

Strategic Planning Board

Agenda

Date: Wednesday, 12th November, 2014
Time: 10.30 am
Venue: Council Chamber, Municipal Buildings, Earle Street, Crewe
CW1 2BJ

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

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

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

1. Apologies for Absence

To receive any apologies for absence.

2. Declarations of Interest/Pre Determination

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests and for Members to declare if they have a pre-determination in respect of any item on the agenda.

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

To approve the minutes as a correct record.

4. Public Speaking

Please Contact: Sarah Baxter on 01270 686462
E-Mail: sarah.baxter@cheshireeast.gov.uk with any apologies or request for further information
Speakingatplanning@cheshireeast.gov.uk to arrange to speak at the meeting

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

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 Strategic Planning Board and are not the Ward Member
- The relevant Town/Parish Council
- Local representative Groups/Civic Society
- Objectors
- Supporters
- Applicants

5. **14/0114M Harman Technology Site And Adj Land, Ilford Way, Town Lane, Mobberley, Knutsford, Cheshire: Hybrid planning application for mixed-use redevelopment seeking: A. Full planning permission for alterations to existing employment buildings, construction of new employment buildings and installation of new over ground services, piping and ducting. B. Full planning permission for demolition of remaining redundant employment buildings and removal of redundant over ground services, piping and ducting. C. Outline planning permission for construction of dwellings, associated infrastructure, landscaping and other associated works (means of access) for Argonaught Holdings Ltd c/o LPC Living (Pages 13 - 76)**

To consider the above application.

6. **13/4049N Land To The West Of Wrenbury Heath Bridge, Nantwich Road, Wrenbury: Development of marina with associated dredging to accommodate this development; Associated marina amenities including facilities building, boat workshop, car parking and hardstanding, and landscaping; and A new access road and farmer's entrance to the existing field, footbridge and associated footpaths for Mr Paul Beswick, Enzygo Limited (Pages 77 - 96)**

To consider the above application.

7. **14/1669N Land To Rear Of 71, Main Road, Shavington, Crewe, Cheshire: Outline application for the demolition of 71 Main Road and a residential development of up to 44 houses of mixed type and tenure for Mr Andrew Gibbs (Pages 97 - 114)**

To consider the above application.

8. **14/2247N Land To The North East Of Combermere Abbey, Combermere Park Drive, Dodcott Cum Wilkesley, Whitchurch, Cheshire SY13 4AJ: Installation of ground mounted photovoltaic solar arrays to provide circa 14 MW generation capacity together with inverter stations; sub station; landscaping; stock fencing; security measures; access gate; and ancillary infrastructure for INRG (Solar Parks) 13 Ltd (Pages 115 - 138)**

To consider the above application.

9. **14/2913C Land to the south of Hind Heath Rd, Sandbach, Cheshire: Application for Reserved Matters the appearance, landscaping, layout & scale for Phase 2 to include 179 dwellings on planning application no: 10/2608C for Stewart Ball, Bovis Homes Ltd (Pages 139 - 152)**

To consider the above application.

10. **White Moss Quarry, Barthomley: Certificate of Existing Lawful Use for the parking and storage of vehicles machinery and equipment (Pages 153 - 170)**

To consider the above report.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 15th October, 2014 at Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

Councillor H Davenport (Chairman)
Councillor G M Walton (Vice-Chairman)

Councillors Rachel Bailey, D Brickhill, D Brown, J Hammond, D Hough,
P Hoyland, J Jackson, B Murphy, D Newton, L Smetham, S Wilkinson and
J Wray

OFFICERS IN ATTENDANCE

Mr N Curtis (Principal Development Officer), Ms S Dillon (Planning Lawyer),
Mr D Malcolm (Principal Planning Officer), Mrs P Radia (Senior Planning
Officer) and Mr P Wakefield (Principal Planning Officer)

62 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillor D Newton for the
morning session.

63 DECLARATIONS OF INTEREST/PRE DETERMINATION

In the interest of openness in respect of application 14/2291W, Councillor
J Hammond declared that whilst he had no involvement in discussions
relating to the application, his position as a Director of the Board of Ansa
Environmental Services Ltd who deliver Waste Management Services on
behalf of the Authority could give the public perception that the Company
of which he was a Director of has a pecuniary interest. In the interests of
total openness and transparency he declared that he would leave the
room whilst the application was being determined.

In the interest of openness in the same application, Councillor D Hough
declared that he was a Board Member of TSS.

It was noted that Members had received correspondence in respect of
application 14/2247N.

64 MINUTES OF THE PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 17 September 2014 be approved as a correct record and signed by the Chairman subject to the inclusion of a wheel washing condition in respect of application 14/3371M.

In addition the following wording was included at the end of Minute No.61:-

'[Note: Details of which will be held on the confidential part of the Enforcement file].'

(This item was considered at the end of the meeting).

65 PUBLIC SPEAKING

RESOLVED

That the public speaking procedure be noted.

