The impact of the development upon the amenity of nearby residential properties is a key consideration with this application and the nearest properties which may be affected are no's 19 and 23 Shearbrook Lane.

The proposed development will have no discernible impact on the residential amenities of the occupiers of no. 19 Shearbrook Lane. This property (no.19) is located to the east of the application site. The case officer noted that there were several windows in the side elevation of this property facing the applicant's dwellinghouse. Furthermore, a letter of objection from this property states that these windows serve habitable rooms. The objector is concerned that the proposal will appear as oppressive and reduce the daylight which they receive. The case officer notes that there is already an existing outrigger at this location. The proposal is seeking permission to replace the existing flat roof with a hipped roof, which helps to reduce its overall bulk and massing. The two properties are separated by a distance of approximately 4m. Overall, it is considered given the location, orientation and separation distances will all help to mitigate any negative externalities and as such the proposal complies with policy GR.6 (Amenity and Health).

It is considered that the proposal will have a negligible impact on the residential amenities of the occupiers of no. 23 Shearbrook Lane. It is noted that this property also has several habitable room windows in the side elevation of their property facing the applicant's dwellinghouse. This property no.23 is located to the west of the applicant's dwellinghouse. The case officer notes that the two dormer windows on the side elevation of the applicant's property both serve non habitable rooms including a dressing room and en-suite bathroom. Furthermore, according to the submitted plans both of these windows will be obscurely glazed. Overall, it is considered given the location, orientation and juxtaposition of the properties will help to alleviate any problems associated with the proposed development.

It is considered that the proposal will have a negligible effect on other properties in the area.

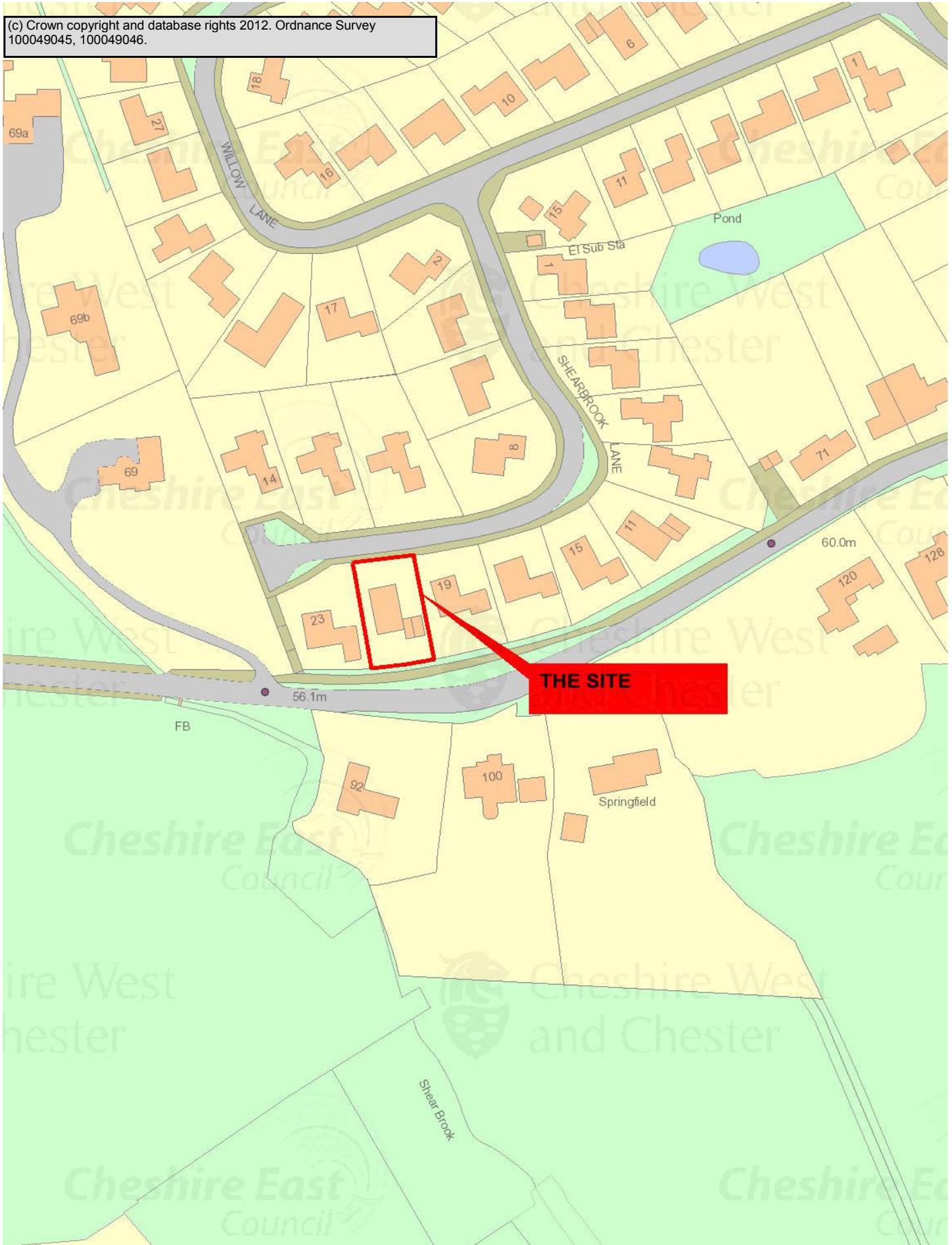
### **CONCLUSIONS AND REASONS(S) FOR THE DECISION**

The proposed development respects the size and character of the existing dwelling and the surrounding area and will not have a significant impact upon neighbouring amenity. The proposed development is of a suitable design appropriate to the purpose it will serve in keeping with Policy GR.2 (Design). The proposal therefore complies with policies GR.1 (General Criteria), GR.2 (Design), GR.6 (Amenity and Health) and PS.5 (Villages in the Open Countryside and Inst in the Green Belt) of the adopted Congleton Borough Local Plan First Review 2005 and advice advocated within the NPPF.

**Approve subject to conditions**

- 1. Standard Time Limit**
- 2. Plans**
- 3. Materials**
- 4. Obscure Glazing**

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Application No: 12/3807C

Location: Land Adjacent to Rose Cottages, Holmes Chapel Road, Somerford, Congleton

Proposal: Proposed Residential Development Comprising of 25 no. Dwellings (inc. 7no. Affordable Units) Together with the Creation of a New Access

Applicant: Bloor Homes J Wilson S Owen Stracey & So, Joint Application

Expiry Date: 10-Jan-2012

### **SUMMARY RECOMMENDATION**

**Approve subject to conditions**

### **MAIN ISSUES**

**Principle of Development**  
**Housing Land Supply**  
**Jodrell Bank**  
**Residential Amenity**  
**Ecology**  
**Contaminated Land**  
**Trees and Landscape.**  
**Access and Highway Safety.**  
**Affordable Housing**  
**Design and Layout**  
**Open Space**

### **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 broadly rectangular site has an area of 1.15 ha and lies on the south western side of the main A54 Holmes Chapel Road. The site is abutted to the south by the modern residential development of Broomfield. A number of detached and semi-detached properties including Rose Cottages, Parkfield House, and stand on the opposite side of the road.

The site has a wide road frontage of 115 metres which then tapers back to 95 metres along the rear (west) boundary. The site has a depth of 110 metres long the southern boundary adjacent to Broomfields and a depth of 95 metres along the northern boundary.

The current use of the subject site currently comprises open agricultural land with field hedges / trees to the boundaries.

## **2. DETAILS OF PROPOSAL**

The application seeks full planning permission for a proposed residential development comprising 25 dwellings (including 7 affordable units) together with the creation of a new access road and public open space. The proposed dwellings comprise a mixture of detached and mews properties. The scheme involves frontage development to Holmes Chapel Road with the remainder of the proposed in a cul-de-sac arrangement to the rear.

## **3. RELEVANT PLANNING HISTORY**

- 35700/1 Outline application for the erection of 6 no. detached houses (two storey) - March 2003. (Refused / Appeal Dismissed)
- 10/4359C Outline application for the erection of up to 6 dwellings with all matters reserved except for the means of access at land off Holmes Chapel Road. - January 2006. (Approved subject to conditions.)

## **4. PLANNING POLICIES**

### **National Policy**

National Planning Policy Framework

### **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**

### **United Utilities**

- No objection to the proposal provided that surface water is not allowed to discharge to foul/combined sewer.

### **Environment Agency**

- No objection in principle to the proposed development but would request that the following planning conditions are attached to any planning approval:
  - Submission of a scheme to limit the surface water run-off generated by the proposed development, in accordance with the Flood Risk Assessment (FRA)
  - Submission of further details/calculations will need to be provided at the detailed design stage to demonstrate that any proposed soakaways have been appropriately designed for up to the 1% annual probability event, including allowances for climate change.
  - The site is to be designed to contain any such flooding within the site, to ensure that existing and new buildings are not affected.
  - Submission of a scheme to manage the risk of flooding from overland flow of surface water,
  - Foul drainage should be connected to foul sewer

### **Highways**

- Do not consider the site to be a sustainable one as it is almost wholly dependent on car. There are no facilities within walking distance, those within cycling distance require use of the A54 and the bus service is only hourly. However, the site has a previous permission 10/4359C for 6 houses and so presumably must be accepted. The previous permission would be served by a 4.8m access road with 2.4m by 120m visibility splays onto the A54. Conditions on the approval required the provision of a footway and street lighting at the developer's expense. These requirements are equally valid for the current application.

- For the greater number of properties now proposed, highways require the access road to be 5.5 metres for a minimum length of 10 metres from the highway boundary. A 2.4 metre by 160 metre visibility must be provided.
- Subject to the revision of the access as described, and carry-over of the previous conditions, there are no grounds for a highway objection.

### **Jodrell Bank**

- No objection subject to installation of electromagnetic screening measures.

### **Environmental Health**

- An outline application for 6 dwellings at this site was approved in 2010: 10/4359C. In addition a site in close proximity: 12/0763C for 11No. Residential Dwellings was approved 17<sup>th</sup> October 2012.
- The location and details (generators, security, lighting) of the site compound shall be submitted and agreed in writing with the LPA prior to the commencement of any site preparations.
- The hours of demolition / construction works taking place during 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
- All Piling operations shall be undertaken using best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties. All piling operations shall be restricted to: Monday – Friday 09:00 – 17:30 hrs; Saturday 09:00 – 13:00 hrs; Sunday and Public Holidays Nil
- In addition to the above, prior to the commencement of development the applicant shall submit a method statement, to be approved by the Local Planning Authority. The method statement shall include the following details:
  1. Details of the method of piling
  2. Days / hours of work
  3. Duration of the pile driving operations (expected starting date and completion date)
  4. Prior notification to the occupiers of potentially affected properties
  5. Details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint
- The piling work shall be undertaken in accordance with the approved method statement:
- Prior to the development commencing, an Environmental Management Plan shall be submitted and agreed by the planning authority. The plan shall address the environmental impact in respect of air quality and noise on existing residents during the demolition and construction phase. In particular the plan shall show mitigation

measures in respect of noise and disturbance during the construction phase including piling techniques, vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes; Waste Management: There shall be no burning of materials on site during demolition / construction Dust generation caused by construction activities and proposed mitigation methodology.

- The Environmental Management Plan above shall be implemented and in force during the construction phase of the development.
- No development shall take place until a scheme to minimise dust emissions arising from demolition / construction activities on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The demolition / construction phase shall be implemented in accordance with the approved scheme, with the approved dust suppression measures being maintained in a fully functional condition for the .
- This site is within 250m of a known landfill site or area of ground that has the potential to create gas.
- The application is for new residential properties 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, reasons and notes should be attached should planning permission be granted.

### **Natural England**

- This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. It appears that Natural England has been consulted on this proposal to offer advice on the impact on a protected species.
- The protected species survey has identified that great crested newts, a European protected species may be affected by this application.
- The application should be determined in accordance with Natural England standing advice.

### **Greenspaces Officer**

- With reference to the plans for the erection of 25 dwellings based on 2, 3 and 4 bedroom properties, if the development were to be granted planning permission (in accordance with the submitted Layout Plan, Drawing Ref Rose Cottages\_01 dated 4 September 2012 there would be an excess of Amenity Green Space provision having regard to the adopted local standards set out in the Council's Open Space Study however, the developer appears to be providing additional on site.
- Within the Design and Access Statement there is little or no reference to the size or layout of the proposed POS therefore it is difficult to comment at this stage. However it

should be noted that the preferred location of the POS would be more central as it positioned in the North West corner of the site and looks as if only one property directly overlooks the area giving it a low level of natural surveillance.

- More detail is required before Streetscape could consider the maintenance of the POS, but as a guide a rate of £11.83 per square meter should be used. Full landscaping proposals should be submitted and approved in writing at the earliest opportunity where more detailed consideration by Streetscape will be given.
- It is appreciated that existing landscaping has been surveyed and will be respected and improved where possible with additional planting of trees, hedges and shrubs.
- It is recommended that any enhancement planting proposed which runs throughout the development site are designed with their eventual maturity in mind, given the maintenance implications and problems that may arise. 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.
- Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission there would be a 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.
- As there is a quantity deficiency, on site provision would be required as there is little scope within the local vicinity, however due to the size constraints this may not be possible. The only facility serving Brereton Parish is the community space at School Lane, Brereton Green. This is over the 800m radius threshold, but is the only facility to serve Brereton. If contributions were sought from the developer to increase the capacity at Brereton Green community space instead of on site provision then contributions would be:
  - Enhancement: £ 8,241.30
  - Maintenance: £26,865.000 (25 years)
- If a small Local Equipped Area for Play (LEAP) is provided on site then it should have at least 3 items of equipment (including a multi-unit) for the 6 and under age range. A ballpark estimate would be in the region of
  - New Provision: £51,000
  - Maintenance: £51,044 (25 years)
- The play facility would be provided by the developer and would take into account play area infrastructure, equipment including elements of DDA equipment, safer surfacing and safety inspection. We would request that the final layout and choice of play equipment be agreed with CEC, and obtained from an approved supplier to the

Council. The construction should be to the council's specification and full plans must be submitted prior to the play area being installed. These must be approved, in writing prior to the commencement of any works. We would also request landscaping is kept to a minimum i.e. solely fencing as a boundary treatment with a tarmac area surrounding the equipments safer surfacing. Again, plans should be submitted and approved by The Council prior to any commencement of works.

### **Education**

- No comments received at the time of report preparation.

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

### **Brereton Parish Council**

Object on the following grounds :

- Against Cheshire East Council's housing policy since it is proposed to be in an inappropriate isolated rural settlement
- Too many houses proposed. A development of 25 houses is not in scale with the local area
- Not sustainable. The site only meets 2 out of the 16 sustainability criteria laid down by the Cheshire East Interim Planning Policy rather than the minimum of 5 required. There is no shop, post office, pub, primary school, children's nursery, local meeting hall, amenity area nor leisure facility, pharmacy, medical centre or railway station within the required distance.
- No local proven demand for these houses. The Cheshire East SHMAA says there is minimal demand for 4 or 5 bedroomed houses in this area. The recently approved applications at Loachbrook and on the old Fisons site at Holmes Chapel provide 440 houses within 3 miles of this proposed Bloor development
- Road safety issues. The A54 is a very busy road and these 25 proposed houses would generate considerable extra traffic. The traffic coming from this proposed development would cause road safety for existing residents at Rose Cottages and Broomfields when entering or exiting their houses.

### **Somerford Parish Council**

- The site had 6 houses passed for planning approval and this should be the maximum allowed. It is a green field site and there are many better located brown field sites. The sustainability survey is flawed. The development provides the wrong houses in the wrong location. There are no doctors, local shops, public house or park. The primary school is over three miles away and no transport available unless children walk to Brereton Heath Lane along the busy A54 for half a mile where at times there are no footpaths unless the road is crossed. The school bus to the comprehensive is full, if over sixteen years pupils attend the local comprehensive funding has now been

withdrawn and car is the only method of transport. The local 42 bus is now under threat and may be withdrawn. There are no amenities available for children.

- The main A54 is narrow and even though highways surveys will have been conducted the proposed new access is going to be dangerous and lead to more unnecessary pressures when accessing and leaving the site. It has been opposed by every resident in Rose Cottages opposite.
- Even though Bloor Homes have consulted our members and the Parish Council pointed out that the houses are too close to the building line the proposed plans have not been changed. The houses are cramped and far too close to the road. The development is out of complete character with the existing developments of 'Broomfields' and 'Ivanhoe'.
- Both residents in Somerford and Brereton Parishes strongly oppose this development as it is a speculative development that can't be sustained.

## 6. OTHER REPRESENTATIONS

### Local Residents Representations

40 representations have been received making the following points:

#### *Principle of Development*

- Speculative development.
- Development of Greenfield site
- Out of character with and will spoil the rural nature of the area
- It is Green Belt
- It was in use for agriculture until very recently
- Represents an increase of some 25% in the number of homes and 100 extra people
- Countryside will be spoilt
- Will set a precedent for further greenfield development here and elsewhere in Parishes of Brereton and Somerford
- It is planning by stealth
- There is no mention of what will become of the other field which is owned by the same person and has been included in previous applications.
- The concern about how far developments will spread is proved by the way developers leave a gap between houses or a road appearing to go nowhere that will ultimately provide access for further developments!
- Bloor Homes need to be more forthcoming with what their overall plans are.
- This is the latest in a recent flurry of executive homes developments in a space of less than ½ mile.
- There seems to be no long term plan for the future of the area - how Somerford will look in the future, with what amenities.
- The only plan seems to be by the developers like Bloor whose prime interest is profitability not sustainability.
- Use brownfield sites to meet Government targets.

- This is not a regeneration proposal
- Density of development is out of character with existing properties and also the later developments of 'Holycroft', 'Broomfields' and 'Ivanhoe'
- There is no requirement for the amount of houses in this Parish as Cheshire East have already passed the need according to SHMAA with the development on the old Fison site in Holmes Chapel and Loachbrook and Aventis developments
- No housing need has been demonstrated;
- The house sizes of the 18 proposed "non-affordable" houses is a mixture of 4 or 5 bedroomed houses which is inappropriate for this rural, agricultural area. A recent survey by Brereton Parish Council has shown that the average household size is 2.6 so local people do not need 4 or 5 bedroomed houses.
- There are a number of local properties currently on the market, some in excess of two years.
- Why was outline planning approval, under Delegated Authority, given in spite of four previous refusals, Brereton and Somerford Parish Councils' objections and significant opposition from local residents?
- Planning approval should be to serve public interest not support speculative development.
- The 25 proposed dwellings are vastly in excess of the six deemed appropriate in the Delegated Report prepared by the Case Officer. They are at variance with the concept of infilling or linear development as described in the said report (10/4359C). They constitute a housing estate.
- The proposal is for 25 houses which is wildly excessive for this 1.15 hectare site. If this is argued as infill then the number of houses should be no more than the 6 which was the subject of application 10/4359C from 2010 which related to this same site.
- The density of housing on either side of this 1.15 hectare field is considerably less than this 22 houses per hectare proposal. The field where these houses are proposed lies almost entirely in the parish of Brereton in the area of Brereton Heath and there are a number of houses nearby along the A54 and along Brereton Heath Lane. Almost all of these houses are on large plots with large gardens and are set back from the nearby roads.
- The usual density of housing in this area is a small fraction of 22 per hectare.
- Somerford has been eaten up by various developments over the last 35 years, all of which have placed a heavier burden on the general infrastructure of the village.
- People chose to live in the Somerford area because it is in the country and not a town.
- Pubs and shops are not needed here.
- Development should be rejected and all future proposals put on hold until East Cheshire consults the Parish councils and comes up with a proper strategy for balanced, sustainable long term development.
- This objection is not NIMBYism many other long term residents here would welcome change to make Somerford a proper village with local facilities.
- This proposal is one more step towards commuter belt.
- Properties on the A54 road frontage are too close to the road
- The planning department should be more thorough; they made an error in the recent planning application for the nearby Ivanhoe development where they simply forgot to mention that the development was not sustainable.
- Some residents never received a notice,

- Some neighbours houses were not on the outline plans and the outline plans were vague and may well have been misleading to some of the general public. The Council should have insisted that a new outline plan was sent out.
- Concerns resulting from this proposed development were clearly voiced by many residents at a recent, specially convened, well attended meeting of Brereton Heath and Somerford Parish Councils covered by the local press: In excess of 50 local residents attended this meeting, and were unanimous in their objections to this destructive proposal. It should be noted that many in attendance were also unsure how to object to this application, as they felt ill informed (refer to the pitifully small number of 'neighbours notified' for a development of such impact), and didn't know how to make their thoughts known to planning authorities.
- Destroying isolated rural settlements is not the aim of responsible development, supported by Cheshire East Council's stated intent in the Interim Planning Policy to (re)develop existing town centres and regeneration areas, not to join them by destroying the countryside in between.
- Bloor's stepwise approach to destroying this area is designed to gain approval through stealth, avoiding the scrutiny of proper planning oversight, and preventing the evaluation of their clear intent to develop a significantly larger area in Somerford/Brereton Heath, as they know that authorities will only look on each development based on its own merits. However, this stepwise approach to developing the area influences future decisions by setting precedent for further development: In this particular case, it's obvious that Bloor Homes intend to enclose adjacent existing agricultural use, greenfield land that they have speculatively purchased, in anticipation that this will enable re-classification into brownfield, developable land in the near future. This could pave the way for a further 60 or so homes, and totally destroy the open countryside that currently provides the character and charm of this area.
- The number of houses in the area has grown steadily over recent years without the addition of any community facilities. These housing additions have been regeneration projects (most recently the Broomfields development on the site of a garage and the Ivanhoe development on the site of a dilapidated smallholding). This development goes way beyond that by proposing to build on green field agricultural land.
- The site has the benefit of an extant planning consent (10/4359C) for six houses which is an appropriate density and layout for the location. It is in keeping with the majority of the development in Brereton Heath and does not detract from the character of the area.
- Bloor homes have plans to build a "new" Somerford, are the Council considering changing the name from Somerford to "Bloorford"?

### ***Planning Policy Considerations***

- It is a well reported fact that Cheshire East Council do not have a 5 year housing land supply, however, this does not mean that potential developers should be encouraged to make residential applications on land in inappropriate isolated rural settlements such as Brereton Heath when clearly this is at odds with Cheshire East Council's housing growth strategy.
- The site is within the former CBC area and therefore Policy H2 applies, which states that Development should be focused in the Key Settlements of Congleton, Sandbach, Alsager & Middlewich, not isolated rural settlements, with limited services available, such as Brereton.

- The Council has recently consulted on a Revised Interim Policy on release of housing land. Again this is consistent with Policy H2 focusing new residential development at Macclesfield and the 9 Key Service Centres that have existing support services. In addition it makes it clear that any new development should be appropriate to the local character of an area in terms of use, scale and appearance.
- Application 12/3807C is out of keeping with the Guidance contained in both the Adopted Plan and Emerging Planning Policy and should be refused.

### ***Sustainability / Facilities***

- Development is unsustainable,
- Walking and cycling will not be the transport used, it will be more cars.
- The existing bus service does not fulfill the householders transport requirements.
- Cheshire East Council has an Interim Planning Policy. On page 3, in paragraph 2.2 re PPS3 Paragraph 10, Housing Policy Objectives, it says that an objective of the planning system is to deliver "... a good range of community facilities..." This proposal 12/3807C does not meet this objective.
- The interim policy says that residential development will be permitted in two areas. The first area is "adjacent to the settlement boundary of Crewe..." This proposed site is not in that area. The second area is "as part of mixed developments in town centers and regeneration areas to support the provision of employment, town centre and community uses". As previously mentioned this proposed site is not regeneration nor does it provide community uses. In addition it is not in a town centre and would provide no direct employment other than in the building of the houses.
- There are no local facilities, schools, doctors, public house or play areas.
- There's no guarantee of available places in any of the Congleton / Holmes Chapel schools.
- Local Internet connection is already inadequate
- The houses to be built are primarily aimed at affluent people who are likely to have young families.
- Additional housing would be better located on brownfield sites in Holmes Chapel and Congleton, where facilities such as schools, shops and work are available without the requirement to travel by car.
- No school transport services exist to the Congleton schools,
- Alternative 'non car' transportation methods are not available
- There will be additional pressures on utilities – electricity, there are already frequent power outages, sewerage (there has been a regular need for mechanical clearing of mains sewers on Brereton Heath Lane over the years) and fluctuations in water pressure.
- There is on average one power cut per week, causing damage to electrical equipment when the power supply is resumed, this will only worsen if more houses are built
- There is no employment opportunity nearby for the number of people related to 25 houses.
- Residents are happy not to have the amenities a larger population would demand
- The proposed new development would encourage affluent families (due to the size of the intended properties) who would commute out of the area each day, thereby not contributing to local economy

- Bloor have already begun to change the feel of this community by their development at Ivanhoe (12/0763C) which has only just begun: Although this application was approved prior to the sensible requirement for developments to only be approved if sustainable, these 11 houses will already put further strain on local and nearby facilities, and added risk to road users
- Accepting that the IPP may not be totally relevant here it is however consistent with the existing CBC H2 Policy and is the most recent attempt by CEC to define a sound test of sustainability. The site meets only 2 of the 16 Sustainability Criteria laid down in the IPP. 5 of the 16 listed criteria is the minimum acceptable number to allow approval to be granted. The 2 criteria present are a Bus Stop within 500m and a Post Box within 500m. Other than these two points the site does not have, within the specified maximum distances, the local services required under the Guidelines in respect of:-
  - A shop selling food/fresh vegetables, Post Office, Pub, Primary School, Children's Nursery, Local Meeting Hall/Community Centre, Public Park, Pharmacy, Bank or Cash Point, Children's Play Area, Amenity Area nor Leisure Activity Facility, Pharmacy, Medical Centre or Railway Station.
  - The local bus service, one of the two points, where this site does comply, is under threat of a reduction in service, as part of the latest cost cutting review being conducted by Cheshire East Council.