66 12/3948C-OUTLINE APPLICATION FOR COMMERCIAL DEVELOPMENT COMPRISING OF FAMILY PUB/RESTAURANT, 63 BEDROOM HOTEL, DRIVE THROUGH CAFE, EAT IN CAFE AND OFFICE AND LIGHT INDUSTRIAL COMMERCIAL UNITS WITH AN ADJACENT RESIDENTIAL DEVELOPMENT OF UP TO 250 DWELLINGS. THE PROPOSAL ALSO INCLUDES ASSOCIATED INFRASTRUCTURE AND ACCESS, LAND BOUNDED BY OLD MILL ROAD & M6 NORTHBOUND SLIP ROAD, SANDBACH FOR W AND S (SANDBACH) LTD

Consideration was given to the above application.

(Councillor S Corcoran, the Ward Councillor, Town Councillor Bill Scragg, representing Sandbach Town Council, Anthea Buxton, an objector and Cliff Anderson and Simon Artiss representing the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That for the reasons set out in the report and in the verbal update to Board the application be approved subject to the completion of a Section 106 Agreement securing the following:-

- Financial contribution towards primary education of £292,850
- Financial contribution towards secondary education of £539,309
- Contribution of £10,000 (air quality mitigation) towards the implementation of Air Quality Action Plan in Sandbach
- The provision of a NEAP facility (comprising a minimum of 8 items of equipment) and a minimum of 4000sqm of open space to be provided on site. One

area shall be a minimum of 2000 sqm.

- Management details for the maintenance of all amenity greenspace / public open space, public footpaths and greenways within the site, play areas, and other areas of incidental open space not forming private gardens or part of the adopted highway in perpetuity.
- Provision of 15% affordable housing with 50% to be provided as social rent and 50% provided as intermediate tenure
- Phasing of affordable housing
- Area of land across wildlife corridor transferred to Highway Authority
- Financial contribution of £500,000 towards bridge to cross wildlife corridor
- Clawback mechanism (in the event additional monies become available)

And subject to the following conditions:-

1. A01OP - Submission of reserved matters
2. A02OP - Implementation of reserved matters
3. A03OP - Time limit for submission of reserved matters
4. A06OP - Commencement of development
5. A01AP - Development in accord with approved plans
6. A22GR - Protection from noise during construction (hours of construction)
7. A32HA - Submission of construction method statement
8. A08OP - Ground levels to be submitted with reserved matters application
9. A19MC - Refuse storage facilities to be approved
10. Environmental Management Plan to be submitted
11. Details of external lighting to be submitted
12. Updated contaminated land Phase II report to be submitted
13. Noise mitigation details to be submitted with reserved matters
14. Submission of residential and business travel plans
15. Energy from decentralised and renewable or low-carbon energy sources
16. Scheme to limit the surface water runoff to be submitted
17. Scheme to manage the risk of flooding from overland flow of surface water
18. Scheme to dispose of foul and surface water to be submitted
19. Wildlife corridor buffer zone to be provided
20. Site to be drained on a separate system

21. Provision of electric car charging points
 22. Reserved matters application to incorporate public right of way routes
 23. Provision for pedestrians and cyclists to be included with reserved matters
 24. Submission of arboricultural details
 25. Written scheme of archaeological investigation to be submitted
 26. Hedgerow retention and enhancement
 27. Details of phasing of whole development and associated roundabout to be submitted
 28. Provision of pedestrian crossing to Old Mill Road
 29. Provision of footway/cycleway to south side of Old Mill Road
 30. Existing footway to north side of Old Mill Road to be upgraded to footway / cycleway
 31. Provision of pedestrian refuge to aid crossing of Old Mill Road near to Congleton Road junction
 32. Details of public access to wildlife corridor to be submitted
 33. Provision of cycleway / footway from site to High St along Old Mill Road
 34. No more than 50 dwellings shall be occupied until the roundabout which is the subject of planning permission 14/0043C has been completed in accordance with the details approved under that permission.
 35. Proposals for public right of way to be submitted and approved
 36. No more than 50% of the dwellings shall be occupied until 25% of the non residential (commercial) land has been serviced*. No more than 75% of the dwellings shall be occupied until 50% of the non residential (commercial) land has been serviced*. No more than 90% of the dwellings shall be occupied before an access road is provided from the new roundabout access on Old Mill Road to within 20m of the south western boundary of the site. All services / access roads shall be carried out in accordance with a scheme of details which has first been submitted to and approved in writing by the Local Planning Authority.
- *For the purposes of this condition "serviced" is defined as the provision of access, electricity and / or gas, water, drainage and telecommunications.

67 WITHDRAWN BY OFFICERS 14/2247N-INSTALLATION OF GROUND MOUNTED PHOTOVOLTAIC SOLAR ARRAYS TO PROVIDE CIRCA 14 MW GENERATION CAPACITY TOGETHER WITH INVERTER STATIONS; SUB STATION; LANDSCAPING; STOCK FENCING; SECURITY MEASURES; ACCESS GATE; AND ANCILLARY INFRASTRUCTURE, LAND TO THE NORTH EAST OF, COMBERMERE ABBEY, COMBERMERE PARK DRIVE, DODCOTT CUM WILKESLEY, WHITCHURCH, CHESHIRE FOR INRG (SOLAR PARKS) 13 LTD

This application was withdrawn by Officers prior to the meeting.

68 14/2991W-CHANGE OF USE TO ALLOW THE TRANSFER OF WASTE FROM THE APPLICANTS SKIP HIRE BUSINESS, ANT SKIP HIRE, TURF LANE, MACCLESFIELD FOR MR ANT HENSHAW, ANT SKIP HIRE

Consideration was given to the above application.

RESOLVED

That the application be refused for the following reasons:-

The proposed development would be contrary to the interests of highway safety since it would result in an intensification of the use of Turf Lane and the junction of Turf Lane and Moss Lane which are both sub-standard, contrary to the requirements of Policy DC3 (7) of the Macclesfield Borough Local Plan and Policy SE 12 of the Cheshire East Local Plan Strategy - Submission Version.

(The meeting adjourned from 12.30pm until 1.30pm for lunch).

69 14/1326N-OUTLINE PLANNING PERMISSION FOR UP TO 150 RESIDENTIAL DWELLINGS TO INCLUDE ACCESS. ALL OTHER MATTERS RESERVED FOR FUTURE CONSIDERATION SUBJECT TO AN ENVIRONMENTAL IMPACT ASSESSMENT, LAND TO THE NORTH OF WISTASTON GREEN ROAD, WISTASTON FOR HARLEQUIN (WISTASTON) LTD

Consideration was given to the above application.

(Councillor Mrs J Weatherill, the Ward Councillor and Parish Councillor Mrs Bond, representing Wistaston Parish Council attended the meeting and spoke in respect of the application).

RESOLVED

That the application be refused for the following reasons:-

1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies NE.2 (Open Countryside) and RES.5 (Housing in Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, Policy PG 5 of the Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also contrary to the emerging Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.
2. In the opinion of the Local Planning Authority, the proposed development would cause a significant erosion of the Green Gap between the built up areas of Nantwich and Crewe, in an area that is also designated as being within the designated Green Belt within

the Local Plan Strategy Submission Version and would adversely affect the visual character of the landscape which would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policy NE4 (Green Gaps) of the Borough of Crewe and Nantwich Replacement Local Plan 2011, Policy PG3 (Green Belt) of the Local Plan Strategy Submission Version and guidance contained within the NPPF.

3. In the absence detailed site survey information the applicant has failed to demonstrate that the proposal will not result in loss of the best and most versatile agricultural land and given that the Authority can demonstrate a housing land supply in excess of 5 years, the applicant has also failed to demonstrate that there is a need for the development, which could not be accommodated elsewhere. The use of the best and most versatile agricultural land is unsustainable and contrary to Policy NE.12 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the provisions of the National Planning Policy Framework.
4. Insufficient information has been submitted with the application to determine the impact of the proposal on barn owls. As the Local Planning Authority can demonstrate a 5 year supply of housing land there are overriding reasons for allowing the development. Therefore the scheme is contrary to Policy NE.5 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and guidance contained within the NPPF.
5. The proposed development will have an adverse impact on highway safety by virtue of the increase in traffic from the development contrary to Policy BE3 of the Crewe & Nantwich Local Plan.'

In order to give proper effect to the Board's intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chair (or in his absence the Vice Chair) of Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.

In the event of any changes being needed to the wording of the Board'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 Principal Planning Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Board's decision.

S106 Heads of Terms:

A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision to include pepper potting
 - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
 - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
 - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced
2. Provision of POS and a LEAP with 5 pieces of equipment and a scheme of management in perpetuity
 3. Commuted Sum payment in lieu of primary education provision £292,850
 4. Commuted Sum payment of £2000 in lieu of ecological mitigation for loss of grassland

(During consideration of the application Councillors D Brown and D Newton arrived to the meeting, however they did not take part in the debate or vote on the application).

70 14/2685C-OUTLINE APPLICATION FOR DEVELOPMENT OF LAND FOR UP TO 70 DWELLINGS AND ASSOCIATED WORKS (RESUBMISSION), LAND SOUTH OF, HOLMES CHAPEL ROAD, SOMERFORD FOR MR MARC HOURIGAN, HOURIGAN CONNOLLY

Consideration was given to the above application.

(Richard Lomas, the agent for the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That the application be refused for the following reasons:-

1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy PS8 and H6 of the Congleton Borough Local Plan First Review 2005, Policy PG5 of the emerging Cheshire East Local Plan Strategy - Submission Version and the principles of the National Planning Policy Framework, which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it and creates harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land in accordance with the

National Planning Policy Framework and consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan, to the emerging Development Strategy and the principles of the National Planning Policy since there are no material circumstances to indicate that permission should be granted contrary to the development plan.

2. The proposal would result in loss of the best and most versatile agricultural land and given that the Authority can demonstrate a housing land supply in excess of 5 years, the applicant has failed to demonstrate that there is a need for the development, which could not be accommodated elsewhere. The use of the best and most versatile agricultural land is inefficient and contrary to Policy SE2 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of the National Planning Policy Framework.
3. The proposed residential development, by virtue of the adverse impact that the proposals would have on the local landscape character thereby failing to recognise the intrinsic character and beauty of this site and the contribution to the wider landscape setting is contrary to Policies GR5, GR3 of the Congleton Borough Adopted Local Plan First Review 2005 and policies SE4, SE5 and SE6 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of Paragraph 17 of the National Planning Policy Framework
4. Insufficient information has been submitted to demonstrate that the proposal will have an acceptable impact upon the operation of the highway network in the vicinity in terms of safety and congestion impacts and lack of data in the Transport Assessment contrary to Policies GR9 and GR10 of the Congleton Borough Adopted Local Plan First Review 2005
5. Insufficient information has been submitted to demonstrate that the scheme would provide for the retention and protection of existing trees of amenity value and no assessment of historic hedgerows has been provided therefore the applicant has failed to demonstrate that the proposal complies with Policies GR1 and NR1 of the adopted Congleton Borough Local Plan First Review 2005 and policy SE3 and SE5 of the emerging Cheshire East local Plan and the provisions of the National Planning Policy Framework.