### ***Affordable Housing***

- The size, design and location of the affordable units are in-keeping with neither the spirit nor policy of the relevant guidelines. It is a tenet of Affordable Housing Policy that such houses should be representative of the house types and designs offered for open market purchase on the same site and that they should be pepper-potted throughout the whole site so as not to create obvious distinctions between the two. The affordable houses have an average floor area of 819 sq ft whereas the 6 No 5 bedded open market houses have an average area of 2356 sq. ft., the 12 No 4 bedded open market units have an average of 1615 sq ft. The affordable units are 2/3 bedded, are of a modern terrace design and shoe-horned together in one corner of the site.

### ***Highways***

- Increase in traffic
- Already dangerous traffic conditions noted on the main A54 highway and surrounding roads.
- A54 is a narrow road
- Existing properties do not take care when exiting onto the road
- There have been many accidents on this road, some of which have involved residents
- Traffic generated by Somerford Park Farm has grown considerably over the years as has the general farm traffic with more tractors spending time on the roads.
- The A54 only has a narrow pavement on one side.
- Road markings have been altered recently but drivers ignore them
- Near misses are not uncommon.
- Roadworks signs at the Ivanhoe site have been flattened by vehicles failing to stop
- This road is also the preferred route of the police to escort exceptional loads through the area.

- The reports included by Bloor say that cycling is appropriate from this proposed development. However, the A54 which is the only public road connected to this proposed site is not safe for cycling. An experienced cyclist with over 60,000 miles experience would not use this road and it is certainly not for young relatively inexperienced cyclists. This is because the road is busy but very narrow and twisting and is used extensively by high speed traffic including large heavy goods vehicles.
- Although there is a 50mph limit in the area it is frequently ignored by drivers with speeds of 60 to 70 miles an hour more common.
- The pavement proposed outside the site would not connect to any pavement on the Holmes Chapel side and only connects to a short pavement on the Congleton side. It does not even extend to the bus stop. So this site is inappropriate for children since they would not be safe to leave the site by cycle or by foot.
- The proposed access to the site is situated on a dangerous bend with limited visibility.
- Traffic generated will affect Brereton Heath Lane and Davenport Lane for any traffic wishing to use the M6 south.
- Brereton Heath Lane is already very busy with horse boxes, horses, walkers and cars.
- Horse boxes cause more over taking. Double white lines would have been a good idea but the road is too narrow for them.
- Highways Department should visit the between 7.30 am and 9am, and 5pm till 6.30pm to gauge the true scale of how dangerous this road is.
- The present Bloor development has endangered children walking to school on several occasions, with one pavement fenced off for road works, whilst a lorry is parked the other pavement forcing children to walk in the road at peak traffic times.
- There will probably be on average 3 cars for each of these houses, if the families have teenage children, this means the possibility of 75 cars per day
- The same stretch of road was referred to as "Hazardous" by the council in a meeting on Feb 28th 2006.
- There is only a narrow footpath to Congleton alongside a busy and dangerous highway, there is none to Holmes Chapel. This footpath is totally unsuitable for pushchairs and wheelchairs and dangerous for pedestrians.

### **Plus Dane**

- Confirm their support
- Have been in discussion with Bloor Homes regarding the provision of affordable homes within the development and is currently seeking Board Approval to progress to exchange of contracts in respect of the acquisition of these affordable properties
- Affordable housing scheme as submitted by Bloor is in line with their requirements in terms of the unit types and tenures to be delivered
- Delivery of the units is anticipated in 2014 which their programme supports; the location of the units within the development layout is also supported by Plus Dane
- Plus Dane would welcome the opportunity to input into the drafting of the Section 106.

### **KC Cleaning**

- Are a local business that operates in Somerford
- Confirm support for the application as this would be good for rural businesses in Somerford, Brereton Heath and should be welcomed.

## **Congleton Sustainability Group**

Object to this application on the grounds set out below.

### ***The development is unsustainable***

- One of the key requirements for sustainable residential development identified with numerous references within the NPPF is the need for local services to be easily accessible by sustainable travel modes. There are no local facilities within the immediate vicinity of the site or anywhere in Somerford indeed the nearest are at Congleton and Holmes Chapel each about 6 miles away with the greater number of services available in Congleton.
- While appreciating that a bus service runs through Somerford we, nonetheless believe that most, if not all trips from the village will be car based, which is wholly unsustainable. In this respect we are concerned over the continued development of housing in Somerford – this application is just the latest of many developments over the years – which, as a result increase traffic within Congleton and elsewhere as residents have to access their everyday needs away from Somerford. With the level of development that has already occurred within Somerford we believe that the village has become of a size that warrants local services.
- As set out in the NPPF sustainable development requires significantly more than just providing housing that meets the current energy saving standards as set out in the Building Regulations. To this end we are dismayed at the statement by the applicant that they are not prepared to provide any local services, such as a shop or community centre, as part of the development, particularly as they are currently building other houses elsewhere within Somerford. If you were minded to approve this application we would ask that you require the developer to provide some form of community facility, preferably a shop as part of the development. At the very least they should provide the land and a contribution to the establishment of a shop under a S106 agreement.

### ***Road Safety***

- We note that currently there is a 50mph speed limit on the A54 through the village. With the increasing size of the village as noted above we believe this limit is too high. If you were minded to approve this development we would want to see the limit reduced to at least 40mph. While appreciating that a change in speed limit cannot be made a condition of approval, we nonetheless would require you, as a condition of any approval, to obtain the necessary funding to investigate and implement a reduced speed limit from the developer as part of any S106 agreement.

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

- Flood Risk Assessment
- Design and Access Statement
- Tree Survey

- Planning Statement
- Statement of Community Involvement
- Tree Survey
- Drainage Appraisal
- Ecological Survey
- Great Crested newt Mitigation
- Sustainability Statement
- Transport Statement

## 8. OFFICER APPRAISAL

### Principle of Development

The majority of the site lies within the Infill Boundary Line for the settlement of Brereton Heath, where, according to Policies PS6 and H6, limited development will be permitted where it is appropriate to the local character in terms of use, intensity, scale and appearance and does not conflict with the other policies of the local plan.

The sub-text to Policy H6 states that “*limited development is defined as the building of a single or small group of dwellings*”. Whilst no definition is provided for the term “*small group*”, it could be argued that 25 dwellings does not constitute “limited development” and that there is some degree of conflict with Policy H6.

A narrow triangle of land at the rear of the site lies outside the infill boundary line as shown on the local plan map. This also represents a minor departure from adopted local plan policy although given that this area of land is proposed predominantly for use as public open space and garden, with the gable end of plot 8 being the only built form within this part of the site, the impact on the openness of the countryside is comparatively minor.

Furthermore, Sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”. The most important consideration in this case is the National Planning Policy Framework (NPPF).

Paragraph 47 of the NPPF requires that there is a five year supply of housing plus a buffer of 5% to improve choice and competition. It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the Strategic Housing Land Availability Assessment (SHLAA) which was adopted in March 2012.

The SHLAA has put forward a figure of 3.94 years housing land supply. Once the 5% buffer is added, the Borough has an identified deliverable housing supply of 3.75 years.

The NPPF clearly states at paragraph 49 that:

*“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

- *“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*
- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- *specific policies in the Framework indicate development should be restricted.”*

Consequently, the main issues in the consideration of this application are the sustainability of the site and whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in terms of housing land supply.

### **Sustainability**

The National Planning Policy Framework definition of sustainable development is:

*“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”*

Accessibility is a key factor of sustainability that can be measured. According to the Applicant’s submissions, in terms of sustainable access to public transport, the proposed site is ideally situated to allow residents access to the public transport network. The closest bus stop to the proposed development is located approximately 200 metres from the site on the A54 (Holmes Chapel Road). The bus stop links the site to Holmes Chapel, Congleton, Sandbach, Northwich, Nantwich, Knutsford and Altrincham. The following services are available:

- Rural Rider Service 41 (Congleton-Holmes Chapel-Sproston-Middlewich- Leighton Hospital-Nantwich)
- Service 49 (Sandbach-Holmes Chapel-Goostrey-Northwich)
- Service H50 (Sandbach-Holmes Chapel-Goostrey-Knutsford-Altrincham)
- Service 319 (Sandbach-Goostrey Circular via Holmes Chapel, Cranage, Allostock, Goostrey and Twemlow Green)

Increasing the number of dwellings in this location will help to sustain this rural bus service, and it is noted that letters of support have been received from the bus company which operates the route.

The proposed development site is served by existing pedestrian infrastructure and the internal highway infrastructure has been designed to guidance within Manual for Streets 2, this ensures vehicular speeds through the site will be low. The design of the internal

infrastructure will ensure a pedestrian friendly environment with areas of pedestrian priority to ensure safe and efficient movement for pedestrians through the site.

Cycling opportunities exist within the local area linking the proposed site to nearby amenity facilities. Holmes Chapel and Congleton Town centres are just three miles from the site, a distance that the vast majority of people will find acceptable by means cycle and provides the opportunity to commute to a place of work using a non-car mode of transport.

An alternative methodology for the assessment of walking distance is that of the North West Sustainability Checklist, backed by the Department for Communities and Local Government (DCLG) and World Wide Fund for Nature (WWF). The Checklist has been specifically designed for this region and relates to current planning policies set out in the North West Regional Spatial Strategy for the North West (2008).

The Checklist can be used by both developers and architects to review good practice and demonstrate the sustainability performance of their proposed developments. Planners can also use it to assess a planning application and, through forward planning, compare the sustainability of different development site options.

The North West Sustainability Checklist is supported by Policy DP9: Reduce Emissions and Adapt to Climate Change of the Regional Spatial Strategy for the North West, which states that:

*“Applicants and local planning authorities should ensure that all developments meet at least the minimum standards set out in the North West Sustainability Checklist for Developments (33), and should apply ‘good’ or ‘best practice’ standards wherever practicable”.*

The Regional Spatial Strategy for the North West currently remains part of the Development Plan for Cheshire East.

The criteria contained within the North West Sustainability Checklist are also being used during the Sustainability Appraisal of the Cheshire East Local Plan. With respect to accessibility, the toolkit advises on the desired distances to local facilities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions. The results of an accessibility assessment using this methodology are set out below.

Category	Facility	Land opp. Rose Cottages, Somerford
Open Space:	Amenity Open Space (500m)	482m
	Children’s Play Space (500m)	0m
	Outdoor Sports Facility (500m)	6115m
Local Amenities:	Convenience Store (500m)	4184m
	Supermarket* (1000m)	4184m

	Post box (500m)	200m
	Playground / amenity area (500m)	0m
	Post office (1000m)	5310m
	Bank or cash machine (1000m)	4184m
	Pharmacy (1000m)	1815m
	Primary school (1000m)	4506m
	Secondary School* (1000m)	6115m
	Medical Centre (1000m)	5310m
	Leisure facilities (leisure centre or library) (1000m)	5310m
	Local meeting place / community centre (1000m)	4506m
	Public house (1000m)	4506m
	Public park or village green (larger, publicly accessible open space) (1000m)	482m
	Child care facility (nursery or creche) (1000m)	4184m
<b>Transport Facilities:</b>	Bus stop (500m)	200m
	Railway station (2000m where geographically possible)	4666m
	Public Right of Way (500m)	965m
	Any transport node (300m in town centre / 400m in urban area)	4666m
<i>Disclaimers:</i>		
<i>The accessibility of the site other than where stated, is based on current conditions, any on-site provision of services/facilities or alterations to service/facility provision resulting from the development have not been taken into account.</i>		
<i>* Additional parameter to the North West Sustainability Checklist</i>		
<i>Measurements are taken from the centre of the site</i>		

Rating	Description
	Meets minimum standard
	Fails to meet minimum standard (Less than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m).
	Significant failure to meet minimum standard (Greater than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m).

On the basis of the above assessment the proposal does not appear to be sustainable. However, at an Appeal in Clitheroe, an Inspector stated that

*“accessibility is but one element of sustainable development; it is not synonymous with it. There are many other components of sustainability other than accessibility. The concept includes such matters as meeting housing needs in general and affordable housing in particular; ensuring community cohesion; economic development; ensuring adequate provision of local health facilities and providing access for recreation in the countryside”.*

Policy DP9 of the RSS relates to reducing emissions and adapting to climate change. It requires:

- proposals to contribute to reductions in the regions' carbon dioxide emissions from all sources;
- take into account future changes to national targets for carbon dioxide and other greenhouse gas emissions
- to identify, assess and apply measure to ensure effective adaptation to likely environmental social and economic impacts of climate change.

RSS (Policy EM18) policy also necessitates that, in advance of local targets being set, large new developments should secure at least 10% of their predicted energy requirements from decentralised and renewable or low-carbon sources, unless it can be demonstrated that this is not feasible or viable.

*The supporting documentation submitted with the application indicates "that the proposed development will take the approach of providing the best solution to reducing CO2 emissions associated with the retail unit over its lifetime. .... energy efficiency of the building should be the priority when looking to reduce CO2 emissions. Only once the building energy efficiency has been maximised, should the use of on-site renewable and low carbon energy sources be explored.....This low carbon 'building fabric-led' approach aims to reduce the levels of CO2 emissions associated with the development by reducing need and improving the energy efficiency of each building. This is achieved through significantly upgrading the building fabric and results in a reduction in energy demand and associated CO2 emissions up to and beyond the requirements of regulatory compliance, throughout the lifetime of the building.*

*As part of this approach, Bloor Homes design and material specifications will deliver dwellings with inherently low energy demand and provide the following benefits:*

- *Improved levels of thermal insulation*
- *Highly efficient double glazing window units*
- *Improved detailing of junctions between build elements to limit thermal bridging heat losses*
- *Improved detailing to limit air leakage heat losses through air permeability*

*The proposed 'building fabric-led' approach will ensure the provision of the residential units will be inherently energy efficient and therefore, the energy demand reductions will be delivered throughout the lifetime of the building. Accordingly, reducing CO2 emissions should be prioritised and will provide greater environmental benefit in the longer term.*

*The result will be buildings that are in line with the 2010 Building Regulations Part 1LA, that reduces CO2 emissions by 25% over 2006 regulations, while providing a sustainable building that does not require renewable technology and their subsequent on-going maintenance which may result in significant costs or a reduction in the level of renewable energy supplied throughout the lifetime of the building."*

The information submitted by the developer indicates that it is viable and feasible to meet the requirements of the RSS policy and a detailed scheme can therefore be secured as part of the reserved matters through the use of conditions.

With regard to the issue of economic development, an important material consideration is the Written Ministerial Statement: Planning for Growth (23 March 2011) issued by the

Minister of State for Decentralisation (Mr. Greg Clark). It states that *“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.”*

The Statement goes on to say *“when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development.”* They should, inter alia, consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession; take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing; consider the range of likely economic, environmental and social benefits of proposals; and ensure that they do not impose unnecessary burdens on development.

The proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to the town including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain.

Similarly, the NPPF makes it clear that *“the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.”*

According to paragraphs 19 to 21, *“Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. Investment in business should not be overburdened by the combined requirements of planning policy expectations.”*

In summary therefore, in terms of its location, and accessibility, the development is fundamentally unsustainable. However, previous Inspectors have determined that accessibility is but one element of sustainable development and it is not synonymous with it. There are many other components of sustainability other than accessibility. These include, meeting general and affordable housing need, reducing energy consumption through sustainable design, and assisting economic growth and development, which this proposal will help to do. Therefore, the current lack of a five year housing land supply, the fact that this site is located predominately within the infill boundary line, and the economic growth benefits are considered, on balance, to outweigh the limited conflicted with local plan policy in terms of the scale of development, and the lack of sustainability in locational terms, the adverse impacts of which are not considered to be significant or demonstrable.

### **Jodrell Bank**

In the absence of any objection from the University of Manchester, subject to appropriate conditions, it is not considered that a refusal on the grounds of the impact on Jodrell Bank could be sustained.

### **Residential Amenity**

The surrounding development comprises modern residential cul-de-sac development to the south side, open countryside to the rear, a large detached dwelling to the north and a mixture of large detached and semi-detached dwellings, within substantial plots on the opposite side of Holmes Chapel Road. 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.

Distances in excess of those recommended in the SPG will be achieved between the proposed dwellings and those on the opposite side of Holmes Chapel Road. A distance of over 30m will be maintained between the dwelling to the north and the nearest dwelling on the proposed development. 13.7m will be maintained between the rear elevation of the proposed dwelling on plot 7 and the flank elevation of the existing property at 11 Broomfields. A distance in excess of 30m will be retained between the rear elevation of proposed plot 56 and the front of the property at 7 Broomfields. The separation between the rear of proposed plot 4 and the side elevation of 3 Broomfields varies between 10m and 13m. Whilst this is below the recommended 13.7m, given that the two elevations are not directly opposing, this is not considered to be problematic.

To turn to the levels of residential amenity to be provided within the development, distances of 21.3m would be achieved between all the principal elevations, and 13.7m will be maintained between all flank and principal elevations, with the following exceptions. The distance between the front of plot 3 and the front of plot 24 will be reduced to 17m. However, this is considered to be desirable in urban design terms, as it will provide a tightly defined "gateway" and sense of enclosure to the development. The distance between the front elevations of plot 10 and plot 25 and plot 11 and plot 15 will be reduced to between 14m and 18m. However, given that the principal elevations of these dwellings are not directly opposing, this is considered to be permissible.

The Council's SPG advocates the provision of 65sq.m of private amenity space for all new family dwellings. All of the proposed plots will include significantly more than 65sq.m with the exception of the terraced houses on the frontage, which will each benefit from a rear garden area of between 40 and 50sqm. They will also have small, gardens to the front, although it is acknowledged that these will be of limited amenity value. Notwithstanding this point, however, it is considered that a smaller area of amenity space can be justified for these dwellings, as they are much smaller, predominantly two bedroom properties, and are therefore less likely to be occupied by families with children.

Therefore, in the majority of cases the minimum standards set out in the Council's Supplementary Guidance would be exceeded and in cases where they are not, it is considered that there are other mitigating factors. Therefore it is not considered that a refusal on amenity grounds could be sustained.

## **Ecology**

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to

the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate *"in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment"* among other reasons.

The Directive is then implemented in England and Wales The Conservation of Habitats and Species Regulations 2010. ("the Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

The Regulations provide that the Local Planning Authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

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

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

In this case, the Council's Ecologist has examined the application and a small population of great crested newts has been recorded breeding at a pond a short distance from the proposed development. The application site however supports habitat which is of relatively limited value for amphibians.

In the absence of mitigation the proposed development will have a low impact on great crested newts due to the small size of the population present and the relatively low value of habitat lost

In order to compensate for the loss of great crested newt habitat the applicant has proposed the management/enhancement of an area of land to the south of the proposed development. This area of land is in close proximity to the breeding pond. To mitigate the risk of newts being killed/injured during the works the applicant's ecologist has proposed the capture and exclusion of newts from the proposed development site using standard 'best practice' methodologies.

I advise that the proposed mitigation/compensation is acceptable and is likely to maintain the favourable conservation status of great crested newts

If planning consent is granted the proposed mitigation must be secured by means of a condition stating that the development shall proceed in accordance with the recommendation made by the submitted Great Crested Newt Mitigation Proposals dated April 2012.

It should be noted that the proposed ecological area appears to be located outside the boundary of the current application. A section 106 agreement will therefore be required to secure the proposed mitigation. This should include a 10 year management plan for this area.

If planning consent is granted, standard conditions will be required to check for breeding birds prior to development and to provide nesting boxes within the completed scheme.

### **Contaminated Land**

The proposed end use of the site is considered to be a "sensitive" use, and therefore an appropriate condition to secure a full ground investigation and any necessary mitigation measures is considered to be necessary. Subject to compliance with this condition it is considered that the proposal will accord with the requirements of Policy GR.8 of the local plan and the NPPF in this regard.

### **Trees and Landscape.**

The Senior Landscape Officer has examined the proposals and commented that the proposed development would result in the loss of the hedgerow and trees on the Holmes Chapel Road frontage. The submitted tree survey schedule affords the trees a C2 (low quality) category and suggests that the feature be removed and replaced with a new hedge and specimen trees.

As stated, the proposed development would result in the loss of the hedgerow on the Holmes Chapel Road frontage.

Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'Important'. Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application. Hedgerows are also a habitat subject of a Biodiversity Action Plan.

The Regulations require assessment on various criteria including ecological, archaeological and historic value. The County Archivist has confirmed that the hedgerow did not form part of a boundary between two historic townships or parish, there is no evidence to suggest that it formed the boundary of a pre-1600 estate or manor and there is no evidence to suggest that the hedgerow in question formed an integral part of a field system pre-dating the Enclosure Acts.

Ecological and archaeological information was awaited at the time of report preparation and a further update will be provided on this matter to Members prior to their meeting.

Only indicative tree symbols are shown on the Planning Layout plan and no detailed landscape proposals are provided. However, these details could be secured by condition. Initially there was concern that the layout sites buildings close to Homes Chapel Road and shows no hedge or shrub planting and only one indicative tree in this area. Should the principle of development be deemed acceptable, in order to mitigate for the loss of the existing hedge and trees on the road frontage, a greater separation from the road would be preferable in order to make provision for replacement roadside hedge and tree planting with sufficient space for future growth and management.

This has been brought to the attention of the developer and amended layout has been submitted showing the frontage dwellings moved back by 1m and the provision of a native hedgerow to the front boundary. A comprehensive landscape scheme and appropriate boundary treatment can be secured by condition.

### **Highway Safety.**

A Transport Assessment has been submitted with the application which concludes that:

- The site is accessible by sustainable modes of travel with a bus service running directly past the site;
- There is an established network of footways located within the vicinity of the site providing links to the surrounding residential areas;
- Appropriate servicing facilities and car parking can be catered for within the development site.
- Vehicular access to the site will be utilised via an already consented residential vehicle access design.
- Traffic generated by the proposed development will have a negligible impact on Holmes Chapel Road and the surrounding highway network.
- There is no demonstrable accident problem on the assessed stretch of Holmes Chapel Road.

The Strategic Highways Manager has examined the application and commented that he has no objection subject to conditions relating to the provision of a footway, street lighting and an appropriate visibility splay. Therefore, whilst residents concerns are noted, in the absence of any objection from the Strategic Highways Manager, it is not considered that a refusal on highway safety grounds could be sustained.

### **Affordable Housing**

As this proposal is in a rural area that has a population of fewer than 3,000 and the site is larger than 0.2ha and includes more than 3 dwellings, there is a requirement for affordable housing to be provided as per the Interim Planning Statement: Affordable Housing.

The site crosses over 2 parishes Somerford and Brereton. Somerford is located in the Congleton Rural sub-area and Brereton is within the Sandbach Rural sub-area in the Strategic Housing Market Assessment 2010 (SHMA). The SHMA identified a need for 10

new affordable units per year in the Congleton Rural sub-area, made up of a need for 1 x 1 bed, 2 x 2 beds, 3 x 3 beds and 1 x 1/2 bed older persons units, and a net requirement for 1 new affordable unit per year in the Sandbach Rural sub-area. In addition to this information there are also 10 applicants on the housing register who have selected Brereton or Someford for their first choice. The breakdown of the number of bedrooms required by these applicants is 1 x 1 bed, 5 x 2 bed and 2 x 3 bed.

The affordable housing being offered comprises of 3 x 2 bed & 2 x 3 bed for rent and 2 x 3 bed as intermediate tenure. This would be acceptable as it goes towards meeting some of the identified housing need. This equates to provision of just under 30% affordable housing. However the tenure split is 70% rented and 30% intermediate and, as the SHMA 2010 identified a tenure preference for rented affordable housing, Housing Officers have no objection to this provision.

The affordable housing is located in a cluster rather than being “pepper-potted” throughout the site. However it does have open market housing around it and given the small scale of the development site as a whole, this is considered to be acceptable.

It is the Council’s preference that the affordable housing is secured by way of a S106 agreement, which requires the developer to transfer any rented affordable units to a Housing Association and includes provisions that require the affordable homes to be let or sold to people who are in housing need and have a local connection. The local connection criteria used in the agreement should match the Councils allocations policy. This is in accordance with the Affordable Housing IPS which 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 that

*“in 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”*

The Affordable Housing Interim Planning Statement requires that the affordable homes should be provided no later than occupation of 50% of the open market units. This can also be secured through the Section 106 Agreement.