In the event of any changes being needed to the wording of the Board'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 Principal Planning Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Board's decision.

Should this application be the subject of an appeal, authority be delegated to the Principal Planning Manager in consultation with the Chairman of the

Strategic Planning Board, to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement to secure:-

- Affordable housing:
 - 30% of all dwellings to be affordable (65% social or affordable rented and 35% intermediate tenure to be pepper potted)
 - A mix of 1, 2, 3 bedroom and other sized properties to be determined at reserved matters
 - units to 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.
 - constructed in accordance with the Homes and Communities Agency Design and Quality Standards (2007) and should achieve at least Level 3 of the Code for Sustainable Homes (2007).
 - no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided, with the exception that the percentage of open market dwellings that can be occupied can be increased to 80% if the affordable housing has a high degree of pepper-potting and the development is phased.
 - developer undertakes to provide the social or affordable rented units through a Registered Provider who are registered with the Homes and Communities Agency to provide social housing.
- Provision of minimum of 1680m² sqm and of shared recreational open space and children's play space to include a LEAP with 5 pieces of equipment
- Private residents management company to maintain all on-site open space, including footpaths and habitat creation area in perpetuity
- Commuted Sum (to be negotiated) towards improvement of the Waggon and Horses Junction and the improvements at Barn Road roundabout or other measures that will provide similar congestion relief benefits to the A34 corridor through Congleton – amount to be confirmed
- Commuted sum of £40,000 to upgrade existing Puffin Crossing to Toucan Crossing
- Commuted Sum payment of £68,000 in lieu of health related provision in accordance with the NHS Health Delivery Plan for Congleton

(Prior to consideration of the following item, Councillor B Murphy left the meeting and did not return).

71 14/3034C-OUTLINE PLANNING FOR RESIDENTIAL DEVELOPMENT OF SITE TO ACCOMMODATE UP TO 100 DWELLINGS, AMENITY AREAS, LANDSCAPING, AND ASSOCIATED INFRASTRUCTURE

**(RESUBMISSION OF 14/0132C), SALTERSFORD FARM,
MACCLESFIELD ROAD, HOLMES CHAPEL FOR RUSSELL HOMES
(UK) LIMITED, G.J & M.J P**

Consideration was given to the above application.

(Abbie Little, representing Save Somerford Corner and Jonathan Vose, agent for the applicant attended the meeting and spoke in respect of the application. In addition a statement was read out on behalf of Councillor L Gilbert, the Ward Councillor).

RESOLVED

That the application be refused for the following reasons:-

1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy PS8 and H6 of the Congleton Borough Local Plan First Review 2005, Policy PG5 of the emerging Cheshire East Local Plan Strategy - Submission Version and the principles of the National Planning Policy Framework, which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it and creates harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land in accordance with the National Planning Policy Framework and consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan, to the emerging Development Strategy and the principles of the National Planning Policy since there are no material circumstances to indicate that permission should be granted contrary to the development plan.

2. The proposal would result in loss of the best and most versatile agricultural land and given that the Authority can demonstrate a housing land supply in excess of 5 years, the applicant has failed to demonstrate that there is a need for the development, which could not be accommodated elsewhere. The use of the best and most versatile agricultural land is inefficient and contrary to Policy SE2 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of the National Planning Policy Framework.

In the event of any changes being needed to the wording of the Board'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 Planning and Place Shaping Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Board's decision.

Should this application be the subject of an appeal, authority be delegated to the Planning and Place Shaping Manager in consultation with the Chairman of the Strategic Planning Board to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

- Affordable housing:
 - 30% of all dwellings to be affordable (65% social or affordable rented and 35% intermediate tenure)
 - A mix of 2 , 3 bedroom and other sized properties to be determined at reserved matters
 - units to 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.
 - constructed in accordance with the Homes and Communities Agency Design and Quality Standards (2007) and should achieve at least Level 3 of the Code for Sustainable Homes (2007).
 - no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided, with the exception that the percentage of open market dwellings that can be occupied can be increased to 80% if the affordable housing has a high degree of pepper-potting and the development is phased.
 - developer undertakes to provide the social or affordable rented units through a Registered Provider who are registered with the Homes and Communities Agency to provide social housing.

- Provision of minimum of 2,380 sqm of shared recreational open space and the provision of on site children's play space to include a NEAP with 8 pieces of equipment
- Private residents management company to maintain all on-site play space, open space, including footpaths, hedgerows and green spaces in perpetuity
- The payment of £96,907 for the provision of health care within Holmes Chapel Medical Centre – upon commencement of development

(Prior to consideration of the following item, Councillor Mrs R Bailey left the meeting and did not return).

The meeting commenced at 10.30 am and concluded at 4.45 pm

Councillor H Davenport (Chairman)

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Application No: 14/0114M

Location: HARMAN TECHNOLOGY SITE AND ADJ LAND, ILFORD WAY, TOWN LANE, MOBBERLEY, KNUTSFORD, CHESHIRE

Proposal: Hybrid planning application for mixed-use redevelopment seeking: A. Full planning permission for alterations to existing employment buildings, construction of new employment buildings and installation of new over ground services, piping and ducting. B. Full planning permission for demolition of remaining redundant employment buildings and removal of redundant over ground services, piping and ducting. C. Outline planning permission for construction of dwellings, associated infrastructure, landscaping and other associated works (means of access).

Applicant: Argonaught Holdings Ltd c/o LPC Living L

Expiry Date: 11-Apr-2014

SUMMARY RECOMMENDATION

Approval, subject to conditions.

MAIN ISSUES

- The principle of the development;
- Loss of a site allocated for employment purposes;
- Housing policy and supply;
- Need for additional affordable housing in the area and viability issues;
- Education contribution and school provision issues;
- Creation of new public open space;
- Sustainability of the site;
- Impact on highway safety and traffic generation;
- Noise issues from the adjacent industrial estate and aircraft;
- Design, layout and density considerations;
- The scale of the proposal and any impact of the height, mass, bulk on the character and appearance of the area;
- Amenity implications;
- Other environmental issues;
- Flooding and drainage;
- Impact on landscape, trees and ecology;
- Redevelopment benefits;
- Phasing; and
- Heads of Terms for a Legal Agreement.

REASON FOR REPORT

At the Strategic Planning Board on 10th July 2014, Members resolved to defer the application to a future meeting for a Public Health Assessment, which would particularly take into account aircraft noise on future occupiers.

This report is therefore divided into two sections: -

- The first section relates to Noise issues from the adjacent industrial estate and aircraft providing a detailed update of the work carried out in relation to Public Health Noise Impact. It also includes any additional representations/updates since the original report.
- The second section is the report from the SPB on 10th July 2014, which examines the other planning issues.

Subject to the **revised conditions**, the proposal is considered to be acceptable for the reasons set out in the appraisal section of these reports.

CONSULTATIONS

Environmental Health Officers (EHO)

The site is within an established settlement zone of Mobberley village, however the area is severely impacted by noise as it is located within the Preferred Noise Route for departing and arriving aircraft to Manchester International airport located 1760m (just over 1 mile) from the end of Runway 2.

The health impact of aircraft noise is heavily discussed in the Environmental Health Officer's original response which is on the second part of this report. It is noted and agreed that, with extensive mitigation, it is possible to mitigate the noise levels to acceptable levels with respect to indoor habitable rooms.

The Environmental Health Officers original response was to OBJECT to the application and recommend that it be refused due to the impact of aircraft noise on outdoor amenity areas, which it was NOT considered possible to mitigate.

It is NOT possible to meet World Health Organisation noise standards in unprotected garden areas due to aircraft noise. As explained in the original memo, this is contrary to NPPF, NPPG and government Policy (which seeks to REDUCE the number of persons exposed to aircraft noise). However, if suitable protection were provided (such as acoustic canopies) there will be regions of garden area which could meet the WHO standards and also meet NPPF/ NPPG policy around designing out noise exposure.

The application was originally heard at Strategic Planning Board on 10th July 2014 and the committee deferred the decision on this application in order for the applicant to provide a Public Health Impact assessment of the aircraft noise.

A report has been undertaken and submitted with respect to the potential health impact of the aircraft noise on the site. The report sets in context the national guidance regarding the health impacts of aircraft noise and overlays the macro-local position with respect to this site.

The report concludes that whilst there are undoubtedly negative health impacts associated with aircraft noise exposure, there is a great deal of uncertainty around the quantification of these impacts and at what levels they may (or may not) occur. The report was submitted to a Consultant in Health Protection at Public Health England (PHE) who confirmed that PHE agree with the methodology and the arguments presented in the report. They did not disagree with the findings of the report.

In addition to the above, meetings have been held between the Environmental Health Officers and the applicants. Of particular importance is the following guidance contained in BS8223:2014 (guidance on Sound Insulation and Noise Reduction for Buildings), in particular for areas where noise levels are not ideal: -

The noise impact may be partially off-set if the residents of those dwellings have access to:

- a relatively quiet facade (containing windows to habitable rooms) as part of their dwelling, and/or;
- a relatively quiet external amenity space for their sole use, (e.g. a garden or balcony). Although the existence of a garden or balcony is generally desirable, the intended benefits will be reduced with increasing noise exposure and could be such that significant adverse effects occur, and/or;
- a relatively quiet, protected, nearby external amenity space for sole use by a limited group of residents as part of the amenity of their dwellings, and/or;
- a relatively quiet, protected, external publically accessible amenity space (e.g. a public park or a local green space designated because of its tranquillity) that is nearby (e.g. within a 5 minutes walking distance).
- Noise is required to be assessed and judged in each case in the context of wider sustainable objectives and the effects of the specific sources.

As a result of these meetings, the applicant has submitted a revised Design Code for the site. This design code incorporates areas of "relative tranquillity" which residents can use when outdoors.