## **Design and Layout**

The dwellings on plots 1 to 3 and 18 to 24 provide an active frontage to Holmes Chapel Road, with pedestrian access out on the pavement. However, car parking will be to the rear of these properties which will avoid creating a car dominant frontage. The corner properties on plots 4 and 24 also include bay windows and large hall / landing windows, to create a dual aspect to break up the mass of the gables and “turn the corner” into the proposed development.

The dwellings to the rear are laid out in around 2 cul-de-sacs similar to the existing developments at Broomfields, Ivanhoe, and Hollycroft. This layout helps to create a sense of enclosure and community as well as natural surveillance of the parking and turning areas. This sense of enclosure is enhanced by the fact that the dwellings on plots 4 and 24 are stepped forward slightly to create a “gateway” and sense of transition between the frontage development and the cul-de-sac to the rear, which make up the two parts of the site and have differing and distinct characters.

The proposed dwellings are 2 stories in height which reflects the surrounding developments to either side. It is therefore considered to be acceptable in street scene terms. Furthermore, it will help to knit together the two recent developments at Broomfield and Hollycroft, to create a continuous frontage to Holmes Chapel road and to help to consolidate the nucleus of the settlement which has developed over recent years around the junction of Brereton Heath Lane and Holmes Chapel Road.

To turn to the elevational detail of the scheme, the properties are traditional gabled and pitched roofed dwellings which incorporate many features such as canopy porches and window head details that are typical of many farmhouses and traditional cottages in the vicinity. Similar designs have been employed on the neighbouring developments at Hollycroft and Broomfield and it is considered that the proposed dwellings would be appropriate for the site and in keeping with the character of the surroundings.

### **Open Space**

The Greenspaces Officer has commented that there is an excess of general amenity green space in the vicinity but the developer appears to be providing more on site. However, there is a deficiency in the existing provision of Children and Young Persons Provision accessible to the proposed development which the proposal would exacerbate. The nearest play area which could be upgraded through an off-site contribution is at School Lane, Brereton Green. This is outside the 800m threshold from the site, and is therefore considered to be too far away to be suitable for off-site provision. Given the excess of amenity green space, it is considered to be appropriate to provide a small Local Equipped Area for Play (LEAP) is provided on site.

Greenspaces have advised that it should have at least 3 items of equipment (including a multi-unit) for the 6 and under age range. The play facility would be provided by the developer and would take into account play area infrastructure, equipment including elements of DDA equipment, safer surfacing and safety inspection. The final layout and choice of play equipment should be agreed with CEC, and obtained from an approved supplier to the Council. The construction should be to the council’s specification and full plans must be submitted prior to the play area being installed. These must be approved, in writing prior to the commencement of any works. Landscaping should be kept to a minimum i.e. solely fencing as a boundary treatment with a tarmac area surrounding the equipments safer surfacing. Again, plans should be submitted and approved by The Council prior to any commencement of works. The facility should be maintained and managed by a private management company. This can be secured through the Section 106 Agreement.

Greenspaces have expressed a preference for the POS to be it positioned more centrally, rather than in the North West concern of the site, to improve natural surveillance of the area. This issue was discussed at the pre-application stage and planning officers were concerned that the consequence of the overall layout of this arrangement was a significant increase in the length of road and hard-surfacing required to gain access to all of the properties, which created a form of development which was less in keeping with the rural setting of the site, and less sustainable in terms of increasing surface water runoff and fewer opportunities for sustainable drainage.

Furthermore, it was considered that locating the POS at the rear of the site also provided a “softer” edge to the open countryside, particularly given that this part of the site is located outside the Infill Boundary Line.

## **9. CONCLUSION**

In summary, the proposal is considered to be acceptable in principle, as it lies predominantly within the infill boundary line as designated in the local plan. It will assist the Council in meeting its requirement for a 5 year housing land supply and will promote economic growth. It is the view of officers that these considerations outweigh the site’s lack of sustainability in locational terms, and the minor conflict with adopted local plan in terms of the small triangle of the site which lies outside the infill boundary line and the scale of the development, which it could be argued is too great to constitute “limited” infilling. Furthermore, it is considered that any harm arising from these issues would not be substantial or demonstrable, and therefore the presumption in favour of development, under paragraph 14 of the NPPF applies.

The proposal is acceptable in terms of its impact on Jodrell Bank and residential amenity. The Contaminated Land issue can be adequately addressed through conditions and the affordable housing requirement is being met on site. The design and layout is also considered to be acceptable and will respect the character and appearance of the surrounding area. The proposal will be acceptable in terms of its impact on ecology, trees and landscape, highway safety and open space. It will also assist in meeting local affordable housing needs.

Therefore in the absence of any other material considerations and having due regard to all other matters raised, the proposal is considered to be acceptable and accordingly is recommended for approval subject to appropriate Section 106 Agreement and conditions.

## **10. RECOMMENDATION**

**APPROVE** subject to signing of a Section 106 agreement making provision for:

- **Provision of off-site ecological mitigation**
- **Affordable Housing comprising:**
  - **3 x 2 bed & 2 x 3 bed for rent and 2 x 3 bed as intermediate tenure**
  - **developer to transfer any rented affordable units to a Housing Association**
  - **local connection criteria**

- the affordable homes should be provided no later than occupation of 50% of the open market units.
- **Local Equipped Area for Play (LEAP) is provided on site to include:.**
  - At least 3 items of equipment (including a multi-unit) for the 6 and under age range.
  - Play area infrastructure,
  - Elements of DDA equipment,
  - Safer surfacing and safety inspection.
  - The final layout and choice of play equipment should be agreed with CEC, and obtained from an approved supplier to the Council.
  - Construction to the council's specification
  - Full plans to be submitted and approved prior to the play area being installed.
  - Solely fencing as a boundary treatment with a tarmac area surrounding the equipments safer surfacing.
  - The facility to be maintained and managed by a private management company.

**And the following conditions:**

- 1. Standard**
- 2. Plans**
- 3. Materials to be submitted and approved**
- 4. Submission / approval and implementation of scheme of electromagnetic screening**
- 5. Submission / approval and implementation of details of site compound**
- 6. Submission / approval and implementation of piling method statement**
- 7. Hours of construction restricted to: Monday – Friday 08:00 to 18:00 hrs; Saturday 09:00 to 14:00 hrs; Sundays and Public Holidays Nil**
- 8. Submission / approval and implementation of environmental management plan**
- 9. Submission / approval and implementation of scheme to minimise dust emissions**
- 10. Submission of contaminated land investigation**
- 11. No discharge of surface water to foul sewer**
- 12. Submission of a scheme to limit the surface water run-off generated by the proposed development, in accordance with the Flood Risk Assessment (FRA)**
- 13. Submission of further details/calculations will need to be provided at the detailed design stage to demonstrate that any proposed soakaways have been appropriately designed for up to the 1% annual probability event, including allowances for climate change.**
- 14. The site is to be designed to contain any such flooding within the site, to ensure that existing and new buildings are not affected.**
- 15. Submission of a scheme to manage the risk of flooding from overland flow of surface water,**
- 16. Foul drainage should be connected to foul sewer**
- 17. Provision of a footway and street lighting**
- 18. Access road to be 5.5 metres for a minimum length of 10 metres from the highway boundary.**
- 19. A 2.4 metre by 160 metre visibility**

- 20. Provision of carparking**
- 21. Construction of access**
- 22. Provision of 10% renewables unless unviable / impractical**
- 23. Scheme of energy saving features to be incorporated into dwellings**
- 24. Mitigation to be carried out in accordance with submitted statement**
- 25. Survey to check for breeding birds prior to commencement in nesting season**
- 26. Provision of nesting boxes**
- 27. Landscaping to be submitted and approved**
- 28. Implementation of landscaping**
- 29. Implementation of boundary treatment**

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Application No: 12/3879N

Location: OFFICE PREMISES, THE FORMER GENUS PLC, ROOKERY FARM ROAD, TARPORLEY, CHESHIRE

Proposal: Outline application for re-submission of application 12/3086N - demolition of existing steel portal vacant office building. Construction of four dwellings with associated garage, access and parking

Applicant: Genus Plc

Expiry Date: 12-Dec-2012

**SUMMARY RECOMMENDATION –****Approve with Conditions and subject to the completion of a section 106****MAIN ISSUES**

Principle of development  
Loss of Employment Site  
Affordable Housing  
Appearance, Landscaping, Layout and Scale  
Amenity  
Highways  
Ecology  
Trees

**REASON FOR REFERRAL**

This application has been advertised as a departure from the development plan and is recommended for approval and therefore is referred to the Southern Planning Committee for consideration.

**DESCRIPTION OF SITE AND CONTEXT**

The application site is situated within the Open Countryside, on Rookery Farm Road, Tarporley. The application site currently inhabits a large steel framed commercial unit which has been vacant since 2010 when the former occupiers 'Genus PLC' moved to an alternative site in Nantwich.

**DETAILS OF PROPOSAL**

The application seeks outline planning permission with all matters reserved for the demolition of the existing office building and construction of four dwellings. The indicative plan includes a pair of semi-detached dwellings, and two detached dwellings. One of the detached dwellings is proposed as an affordable housing unit.

This application seeks permission for the principle of residential development on the site with the details of access, appearance, landscaping, layout and scale details reserved for a subsequent application.

**RELEVANT PLANNING HISTORY**

12/3086N – Outline for Proposed Residential Development - Demolition of Existing Steel Portal Vacant Office Building. Construction of Two Detached Family Dwellings with Associated Garage, Access and Parking - Withdrawn

11/0653N - Variation of Condition 3 on Planning Permission P02/0719 – Approved with conditions 23<sup>rd</sup> August 2011

P02/0719 - Change of Use to Offices – Approved with conditions 20<sup>th</sup> August 2002

7/17728 - Embryo day centre (milk marketing board) – Approved with conditions 16<sup>th</sup> November 1989

**POLICIES**

**National Planning Policy**

National Planning Policy Framework 2012

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

NE. 2 Open Countryside

NE. 5 Nature Conservation and Habitats

NE.9 Protected Species

RES. 1 Housing Allocations

RES. 5 Housing in the Open Countryside

RES. 8 Affordable Housing in Rural Areas Outside Settlement Boundaries (Rural Exceptions Policy)

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

E. 7 Existing Employment Sites

**Other Material Considerations**

Revised Interim Planning Policy: Release of Housing land

Interim Planning Statement: Affordable Housing

**CONSULTATIONS (External to Planning)**

**Highways:** No objection. However, the applicant should be informed that for construction of the new/modified access a licence under S184 of the Highways Act will be required.

**Environmental Health:** No Objection subject to conditions for hours of construction, pile driving and contaminated land report.

**United Utilities:** No objections.

**VIEWS OF PARISH COUNCIL** – None received at time of writing this report.

**OTHER REPRESENTATIONS** – None received at time of writing this report.

## **OFFICER APPRAISAL**

### **Principle of Development**

#### *Local Plan Policy*

The site lies in the Open Countryside as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policy NE.2 states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

#### *National Planning Policy Framework*

Paragraph 47 of the NPPF requires that there is a five year supply of housing plus a buffer of 5% to improve choice and competition. The SHLAA has put forward a figure of 3.94 years housing land supply and once the 5% buffer is added, the Borough has an identified deliverable housing supply of 3.75 years.

The NPPF clearly states at paragraph 49 that:

*“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

*“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- *specific policies in the Framework indicate development should be restricted.”*

Consequently, the application turns on whether the loss of an employment site is acceptable in this rural location, if the development is sustainable and whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in terms of additional housing land supply.

### **Loss of an Employment Site**

Local Plan Policy E.7 (Existing employment sites) states that development which would cause the loss of an existing employment site to other uses will only be permitted where it can be demonstrated that the present use harms the character or amenities of the surrounding area, the site is not capable of satisfactory use for employment and overriding local benefits would come from the proposed development, or it can be demonstrated that there would be no detrimental impact on the supply of employment land or premises in the Borough.

The applicant has submitted detailed marketing information which shows that the building has been marketed by Wright Manley Commercial and King Sturge for over 2 years. In that two years Wright Manley had 5 viewers 3 of which viewed the property twice, but with no further interest. An offer of £300,000 was accepted but funding failed on this purchase, and was with the intention to use for residential purposes. The details were viewed 4928 times on the website with 538 details issued. A further 8 sets of sale particulars were sent out to interested parties.

Furthermore, Jones Lang LaSalle (formerly King Sturge) was jointly appointed to market the property. The agents marketed the building with a double sided brochure, 3no. marketing boards, a mailshot to North West office agents, letter to local occupiers and on several websites. An offer of £310,000 was received but this was conditional on planning permission for residential development being achieved. It is therefore considered that a suitable amount of marketing has been carried out with no significant interest in the site for employment uses.

Furthermore, it is considered that the existing building on the site is of no particularly architectural merit and is of a fairly modern design. There is a significant amount of hardstanding on the site used as car parking. The proposal would replace the existing building with four residential dwellings and it is considered that this will represent an improvement in the rural environment as the hardstanding areas are likely to become gardens. There is clearly no large demand for this type of commercial unit in this area and therefore it is considered that in this instance the loss of an employment site is acceptable.

In addition, given that the Borough does not currently have a 5 year housing land supply and is therefore releasing Greenfield sites for residential development, it is considered that redevelopment of this site, which would ease pressure on Greenfield sites elsewhere would be an overriding local benefit.

### **Sustainability**

The onus is placed onto the applicant to demonstrate that the proposal is considered sustainable development, in accordance with the National Planning Policy Framework. The applicant contends that the site is sustainable and is in close proximity to a number of key services. The applicant has submitted a completed North West Sustainability Checklist developed by the former North West Development Agency, which considers the sustainability of a development site in relation to Climate Change, Place Making, Transport, Ecology, Recourses, Business, and Buildings. The applicant has not completed a number of the questions in the report, noting that the detail of the development has not been considered yet and that this will form part of the reserved matters application. Whilst this is acknowledged the report submitted does not clearly show that the site is sustainable.

With respect to accessibility, the North West Development Agency toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

The toolkit sets maximum distances between the development and local amenities. These comprise of:

- a local shop (500m),
- post box (500m),
- playground / amenity area (500m),
- post office (1000m), bank / cash point (1000m),
- pharmacy (1000m),
- primary school (1000m),
- medical centre (1000m),
- leisure facilities (1000m),
- local meeting place / community centre (1000m),
- public house (1000m),
- public park / village green (1000m),
- child care facility (1000m),
- bus stop (500m)
- railway station (2000m).

The applicant notes the following distances from local amenities,

Category	Facility	Rookery Farm Road, Tarporley
<b>Open Space:</b>	Amenity Open Space (500m)	1700m
	Children’s Play Space (500m)	1700m
	Outdoor Sports Facility (500m)	3000m
<b>Local Amenities:</b>	Convenience Store (500m)	3000m
	Supermarket* (1000m)	3000m
	Post box (500m)	450m
	Playground / amenity area (500m)	1700m
	Post office (1000m)	3600m
	Bank or cash machine (1000m)	1100m
	Pharmacy (1000m)	3000m

	Primary school (1000m)	3000m
	Secondary School* (1000m)	3000m
	Medical Centre (1000m)	3000m
	Leisure facilities (leisure centre or library) (1000m)	3000m
	Local meeting place / community centre (1000m)	750m
	Public house (1000m)	1100m
	Public park or village green (larger, publicly accessible open space) (1000m)	3000m
	Child care facility (nursery or creche) (1000m)	2700m
<b>Transport Facilities:</b>	Bus stop (500m)	450m
	Railway station (2000m where geographically possible)	N/A
	Public Right of Way (500m)	142m
	Any transport node (300m in town centre / 400m in urban area)	3000m

**Disclaimers:**

*The accessibility of the site other than where stated, is based on current conditions, any on-site provision of services/facilities or alterations to service/facility provision resulting from the development have not been taken into account.*

*\* Additional parameter to the North West Sustainability Checklist*

*Measurements are taken from the centre of the site*

<b>Rating</b>	<b>Description</b>
	Meets minimum standard
	Fails to meet minimum standard (Less than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m).

	Significant failure to meet minimum standard (Greater than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m).
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It is clear that the site fails many of the criteria set out in the North West Sustainability checklist with regard to accessibility. However, it should be noted that the use of the site for four residential units rather than a commercial unit would reduce the number of traffic movements to and from the site and therefore improving the sustainability of the site from this aspect. There are good links to Tarporley, Bunbury, Chester, Nantwich and Crewe by bus, (four bus stops are located within 500m of the site). Furthermore there are opportunities to include sustainable building methods into the building of the dwellings which could improve the overall sustainability of the site, but this would form part of the more detailed aspect of the development.

Paragraph 34 of the NPPF states that decisions should ensure that developments that generate travel movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. In order to access services, the future residents of the site could use sustainable transport modes given the proximity of the bus stop.

Paragraph 55 of the NPPF refers to the promotion of sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and Local Planning Authorities should avoid new isolated homes in the Countryside. The location of this proposal outside of the village suggests a more isolated location in the Countryside; however it is within the settlement of Tilstone Fearnall, and within a 3km walking distance of the villages of Tarporley and Bunbury and therefore could help to maintain the vitality of the surrounding rural communities.

### **Affordable Housing**

The site is located in the parish of Alpraham, which is a settlement with a population of less than 3,000.

The Interim Planning Statement: Affordable Housing states the following for Windfall Sites in settlements with populations of less than 3,000 –

*Monitoring has shown that in settlements of less than 3,000 population the majority of new housing has been delivered on sites of less than 15 dwellings. The Council will therefore negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 0.2 hectares or 3 dwellings or more in all settlements in the rural areas with a population of less than 3,000 population. The exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion for any site will normally be 30%. This proportion includes the provision of social rented and/or intermediate housing as appropriate.*

As the proposal on this site is for 4 dwellings there is a requirement that 30% of the units are provided as affordable housing. This equates to 1 dwelling.

Alpraham is located in the Bunbury sub-area for the Strategic Housing Market Assessment 2010 (SHMA), which identified a requirement for 6 new affordable homes per year between 2009/10 – 2013/14.

In addition, there are currently 12 applicants on Cheshire Homechoice, which is the choice

based lettings system for allocating social housing, who have selected Alpraham as their first choice. These applicants require 1 x 1 bed, 6 x 2 beds and 2 x 3 beds, and there are 3 applicants who have not stated how many bedrooms they need.

There will be delivery of affordable housing that will meet some of the need identified for Bunbury as there is currently a development of 10 affordable homes on site at Wyche Lane. However, there is a requirement for 30 affordable homes in the Bunbury sub-area between 2009/10 – 2013/14 so there is a shortfall of 20 affordable homes. There is also demand for affordable homes for rent in Alpraham, which can be seen from the information taken from Cheshire Homechoice.

The Strategic Housing Market Assessment also established that the preferred tenure split for affordable homes across Cheshire East is 65% social rent and 35% intermediate tenure.

As there is a requirement for only 1 affordable home at this site and therefore, it should be provided to meet the highest tenure preference which is social rent. Also as there is most demand for 2 bed homes for rent in Alpraham the affordable home should be provided as a 2 bed house.

The layout sketch with the application indicates that the size of the affordable dwelling is approximately 94m<sup>2</sup>. This would be quite large for an affordable home and well in excess of the size required for a 2 bed house to meet the Design and Quality Standards required by the Homes and Communities Agency. However, given that the application is submitted in outline, the could be addressed at reserved matters.

The Affordable Housing IPS states that no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided. This can be secured through a Section 106 Agreement. In addition the Section 106 will need to make provision for an obligation that such housing is transferred to and managed by an RSL as set out in the Housing Act 1996.

## **Appearance, Landscaping, Layout and Scale**

As the application is outline, the appearance, landscaping, layout and scale of development would be covered in detail within the Reserved Matters application. The general layout proposed is considered to be acceptable, and would provide for a mix of house types and sizes which would reflect the rural sporadic nature of development in this rural location.

This application is an amendment to a previous proposal for three detached dwellings on the site. It is considered that the increase in density is more suitable for the site and would achieve a better mix of housing tenure and design.

There is a significant amount of hardstanding on the site currently and a large portion of this would become garden land. It is considered that, with a suitable landscaping scheme, the use of the site as residential would improve the visual amenity of the land and the wider open countryside.

## **Amenity**

*Neighbouring amenity*

The nearest dwelling is over 80m away from the site. This is a significant distance from the site and therefore the proposal will have no impact on neighbouring amenity by means of overlooking or overbearing impact.

#### *Future Occupier amenity*

As the application is still at outline the position of windows etc has not been submitted with the application and the plan is only an indicative layout. However the plan appears to show that there will be a suitable amenity space available for each dwelling of over 50m<sup>2</sup> and each dwelling will be positioned so as to not impact on the privacy of another building.

#### **Highways**

As this application is in outline with all matters reserved the parking and access arrangements would be dealt with as part of a future detailed application. However, it is noted that the indicative plan shows the existing two accesses to the site utilised, with two properties being accessed off each shared drive way. It would appear that a suitable amount of parking equating to at least 200% will be available for each dwelling. The Strategic Highway Manager has no objections to the proposal and therefore it is considered unlikely that the proposal will have a significantly greater impact on highway safety over that which already exists.

#### **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 of Habitats and 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.

Local Plan Policy NE.9 (Protected Species) states that proposal for development will not be permitted which would have an adverse impact upon species specifically protected under Schedules 1, 5 or 8 of the wildlife and countryside Act 1981 (As amended) or their habitats.

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."

The NPPF 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.”

The NPPF 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 application site is situated adjacent to a large water body and would include the demolition of a building. A protected species survey has not been submitted with the application. However, the Council’s ecologist has assessed the application and has noted that he does not anticipate there being any significant ecological impacts associated with the proposed development, although he does recommend that a breeding bird safeguarding condition is attached to any permission.

### **Trees**

There are several large mature trees sited on the edge of the development site, within the highway verge, which may have some impact on the proposal. The plans submitted show no details of these trees and therefore it is not possible to determine how the proposal may impact on the trees.

A further plan has been requested from the agent to accurately show the position of the trees and their crown spreads so that it is possible to determine if four dwellings can be sited on the plot without having a detrimental impact on the existing tree coverage.

A further update will comment on the amended plan and comments from the landscape architect.

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

The application seeks outline planning permission for four dwellings within the Open Countryside. This proposal is considered to be contrary to Policy NE2 and RES 5 of the Crewe and Nantwich Local Plan and does not meet the requirements of RES 8.

However, the proposal should be considered in the context of the presumption in favour of sustainable development as required by the NPPF. Furthermore, the Council accepts that it cannot demonstrate a 5 year supply of deliverable housing land and as a consequence the housing supply policies of the plan must be considered to be out of date. It is considered that whilst the application site is not considered to be sustainable in terms of its location, the use of a Brownfield site for housing is more acceptable in sustainability terms than a Greenfield site. The application site does have good links with the local villages of Tarporley and Bunbury and would therefore help to maintain the vitality of these settlements. The proposal to demolish a vacant building of no particular architectural presence and which would appear there is no demand for, and replace it with four well designed dwellings, including one affordable dwelling, is considered to be a betterment to the site and therefore, it is considered that that this proposal would not conflict with policy objectives of the NPPF, and that the

benefits of granting permission would outweigh the adverse impacts. It is therefore considered that the principle of development is acceptable.