This includes individual "noise canopies" for a section of the private amenity space of the dwellings immediately adjacent to the facade facing into the garden area with an "acoustic shelter" designed to reduce the levels of aircraft noise immediately below it. The acoustic shelter shall have a roof constructed from clear or only moderately tinted material that allows the penetration of sunlight. The roof shall cover an area of no less than 12m² and be formed from materials with a minimum resistance to the transmission of sound of 15 dB.

Details of the placement and construction of the acoustic shelters shall be submitted to the local planning authority for approval and any approved details constructed in full before any individual dwelling is occupied.

In addition, a public area of relative tranquillity is to be situated within the area of open space, with details to be approved at reserved matters stage.

Environmental Health Officer Conclusions

It is clear that noise levels, due to aircraft noise, are far from ideal across the site. There remain serious concerns from this office regarding the suitability of the site for housing without mitigation, in particular regarding the use of outdoor amenity spaces. Where gardens and amenity space is provided residents have the right to the peaceful enjoyment of those spaces in order to maintain a reasonable quality of life.

However, mitigation has now been proposed and a Public Health Assessment made. It is clear from NPPF policy that, where options of development are limited, development should be permitted, however with the best mitigation achievable.

There has been clear, and demonstrable concession from the applicants in order to provide, as far as is possible, some degree of mitigation for future residents. This is accepted and it is agreed that, if in the planning balance the committee is minded to approve this application suitable conditions are available.

As such the Environmental Health Department does not object to the application as some outdoor amenity space can now be provided.

If the application is thought to be appropriate after application of the NPPF/NPSE planning balance assessment, the Environmental Health Department considers conditions essential in order to protect, as far as possible, the health and quality of life of future occupiers at this location. Conditions will require submission of a Site Construction Environmental Plan to be submitted at Reserved Matters stage, a noise mitigation scheme to be submitted (for indoor areas), outdoor mitigation measures to be included with the reserved matters layout in accordance with the illustrative details contained at Appendix B to the Design Code, and the area of public open space shall include a tranquil area to provide outdoor mitigation from aircraft noise, in accordance with illustrative details contained at Appendix B to the Design Code.

ADDITIONAL REPRESENTATIONS

The following representations have been submitted since the previous application was considered by the Strategic Planning Board, on 10th July 2014. The full letters, for which the summaries below have been formed, can be read on the electronic file on the Council's public access website: -

A letter has been received from a resident from Nether Alderley who supports the application. The writer is a first time buyer, living with his parents growing a deposit for a house. The writer comments that following his searches, there are no properties available within a reasonable price range for many first-time buyers in Alderley Edge, Wilmslow or Mobberley districts. The writer would like to continue living in the local area, but this is only feasible if the council allow planning applications like this.

5 letters of support have been received from employees of Harman's supporting the application as it will safeguard jobs as Harman's need to move to new state of the art facilities. The premises are currently far too big to be sustainable. The majority of the workforce live in Cheshire East. One of the writer's comments that their partner has now

been unemployed for nearly two years (this is someone who is well-educated, highly skilled and prepared to travel) and the writer is all too painfully aware that if the company is forced to close, or make massive redundancies (again) then prospects of gaining employment are not best for either the writer or any of the 200+ colleagues.

From a different perspective, one of the writers cannot see why the proposed plan for the new HQ is more objectionable than the current site?

Careful consideration must be given to the impact on the area if Harman technology does shut down and also the loss of the additional housing which has been included in the plans. It is queried whether anyone has got an alternative plan for this site when Harman is forced to shut, or indeed the resulting unemployed ex-employees?

A letter has been received from a resident. The letter raises 5 issues, which cause concern following the planning meeting on 10th July 2014.

- 1 It was said 'by refusing this planning application, it would be seen as being inconsistent as planning approval was given a while back for development adjacent to Parkgate, Knutsford. Although the point was made that this development is over a mile further away from the airport, the principle point appears to be missed that, noise obeys the inverse square law, e.g. it falls off $1/D^2$. The aircraft noise over Mobberley is many more times than the perceived noise in Knutsford.
- 2 It was stated that 'runways are there for aircraft to land on and that's what they should do' but they don't all make it. In the week of the letters issue, it is claimed that one landed short of the runway trying to make an emergency landing and another aircraft crashed again outside the airport's runway in poor visibility, both with fatalities.
- 3 It was also suggested that notwithstanding the noise and safety issues, 'the house purchaser should make the decision whether or not to buy' – how responsible is that of our Officers and Members to make this suggestion?
- 4 It was also said 'across the table' that if there is an appeal we can't afford it, the inference being we had better approve the application – how responsible is that of our Members?
- 5 It was stated at the meeting that a Cheshire East Health and Safety Officer had submitted a report recommending refusal of the application, but it would seem that had been 'brushed under the carpet'. Although the proposal to reject the said planning application went to the 'casting vote of the Chairman', this latter debate resulted in a second 'motion' being proposed which was seconded and approved, to defer a decision on the planning application until an independent health and Safety Officer had the opportunity to investigate the application and report back. We now formally request that Mobberley Parishioners be given the opportunity to discuss the safety implications with the Independent Officer.

The writer refers in detail to Manchester Airports' response. Manchester Airport raised no objections, whilst this is technically correct, Manchester Airport submitted a very professional Aerodrome Safe-Guarding response to protect their aerodrome licence, they did however make a number of significant points and therefore, was very misleading for the Planning Officer to glibly dismiss Manchester Airport's response.

Manchester Airport's detailed response protects the operation of aeroplanes, landing and taking off from their airport, it is up to the Planning Officers and their Members to safeguard the Parishioners and this clearly has not been addressed, either because the implications have been misunderstood, not read or ignored. The writer states that they joined the Aviation Industry in 1948 and has not only been involved in technical disasters, but was a Technical Advisor to the CAA, the FAA and ICAO for some 25 years. The writer highlights that although a considerable section of the site is outside the current Public Safety Zone, the writer reminds Officers and Members that the whole area is under the approach and departure funnels.

The writer goes on to appraise Manchester Airport's Safeguarding response with regard to the limitations on heights of cranes, limitations on lighting, the site being located in a critical location for aircraft operations, limitations on heights of trees, and landscape and flood risk / drainage issues, which should be discussed if consent is granted, with the Safeguarding Authority for Manchester Airport.

The writer wishes Officers and Members to consider the implications from building 360 houses on a confined site 200ft below 'over flying aircraft', which will form a series of resonant cavities with echo boxes exacerbated by the noise bouncing off the pitched roofs. This will not only cause health hazards to the new residents, but will degrade the quality of life for all the adjacent existing home owners. It must be appreciated that the ground acts as a sponge for both water and noise which greatly attenuates the latter, particularly if it's grassland.

During 'low level' adverse weather conditions ahead of aircraft's 'take-off run', ATC are permitted to request a flight crew to take 'avoiding action' by turning left or right at low level, e.g. during the afternoon and evening of August 1st 2014 a significant number of aircraft (30 or 40) turned left immediately after take-off and then put on 'height' over the Longridge Estate, Knutsford after passing overhead the 'site'. Air safety must come first, but we should not ignore the public who may be living below.

There are other problems which appear to be unresolved e.g. vortex disturbance, road congestion, flooding, sewage and education. This planning application is in a 'Serious Anxiety Zone' and should be avoided (at all cost) for domestic living.

The writer has enclosed extracts from a report compiled some years ago for the benefit of the police force and anyone who may be involved in an aircraft incident.

APPLICANT'S SUPPORTING INFORMATION

The applicant has submitted the following reports/documents in support of the application, details of which can be read on the electronic file on the Council's public access website.

A Public Health Noise Impact Assessment prepared by Temple Group. The report finds: -

1. The proposed development site is subject to noise from aircraft approaching or departing from Manchester International airport; dependant on the airport's mode of operation.
2. Aviation noise levels vary considerably across the site with the highest levels towards the north of the site of approximately 63 decibels¹ rapidly falling to around 57 decibels towards the south of the site during the day; and 58 decibels towards the north of the site and 48 decibels towards the south of the site at night. To put this range of noise levels in context the 6 decibel variation in levels between the north and south of the site is a readily noticeable reduction in loudness of around a third; whilst the equivalent 10 decibel difference at night is approximately a halving of loudness. During both the day and night the substantial majority of the site is subject to aviation noise levels below the mid - point of these ranges (noise contours have been provided to illustrate this).
3. Planning conditions can ensure that suitable noise mitigation is incorporated into the scheme to ensure that significant effects on health and quality of life are prevented. As this is an application for outline planning permission the detail of the mitigation can be reserved for approval by the local planning and implementation before occupation by planning conditions that will require stringent noise targets to be achieved e.g. the guidelines of BS 8223:2014. The type of measures that could be used to meet these targets includes windows designed to provide enhanced noise insulation and the provision of alternative means of acoustically protected ventilation so that windows can be kept closed.
4. The local planning authority policy T18 in the adopted plan states that:
 - a. Planning permission will not be granted for residential schemes where the aviation noise is in excess of 72 decibels during the day and/or 66 decibels at night.
 - b. Where aviation noise levels lie between 66 and 72 decibel during the day and/or night-time noise levels lie between 57 and 66 decibels; planning permission will only be granted where other planning reasons support the scheme and suitable sound proofing is incorporated into the scheme to the satisfaction of the local planning authority.
 - c. Below the noise levels in b) above the policy requires that planning permission will only be granted if soundproofing is provided to the satisfaction of the local planning authority.

¹ *The relative loudness that we perceive is a subjective psychological phenomenon, not something that can be objectively measured. Technically, a decibel is measured on a logarithmic scale, not a linear one. The threshold of hearing is zero decibels, at the other extreme, the threshold of pain is about 130 decibels. Most of us perceive one sound to be twice as loud as another one when they are about 10 dB apart; for instance, a 60-dB air conditioner will sound twice as loud as a 50-dB refrigerator. Yet that 10-dB difference represents a tenfold increase in intensity. A 70-dB dishwasher will sound about four times as loud as the 50-dB refrigerator, but in terms of acoustic intensity, the sound it makes is 100 times as powerful. Another way of looking at it is if the sound from one typewriter registers 60 dB, then ten typewriters clacking away would register 70 dB (not 600 dB), and they would sound only twice as loud as one typewriter. You would need 100 typewriters to reach a noise level of 80 dB, and together they would sound only four times as loud as a single typewriter.*

Aviation noise levels across the site are all below the values in b) above. Consequently local policy allows for planning permission to be granted, with conditions requiring suitable sound proofing; as occurred recently for the nearby proposed residential scheme north of Parkgate Industrial Estate which is subject to similar aviation noise levels i.e. day noise levels range across the site from 60 to 65 decibels and night levels range from 54 to 59 decibels.