**Recommendation: APPROVE subject to the satisfactory completion of a S106 Agreement making;**

**Heads of terms;**

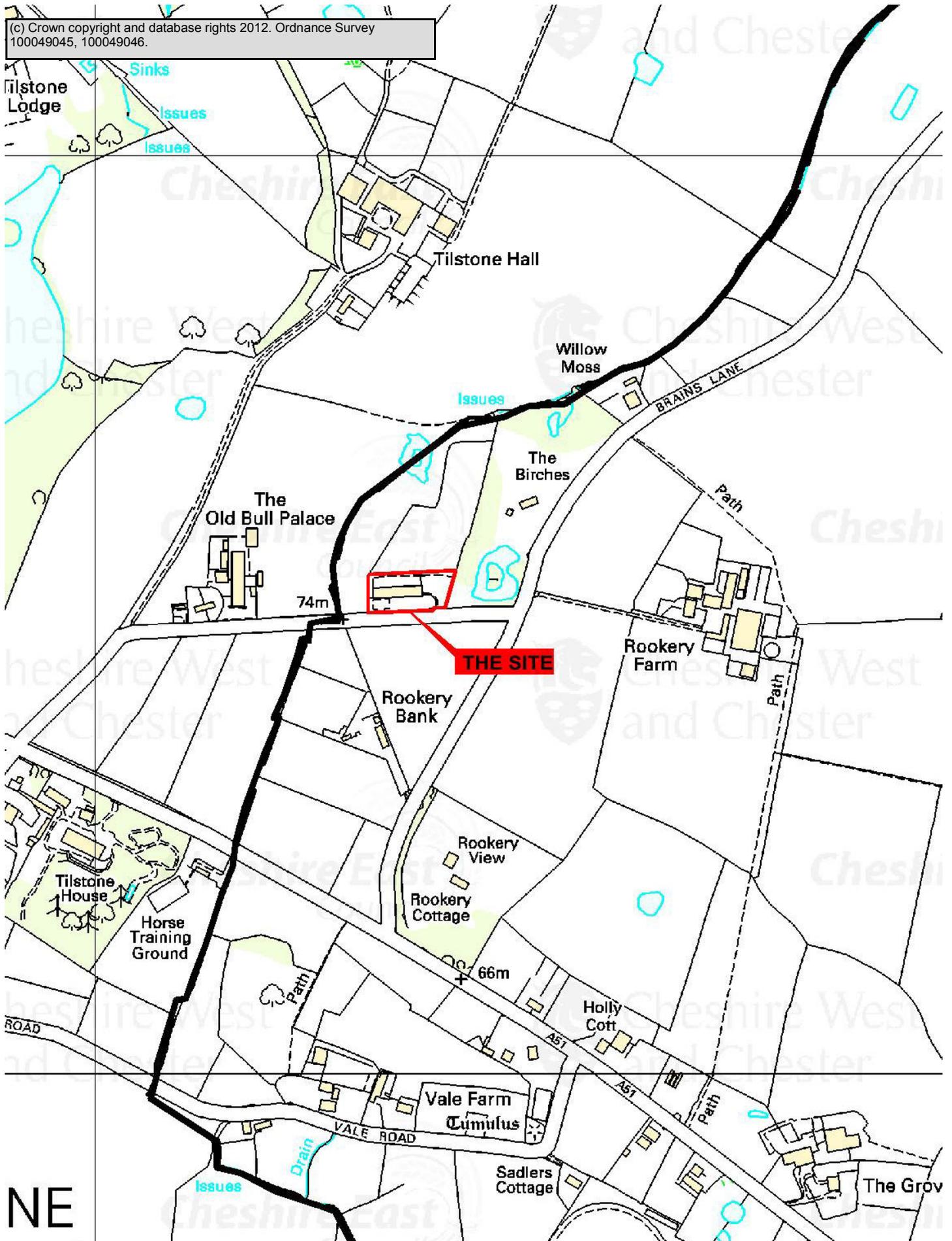
- **A provision of 30% affordable housing (1 unit) to be provided for affordable/social rent**
- **Provide before 50% completion**
- **Transfer to RSL**
- **Control of occupancy**

**Conditions;**

- 1. Outline Time**
- 2. Time for Reserved Matters**
- 3. Approval of Reserved Matters**
- 4. Two Storey Dwellings only**
- 5. No habitable windows to side facing elevations**
- 6. Hours of construction**
- 7. Landscaping plan**
- 8. Tree Protection**
- 9. Arboricultural method statement**
- 10. Breeding Birds survey**
- 11. Pile Driving hours**
- 12. Contaminated Land report**
- 13. Removal of PD**
- 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 Strategic Planning Board 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: 12/3902N  
Location: 2, CEDAR GROVE, NANTWICH, CW5 6GZ  
Proposal: PROPOSED DWELLING IN CURTILAGE OF BEECH HOUSE 2 CEDAR GROVE  
Applicant: MR & MRS W J GREEN  
Expiry Date: 05-Dec-2012

### **SUMMARY RECOMMENDATION**

**Approve with Conditions**

### **MAIN ISSUES**

- Principle of Development
- Design, Impact on the Character and Appearance of the Locality/Streetscene
- Impact on Amenity of adjacent properties
- Impact on Highway Safety and parking
- Impact on trees and landscaping
- Other Matters

### **1. REASON FOR REFERRAL**

This type of application would normally be dealt with under delegated powers; however Councillor Peter Groves has called the application in to Southern Planning Committee for the following reasons;

*It is alleged that the Application will have the following consequences :-*

- The development will harm the amenities of neighbouring properties (particularly 8-14 Gingerbread Lane and 3 Cedar Grove) by virtue of its size, density, overdevelopment of the site, and will be overbearing, thus not respecting or enhancing the surrounding area. The development will be at a higher elevation than the properties in Gingerbread Lane. Loss of existing views from neighbouring properties would adversely affect residential amenity of neighbouring owners.*
- The development will cause loss of visual amenity by virtue of overlooking my property and garden, exacerbated by the higher elevation of the site. My garden will be overshadowed, with a reduction of sunlight and daylight entering the garden, thus causing lack of light to vegetation and trees. This will prevent the use and enjoyment of this amenity space.*

- *The development will also ruin an unobstructed view from my property (from both ground and first floor) and particularly the loss of open space in terms of the view it creates.*
- *The development will exacerbate vehicular usage of Cedar Grove during construction and when completed. Construction presents potential hazards from noise, vibration, dust and movement of heavy machinery in a small residential cul de sac where children may be resident, and to the adjoining properties in Gingerbread Lane. There may be possible harm to existing trees in trying to fit the work into a restricted site. The development would probably result in loss of parking space for present residents of Cedar Grove and would increase on street parking in a narrow road.*
- *With reference to LPP (development of backland and gardens) 3.35. The garden does not appear to be proportional to the size of the dwelling, which garden should be at least 50m2*
- *Non enforcement by the Council of the 'Tree Replacement Notice' for number 2 Cedar Grove under Section 207 of the T & C Planning (Trees) Act, allowing time limit of four years to elapse.*

## **2. DESCRIPTION OF SITE AND CONTEXT**

The application site forms the side garden area of No.2 Cedar Grove, Nantwich. No.2 Cedar Grove is a detached dwelling with a moderately sized side and rear garden sited at the end of a cul-de-sac. The application site is surrounded by residential development on all sides, with a hedges and trees surrounding the site.

The land charge for the site shows a tree with a preservation order (TPO 016 (T15)). The tree was felled with permission in 2006 due to a decay issue and a replacement tree was required. The Tree Survey submitted with the application states that a replacement tree was planted however has subsequently died.

## **3. DETAILS OF PROPOSAL**

The proposal seeks outline planning permission with all matters reserved for one dwelling on the site. An indicative plan has been submitted with the application to show a two storey four bedroom house on the site with an integral garage.

## **4. RELEVANT HISTORY**

No relevant planning history

## **5. POLICIES**

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

## **Local Plan Policy**

NE.5 (Nature Conservation and Habitats)  
NE.9 (Protected Species)  
BE.1 (Amenity)  
BE.2 (Design Standards)  
BE.3 (Accessing and Parking)  
BE.4 (Drainage, Utilities and Resources)  
BE.5 (Infrastructure)  
BE.6 (Development on potentially contaminated land)  
TRAN.9 (Car Parking Standards)

## **Supplementary Planning Documents**

Local Development Framework - Development on Backland and Gardens Supplementary Planning Document (2008)

## **Other Material Considerations**

National Planning Policy Framework 2012

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

**Strategic Highways Manager** – None received at time of writing this report.

**Environmental Health** – No Objections subject to conditions for construction hours and an advisory note regarding contaminated land.

**United Utilities:** No Objections

**7. VIEWS OF THE TOWN COUNCIL** - No objection subject to no objection from the Highway Authority.

## **8. OTHER REPRESENTATIONS**

Letters of representation have been received from the occupants of 6 local residences. The main issues raised are;

- A replacement TPO should have been planted on the proposal site and has not. The time limit for enforcement has passed however a further tree should be planted,
- Unacceptable impact on neighbouring amenity by means of overlooking and overbearing impact
- Over development of the site
- Will block light and views of adjacent neighbouring dwellings
- Does not respect the or enhance the surrounding area
- The proposed garden area does not meet the 50m<sup>2</sup> requirements in the Development of Backland and Gardens SPD.
- Garden grabbing is not acceptable
- Gingerbread lane is on considerably lower ground than the proposal site

- Insufficient parking provision for a dwelling of this size,
- Unacceptable noise and hazard will be created by construction traffic
- The website states this is an Full Planning application however the application form states Outline Application
- Will reduce parking provision for no.3 Cedar Grove who currently use the land to the front of the application site for parking and have submitted an equitable easement to land registry

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

- Contaminated Land Report (Risk Assessment)
- Tree Report
- Design and Access Statement

## **10. OFFICER APPRAISAL**

### **Principle of Development**

The development site is situated within the Nantwich settlement boundary which allows for the development of sites within settlement boundaries for housing subject to the proposals satisfying a number of criteria. Consequently, this site, which is located within the settlement boundary, is considered to be suitable in principle for residential development, subject to compliance with Policy RES.2 (Unallocated Housing Sites) of the Local Plan. In order to fully accord with Policy RES.2 the development must also be in keeping with the requirements of policies BE.1 – BE.5, and the adopted SPD on Development on Backland and Gardens.

Paragraph 47 of the National Planning Policy Framework requires that there is a five year supply of housing plus a buffer of 5% to improve choice and competition. The SHLAA has put forward a figure of 3.94 years housing land supply and once the 5% buffer is added, the Borough has an identified deliverable housing supply of 3.75 years.

The NPPF clearly states at paragraph 49 that:

*“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision making means:

*“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:  
any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or  
specific policies in the Framework indicate development should be restricted.”*

Consequently, it is considered that the contribution to housing land supply and the above provisions of the NPPF, the proposal is therefore considered to be acceptable in principle and the application turns on whether any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits in terms of additional housing land supply.

The main issues in this instance are therefore whether the proposed scheme is of an acceptable design, does not result in any demonstrable harm on the amenity of nearby properties or future occupants, whether the site can be satisfactorily accessed with an appropriate level of parking provision.

### **Appearance, Landscaping, Layout and Scale**

As the application is outline, the appearance, landscaping, layout and scale of development would be covered in detail within the Reserved Matters application. The general layout proposed is considered acceptable as it loosely reflects the existing development on Cedar Grove. However, as flagged up at the pre-application stage the site is not capable of comfortably siting a four bedroom property with sufficient parking provision and amenity space. Therefore the dwelling as shown on the indicative plan is not acceptable. It is considered that a smaller three bedroom property without a garage would sit more comfortably within the plot. However, it is considered that the details could be conditioned and therefore would not constitute a reason for refusal.

Furthermore, a section of the hedge will be required to be removed to create the access point to the front of the site. Whilst it is considered unfortunate that this area of hedge would be lost, it is a fairly new specimen and is only of a limited value. The access would be in keeping with the adjacent streetscene and further landscaping would be required in the reserved matters application to mitigate this loss.

### **Amenity**

#### *Neighbouring amenity*

A key consideration of the development would be the impact it would have on neighbouring amenity.

The indicative layout suggests that the dwelling will be sited on a similar build line to No.2 Cedar Grove. There would be a separation distance of 2m between the side elevation of No.2 Cedar Grove and the proposal site. This would be a similar situation to the existing dwellings on the cul-de-sac. There is a ground floor secondary window on the side elevation of No.2 and no windows proposed on the side elevation of the proposal. It is therefore considered that with some suitable boundary treatment between the two dwellings the proposal would be acceptable.

The indicative layout shows the dwelling would have a separation distance of 23m between the rear elevation of the proposed dwelling and No.8 Gingerbread Lane, 30m to the rear of No.10, 32m to the rear of No.12, 27m to the rear of No.14 and 30m to the rear of No.16. The separation distances would exceed the 21m required between principal elevations and opposing principal windows as noted within the Development on Backlands and Gardens Supplementary Planning Document, and therefore it is accepted that a dwelling could be sited on the plot without having a significantly adverse impact on neighbouring amenity.

A separation distance of 17m would be achievable between the front elevation of the proposed dwelling and the front elevation of No.3 Cedar Grove. The opposing dwellinghouse has several principal windows on the front elevation of the dwelling, however the proposed dwelling would not directly overlook the principal elevation on No.3 as the plot is orientated at an angle to the existing dwellings on the opposing side of the road. It is considered that on that basis a reduced separation distance would not have a significantly detrimental impact on neighbouring amenity due to overlooking of principal windows. There would also be a separation distance of 18m between the front elevation of No.4 Cedar Grove, and the proposal site. Again, the dwellings do not directly overlook each other and therefore it is considered unlikely that the proposal would have a significantly detrimental impact on neighbouring amenity.

As the separation distances have been achieved to the sides and rear and a suitable distance is maintained to the front it is considered that the proposal would not have an overbearing or overlooking impact on neighbouring amenity and therefore the proposal is acceptable.

### *Occupier Amenity*

The Council's Development on Backland and Gardens SPD requires a minimum of 50m<sup>2</sup> private amenity space for new dwellings. The indicative plans show approximately 50m<sup>2</sup> of private amenity space to the rear of the dwelling however there are currently trees and hedges bounding the site which reduce this and given the proposal is for a four bedroom family house it is not considered that this would be suitable amenity space for a family dwelling. However, as noted above the plans are indicative and reducing the size of the dwelling would allow an increase in amenity space for the dwelling and therefore it is considered that a suitable amount of private amenity space could be achieved at the site through the details of a reserved matters application.

### **Impact on Trees and Landscaping**

There is a Beech hedge to the road frontage, and a Laurel hedge to the western boundary. There are two trees close to the western boundary; a young Sycamore off site and a mature Holly within the site.

The records show that a mature Beech tree on the site and protected by the Nantwich Rural District Council (Crewe Road/ Birchin Lane) TPO 1971 was removed in 2007 due to fungal decay and replacement planting was required by 12 March 2007. The submitted BS 5837 Tree Survey by Peter Jackson Developments Ltd dated June 2012 indicates that a replacement tree was planted but subsequently died. The time for enforcement of the replacement planting has lapsed and the LPA is not in a position to progress the matter further. Tree planting with an appropriate species could however, be required by under a landscape condition as part of the development and this would help to perpetuate tree cover in the vicinity.

The two existing unprotected trees and the hedges are therefore the only current vegetation to be considered as part of this application. The hedges are in good condition. The Sycamore is a young specimen of limited value. The Holly is a mature tree prominent to public view at the end of Cedar Grove. It appears to be in reasonable condition and retention would be desirable.

As an outline application with all matters reserved it is not possible to make a full assessment of the likely impact of the development on existing vegetation. Nevertheless, from the indicative site layout plan and plans within the tree survey report it appears that the following impacts would arise:

- A section of Beech hedge would have to be removed to allow access.
- Depending of the footprint of development there may be impact on the Laurel hedge.
- The off- site Sycamore tree should be unaffected.
- With appropriate protection and use of a no dig driveway construction it should be possible to retain the Holly tree.

It is therefore considered that with appropriate conditions, the proposal will not have a significantly detrimental impact on the existing vegetation in the area and a landscaping scheme could be implemented to mitigate for the loss of the TPO tree.

### **Impact on Highway Safety and Parking**

As the application is outline with all matters reserved the access and parking does not form a detailed part of the application. However, the plans show the access could be achieved to the front of the site in a similar way as No.3 Cedar Grove and with the reduction of the dwelling it is considered that two cars could be sited off street.

The Highway Authority comments are still outstanding and therefore will form part of an update report to the committee.

### **Other Matters**

Objectors in their letters of representation have stated that their open views will be restricted by the proposed development. This is not a material planning consideration, as nobody has the right to a view. The relevant material considerations with regards to this application have been fully addressed in the above report.

Within the letters of objection a neighbour notes that they currently use the turning area at the end of the cul-de-sac for parking and proposed dwelling will remove their ability to do this. The neighbour notes that they have given notice to land registry for an equitable easement to allow them to continue parking on the land. However this is a civil matter and landownership is not a material planning consideration.

## **11. CONCLUSIONS**

The application site is situated within the Nantwich settlement boundary and therefore the principle of development is acceptable. It is considered that there are no significant amenity or highway safety issues arising from the development. It is also considered that the proposed development, as conditioned, is acceptable in all other respects. The proposed development is therefore considered to be in compliance with BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Accessing and Parking), BE.4 (Drainage, Utilities and Resources), BE.5 (Infrastructure), BE.6 (Development on potentially contaminated land), RES.2 (Unallocated Housing sites), and TRAN.9 (Car Parking Standards) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

**12. RECOMMENDATIONS**

**APPROVE** subject to the following conditions

- 1. Outline Time**
- 2. Time for Reserved Matters**
- 3. Approval of Reserved Matters**
- 4. Two Storey Dwelling only**
- 5. No habitable windows to side facing elevations**
- 6. Hours of construction**
- 7. Landscaping plan to include replacement tree planting**
- 8. Tree Protection**
- 9. Arboricultural method statement**
- 10. Removal of PD**
- 11. Approved Plans**

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Application No: 12/4082C

Location: TALL ASH FARM TRIANGLE, BUXTON ROAD,  
CONGLETON, CHESHIRE, CW12 2DY

Proposal: Construction of three new residential dwellings (Resubmission of  
Application Reference 12/0106C)

Applicant: P, J & Ms M Hudson

Expiry Date: 19-Dec-2012

### SUMMARY RECOMMENDATION

Subject to the receipt of adequate Ecological and Tree surveys and a revised turning facility and no subsequent objection from the Council's Nature Conservation Officer and/or Forestry and Landscape Officer and/or Strategic Highways Manager, **APPROVE subject to conditions.**

In the event that the Ecological or Tree surveys or revised turning head are not received, are unsatisfactory, or the proposed mitigation measures are considered by the relevant consultees to be unsatisfactory, **REFUSE** on ecology and/or tree and/or Highway safety grounds.

#### MAIN ISSUES:

- Principle of the development
- Housing land supply
- The impact of the design and layout
- The impact upon neighbouring amenity
- Highway safety
- The impact upon a Public Right of Way
- The impact upon protected species
- The impact upon trees

### REASON FOR REFERRAL

The Cheshire East Council's Scheme of delegation advises that for '*applications involving a significant departure from policy which a Planning Committee is minded to approve*' should be referred to Strategic Planning Board for determination. As this development is for new dwellings in the Open Countryside, it does represent a departure from local plan policy. However, given that the proposal relates to just 3 units, because the site is largely enclosed by built development and falls just outside of the settlement boundary, it is not considered to be a **significant** departure. As such, the application has been referred to Southern Planning Committee as a departure from policy only.

### DESCRIPTION OF SITE AND CONTEXT

This application relates to a triangular shaped field on the southern side of Buxton Road (A54), Congleton within the Open Countryside.

## **DETAILS OF PROPOSAL**

Full Planning permission is sought for the erection of 3 detached dwellings.

## **RELEVANT HISTORY**

**12/0106C** - Construction of Three New Residential Dwellings – Withdrawn 15<sup>th</sup> February 2012

## **POLICIES**

### **National Policy**

National Planning Policy Framework (NPPF)

### **Local Plan Policy**

PS8 – Open Countryside

GR1 - General Criteria for Development

GR2 – Design

GR4 - Landscaping

GR6 - Amenity and Health

GR9 - Highways & Parking

GR16 – Footpath, Bridleway and Cycleway Networks

GR20 – Public Utilities

H1 & H2 - Provision of New Housing Development

H6 – Residential Development in the Open Countryside and the Green Belt

NR1 – Trees and Woodlands

NR2 – Wildlife and Nature Conservation (Statutory Sites)

### **Other Material Considerations**

Supplementary Planning Guidance (SPG) Note 2: Provision of Private Open Space in New Residential Developments.

The Cheshire East Council Interim Planning Policy on the release of Housing Land (2011).

Cheshire East Strategic Housing Land Availability Assessment (SHLAA) 2010.

Cheshire East 2010 Strategic Housing Market Assessment (SHMA).

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

**Strategic Highways Manager** – Seek a revised turning facility suitable to cover most deliveries.

**Environmental Health** – No objections subject to a number of conditions including; the prior submission of details of the site compound, hours of construction, pile foundation hours and method statement and a contaminated land informative.

**United Utilities** – No objection, subject to informatives

**Public Rights of Way** – No objections, subject to a condition regarding interference with the public right of way.

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

**Congleton Town Council** – No objections, subject to highways satisfaction

#### **OTHER REPRESENTATIONS:**

No comments received at time of report

#### **SUPPORTING INFORMATION:**

Planning Statement  
Design and Access Statement  
Sustainability Statement  
Access arrangements & associated technical note  
Environmental Survey  
Land contamination questionnaire  
Utilities / drainage maps

#### **OFFICER APPRAISAL**

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

The site is designated as being within the Open Countryside where Policy PS8 (Open Countryside) of the Local Plan states that development will only be permitted if it falls within one of a number of categories including; Agriculture and Forestry, Facilities for outdoor sport, recreation, tourism and other uses which preserve the openness of the open countryside and maintain or enhance its local character, new dwellings in accordance with Policy H6, controlled infilling in accordance with Policy H6, affordable housing in compliance with Policy H14, development for employment purposes, the re-use of rural buildings or the re-use or redevelopment of existing employment sites.

The proposed development is for the erection of 3 new detached dwellings and as such, is subject to Policy H6 as per above. Policy H6 of the Local Plan advises that residential development within the open countryside will not be permitted unless it falls within one of the following categories; an agricultural workers dwelling, the replacement of an existing dwelling, the conversion of a rural building, the change of use or redevelopment of an existing employment site, limited infill for those settlements identified in Policy PS6 or affordable housing.

As the proposal fails to fall into any of these categories, the development is deemed to be contrary to the Local Plan. Sec.38 (6) of the Planning and Compulsory Purchase Act 2004 states that planning applications and appeals must be determined "*in accordance with the plan unless material considerations indicate otherwise*". Accordingly the previous application for development of this site (12/0106C) was refused.

Since, the determination of this application, the National Planning Policy Framework (NPPF) has been published, which is an important, new, material consideration.

Paragraph 49 of the NPPF advises that '*Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply to deliverable housing sites.*'

Given that Cheshire East Council cannot currently demonstrate a five-year supply of deliverable housing sites, the relevant policies in the Local Plan cannot be considered up-to-date, and as such the original determination that the application was contrary to Policy H6 and therefore PS8 no longer apply.

Paragraph 14 of the Local Plan advises that for decision making, the presumption in favour of sustainable development means '*Where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless...specific policies in this Framework indicate development should be restricted.*'

Paragraph 55 of the NPPF refers in new housing development in the countryside. Paragraph 55 advises that '*To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality or rural communities...Local planning authorities should avoid new isolated homes in the countryside...*'

As such, the Framework restricts new housing in the countryside if it is deemed to be isolated. As a result, the acceptability in principle, of this application turns on whether the proposed development site is considered to be isolated or unsustainable.

On page 6 of the applicants Sustainability Statement, it has been advised that the North West Development Agency accessibility toolkit has been used which advises the desired distances to local amenities. It is advised that the site lies within the recommended distances for: A Post Office, Cash Point, Primary School, Leisure Facilities, Public House and Bus Stop. It is also advised that a '*...medical centre, pharmacy, public car park and childcare facilities are available in Congleton Town Centre and therefore can be easily reached via the bus route from Buxton Road.*' It is further pointed out that a larger housing scheme further away from these facilities has not long gained approval (08/1317/OUT and 11/0471C). The Sustainability report also details the Social, Environmental and Economic benefits of the proposal, the 3 pillars of sustainability, under the NPPF.

With regards to Social benefits, page 7 of the Sustainability Report advises that the development site is within close proximity to a canal and the countryside which brings aesthetic and leisure benefits. Furthermore, it is advised that the development would sustain local businesses, community facilities and public services.

In terms of Environmental benefits, it is advised on page 8 of the Sustainability Report that due to the location of the site, and its transport links, it would promote the reduction of use of

the private car. It is advised that the dwellings themselves '*...promote and encourage energy efficiency by providing well insulated, double-glazed housing...*' Furthermore that '*Where possible, natural resources will be used in the design, prudently sourced and where achievable, materials will be sourced locally, reducing the carbon footprint of transportation...*'

With regards to biodiversity, the applicant proposes to retain the existing trees where possible and provide new trees where retention is not possible.

Economically, it is advised that the increased population the development would bring would boost the 'vitality and viability' of both Buglawton and Congleton.

Although this proposal is located on a site classed as 'Open Countryside', it is contrary to Policy PS8 of the Local Plan. However, given that the NPPF places greater emphasis on sustainability above all other matters, which it is considered that this site would be, the development is considered to be acceptable in principle.

### **Amenity**

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

Supplementary Planning Document 2 (Private Open Space) sets out the separation distances that should be maintained between dwellings and the amount of usable residential amenity space that should be provided for new dwellings.

Having regard to this proposal, the residential amenity space provided for the new dwellings would be satisfactory.

The three neighbouring properties to the development site are No.106 Buxton Road, which would be approximately 11.8 metres to the southwest of House No.3, No.93 Buxton Road, which would be approximately 24 metres to the northwest of House No.3 and No.110 Buxton Road which would be approximately 13.8 metres to the east of House No.1.

With regard to the impact upon No.106 Buxton Road, on the side elevation of House No.3, which would be the closest house to this neighbour, there is a ground floor door to a dining room and a first floor bathroom window proposed. Between House No.3 and this neighbour at present is a conifer hedge that is approximately 2 metres tall. On the relevant side elevation of No.106 Buxton Road is small a secondary window to a lounge. Due to the 11.8 metre separation distance, the existing boundary treatment and because the only window that would be impacted on this neighbouring property would be a secondary lounge window, it is not considered that the ground floor door would create any issues for this neighbour in terms of privacy. In order to prevent any overlooking into this neighbour's private amenity space, it is proposed that the first floor bathroom window be obscurely glazed, secured via condition, should the application be approved. With reference to loss of light, because this neighbour is positioned to the southwest of the closest proposed dwelling, it is not considered that any loss of light would be created to this side. In relation to visual intrusion, because the only window on the relevant side elevation of No.106 Buxton Road would be a secondary lounge window, which

would be over 11 metres from the development and would be screened by an existing conifer hedge, it is not considered that the proposal would be visually intrusive for this neighbour.

With regards to the impact upon No.93 Buxton Road, because the closest proposed unit to this neighbour would be approximately 24 metres away, it is not considered that any amenity issues would be created to this side.

With regards to the impact upon No.110 Buxton Road, on the side elevation of House No.1, which would be the closest house to this neighbour, there is 1 ground window proposed. This window would serve as a secondary sitting room window.

Between House No.1 and this neighbour at present is a hedge and fence approximately 1.2 metres tall. On the relevant elevation (principal elevation) of No.110 Buxton Road are 7 openings. These include 2 first floor windows, 4 ground floor windows and a door. One first floor window serves a bathroom, whereas the other window is a secondary bedroom window. At ground floor level, there is a workshop window, a utility room window, a W.C window, a front door and a dining room window. It is advised within SPG2 that between a flank elevation and a main window, a gap of 13.8 metres should be achieved. This gap is achieved in this instance; furthermore, the most impacted windows on this neighbouring dwelling, the windows that would directly face the flank elevation of House No.1, currently serve a workshop, a utility room and a bathroom, all of which are not considered to be principal habitable rooms. As such, it is not considered that the development would create any issues for this neighbour in terms of loss of privacy or visual intrusion. With regards to loss of light, because the closest dwelling would be to the west of this neighbour, there is potential for a loss of light to be created to this side towards the end of each day. However, the main habitable windows to the property would be to the southeast of House No.1 and as such, would not be impacted. As a result, it is considered that the proposal would not detrimentally impact this neighbour by reason of loss of light.

There would be no other amenity issues created to any other sides.

In order to protect the amenities of the closest neighbours to the proposal, Environmental Health have proposed a number of conditions including; the prior submission of details of the site compound, hours of construction, pile foundation hours and method statement and a contaminated land informative. Subject to these conditions, it is considered that the development would adhere with Policy GR6 of the Local Plan.

## **Design and Layout**

The proposal is for 3 detached, two-storey, 4-bedroom dwellings which would all front onto Buxton Road.

- House 1 would be positioned approximately 20 metres to the south of Buxton Road and would have a footprint of approximately 93 metres squared and would have a hipped roof approximately 8.1 metres in height.
- House 2 would be positioned approximately 17 metres to the south of Buxton Road, would have a footprint of approximately 103 metres squared and would have a part dual-pitched / part catslide roof approximately 7.8 metres in height.

- House 3 would be positioned approximately 7 metres to the south of Buxton Road, would have a footprint of approximately 95 metres squared and would have a dual-pitched roof approximately 7.7 metres in height.

With regards to the scale of the surrounding units, No.106 Buxton Road has a footprint of approximately 95 metres squared, No.93 Buxton Road has a footprint of approximately 76 metres squared and No.110 Buxton Road has a footprint of approximately 124 metres squared. Therefore the range of footprint of the surrounding units is from 76 metres squared to 124 metres squared. A footprint range that all 3 of the proposed units would fall within and as such, the scale of the dwellings is deemed to be acceptable.

All 3 units have a height of 8.1 metres or below. Planning history searches show that No.106 Buxton Road to the west of the site has a height of 9.5 metres and No.110 Buxton Road has a height of approximately 7.5-8 metres. No.93 Buxton road, across the road from the site is a two-storey property located in an elevated position and No.97 Buxton Road is a split level bungalow. As such, considering this variation in heights in surrounding properties, the heights of the dwellings proposed are considered to be acceptable.

In relation to materials, the specifics of these have not been detailed and as such, should the application be approved, it is recommended that a condition be added to the decision notice requesting that materials be submitted for subsequent approval.

Subject to suitable materials being secured by condition, the proposed layout and design of the development is considered to be in compliance with Policy GR2.

### **Highways and Parking**

The proposed dwellings would be accessed via a newly created access to the site onto Buxton Road (A54). As part of the original submission, two new access options were suggested within the application and the Council's Highway Department had advised that option 1 would be preferable from a highway safety perspective subject to a section 278 agreement being entered into with Cheshire East Council. This proposal has been suggested again for this application.

The Strategic Highways Manager has advised that at present, the proposed turning facility is not satisfactory and the access shows very tight entry and exit radii. As such, a turning facility and a revised access is sought. The applicant has been advised and is intending to submit a revised plan. A further update on this issue will be provided prior to committee

With regards to parking, each plot would be provided with 3 parking spaces which are sufficient.

Therefore, subject to receipt of acceptable, revised plans, the development is deemed to be acceptable and would adhere with Policy GR9 of the Local Plan.

### **Landscaping and Trees**

The Council's Landscape Officer has advised that there is currently insufficient information to determine the application. As such, the following information has been requested;

1. Topographical Survey

2. Soil Assessment
3. Tree Survey
4. Tree Categorisation
5. Tree Constraints and Root Protection Areas identified to influence design
6. Arboricultural Impact Assessment including draft tree protection plan and (BS5837:2012 para 5.4.3 provides all the details)
7. Issues to be addressed by the Arboricultural Method Statement

As such, the impact of the proposal upon trees is subject to the receipt and acceptability of this information. If the submitted information is acceptable, or acceptable subject to conditions, it is considered that the development would adhere with Policy NR1 of the Local Plan. A further update will be provided to Members on this issue prior to the committee meeting.

### **Ecology**

The Council's Nature Conservation Officer advised that in order to fully assess the ecological impacts of this development, the applicant should provide the following prior to the determination of the application;

- Extended Phase 1 Habitat Survey
- Desk based study
- Great Crested Newt survey/assessment
- Mitigation Proposals
- Proposals for ecological enhancement

As such, the acceptability of this proposal upon protected species is subject to the receipt and acceptability of this information. If the submitted information is acceptable, or acceptable subject to conditions, it is considered that the development would adhere with Policy NR2 of the Local Plan. A further update will be provided to Members on this issue prior to the committee meeting.

### **Right of Way**

The Council's Public Rights of Way (PROW) Officer originally objected to the application due to a lack of information. This additional information was subsequently submitted and was deemed to be acceptable by this consultee subject to a condition regarding the developer's obligations. It is recommended that this be added as an informative. As such, subject to this informative, it is considered that the development would adhere with Policy GR16 of the Local Plan.

### **CONCLUSIONS**

In conclusion, therefore although the development is contrary to the Congleton Borough Local Plan First Review 2005 Policies PS8 (Open Countryside) and H6 (Residential Development in the Open Countryside and the Green Belt), it adheres with the NPPF.

Whilst the proposal represents a departure from the development plan, there are 'other material considerations' which would outweigh the proposals non-compliance with relevant local plan policies.

It is considered that the proposed development is of a suitable design, located in a sustainable location which would not have a detrimental impact upon neighbouring amenity, highway safety or protected species. As such, the proposed development adheres with the following policies within the Congleton Borough Local Plan First Review 2005: GR1 (General Criteria for Development), GR2 (Design), GR4 (Landscaping), GR6 (Amenity and Health), GR9 (Highways & Parking), GR16 (Footpath, Bridleway and Cycleway Networks), GR20 (Public Utilities) and NR2 (Wildlife and Nature Conservation (Statutory Sites)).

**RECOMMENDATION:**

**Subject to the receipt of adequate Ecological and Tree surveys and a revised turning facility and no subsequent objection from the Council's Nature Conservation Officer and/or Forestry and Landscape Officer and/or Strategic Highways Manager, APPROVE subject to conditions.**

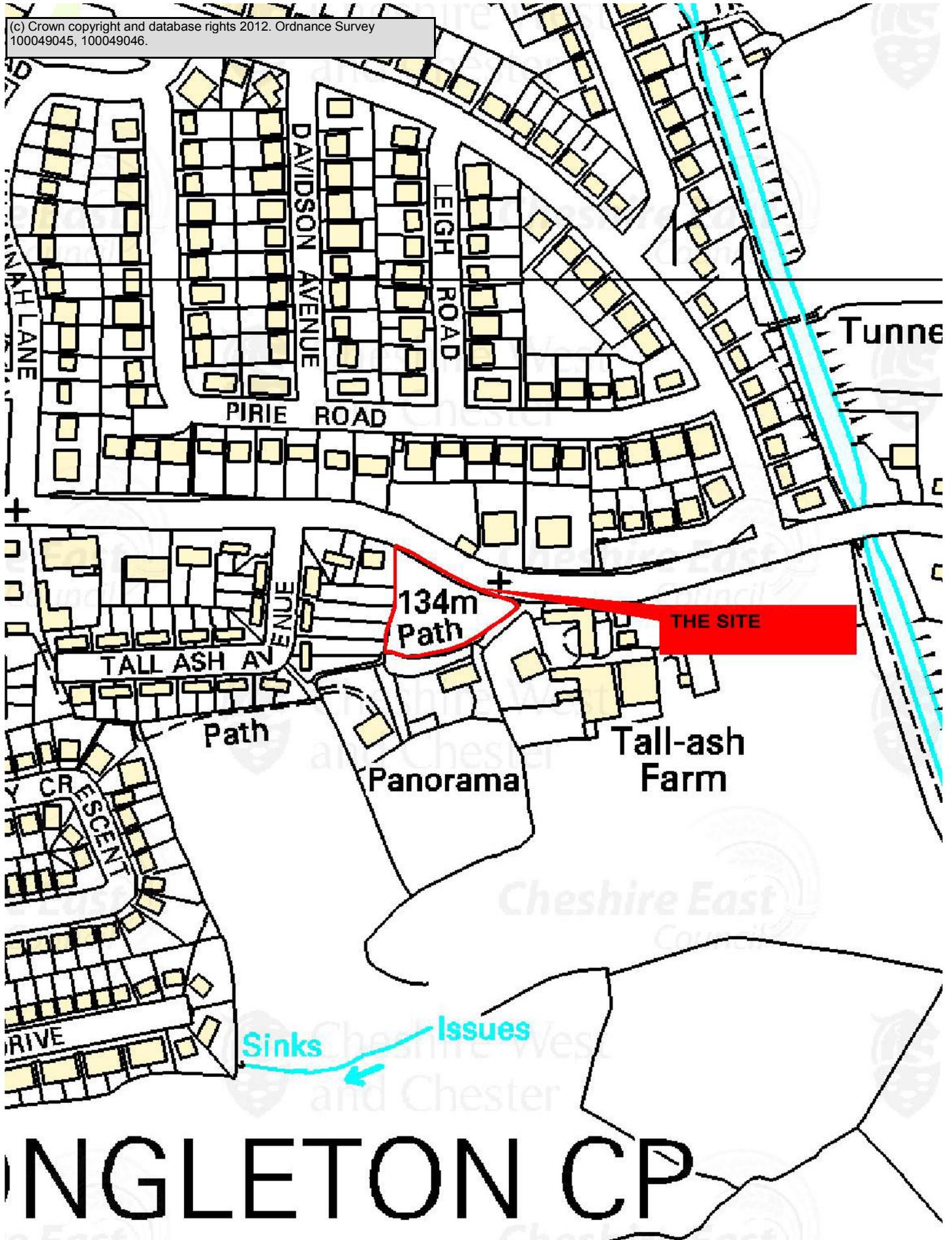
1. Time (Standard)
2. Plans
3. Materials
4. Hours of construction
5. Hours of piling
6. Piling method statement
7. Prior submission and approval of site compound position
8. Landscaping (details)
9. Landscaping (Implementation)
10. Boundary treatment
11. Obscure glazing (House 3 – First Floor bathroom window on western elevation)
12. Construction management plan
13. Drainage

**In the event that the Ecological or Tree surveys or revised high are not received, are unsatisfactory, or the proposed mitigation measures are considered by the relevant consultees to be unsatisfactory, REFUSE for the following reason/s:**

1. In the opinion of the Local Planning Authority, the site is likely to provide a suitable habitat for protected species and the applicant has failed to demonstrate that the proposed development would not adversely affect the favourable conservation status of such species. The proposal is therefore contrary to the provisions of Policy NR2 of the Congleton Borough Local Plan First Review 2005 and the NPPF.
2. In the opinion of the Local Planning Authority, the submission does not adequately consider the presence of the trees or their potential influence on the proposed development. The proposal is therefore contrary to the provisions of Policy NR1 of the Congleton Borough Local Plan First Review 2005 and the NPPF.
3. In the opinion of the Local Planning Authority, the submission does not adequately meet the requirements of highway safety. No turning facility is to be provided and the access shows very tight entry and exist radii. These

**issues combined create highway safety concerns and would therefore be contrary to Policy GR9 of the Congleton Local Plan First Review 2005 and the NPPF.**

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Application No: 12/4087N

Location: T I MIDWOOD & CO, GREEN LANE, WARDLE, CHESHIRE, CW5 6BJ

Proposal: The erection of a replacement storage and distribution unit, including details of access, appearance, layout and scale (details of landscaping reserved for subsequent approval), following the demolition of the existing building on the site.

Applicant: T I Midwood and Co Ltd

Expiry Date: 19-Dec-2012

**SUMMARY RECOMMENDATION:** Approve subject to conditions

**MAIN ISSUES:**

- Key Issues;
- Policy Position;
- Employment Site;
- Design;
- Amenity;
- Drainage;
- Contaminated Land; and
- Highways

**REFERRAL**

This application is to be determined by the Southern Planning Committee as the floor area of the proposed building exceeds 1000sqm.

**DESCRIPTION OF SITE AND CONTEXT**

The site lies outside a defined settlement boundary and is therefore classed as open countryside for planning policy purposes. The application site currently comprises an existing warehouse, which will be demolished in order to make way for the proposal. Located immediately to north is another warehouse and office block and to the south is a smaller office block. The applicants business supplies screws and fixings to the construction industry. Adjacent to the applicants property are a number of disused former aircraft hangers used during WWII. In addition, to the aircraft hangers the application site is flanked on both sides by other industrial buildings. To the south of the site is Green Lane, which provides access both to the applicant's site and a number of other commercial premises including a skip hire company and a timber yard.

**DETAILS OF PROPOSAL**

This is an outline application but the only matter which is reserved for future consideration is landscaping. Therefore the application will consider access, appearance, layout and scale. The proposal is for the erection of a replacement storage and distribution unit at T I Midwood & Co., Green Lane, Wardle.

## **RELEVANT HISTORY**

09/3543N - Proposed Internal Layout Changes, Revised Elevations and Parking Layout to the Storage Unit with Internal Office Space and Service Area – Approved – 23<sup>rd</sup> December 2009

P08/0318 - Erection of a New Storage Unit with Internal Office Space and Servicing Area as an Extension to the Existing Buildings – Approved – 21<sup>st</sup> July 2008

P01/0055 - Single Storey Office Extension and Conservatory/Covered Walkway – Approved – 21<sup>st</sup> March 2001

P92/0161 – Single Storey Office Extension – Approved – 21<sup>st</sup> May 1992

P93/0147 – Storage Warehouse – Approved – 15<sup>th</sup> April 1993

7/15960 – Proposed Offices – Approved – 13<sup>th</sup> September 1988

## **POLICIES**

### **National Policy**

National Planning Policy Framework

### **Local Policy**

NE.2 (Open Countryside);

NE.5 (Nature Conservation and Habitats)

NE.9 (Protected Species)

NE.17 (Pollution Control)

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)

E.4 (Development on Existing Employment Areas)

E.6 (Employment Development within Open Countryside)

TRAN.1 (Public Transport)

TRAN.3 (Pedestrians)

TRAN.5 (Provision for Cyclists)

TRAN.9 (Car Parking Standards)

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

**Environmental Health:** No objection subject to conditions relating to external lighting and acoustic attenuation.

**Contaminated Land:** No objection subject to a contaminated land condition.

## **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  
Supporting Statement

## **OFFICER APPRAISAL**

### **Key Issues**

The main consideration is whether the proposal is appropriately designed and of a scale to not have a detrimental impact on the open countryside, of amenity of nearby residents, highway safety, protected species or any other material consideration.

### **Policy Position**

The proposal is located within the Open Countryside and will be assessed against Policy NE.2 (Open Countryside) which restricts development other than that required for agriculture, forestry, outdoor recreation or other uses appropriate to the rural area.

Policy E.6 (Employment Development within Open Countryside) allows for 'small scale' employment development in rural areas in order to diversify the rural economy. It is noted that the floor area of the proposed building measures approximately 1590sqm. However, the proposed building is replacing an existing warehouse whose floor area measures approximately 1537sqm. According to the applicants Design and Access Statement the current warehouse is not fit for purpose and is in a poor condition.

Whilst, Policy E.6 of the Local Plan (Employment Development within the Open Countryside) restricts employment development to 'small scale' employment development in rural areas in order to diversify the rural economy. It is considered that given the proposed building is more or less a like for like replacement the proposal is not contrary to advice advocated within Policy E.6 (Employment Development within the Open Countryside).

Furthermore, according to the NPPF:

'The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system' (para 19).

The guidance goes on to state that:

‘To help achieve economic growth, local planning should plan proactively to meet the development needs of business and support an economy fit for the 21st Century’.

In relation to supporting a prosperous rural economy:

‘planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development’.

The NPPF still sets its face against the development of new greenfield industrial developments in rural areas, and brownfield sites should be used in the first instance. The application site is a brownfield piece of land. The National Planning Policy Framework is more up to date than the Local Plan which does not have specific policies with regards to large scale developments of this type and size within the Open Countryside. Therefore, it is considered that the proposal is in accordance with advice advocated in the NPPF.

The National Planning Policy Framework also promotes sustainable modes of transport. Transport policies have an important role to play in facilitating sustainable development, but also in contributing to wider sustainability and health objectives. The NPPF goes on to state that smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel.

In practical terms, this means that new industrial development should be located where the number of vehicle journeys generated is minimised. This means that an employment site should be accessible by a realistic choice of transport, walking and cycling. However, the NPPF recognises that this aim may not be wholly achievable in rural areas. It specifically states:

*‘The Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas’.*

### **Employment Site**

The approved use of the site is currently as a storage and distribution centre. Therefore considered to be in “employment use” and must therefore be considered in relation to Policy E7 of the Local Plan, which deals with loss of existing employment sites. However, given that the proposed use will maintain the current level of employment (35) and the applicant hopes that in the near future additional jobs will be created, it is not considered that there would be any conflict with Policy E7.

### **Design**

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 the National Planning Policy Framework 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 specifically states *'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'*. (Para 64). It is considered that this proposal does not detract from the character and appearance of the area and is accordance with advice stated within NPPF.

According to the applicants Design and Access Statement the proposed layout of the application site has been principally influenced by the design constraints imposed by the road infrastructure, site boundary conditions and neighbouring land uses. According to the submitted plans the footprint of the proposed warehouse is roughly rectangular in shape and measures approximately 53m wide by 30m deep, which equates to a floor area 1590msq. The building is approximately 7.5m high to the eaves and 10m high to the highest part of the roof. The proposed warehouse will be located on a similar footprint to the warehouse which will be demolished. The ridge of the proposed warehouse will run parallel to the ridge of the remaining warehouses and office block. The proposed warehouse is approximately 2m lower than the existing office block, which is located to the north of the application site.

The proposed warehouse will be constructed out of plastic coated steel sheets under a steel portal frame building, which will be secured by condition, in the event that planning permission is approved. Located on the eastern elevation is a large roller shutter door and a personnel door on the western elevation. It is considered that the apertures are in keeping with the host property and will not appear as alien or incongruous features. Internally the building will be used as a warehouse.

As described above the proposed warehouse building would be more closely related to the adjacent industrial development to the west and east. The existing commercial development features large manufacture and storage buildings which are of utilitarian appearance and therefore the proposed warehouse development would not appear unduly conspicuous against this backdrop and the proposal is in accordance with policy BE.2 (Design Standards).

## **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
- does not cause an increase in air, noise, water pollution

which might have an adverse impact on the use of land for other purposes.

It is considered that the redevelopment of the site for industrial purposes is considered to be compatible with the surrounding land uses. The proposal is unlikely to result in noise, air or water pollution. However, a principle consideration in determining this application is its effect upon the amenity of adjacent occupants and in this respect Policy BE.1 requires that development does not have a prejudicial impact on the amenity of occupiers in an adjacent property.

The nearest residential property is approximately 500m away and it is considered given the intervening buildings and vegetation and the separation distances will help to mitigate any negative externalities. Overall, the proposal will not prejudice the amenity of occupiers of adjacent properties by reason of noise and disturbance, visual intrusion, overlooking or over shadowing, and appropriate boundary treatment will help to mitigate any negative externalities caused by the proposed development.

### **Drainage**

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.

The NPPF 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.

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 sufficiently 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.

### **Contaminated Land**

Although a warehouse is not a sensitive end use, there is potential for contamination on the land given the historic use of the site. It is suggested that a Phase I Contaminated Land survey be carried out in line with the advice contained in NPPF. This can be secured by condition.

### **Highways**

The response from the Highways Officer has not been received at the time of writing this application. Members will be informed via the update report once comments from Highways have been received.

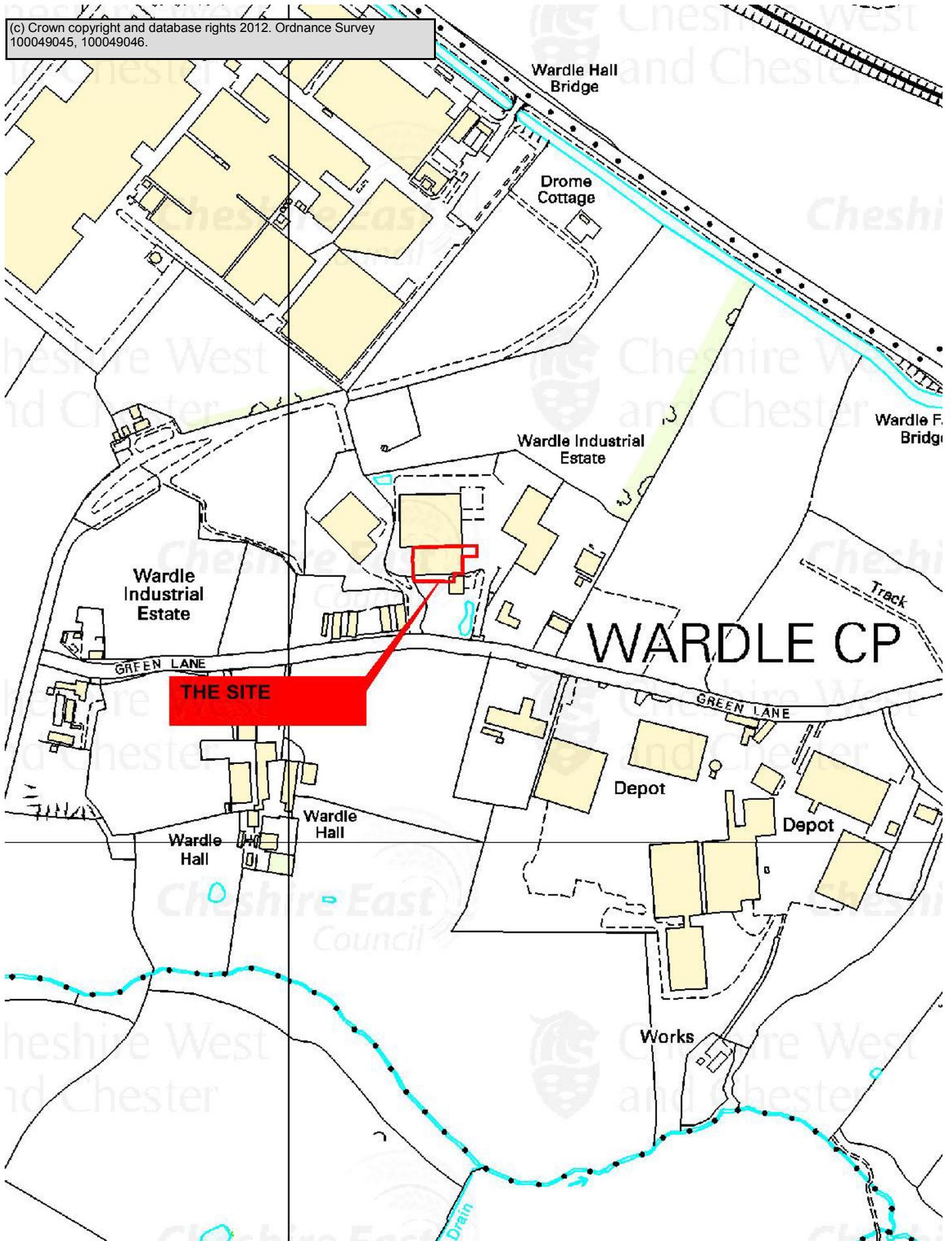
### **CONCLUSIONS AND REASON(S) FOR THE DECISION**

It is considered having regard to the pattern of existing development in the area and other material considerations, it is concluded that the proposed development would be in accordance with policies E.4 (Development on Existing Employment Areas), E.6 (Employment Development within the Open Countryside), E.7 (Existing Employment Sites) BE.1 (Amenity), BE.2 (Design), BE.3 (Access and Parking) and TRAN.9 (Car Parking Standards) 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.

**Approve subject to conditions:**

- 1. Standard Time Limit**
- 2. Plan References**
- 3. Materials**
- 4. Drainage**
- 5. Landscaping Submitted**
- 6. Landscaping Implemented**
- 7. Car parking and turning areas to be made available prior to the first occupation of the building**
- 8. No External Storage**
- 9. Travel Plan**
- 10. External Lighting**
- 11. Surfacing Materials**
- 12. Acoustic Attenuation**
- 13. Contaminated Land**

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Application No: 12/4107N

Location: FORMER SITE OF EARL OF CREWE HOTEL, NANTWICH ROAD, CREWE, CHESHIRE, CW2 6BP

Proposal: Construction of new Foodstore with associated car parking, servicing facilities and landscaping.

Applicant: C/O Agent, Aldi Stores Ltd

Expiry Date: 24-Jan-2013

**SUMMARY RECOMMENDATION:**

- **APPROVE** subject to conditions.

**MAIN ISSUES:**

- **The acceptability of the development in principle.**
- **Locally Listed Building**
- **Layout, design and street scene**
- **Sustainability,**
- **Impact on neighbour amenity**
- **Landscape and Ecology**
- **Crime and Disorder**
- **Public Consultation**
- **Highway Considerations**
- **Drainage and flood risk,**

**1. REASON FOR REFERRAL**

The application has been referred to committee because it is a commercial building of over 1000 square metres in floor area.

**2. DESCRIPTION OF SITE AND CONTEXT**

The site of the proposed development lies on the south side of Nantwich Road and comprises land formerly occupied by the Earl of Crewe public house, a “pay and display” car park, a range of outbuildings and vacant land formerly occupied by garaging.

The Earl of Crewe was an imposing Victorian building which fronts on to Nantwich Road and has a sizeable mature garden between its east flank and a frontage to Sherwin Street. Within the car park there is a two storey range of outbuildings, which are boarded up and an attached single storey range formerly used a lock up garages. The public house was included on the local list of buildings of historic and architectural interest.

Land uses along Nantwich Road in the vicinity of the site are predominantly commercial, with a mix of shops, financial and professional services, hot food takeaways, restaurants, cafes and public houses. Once away from the main road the area is almost entirely residential.

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

Members may recall that on 22 March 2012 Southern Planning Committee granted full planning permission for the demolition of all the buildings within the site and the construction of a food store of 960sq.m sales area and 1,348sq.m gross internal area at ground floor level. Customer car parking was to be located to the western and southern parts of the site and a total of 85 spaces will be provided. 4no. DDA compliant spaces, 2 no. parent and child spaces along with cycle parking facilities for customers and staff were also to be provided. Servicing facilities and plant would be located to the southern elevation of the store.

This is a revised application which seeks to alter the layout and footprint of the approved store. Rather than the store being constructed so that the main length of the building fronts Nantwich Road, the proposal is to turn the building through 90deg so that its front elevation faces Nantwich Road. The long blank elevation of the building would therefore front Sherwin Street.

The proposed store would have a gross floor area of 1592 square metres (17,137 sq ft) and a net sales area of 1125 square metres (12,109 sq ft). The gross external floor area of the building has therefore been increased slightly from the previously approved scheme by 185 square metres (1,991 square feet), whilst the net sales area has increased by 165 square metres (1,776 sq ft). As the building is to be sited parallel with Sherwin Street, servicing and car parking would be provided to the side and rear. There are a total of 75 spaces being proposed including 4 spaces for mobility impaired users and 10 parent and child spaces, together with cycle storage facilities.

Vehicular access is again to be taken from the western corner of the site onto Nantwich Road. This new access will also accommodate service vehicles with manoeuvring space incorporated within the development to facilitate access to the loading/back up area to the rear of the building.

The building is to be constructed primarily from brickwork, with contrasting courses, together with areas of glazing and steel under a pitched tiled roof and is similar in style to the previously approved store.

### **4. RELEVANT HISTORY**

P06/0868	Erection of eight terraced properties and conversion of outbuildings to three dwellings – Withdrawn
P06/1282	Erection of 7 two storey terraced properties and the conversion of barns to three residential properties. – Approved 12 <sup>th</sup> February 2007
09/1304N	Demolition of existing building and construction of new foodstore with associated parking – Withdrawn
09/4043N	Demolition of existing building and construction of new foodstore with associated parking –Refused 18 <sup>th</sup> February 2010.
11/4149N	Demolition of existing buildings and construction of new foodstore with associated car parking and servicing facilities – Approved 22 March 2012
12/1829N	Variation of Conditions 3 and 7 on Planning Application 11/4149N Relating to Opening and Delivery Hours – Approved 2 <sup>nd</sup> August 2012

## 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)  
S.10 (Major Shopping Proposals)  
S.9 (Nantwich Road)

### **National policy**

National Planning Policy Framework

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

### **Highways Authority**

This application seeks a modification to approval 11/4149 and involves the reorientation of the building and an increase in Gross Floor Area of approximately 12%. An overall total of 75 parking spaces is to be provided (previously 85), as well as covered cycle parking. Vehicular access will be taken from Nantwich Road, which is subject to a 20mph speed limit and has advisory cycle lanes.

The applicants include a Transport Assessment with their application which predicts that many trips will be 'pass-by' rather than additional to Nantwich Road, and the impact on traffic conditions will not be significant. Highways concur with these conclusions.

To prevent anti-social usage at periods when the store is closed, access to the car park is to be controlled by rising bollards. The location, and the general form of the entrance, are not unacceptable but are capable of improvement.

The extent of parking to be provided, whilst reduced from the previous approved scheme, is sufficient for the store itself, based on trip arrival and departure data provided with earlier submissions. However, it will have little reserve for non-customer use (or customers also visiting nearby shops) and so is likely to be fully used. This may oblige Aldi to impose tighter restrictions on the car park use than were quoted in the previous Planning Statement.

Deliveries are expected to be by one or two large rigid lorries and one articulated lorry per day. Deliveries will be made during opening hours and involve a lengthy reversing movement within the car park which is potentially dangerous. In the submitted supportive documentation (Transport Assessment Appendix D) states that these reversing manoeuvres will be supervised by the Store Manager and highways recommend that such supervision be made a planning Condition if possible.

Highways would also recommend planning Conditions to cover the following points, essentially as applied to Permission 11/4149c, unless these previous Conditions are deemed to still apply:

- highway drawing approval
- operation, supervision and signing of bollards
- no occupation until completion of parking areas

### **Environment Agency**

No comments to make on the proposed development

### **United Utilities**

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

- This site must be drained on a separate system combining on site just prior to connecting in to the public sewerage system.
- Surface water flows generated from the new development will need to be limited to a maximum discharge rate of 25 l/s as determined by United Utilities.

### **Environmental Health**

- The hours of demolition / construction works taking place during 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
- Prior to its installation details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority.
- Due to the potential for noise disturbance to local residents, the opening times and delivery times to the store shall be restricted to a temporary 12 month permission for the times agreed in planning application number 12/1829N
- The car park shall be closed to all vehicles (apart from staff vehicles) outside the store opening times so as to protect the amenity of the local residents.
- No development shall take place until a scheme to minimise dust emissions arising from demolition / construction activities on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The demolition / construction phase shall be implemented in accordance with the approved scheme, with the approved dust suppression measures being maintained in a fully functional condition for the duration of the demolition / construction phase.
- The application area has a history of commercial use and therefore the land may be contaminated.

- The applicant provided a geo-environmental report which, although out of date with current guidance, reveals there to be a low risk with respect to the proposed site use. The report recommends that soil be imported for areas of landscaping.
- As such, and in accordance with the NPPF, this section recommends that the following conditions, reasons and notes be attached should planning permission be granted:
  - Should any adverse ground conditions be encountered during excavation works, all work in that area should cease and this section be contacted for advice.
- Insufficient information has been submitted with the application relating to the impact of the development on Local Air Quality in particular the Nantwich Road Air Quality Management Area. In the absence of this information, it has not been possible to demonstrate that the proposal would comply with material planning considerations.
- An Air Quality Report was submitted with application 11/4149N, and some shortcomings were identified in that report - It is disappointing to note that the applicant has not taken the opportunity of a fresh application to address the shortcomings identified within the initial Air Quality Impact Assessment and submit an updated report
- The former application was approved with the following condition relating to Air Quality;
  1. No development shall commence until a revised air quality assessment has been submitted to and approved by the Local Planning Authority.
    - The assessment shall be updated considering the most current annual data available (i.e. 2010).
    - The report shall acknowledge the identified disparity between measured NO<sub>x</sub> and NO<sub>2</sub> concentrations and the projected decline associated with emission factors which form the basis of air quality modelling.
    - The report shall make reference to the number of additional trips to be made to the site post development.
    - The report shall include details of any necessary mitigation methods for both the construction and operational phases (including measures to deal with any dust from the construction site) These shall be implemented in accordance with a timetable to be agreed with the Local Planning Authority prior to the commencement of development.
    - The mitigation measures contained within the report shall also include a Travel Plan. The Travel Plan shall include, inter alia, a timetable for implementation and provision for monitoring and review. No part of the retail store hereby permitted shall be occupied until those parts of the approved Travel Plan that are identified as being capable of implementation after occupation have been carried out. All other measures contained within the approved Travel Plan shall be implemented in accordance with the timetable contained therein and shall continue to be implemented, in accordance with the approved scheme of monitoring and review, as long as any part of the development is occupied.

**7. VIEWS OF THE PARISH / TOWN COUNCIL:**

N/A

**8. OTHER REPRESENTATIONS:**

One letter of support has been received stating that they welcome the Aldi supermarket and have no objections at all.

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

- Transport Assessment
- Design and Access Statement
- Planning Statement
- Geo-environmental Assessment
- Marketing Report
- Building Survey Report
- Air Quality Impact Assessment
- Framework Travel Plan
- Bat Survey
- Report on Potential Uses

**10. OFFICER APPRAISAL**

**Main Issues**

The previous permission established the acceptability in principle of the demolition of the locally listed building and the development of the site for a retail foodstore. This application does not, therefore, represent an opportunity to revisit matters of principle.

The main issues in the consideration are the acceptability of the revised site layout and increased floorspace in terms of retail impact, design and street scene, sustainability, impact on neighbour amenity, landscape and ecology, and highway considerations.

**Retail Impact**

The gross external floor area of the building has been increased slightly from the previously approved scheme by 185 square metres to 1592 square metres whilst the net sales area has increased by 165 to 1125 square metres.

The site lies outside the town centres of Crewe and Nantwich, as defined in the Local Plan, where Policy S.10 states that major retail developments will be permitted only if all of a number of criteria are met. According to the supporting text major proposals for the purposes of this policy will be regarded as those with a gross floorspace of over 2500 sq. m.

Similarly, the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses that are not in an existing centre and are not in accordance with an up-to-date Local Plan. However, it goes on to state that

local planning authorities should only require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500 sq m).

The Local Plan policies have been saved. As a result it is concluded that the proposal is in accordance with the up-to-date development plan. The revised scheme for the Aldi store would remain under the 2,500sq.m. and therefore, under the provisions of both the Local Plan Policy and the NPPF it is not necessary for the developer to demonstrate that there is a proven need for the development; a sequential approach to site identification has been followed; or that the proposal, either by itself or together with other shopping proposals or developments, will not harm the vitality or viability of another shopping centre.

Furthermore, the proposed store would be located partly within the Nantwich Road Shopping Area as defined in the local plan, which comprises a narrow corridor running along either side of Nantwich Road. The revised proposal which involves turning the building through 90 degrees would result in a larger portion of the store falling outside the boundary of the Policy S9 shopping area. However, given that frontage development would be maintained, and that the entrance to the store would be within the Policy S9 shopping area it is not considered that there would be any direct conflict with the aims and objectives of this policy or that reason for refusal on these grounds could be sustained.

The revised proposal is therefore acceptable in terms of retail impact.

### **Layout, Design and Street Scene**

The previously proposed store was sited at the front of the site and was orientated with the main frontage at 90 degrees to the road. Consequently the Nantwich Road frontage was formed by a long blank elevation. However, efforts were made to add interest and detail to this elevation by wrapping the entrance around the corner and incorporating gables, brick modelling and elements of structural glazing in order to create the illusion of an active frontage. A similarly blank elevation was presented to Sherwin Street, although the impact will be softened by proposed tree planting and again brick modelling has been introduced to the gable end.

The revised proposal involves re-orientating the previously approved store through 90 degrees, to run along the Sherwin Street boundary, with the main frontage, which is located on the narrow “gable-end” of the building facing onto Nantwich Road.

This would result in a reduction in the “sense of enclosure” to the street scene and a wider gap to the adjoining development which may result in “leaking of space” into the carpark. Furthermore, the parking would become more visible which could increase the extent to which the frontage becomes dominated by car parking.

However, the proposal also has some significant positive aspects. In particular, that a more active frontage would be provided to Crewe Road and the car parking would become easier for customers to use and safer as it would not involve walking through

the delivery area when travelling between the store and parking area. It is considered that these significantly outweigh the disadvantages outlined above.

Furthermore, the sense of enclosure could be assisted and the leakage of space could be overcome through the use of an appropriate boundary treatment such as a low wall and possibly planting, to the Nantwich Road boundary of the parking area. This could be secured through the standard condition.

The proposed elevation to Sherwin Street remains largely blank, with the exception of three brick gables. Whilst it is acknowledged, that this was the case with the previous approval, due to the reorientation, this elevation is now longer. Notwithstanding the fact that the proposed landscaping will help to break up the bulk of the building, the length of this elevation, and the lack of fenestration does give some cause for concern. It is therefore recommended. However, it is considered that the brick modelling and elements of structural glazing, which were previously to be used on the Nantwich Road frontage in order to create the illusion of an active frontage, are re-introduced on the Sherwin Street elevation. This could be secured by condition.

With regard to elevational detail the same approach as previously has been taken to the design. The majority of the development along Nantwich Road, including the properties to either side of the site, is of between two and three storeys in height with a vertical emphasis and rhythm created by fenestration patterns, stops in the building line, bay windows and gables. Buildings are generally traditional in style with pitched, tiled roofs and red facing brick walls. These are features which have been replicated on the proposed store which is similar in overall height to the adjacent buildings and includes a steeply pitched roof, a vertical emphasis to the glazing and gables. Overall, therefore, it is considered that its scale, form and siting are acceptable in terms of their impact on the character and appearance of the street scene.

### **Crime and Disorder.**

Large scale retail proposals often raise concerns about car-related antisocial behaviour on the car park when the supermarket is closed. Such problems have been experienced at other stores in the Borough and therefore the previous approval was subject to requiring the erection of gates or other physical measures to secure the site access outside store opening hours, as well as the provision of CCTV and speed humps. These should be attached to the revised approval.

### **Sustainability**

The new Regional Spatial Strategy places considerable emphasis on achieving sustainable development, minimising waste and energy consumption. It also advocates provision within new development of micro-generation opportunities. Policy EM 18 states that *"in advance of local targets being set, new non residential developments above a threshold of 1,000m<sup>2</sup> and all residential developments comprising 10 or more units should secure at least 10% of their predicted energy requirements from decentralised and renewable or low-carbon sources, unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable."*

The applicant has previously provided a supporting statement which explains that on previous new build Aldi schemes, where there has been a planning requirement to provide 10% renewable energy, one of two solutions have been adopted. These are either an air source heat pump to provide the required 10%, or a heat recovery system, whereby the waste heat energy from the refrigeration condensers has been utilised to provide heating to the store, which is substantially in excess of the 10%. On similar sized stores to the one proposed, the predicted annual energy consumption would be in the order of 438,240kWh resulting in a 10% figure of 43,826kWh. The proposed heat pump system would generate approximately 50,483kWh per annum, with the heat recovery providing approximately 120,000kWh per annum. The provision of these systems can be secured by planning condition, as per the previous approval, and on this basis it is considered that the requirements of policy EM18 (Decentralised Energy Supply) will be met.

In accordance with the principles set out in RSS Policies EM9 (Secondary and Recycled Aggregates) and EM11 (Waste Management Principles) as well as the provisions of Policy 11 (Development and Waste Recycling) of the Waste Local Plan a statement has previously been submitted explaining that any material derived from demolition works will be reused where possible on site. The most obvious application is reclaiming aggregates for use in pedestrian and car parking areas. Waste taken from the site will be closely monitored by the site manager. A detailed Waste Management Plan can also be conditioned as it was previously.

### **Amenity**

The proposed store will be sited over 20m away from the properties on the opposite side of Nantwich Road which will be sufficient to prevent any loss of light or privacy to those properties, particularly given that they are already located on a busy main road. A distance of 18m will be maintained between the proposed building and the properties on the opposite side of Sherwin Street, which will be adequate to prevent any overshadowing and given the lack of glazing in this elevation, privacy is also not considered to be an issue. Distances in excess of 20m will be maintained to all of the other neighbouring dwellings.

With regard to the operation of the building the Environmental Health section have raised concerns about noise, odour and light from the premises, but are of the opinion that these can be adequately mitigated through appropriate conditions. Furthermore, compared to the previous pub use, any disturbance resulting from customer or early morning delivery activity is considered to be minimal and it is therefore considered that there are no sustainable amenity grounds for refusal.

Following the previous approval (11/4149N) in March 2012, an application to amend the opening hours of the store and the delivery hours to the site was submitted. (12/1829N refers) Aldi were seeking to extend the opening hours to 0800-2200 Monday to Saturdays and 1000 to 1700 hours Sunday. The required delivery hours are 0700 – 2300 Monday to Saturdays and 0800 to 2200 Sundays.

The opening hours requested by the applicants, when permission was originally sought for the store were between 0800 - 2000 hours Monday to Saturday and 1000 – 1700 Sunday. No details were provided of delivery hours. It was on this basis that the application was considered and in approving the proposal, contrary to the Officer recommendation, Members imposed conditions accordingly.

Since the previous approval there has been no material change in circumstances in terms of the proposed use of the site or the nature of the surrounding development, which to the rear of the site, where the car park and service yard is located, is entirely residential. The store has yet to be constructed and the applicants have therefore been unable to demonstrate that it can operate within the approved hours without problems occurring.

However, in the absence of any evidence that problems would occur, it was considered that a refusal of the application would be difficult to defend. Therefore on 2<sup>nd</sup> August 2012 officers, under delegated powers granted a variation of conditions or a temporary period of 12 months to allow the authority to assess any impact on the amenity of the neighbouring occupiers.

A 12-month temporary permission would allow the opportunity for a body of evidence to be gathered as to the extent to which the extended hours of operation would impact on the locality. If there are any significant problems experienced locally these could be properly monitored and recorded. In the event that an application were to be submitted for a renewal of consent at the end of the 12 month period any evidence of negative impacts on residential amenity in the locality would be a material planning consideration which would inform the Council's decision at that stage. In the event that the Council then resolved to refuse planning permission, and an appeal were to be lodged against that decision, the evidence gathered would assume considerable importance in fighting the appeal. A straight refusal of planning permission without any such firm evidence of harm to residential amenity would be much more difficult to defend.

It is recommended, therefore, that the same temporary opening and delivery hours should be applied to this revised consent.

### **Landscape and Ecology**

The proposal involves the loss of a number of mature trees from the middle of the site. However, these were to have been removed as part of the previously approved scheme and in view of this fall-back position and the fact that the trees are not protected by a Tree Preservation Order, it is not considered that a refusal on these grounds could be sustained. Furthermore, a number of replacement trees are proposed within the new development and these can be secured through an appropriate landscaping condition.

The previous application was supported by a bat survey of the former Earl of Crewe building. However, no evidence of bats was recorded during the survey and as the building has now been demolished no further action is required in respect of protected species.

### **Highways and Parking.**

The developer has submitted a Traffic Impact Assessment with the application. The only highway issues are in respect of any additional traffic generation resulting from the increase in floor space and the suitability of the revised car-park and internal site layout. The Strategic Highways Manager has examined the application and raised no objection to the principle of the increased floorspace and subject to similar conditions to those which were imposed previously he is satisfied with the revised access and parking arrangements.

### **Air Quality**

The site is adjacent to an Air Quality Management Area which has been declared due to the levels of nitrogen dioxide in the area. The Environmental Health Officer has commented that An Air Quality Report was submitted with application 11/4149N, and some shortcomings were identified in that report. It is disappointing to note that the applicant has not taken the opportunity of a fresh application to address the shortcomings identified within the initial Air Quality Impact Assessment and submit an updated report. In the absence of this information, it has not been possible to demonstrate that the proposal would be acceptable in Air Quality terms.

However, given the previous approval on the site, and the relatively small increase in floor area, it is not considered that any additional impact on air quality would be sufficient to sustain a refusal. Furthermore, the previous permission was subject to conditions requiring an updated assessment and packing of mitigation measures, including a travel plan to be submitted to an approved prior to commencement of development. It is therefore considered that subject to a similar condition being imposed on any revised consent, the proposal would be acceptable in air quality terms.

## **11. CONCLUSIONS**

In summary the acceptability of retail development on this site has been established by the previous consent. This proposal involves turning the building through 90 degrees and a small increase in gross external floor area of 185 square metres and net sales area of 165 square metres.

This increase would not result in the development exceeding the 2,500 square metre threshold for retail impact assessment as set in Local Plan Policy S10 and the NPPF and it is therefore considered to be in accordance with adopted Policy. The proposal would result in a larger portion of the store falling outside the boundary of the Policy S9 (Nantwich Rd) area. However, given that frontage development would be maintained and that the extent of the active frontage would be improved, it is not considered that there would be any direct conflict with the aims and objectives of this policy.

Although the proposed change to layout will result in a reduction in the sense of enclosure to Nantwich Road, this could be addressed through landscaping and boundary treatment conditions. The proposal will also have some significant positive aspects. In particular, that a more active frontage would be provided to Nantwich Road and the car parking would become easier for customers to use and safer.

The proposal is similar in terms of elevational detail to the approved scheme and subject to a condition requiring the introduction of structural glazing to the Sherwin Street elevation, in order to add visual interest is considered to be acceptable.

It is also considered that the developer has adequately demonstrated how the proposal will contribute to sustainable development objectives through renewable energy, energy saving design and waste minimisation and recycling.

The proposal will not exacerbate existing air quality problems on Nantwich Road and is considered to be acceptable in terms of its impact on crime and disorder, landscape and ecology, amenity of neighbouring properties, drainage and flood risk. Therefore, in the light of the above, and having due regard to all other matters raised, it is concluded that the proposal is contrary to policies BE.13 (Buildings of Local Interest), of the Borough of Crewe and Nantwich Replacement Local Plan 2011. Subject to no objection being raised by the Strategic Highways Manager it is recommended for approval.

## **12. RECOMMENDATIONS**

**APPROVE subject to the following conditions:**

- 1. Standard**
- 2. Plans**
- 3. Submission / approval of materials**
- 4. The retail store hereby permitted shall not be opened to the public except between the following times 0800-2200 Monday to Saturdays and 1000 to 1700 hours Sunday for the first 12 months from the first occupation of the retail store. These opening hours shall be discontinued on or before that date and shall revert to 0800 – 2000 Monday to Saturday and 1100 – 1700 on Sundays and Bank Holidays unless a further permission to amend those opening hours has first been granted on application to the Local Planning Authority.**
- 5. Submission / approval of details of highway access**
- 6. Submission / approval of landscaping**
- 7. There shall be no deliveries to the site except between the following times 0700 – 2300 Monday to Saturdays and 0800 to 2200 Sundays for the first 12 months from the first occupation of the retail store. These delivery hours shall be discontinued on or before that date and shall revert to Monday – Friday 08.00hrs - 20.00hrs; Saturday 08.00hrs - 20.00hrs; Sunday 10.00hrs - 17.00hrs unless a further permission to amend those opening hours has first been granted on application to the Local Planning Authority.**
- 8. Construction Hours restricted to; Monday – Friday 08:00 to 18:00 hrs; Saturday 09:00 to 14:00 hrs; Sundays and Public Holidays Nil.**
- 9. Should there be a requirement to undertake foundation or other piling on site these operations shall be restricted to: Monday – Friday 08:30 – 17:30 hrs; Saturday 08:30 – 13:00 hrs; Sunday and Public Holidays Nil.**
- 10. Submission / approval of details of the design and position of removable bollards / barriers or other means to secure the car park. Car**

park shall be closed to members of the public outside store opening hours

11. Submission / approval of Contaminated Land Report
12. Submission / approval of sustainable energy saving features and 10% renewables
13. Submission / approval of construction waste recycling scheme
14. Provision of parking and turning areas
15. Submission / approval of scheme of external lighting
16. Submission / approval of Air Quality Assessment and mitigation measures including travel plan
17. Submission / approval of details of structural glazing to Sherwin Street Elevation.

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Application No: 12/3740N

Location: Cedar Court, Corbrook, Audlem, Crewe, CW3 0HF

Proposal: Proposed alterations to Cedar Court to provide a 35 bedroom Nursing Home within the existing building for which planning permission has been granted for a Nursing Home (Ref: 10/4845N and 11/4578N).

Applicant: Morris & Company Limited

Expiry Date: 31-Dec-2012

**SUMMARY RECOMMENDATION:**

- Approve subject to conditions

**MAIN ISSUES**

- Principle of the conversion,
- The impact on the character and appearance of the buildings,
- Residential amenity
- Highway safety.

**1. REFERRAL**

The application has been referred to southern planning committee because it is a major development, by virtue of the floor area.

Members may recall that this item was deferred at the Southern Planning Committee Meeting on 21<sup>st</sup> November 2012 for two reasons:

1. To consider more restrictive condition on occupation (Cheshire East residents only)
2. To confirm whether size of rooms and shared en-suite facilities meet current standards.

These matters are considered below.

**Occupancy condition**

According to Circular 11/95 "*Use of conditions in planning permission*" conditions should be: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise; and reasonable in all other respects.

According to paragraph 15: "*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.*"

Sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined "*in accordance with the plan unless material considerations indicate otherwise*". Given that there is no adopted or emerging local plan policy or guidance within the NPPF which indicates that care home accommodation should be specifically for, and restricted to, existing residents of the local area in which it is to be constructed, it is not considered that there would be a planning policy basis for refusing the application if the condition were not to be imposed. In other words, the condition is not required to ensure that the development complies with a Local Plan policy and is therefore not necessary.

Furthermore, it is considered that such a condition would be unreasonable as it would be overly restrictive to the applicant from a commercial point of view, which would go against the thrust of central government advice in respect of facilitating business and economic growth as set out in the NPPF and the Planning for Growth Ministerial Statement.

It is also necessary to give consideration to the previous approvals on this site for conversion of the building to a total of 24 nursing bedrooms (applications 10/4845N and 11/4578N refer). These permissions were not subject to any restrictive conditions and could still be implemented. Given that the Council has already acknowledged through the previous consents that 24 bedrooms without a restrictive condition could be provided on this site, such a condition could now only be applied to a maximum of 11 bedrooms.

If the applicant were to exercise their right to Appeal against such a condition, it is considered that the Council would have difficulty in providing evidence as to why 24 bedrooms, without restriction were considered to be acceptable, whereas 35 were not, particularly given that there is no national or local planning policy in place to support this stance.

Therefore, in summary, whilst Members concerns are noted, it is not considered that the proposed occupancy condition should be imposed as it would not comply with the tests of Circular 11/95.

### **Standard of Accommodation.**

The applicant has provided the following supporting statement regarding the proposed standard of the facilities:

*Morris Care have designed Cedar Court to accommodate 35 residents with nursing and dementia requirements. Increasingly we are approached by families to accommodate and look after family members with dementia because they can no longer cope. Currently we are unable to satisfy this requirement – Cedar Court is planned to cover this need.*

*In the design process we have not only drawn on the considerable in-house experience of Morris Care but have also consulted with leading experts in the field of dementia care as well as commissioners of dementia care and charitable organisations passionate about ensuring the best possible environment for care is available for their client group. Our philosophy is to provide a dementia unit which is visionary both in terms of how we operate it but also in terms of the accommodation provided. To inform this we have engaged with Stirling University which is acknowledged as being one of the leading*

*authorities in dementia care. We have had discussions and site visits from representatives of Central and Eastern PCT Older Persons Mental Health Team and the Downs Syndrome Association.*

*The overriding advice we have had is that Cedar Court, as designed, would lend itself to a dementia care home. We will have a spacious garden around the conservatory which can be made secure with the minimum of intrusive fencing thereby creating a calming and, so far as possible, normal garden arrangement.*

*We will have lots of circulatory space on each floor as well as a number of sitting rooms and quiet areas should the need arise.*

*The bedrooms of service users are generally configured in families of three and sometimes two rooms each with their own entrance and en-suite shower room. The individual bedrooms do not have their own en-suites which accords with how the majority of service users would live at home. An en-suite bathroom for the age profile of resident we are likely to look after would be very unusual. This configuration of clusters of rooms has been especially liked by those we have asked to advise us.*

*The principal thrust of our design philosophy is to make the interior as much like the home our service users have come from as possible. We are looking carefully at colours, lux levels and light fittings used, furniture and reference points such as appropriate wall pictures and decorative detail. Our staff will be more integrated within the day to day living rhythm of the home than would normally be the case in a normal nursing home. Our assisted bathing will, so far as possible, feel like a domestic space – it is very unlikely that service users will be able to bathe unaided but the configuration of the building will enable this should it be required.*

*In summary we have, in partnership with leading experts and those involved at the 'coal face', endeavoured to design a space that will meet the needs of our proposed client group in the most desirable and sensitive way.*

On the basis of the above, it is considered that Members previous concerns have been addressed and that the proposal complies with relevant Local Plan policies in respect of residential amenity of future occupiers.

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

The application relates to Corbrook Court at Audlem, which is a former country residence, which has been converted and heavily extended in order to form a nursing home. Planning permission was granted in 2006 for a new-building to the rear of the main house to provide 15 self contained extracare units (known as Cedar Court). This has since been completed. However, the developer is experiencing difficulty in letting the units and therefore planning permission was granted on 14<sup>th</sup> February 2011 for change of use of part of the existing building to provide 12 nursing bedrooms and associated facilities. (Application 10/4845N refers)

A further permission was granted in March 2012 (11/4578N refers) for the change of use of the remainder of the building to provide a further 12 nursing bedrooms. The proposals involved the addition of 2 small windows in the exterior of the building and internal alterations.

Consent was also granted to vary condition 4 of planning permission 10/4845N to remove the age restriction for the nursing home use.

This application is a revised scheme for the change of use of the whole building to provide a 35 bed nursing home.

### **3. PREVIOUS RELEVANT DECISIONS**

P05/1061	Two Storey Accommodation Block comprising 15 Units 27/03/2006
P07/0684	Single Storey Link Between Existing Nursing Home and Extra Care Facilities 10/07/2007
10/4845N	Proposed Alterations and Extension to Provide 12 Nursing Bedrooms and Change of Use of Part of the Building from Extra Care to Nursing Home Use – approved 14 <sup>th</sup> February 2011
11/4578N	Alterations to provide 12 nursing bedrooms and variation of conditions – Approved March 2012

### **4. PLANNING POLICIES**

#### **National Policy**

National Planning Policy Framework

#### **Local Plan Policy**

NE.2 (Open Countryside)  
BE.1 (Amenity)  
BE.2 (Design Standards)  
BE.3 (Access and Parking)  
TRAN.9 (Car Parking Standards)

### **5. OBSERVATIONS OF CONSULTEES**

#### **Environmental Health**

- No objection to the above application.
- 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.

#### **Highways**

No comment received at the time of report preparation.

**6. VIEWS OF THE PARISH / TOWN COUNCIL:**

No comment received at the time of report preparation.

**7. OTHER REPRESENTATIONS:**

No other letters of representation have been received.

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

None submitted.

**9. OFFICER APPRAISAL**

**Main Issues**

The main issues in the consideration of this application are the acceptability, in principle of the conversion, the impact on the character and appearance of the buildings, residential amenity and highway safety.

**Principles of Development**

The proposal involves the change of use of an existing building within the open countryside to a residential use and therefore policy NE 15 is relevant. Policy NE.15 requires the consideration of commercial uses before residential uses will be permitted. Given that the proposed nursing home, will be run on commercial basis, it is considered that there is no conflict with this element of the policy. The other criteria under Policy NE.15, relate to design and highway matters, and are dealt with below.

Policy NE.16 deals with the commercial re-use of existing buildings and states that such proposals will be acceptable subject to a number of criteria. The building is newly constructed and is therefore of substantial, sound and permanent construction. It would not lead to the dispersal of activity on such a scale as to prejudice the vitality of Audlem Village. The nature of the proposed use is such that it will not harm the local environment through the creation of any form of pollution and there will be no form of commercial activity outside the building. The other criteria are similar to those contained within Policy NE.15, and relate to design and highway matters. As stated above, these are dealt with below.

The need for the nursing bedrooms was demonstrated by supporting information submitted under planning application 10/4845N and the applicant has confirmed that the demand remains in line with that information

In respect of the previous application, the Council's Adult Services Section raised concerns that 43% of current residents are from outside the Cheshire East area and they would not want to see this replicated in any further provision. They have also stated that they would hope that the charges made at the development would be in line with Cheshire East contract price for nursing home accommodation.

Whilst it would be possible to impose conditions or legal agreements to restrict occupancy or prices for accommodation, according to Circular 11/95 in considering whether a condition is necessary authorities should ask themselves whether planning permission would have to be refused if the requirements of that condition were not imposed. Given that there are no policies in the local plan relating to nursing home development, or its occupancy, the conditions are not necessary in order to ensure compliance with the development plan and there would be no grounds to refuse the application were they not imposed. Consequently, the conditions are not considered to be justifiable or necessary within the terms of the 6 tests as set out in the Circular. Similar tests exist in respect of legal agreements.

### **Highways**

The change from extracare, where residents are more able, to nursing accommodation, where closer care is required, will result in an increase in the number of staff by 6FTE. This is considered to be a relatively small increase in staff vehicle movements. Furthermore, due to the greater level of infirmity of nursing home residents, relative to extracare it is unlikely that residents would be able to travel to and from the site independently. Consequently, traffic generation would reduce as a result. It is considered that this would compensate for the increase in staff vehicle movements. Whilst there would also be some traffic created by visitors to nursing home residents, the extracare facility also created visitor traffic.

In the light of the above, and in the absence of any objection from the Strategic Highways Manager, it is not considered that a refusal on highway safety or traffic generation grounds could be sustained.

### **Design**

The only physical alteration to the external appearance of the existing building involves the incorporation of one new timber window to the North West elevation to serve the proposed ground floor admin office and reception. The windows will match the style of the existing windows and will not adversely affect any part of the existing development. It is therefore considered to be acceptable in design terms.

It will be sited on a part of the elevation, where there are already 2 similar window openings and a door.

### **Amenity**

The nearest neighbouring property is over 100m from the building in question and therefore the proposed conversion or extension would not be harmful to neighbouring amenities with regard to noise, disturbance, overlooking or overshadowing. The proposed alterations to window openings will face towards the existing nursing home building alongside and therefore do not raise any privacy or amenity issues. The new opening will be sited on a part of the elevation, where there are already large window openings. Consequently it will not result in any loss of amenity to the existing residential accommodation within the nursing home complex or surrounding properties.

## **Conditions**

The previous application on the site also sought to vary condition 4 of planning permission 10/4845N which limited the occupancy of the nursing bedrooms granted under the first element of the Cedar Court redevelopment “to persons at or above 55 (fifty five) years of age and the spouse of such a person or a widow or widower of the same”. The developer wanted to make the accommodation available for persons under 55 in need of full time nursing care.

It was agreed that the age of the occupants has no bearing on the impact of the development on the surrounding area in land-use terms.

However, it was considered that some restriction was required to prevent the building from simply becoming a house in multiple occupation which may have amenity and highways implications over and above those generated from a nursing home. For example, if the building were occupied as an HMO by able bodied working people, traffic generation would be significantly greater. The condition was therefore amended to restrict the occupation of the building to “persons in need of full time nursing care and the spouse of such a person or a widow or widower of the same”. It is proposed that the same condition be applied to this revised consent.

## **Conclusion**

The principle of the proposed conversion is considered to be acceptable, and whilst the concerns of the Adult Services Section in respect of occupancy and pricing are noted, there is no conflict with the development plan and as a result conditions or legal agreements could not be justified in this case.

The proposals are considered to be acceptable in terms of design, amenity and highway safety. Having due regard to all other material considerations raised, the proposal is considered to be in accordance with the development plan and accordingly is recommended for approval.

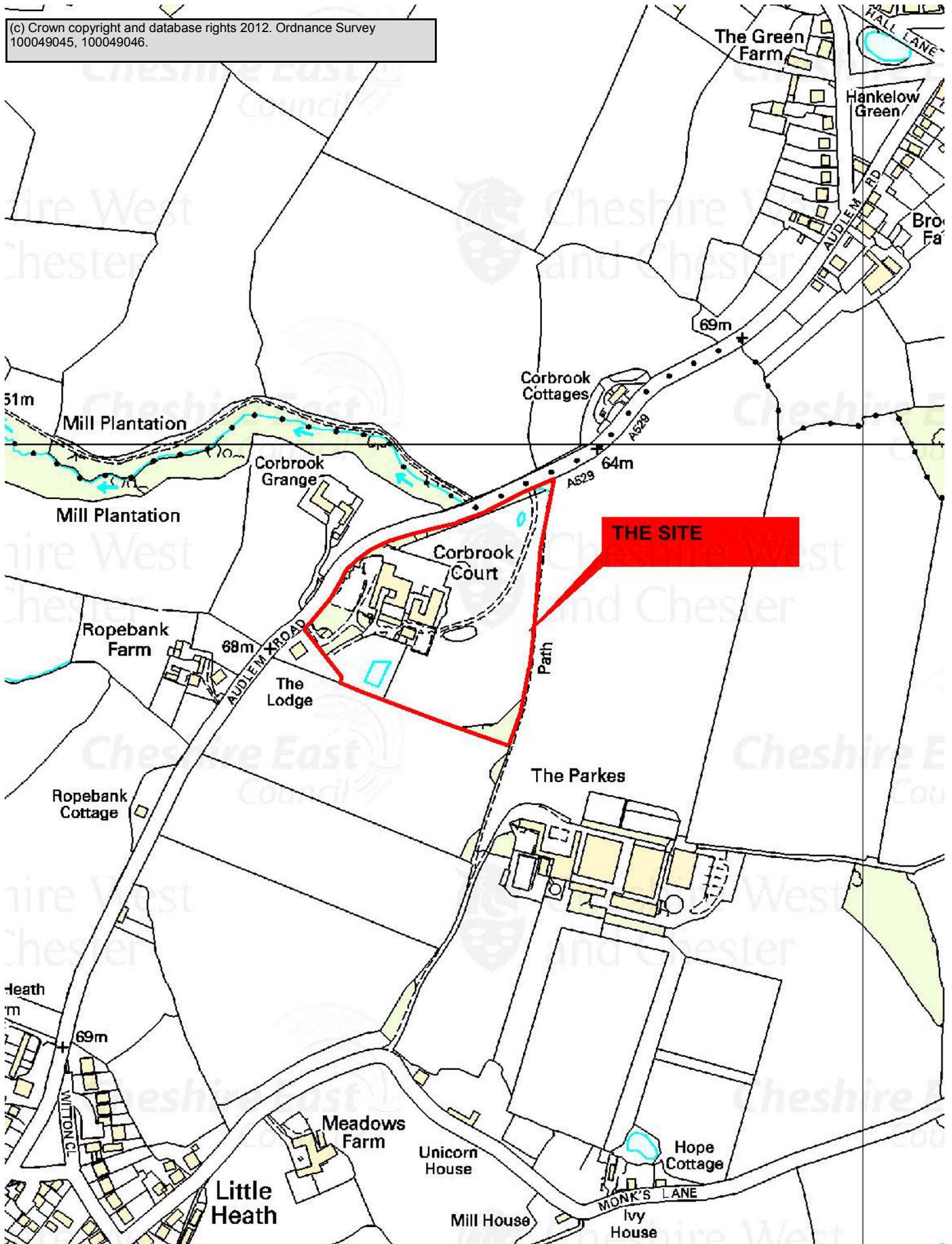
## **10. RECOMMENDATIONS**

**APPROVE subject to conditions:-**

### **Conditions**

- 1 Standard**
  - 2 Reference to plans.**
  - 3 Materials**
  - 4 Occupancy restriction to those in need of full time nursing care.**
-

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Application No: 12/2225C

Location: LAND AT 50A, NANTWICH ROAD, MIDDLEWICH, CHESHIRE, CW10 9HG

Proposal: Residential Development Comprising Demolition of Existing Bungalow & Outbuildings & Erection of 24 Dwellings Including Access, Parking, Landscaping & Associated Works

Applicant: P E Jones (Contractors) Limited

Expiry Date: 17-Oct-2012

**SUMMARY RECOMMENDATION:**

**Approve subject to conditions and the satisfactory completion of a Section 106 Legal Agreement**

**MAIN ISSUES:**

**Planning Policy And Housing Land Supply**

**Affordable Housing**

**Highway Safety, Congestion And Traffic Generation**

**Tree Matters**

**Ecology**

**Site Layout and Design**

**Neighbours Amenity**

**REASON FOR REFERRAL**

The application is included on the agenda of the Southern Planning Committee as the proposal is for more than 10 dwellings and is therefore a small-scale major development.

At the last meeting the application was deferred for further information regarding the proposed construction access off Nantwich Road. Concern was made regarding whether the access was wide enough, was it a safe access, and why was it not suitable as a permanent access to the site. Members also asked whether the affordable dwellings could be pepper potted around the site.

Information and an access plan have recently been submitted to Officers for consideration. An assessment of this plan is being undertaken by Highway officers and therefore formal comments will follow in the update report.

**DESCRIPTION OF SITE AND CONTEXT**

This application relates to a derelict bungalow with an extensive garden and orchard which has been left unmanaged in the last few years. There are 2 outbuildings within the grounds comprising a single storey brick garage and shed.

The site is surrounded on all sides by residential development. To the north, northeast and west there are modern detached dwellings on Glastonbury Drive and Tewkesbury Close. To the south east the site surrounds the detached dwelling and ancillary outbuilding (2 storey) within no 50 Nantwich Road. The site extends along Nantwich Road to Mill Lane, an unadopted track which serves a small number of dwellings.

There are a number of significant mature trees within the site which are covered by the Congleton Borough Council (Nantwich Road, Middlewich) Tree Preservation Order 1975, including a group of Lime trees to the Nantwich Road frontage of the site.

The Glastonbury Drive access to the modern housing estate is the sole access from Nantwich Road and currently serves a total number of 128 dwellings presently within Glastonbury Drive, Tewkesbury Close, Lindisfarne Close, Welbeck Close and Fountains Close.

The site is situated within the settlement zone line of Middlewich as designated in the adopted Congleton Borough Local Plan First Review (2005).

## **DETAILS OF PROPOSAL**

Full planning permission is sought for the demolition of the existing bungalow on the site and the construction of 24 residential units. The numbers of units within the scheme has been reduced since original submission from 27 to 24 units.

The residential mix is:

- 13 no 4 bedroomed houses (2 storey)
- 2 no 3 bedroomed houses (2 storey)
- 9 no 2 bedroomed houses (2 storey)

The proposed access is to be formed adjacent to 28 Tewkesbury Close as a continuation of the estate to the rear of the site and is taken from Tewksbury Drive via Glastonbury Drive. Overall, with this proposal included, Glastonbury Drive would serve a total of 152 residential units.

## **RELEVANT HISTORY**

12/0334C - Residential Development Comprising Demolition of Existing Bungalow & Outbuildings & Erection of 28 Dwellings Including Access, Parking, Landscaping & Associated Works - Withdrawn

## **POLICIES**

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

DP1            Spatial Principles

DP2	Sustainable Communities
DP 3	Promote Sustainable Economic Development
DP 4	Make the Best Use of Existing Resources and Infrastructure
DP 5	Manage Travel Demand; Reduce the Need to Travel
DP 6	Marry Opportunity and Need
DP 7	Promote Environmental Quality
EM11	Waste Management Principle
EM2	Remediating Contaminated Land
EM5	Integrated Water Management)
EM18	Decentralised Energy Supply
MCR3	Southern Part of the Manchester City Region
L2	Understand Housing Markets
L4	Regional Housing Provision
RT2	Managing Travel Demand)
W3	Supply of Employment Land)

### **Cheshire Replacement Waste Local Plan (Adopted 2007)**

Policy 11 (Development and waste recycling)

#### **Local Plan Policy**

PS4	Towns
GR21	Flood Prevention
GR1	New Development
GR2	Design
GR3	Residential Development
GR5	Landscaping
GR6	Amenity & Health
GR7	Amenity & Health
GR8	Pollution
GR9	Accessibility, servicing and parking provision
GR18	Traffic Generation
GR19	Infrastructure
GR22	Open Space Provision
H1	Provision of New Housing Development
H2	Provision of New Housing Development
H4	Residential Development in Towns

#### **Other Material Considerations**

The National Planning Policy Framework (NPPF)

SPG1	Provision of Public Open Space in New Residential Developments
SPG2	Provision of Private Open Space in Residential Developments
SPD4	Sustainable Development

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

Middlewich Town Strategy

**CONSULTATIONS (External to Planning)**

**Environmental Health:** No objection subject to conditions concerning hours of work, mitigation strategy for building works to minimise dust, noise

**Strategic Highways Manager:** No objection subject to conditions concerning construction access methodology and a S106 contribution of £30000 to assist in improving the pedestrian environment on Nantwich Road and providing improved pedestrian linkages to the town centre and waiting restrictions on Glastonbury Drive.

**Nature Conservation Officer (NCO):** No Objection subject to the implementation of a mitigation strategy for reptiles (Biodiversity Action Plan) species and replacement foraging habitat for bats.

**United Utilities :** No objection subject to conditions concerning site to be drained on separate system

**Forestry Officer -** Raises no objection subject to conditions concerning tree protection for TPO trees on Nantwich Road frontage

**Housing Strategy and Needs Manager –** No objection subject to the provision of 30% Affordable Housing being provided.

**Education –** Education Contribution is not required in this case

**Green space Manager -** There is a deficiency in the local area, however, in the light of the limited size of the site, provision of off site works (enhancement of this existing area of Amenity Greenspace) at Fountain Fields are acceptable in terms of the Interim Guidance.

Enhanced Provision:	<u>£ 3,909.42</u>
Maintenance:	<u>£ 8,750.50 (25 years)</u>

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. The financial contributions sought from the developer would be;

Enhanced Provision:	<u>£10,621.22</u>
Maintenance:	<u>£22,089.00 (25 years)</u>

**VIEWS OF THE TOWN COUNCIL:**

Middlewich Town Council has reconsidered their position and now object to the proposal. In their opinion, the site is not allocated within the Town Strategy. Therefore, in supporting the Strategy, and in the interests of consistency the Town Council cannot now support this application.

**OTHER REPRESENTATIONS:**

A petition containing 117 signatories with addresses in Glastonbury Drive, Tewkesbury Close, Malmsesbury Close, Buckfast Way, Welbeck Close has been submitted which states that they consider access should be via Nantwich Road and not through the estate.

35 letters and emails of objection have been received from residents in the immediate vicinity of the site, including addresses within the existing estate and properties on Nantwich Road. The comments can be read in full on the website but raise the following concerns:

### **Principle**

- The houses are not needed when so many remain unsold.
- Affordable, smaller units are not pepper-potted, focussed in one area of site
- Over-development
- Too much development in the area

### **Highways**

- Additional traffic generated - all to Glastonbury Drive/Nantwich Road junction
- Increased volume of traffic
- Safety – Nantwich Road is ambulance priority route
- Additional queuing to get onto Nantwich Road at peak time
- Disturbance during building work through estate
- Parking congestion at the junction with Nantwich Road is already a problem, further additional traffic will add to existing safety problems at the junction
- Construction traffic accessing the site via the shared access adjoining 50 Nantwich Road as proposed will be dangerous and dirty and injurious to the amenity of adjoining residents
- The access at 50 Nantwich Road is shared by 5 properties whose consent has not been sought
- Safety of pedestrians on Nantwich Road

### **Infrastructure**

- Local schools cannot accommodate the additional children.
- Local doctors can not accommodate more patients

### **Amenity**

- Loss of outlook / views of open area
- Loss of privacy to houses adjacent
- Overdeveloped, cramped layout
- Design is out of character with area and overly prominent
- Loss of light to windows within ancillary outbuilding to 50 Nantwich Road
- Increased noise from parking area in neighbouring garden
- Overlooking from windows of new houses into adjoining dwellings
- Social and play areas should be included
- Boundary treatment long term security

### **Trees**

- Impact upon root protection areas of trees outside site in neighbours property
- Impact upon trees within the site
- Arboricultural Report of poor quality
- Lack of consideration of implications for important off site trees and hedges
- Loss of the trees to form the site access (non protected but mature trees which are of high amenity value to locals)
- It would be of greater benefit to residents to remove the TPO trees on the frontage to form the access via Nantwich Road

### **Ecology**

- Impact upon protected species

### **Drainage**

- Services will be an extension of existing in Tewkesbury Drive. Residents have experienced problems in the past, further development will put strain on services

Similar comments are made to the amended plans particularly in respect of the impact on trees, overlooking, and the fact that the affordable units are not pepper potted through the site.

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

A full package of supporting information has been submitted with the application including;

- Supporting Planning Statement
- Design and Access Statement
- Ecological Assessment and Mitigation Statement
- Transport Assessment
- Phase 1 Contamination Assessment
- Arboricultural Assessment
- Draft Heads of Terms

All of these documents are available in full on the planning file, and on the Council's website.

### **OFFICER APPRAISAL**

#### **Principal of Development**

##### National Planning Policy Framework

Members will be aware that The National Planning Policy Framework published in March 2012 superseded a number of National Planning Policy Statements and consolidates the objectives set within them. The Framework sets out a presumption in favour of sustainable development.

Paragraph 49 advises that;

*“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five year supply of deliverable housing sites”*

Members will be aware that the Council do not currently have a 5 year supply of housing for the Borough and therefore attention should be had to the requirements of paragraph 14 of the NPPF which advises that when Councils are decision taking, they should:

*“Approve development proposal that accord with the development plan without delay, and*

*Where the development plans is absent, silent, or relevant policies are out of date they should grant planning permission unless;*

- ***any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessing against the policies in this framework taken as a whole; or***
- *Specific policies in this framework indicate development should be restricted”*

Notwithstanding this requirement, this scheme is located within an existing residential area, close to a range of local amenities and is considered to be highly sustainable. Accordingly, there is an in principle presumption in favour of the development in accordance with paragraph 49 of the NPPF.

The application therefore turns on whether there are any adverse impacts that would so significantly and demonstrably outweigh the presumption in favour of the development.

These issues are considered below.

### **Impact on character and appearance of the area**

Local Plan policies GR1, GR2 and GR3 address matters of design and appearance Policy GR1 states that the Council will promote high standards of design and new development should reflect local character, use appropriate materials and respect form, layout, siting, scale and design of surrounding buildings and their setting. Policy GR1 requires new residential development to create an attractive, high quality living environment. Policy GR2 states that the overall scale, density, height, mass and materials of new development must normally be sympathetic to the character of the local environment, street scene, adjoining buildings and the site itself.

This proposal, as amended, comprises a small development of 24 no. two storey dwellings which are a mix of detached, semi-detached and small number of terrace blocks arranged around a cul-de-sac road. Plot sizes are smaller than the existing 1980's/1990's housing estate which adjoins most boundaries of the site, however, the density is more in keeping with modern day requirements to ensure the efficient use of land, particularly in the most sustainable of locations. The modern estate itself has a mixed residential character, with modern bungalows, and 2 storey 4-bedroomed detached style modern properties predominating within the Tewksbury Drive estate layout. To Nantwich Road the properties

are older, Edwardian terraced housing and Nantwich Road. Most of the site is discreetly located behind the sizeable house, ancillary 2 storey coach-house at 50 Nantwich Road. A Group of TPO protected Lime trees are retained to the Nantwich Road frontage. A path linking Nantwich Road and the site is provided through the tree belt where a detached dwelling fronting onto Nantwich Road adds to passive surveillance.

The cul-de-sac layout of houses would be broken-up by the use of seven varieties of house styles within the layout of the dwellings, parking is set generally behind the building lines for the detached dwellings. Smaller terraced units to the west of 50 Nantwich Road present their rear elevation to the Nantwich Road facing elevation, however, this part of the site has been revised by the Applicant during the course of the application and is now considered to be acceptable.

The density is circa 35 units per hectare which is considered an efficient use of the site. The height, scale, massing and coverage of the proposed dwellings is considered appropriate having regard to the similar heights and scale of surrounding properties.

It is considered that the proposed development would adequately reflect the local mixed character and the overall scale, density, height, mass and materials of the dwellings would be sympathetic to the character of the local environment and would comply with policies GR1, GR2 and GR3 of the Local Plan.

### **Highways – safety, access and congestion**

Car borne traffic will access the site via the existing network Glastonbury Drive and Tewksbury Close. Both Glastonbury Drive and Tewkesbury Close have carriageway widths of 5.5 metres and two 2 metre footpaths. National criteria and the Design Aid for Housing Roads categorise such a standard as appropriate to serve up to 300 residential units. The current estate access via Nantwich Road serves a total of 128 residential units presently. The proposal will result in 24 additional properties (152 units in total are proposed to be served)

It is clear therefore that when considered against national and local guidance that the existing road and access infrastructure of the estate is considered appropriate to serve up to 300 dwellings

The trip rates for the proposed development show that the traffic generation for the two busiest hours are as follows:

a.m. peak (08.00 – 09.00): 17 vehicles ( 5 in and 12 out)

p.m. peak (17.00 – 18.00): 19 vehicles ( 12 in and 7 out)

On average this traffic generation equates to one vehicle every three minutes in the two peak hours. The Traffic Statement expresses the opinion that this level of traffic generation is negligible and will have no material effect on the traffic capacity of the estate roads or indeed on the junction capacity of Glastonbury Drive with the A530.

The Strategic Highways Manager has considered the trip rates and agrees that they are both appropriate and robust for this type and scale of development.

There are numerous objections from residents within Glastonbury Drive, Tewkesbury Close and the other streets within the estate which raise highway safety concerns about the ability of Glastonbury Drive/Tewkesbury Close to cope with the additional traffic and raising safety concerns about the operation of the junction of the access and Nantwich Road. Many people raise existing on street parking in close proximity to the main road junction as being an impediment to the free flow of traffic and objectors express concern that this proposal will exacerbate this situation.

Clearly it is important that traffic generation is taken in context and the traffic generation figures provided in the Traffic Statement submitted with the application show that the busiest hours are significantly lower in traffic generation than at first it may seem with only one additional vehicle every 3 minutes attributable to the proposal.

Construction traffic is another common concern and it is understandable that local residents would rather not see these vehicles using the estate road for construction access. The Applicant has stated that they would be willing to access the site via the track adjoining no 50 Nantwich Road for the duration of the development, however, this will impact upon the phasing of the delivery of the affordable dwellings within the development. Neighbours on Nantwich Road have stated that this shared access will require their consent. This is legal matter.

The junction of Glastonbury Drive with the A530 is also a concern for residents. In particular they raise the fact that local residents from Nantwich Road who have no off-road parking tend to park in the initial length of Glastonbury Drive and cause some obstruction to vehicles leaving and entering the estate.

Neighbours also express concern that traffic turning into Glastonbury Drive and meeting an egressing vehicle which is overtaking a parked car may have to stop and may end up encroaching onto Nantwich Road.

The Highways Manager has considered these issues very carefully particularly with regard to accident records. Accident records shows the junction shows no injury accident records for the last 5 years. Accordingly, it is concluded that the junction operates safely.

The main concern expressed by objectors is the likelihood of traffic queuing back onto Nantwich Road whilst waiting for an overtaking car to emerge from Glastonbury Drive.

The highest number of new trips arriving and entering this junction occurs in the evening peak when 12 additional vehicles are calculated to access the proposed development. This is an average of 1 vehicle every 5 minutes which again can not really be judged as a material impact on the operation of the junction. The morning peak traffic has an even lower impact at only 1 entering vehicle every 12 minutes. If the on-street parking is considered, it is necessary to judge whether this would exacerbate the situation sufficiently to warrant concern significant enough for the Strategic Highways Manager to tender a reason for refusal which would be sustainable.

Several objectors consider that a vehicle access off Nantwich Road would be preferable to taking access from Tewkesbury Drive, as this would not increase traffic flows on residential roads. The Strategic Highways Manager accepts there is some merit in this, but it is recognised good practice to minimise the number of access points onto major routes in the interests of road safety and the smooth circulation of traffic. The junction of Glastonbury Drive with Nantwich Road is of good design and will be able to handle what would be a modest proportional increase in flow as a result of 24 units, particularly given that the access to Nantwich Road is designed to cater for up to 300 units.

A significant element of objection from neighbours concerns the use of the existing estate as the vehicular access for this site. Objection is raised on congestion and safety grounds, particularly the backing up and on street parking congestion at the estate junction with Nantwich Road. Many people consider that the site should be accessed via a roundabout on Nantwich Road, adjoining that part of the site which comprises plot 12. Indeed, Middlewich Town Council raise no objection, provided that the site is accessed via Nantwich Road. Accordingly, in the light of the fact that the proposal access is intended to be through the existing residential estate, it is concluded that the Parish Council would wish to object to this proposal as submitted.

The Highways Engineer, however, having considered the expressed opinion of existing residents that the access should be via a roundabout on Nantwich Road rather than Glastonbury Road advises that a mini-roundabout could technically be provided .

However, this would require the removal of protected trees to the Nantwich Road frontage and would have potential safety issues itself.

Mini-roundabouts are not recommended where the flow on one arm is very low, which is likely here. In this case, given the limited number of properties which any such roundabout would serve, Nantwich Road drivers would rarely have to give way to turning traffic and thus are likely to treat any such mini roundabout as a T junction with themselves having the priority, which is a concern in highway safety terms. There are also driveways on the south side of Nantwich Road which would be difficult to accommodate safely within the confines of any such roundabout. There are very limited traffic calming benefits of such a roundabout.

A *priority* access onto Nantwich Road has also been considered by the Highways Manager, however, overall given the proximity to the existing Glastonbury Drive entrance, the bend in Nantwich Road and the amenity afforded to the wider area by the TPO trees on the Nantwich road frontage, it has been concluded that the access via Glastonbury Drive, as proposed, would be preferable in highways terms.

The Highways Engineer does consider there to be some merit in the provision of waiting restrictions on Glastonbury Road . The development will add to traffic on Nantwich Road and Glastonbury Drive, routes which already suffer from congestion at peak periods. Also the site will generate pedestrian movements, many of which will be to the town centre and other destinations which will involve crossing Nantwich Road. Accordingly, a S106 contribution of £30,000 to cover necessary improvements to waiting restrictions and pedestrian facilities on the above streets.

### **Pedestrian links**

The Traffic Statement also considers sustainable travel options and the links to local amenities and schools within the network. The site layout now includes a pedestrian link between the site and Nantwich Road, which will minimise walking distances for existing residents at the end of Tewksbury Close as well as future residents

The site is within the urban boundary of Middlewich and many facilities such as shopping, education and leisure are within convenient walking distance. It is also desirable, in the interests of sustainability, to make pedestrian routes as direct and safe as possible to discourage use of car for such short journeys..

Walking trips between the site and Middlewich town centre will involve the crossing of Nantwich Road, a principal road which carries a considerable volume of traffic. Pedestrians to and from the site will most frequently be required to cross Nantwich Road to access the town centre facilities. The Strategic Highways Manager has requested a S106 contribution of £30,000 to improve the pedestrian environment to Nantwich Road to link in with the footpath link created next to plot 11.

### **Trees**

An Arboricultural Tree Survey was submitted with the planning application. A number of Protected trees are located either on the boundary of the site or in neighbouring gardens.

Site access is proposed to be at the end of Tewkesbury Drive. This will require the removal of an unprotected group comprising of a Red Oak, 2 London Plane and a Yew tree. These trees are considered to be an amenity within the street scene for a limited number of residents in the immediate vicinity and some residents within the estate have suggested that these trees should be retained whilst the Protected Lime trees on the Nantwich Road frontage be removed to facilitate the access. This suggestion is not supported by the Tree Officer.

The trees to be removed as part of the proposal are considered the more favourable option as any access off Nantwich Road would have highway safety implications (as discussed in the highways section of this report) and require the removal of at least two protected Lime trees to the main road, more public frontage.

A neighbour has raised various concerns about the quality of the Arboricultural information submitted in support of this application. These are concerns that the Council's Tree Officer is aware of and does not consider to be sustainable.

The scheme has been revised during the course of the application to address social proximity concerns expressed by the Arborist with specific regard to Plots 5,6 and 7. The Arborist is now satisfied that the revised layout can be achieved without damaging important trees either within or adjoining the site. None of the trees to be removed are protected and a significant belt of trees will be retained to the site periphery. The Council's Arborist has considered the proposals and raises no objection to the scheme.

### **Residential Amenity of Neighbours**

The surrounding development comprises modern residential cul-de-sac development to the north, south and western sides and older housing to Nantwich Road.

The Congleton Borough Council Supplementary Planning Document, Private Open Space in New Residential Developments, requires a distance of 21m between principal windows and 13.8m between a principal window and a flank elevation to maintain an adequate standard of privacy and amenity between residential properties.

The development is laid out to comply with this requirement with respect to adjoining dwellings, however, no 50 Nantwich Road has an ancillary 2 storey outbuilding (called the Coachhouse) immediately adjoining the application site boundary where it fronts onto Nantwich Road. The outbuilding contains a 1<sup>st</sup> floor window that provides ancillary living accommodation for the occupier of no 50 (who advises this presently serves a games room and store). The outbuilding is sited on the boundary of the application site. The applicant has amended this part of the site layout by removing 2 units from the area closest to the ancillary Coachhouse. The gable elevation of the proposed houses as amended are circa 10m from the games room window within the elevation. Permission has recently been granted for the conversion of this building into ancillary bedroom accommodation. Whilst, this distance is lower than the standard interface distance for a gable elevation to a principal room window of 13.8m, it is considered that this relationship is acceptable given that the Coachhouse at no 50 Nantwich Road is not primary residential accommodation.

The SPD also requires a minimum private amenity space of 65sq.m for new family housing. The indicative layout indicates that this can be achieved in the majority of cases. Some of the smaller units do not achieve this, however, an adequate sized rear garden sufficient for amenity, clothes drying and storage has been provided. Plots 12 to 14 have communal garden space with shared clothes drying area and store. Overall, it is considered that the layout achieves an acceptable level of amenity for future residents. It is therefore concluded that the proposed development would be acceptable in amenity terms and would comply with the requirements of Policy GR1 of the Local Plan.

## **Affordable Housing**

The site is in the Middlewich sub-area for the SHMA 2010, which shows that for the sub-area there is a requirement for 280 new affordable units between 2009/10 – 2013/14, this equates to a net requirement for 56 new affordable units per year made up of a need for 13 x 1bed, 8 x 2beds, 30 x 3beds and 6 x 1/2bed older persons units.

In addition to this information taken from the SHMA 2010, Cheshire Homechoice is used as the choice based lettings method of allocating social rented accommodation across Cheshire East, there are currently 134 applicants who have selected Middlewich as their first choice. These applicants have indicated that they require 39 x 1bed, 48 x 2bed, 30 x 3bed and 3 x 4bed units (14 applicants have not specified how many bedrooms they require)

Our Affordable Housing IPS states that on all sites over 15 units the affordable housing requirement will be 30% of the total units with a tenure split of 65% social rent, 35% intermediate tenure.

Therefore there is a requirement for 7 affordable units on this site with a tenure split of 65%

rent and 35% intermediate tenure. The affordable units will be 7 x 2 bed houses, split as 4 for social or affordable rent (Plots 15-18) and 3 as shared ownership intermediate dwellings (Plots 12, 12A and 14).

The Affordable Housing IPS also requires that the affordable units should 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. Whilst the proposal is not fully pepper potted throughout the site, the proposed social units will be of the same materials and they will look no different to the general vernacular. On balance, this is considered acceptable.

Where pepper-potting is not fully achieved the Affordable Housing should normally be provided no later than occupancy of 50% of the open market units.

The Applicant (in the light of highways concerns from neighbours within the Glastonbury Drive/Tewkesbury Close area about construction access through the estate puts forward Nantwich Road as the construction access. This would mean that the affordable housing units adjacent could not be immediately developed. Therefore the developer suggests that the affordable units would not be provided until circa 80% of the open market houses have been occupied.

Whilst this would not normally be acceptable, in the light of the the concerns expressed by a large number of people within the estate the Strategic Housing Manager raises no objection to the providing of the affordable units after 80% of the market units have been occupied.

Members should be aware, however, that the Highways Engineer would have no objection to the use of the Glastonbury Drive/Tewkesbury Close for construction access purposes if it is considered that the affordable housing should be provided no later than 50% occupancy.

Neighbours on Nantwich Road have raised concern about the use of the shared drive on Nantwich Road for construction purposes.

## **Ecology**

The submission includes a survey for protected species (bats) and reptiles. A single Common Lizard was recorded on site during the submitted reptile survey. Common lizard is a species which is protected from killing and injuring. It is also a UK BAP priority species and is listed on S41 of the Natural Environment and Rural Communities Act as being a species of principal importance in England. Based on the submitted assessment the site is likely to support a small population of the common lizard. A scheme of translocation has been submitted which is considered acceptable.

The site supports a relatively low level of bat activity with no evidence of roosting bats recorded. The proposed development may have a minor impact upon foraging bats. To mitigate any loss of bat foraging/commuting habitat it is recommended that the boundaries of the application site are enhanced through the creation of native species hedgerows and the planting of appropriate native trees as part of the landscaping of the site.

### **Renewable Energy**

RSS (Policy EM18) policy also necessitates that, in advance of local targets being set, large new developments should secure at least 10% of their predicted energy requirements from decentralised and renewable or low-carbon sources, unless it can be demonstrated that this is not feasible or viable.

No information is provided with the application concerning the contribution the development will make to on site renewable or low carbon energy supply. Given the layout proposed and the circumstances of the site, it is considered that it is viable and feasible to meet the requirements of the RSS policy and a detailed scheme should therefore be secured through planning condition.

### **Conclusion**

This site is within the existing urban area and is considered highly sustainable. It is acknowledged that the Council does not currently have a five-year housing land supply and that, accordingly, housing supply policies are not considered up to date. In the light of the advice contained in the newly adopted National Planning Policy Framework, where the development plan is “absent, silent or relevant policies are out of date” planning permission should be granted unless

*“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

Or

*“specific policies in this Framework indicate development should be restricted.”*

The Development plan is not absent or silent with regard to this application. However, in the absence of a five year supply housing land supply, policies are not considered up to date. Given the sustainable nature of the proposal, there is a strong presumption in favour of the development.

The proposal is considered to be acceptable in terms of its impact upon residential amenity of neighbours, ecology, drainage and highway conditions in the vicinity of the site.

A suitable Section 106 package is recommended which is considered to be compliant with Section 112 of the CIL Regulations to enable the proposed development to provide adequate public open space and recreational facilities as a direct consequence of the development, in the form of commuted sum payment to improve facilities in the area which will be utilised by the future residents, the necessary affordable housing requirements and monies towards the future provision of education given the numbers of family sized accommodation.

### **Community Infrastructure Levy (CIL) Regulations**

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

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and

(c) fairly and reasonably related in scale and kind to the development.

The provision of affordable housing is necessary, fair and reasonably related to this development to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

The commuted sum in lieu of public open space and recreation provision is necessary, fair and reasonable, as the proposed development will provide 24 family sized dwellings, the occupiers of which will use local facilities as there is no recreational facilities on site, as such, there is a need to upgrade/enhance existing facilities. Likewise, the future residents will utilise recreational facilities and place additional demands upon such infrastructure within the vicinity of the site. The contribution is therefore in accordance with the Council's Supplementary Planning Guidance.

The highways contribution will be utilised to mitigate for the additional traffic and to assist in improving the pedestrian environment in the vicinity to encourage sustainable modes of transport.

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

## **RECOMMENDATION**

### **APPROVE subject to a Section 106 Legal Agreement to Secure:**

- Provision affordable housing provision on site in the form 4 x 2 bed as social rented affordable units and 3 x 2 bed as intermediate units
- Amenity green space contribution in lieu of on site provision:

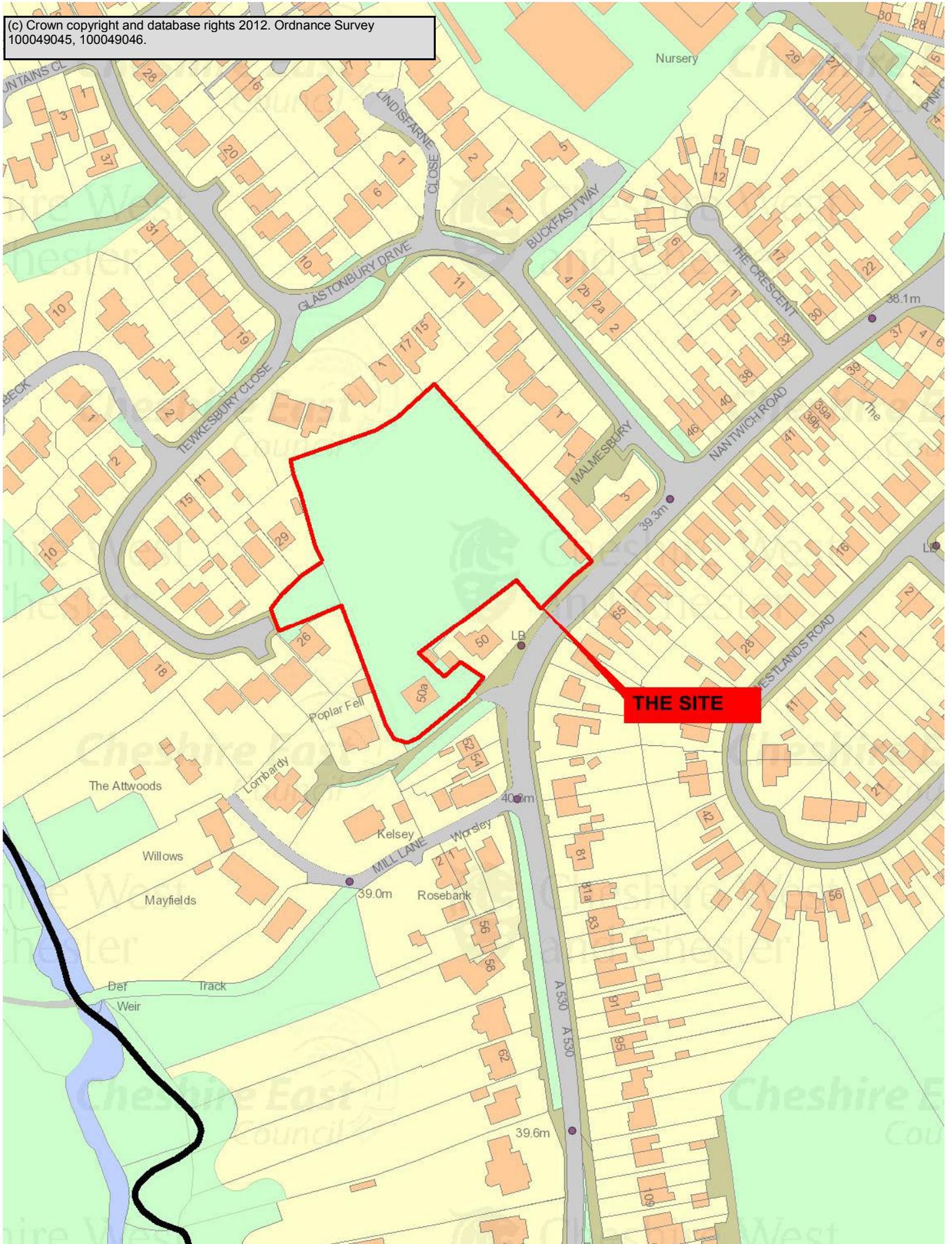
Recreation Space	Enhanced Provision: £ 3,909.42
	Maintenance: £ 8,750.50 (25 years)
Open Space	Enhanced Provision: £10,621.22
	Maintenance: £22,089.00 (25 years)
- Highways commuted sum of £30000 for provision of waiting restrictions and pedestrian improvements on Glastonbury Drive, Nantwich Road

### **And the following conditions**

1. Time limit – 3 years
2. Plans
3. Materials – samples to be agreed
4. Access to be constructed, formed and graded to satisfaction of highways authority
5. Protection of highway from mud and detritus during construction
6. Tree and hedgerow protection measures

7. Arboricultural Specification/Method statement
8. Details of Hard and Soft Landscaping to be submitted prior to commencement. Landscape scheme to include replacement native hedgerow planting and trees for ecological purposes and boundary treatments
9. Implementation of landscaping scheme
10. Submission of updated ecological survey (badger)
11. Breeding Bird Survey for works in nesting season
12. Bats and bird boxes
13. Translocation scheme for reptiles to proceed in full accordance with the submitted Reptile Mitigation Strategy produced by RSK dated October 2012 prior to commencement of any demolition or development on site
14. Site drainage on separate system - details to be submitted
15. The hours of construction/demolition 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
16. 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 09:30 – 13:00 hrs Sunday and Public Holidays Nil
17. Submission of mitigation measures to minimise any impact on air quality from construction dust
18. Submission of a Contaminated Land Phase II investigation.
19. Submission of Construction Management Plan (inc wheel wash facilities, location of contractors parking, storage of site cabins etc) for access via Nantwich Road
20. 10% renewables
21. Construction specification/method statement
22. No new windows – gable elevations plot 12 and 15
23. Details of design / surfacing of proposed footpath links to site frontage
24. Landscaping to include replacement hedge planting to boundaries
25. Open plan estate layout – removal of permitted development rights for fences in front gardens
26. Removal of permitted development rights for extensions-plots 11,12,12a,14,15,16,17,18,19,20,21,22,23
27. Details of ground levels to be submitted
28. Details of bin/bike store to be submitted and implemented for plots 12-15
29. Method statement (trees) footpath link to Nantwich rd and construction of walls/access way to rear plot 12-15 - Nantwich Rd
30. Management scheme to be submitted for the maintenance of communal garden area plots 12-15
31. The parking provision to plots 12 to 15 shall be a maximum of 150%

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