5. The emerging evidence of direct health effects of noise includes associations between noise from transportation sources and hypertension (raised blood pressure), heart disease and stroke. However, the research in some cases is contradictory, subject to significant uncertainties, and the evidence suggests any increased risk is very substantially below established risks from factors such as smoking, lack of exercise, obesity, ethnicity, family history, diet, diabetes and high blood cholesterol levels etc. Additionally, successive studies of the direct health effects of noise have led to the overall risk being reviewed downwards, from an already low starting point, as a wider evidence base develops. Furthermore, in nearly all studies of the direct health effects of noise the confidence intervals still span zero for even the highest risk i.e. any effect identified could equally be a consequence of sampling issues or other life style and environmental factors, as be caused by noise.
6. The apparent risk of direct health effects from transportation noise is strongest for road traffic noise, but does not become statistically significant until noise levels exceed 65 decibels i.e. at noise levels higher than aircraft noise experienced anywhere on this site.
7. There is less evidence of a link between aviation noise and direct health effects than for road traffic noise; and even the latest research is subject to uncertainties regarding the confounding influences of air pollution, the effects of road traffic noise on health and uncertainties associated with the modelling and prediction of noise levels. There are also perplexing contradictions with at least one substantial survey showing a marginally increased risk of ischaemic heart disease with increasing aircraft noise; but a greater reduction in the risk of stroke.
8. The existing research on the direct effects of noise on health has been on city or even countrywide populations and at worst has revealed a very small increase in the risks. As a result, notwithstanding the substantial uncertainties in the emerging evidence on the direct health effects of noise; this scheme with only 375 houses proposed is far too small to be able to predict the number of persons liable to be effected with any degree of statistical confidence. However, if we ignore this statistical problem a crude indication of the potential scale of the risk can be made by considering the data for London which suggests 5 heart attacks out of a population of 400,000 persons who are subject to aircraft noise above a noise level of 57 decibels; which equates to 0.00125% or 1.25 persons per 100,000 of the population under investigation. By assuming the national census average household of 2.3 persons for Ilford way, this gives potentially 862 persons in 375 houses. Applying the London data to the assumed Ilford Way Population gives a possible 0.0011 cases of heart problems per year due to noise i.e. the apparent risk is not significant. For comparison the latest national statistics for England for myocardial infarction (heart attacks) show a rate of 289 persons per 100,000.

9. Although national noise policy and practice guidance refers to the need to prevent, avoid, mitigate and minimise significant health effects, it does not provide any specific guidance on the noise levels at which unacceptable direct health impacts occur. However, policy and practice also requires that significant adverse impacts on quality of life are also prevented, avoided, mitigated and minimised; and it is clear that significant quality of life impacts are likely to occur at noise levels lower than those at which health effects might occur. Consequently, ensuring that a scheme, such as this, which is exposed to higher than ideal aviation noise levels incorporates measures to mitigate and minimise significant adverse noise impacts on quality of life e.g. sound proofing; will also prevent and avoid significant adverse noise impacts on health in line with national policy, as well as comply with established local aviation noise policy.

In addition, illustrative details of Tranquillity Areas and Dwelling Mitigation have been provided which have been added to the Design Code.

The details show that:

- Noise Zone Canopy. A section of the private amenity space of the dwellings immediately adjacent to the facade facing into the garden area shall be provided with an "acoustic shelter" designed to reduce the levels of aircraft noise immediately below it. The acoustic shelter shall have an imperforate roof constructed from clear or only moderately tinted material that allows penetration of sunlight. The roof shall cover an area of no less than 12m² and be formed from materials with a minimum resistance to the transmission of sound of Rw 15 dB. Details of the placement and construction of the acoustic shelters shall be submitted to the local planning authority for approval and any approved details constructed in full before any individual dwelling is occupied.
- Area of Tranquillity – Provides illustrative details of a public peaceful area of tranquillity to be situated within the area of open space, with details to be approved at reserved matters stage.

Context and Noise contours

To place the significance of the levels of aircraft noise affecting the site in context, noise contour plans have been submitted which show the contours, which cover the site and the surrounding area. The Ilford Way site is outlined in red, along with the site to the north of the Parkgate Trading Estate where Cheshire East Council has recently granted planning permission for residential development of circa 200 units. The contour plans show that the aircraft noise contours that the site falls within extend out across much of Knutsford. In addition, an extract has been included from the Manchester Airport Noise Action Plan, which shows the overall area affected by aircraft noise, which covers a large area of South Manchester containing tens of thousands of dwellings.

Aviation noise contours (as a percentage).

Noise Level dB	Day time		Night time	
	Ilford Way	Parkgate	Ilford Way	Parkgate
48	0	0	39.3	0
51	0	0	49	71.5
54	2	0	11.7	28.5
57	54.3	49.3	0	0
60	43.4	50.7	0	0
63	0.4	0	0	0

Number of homes in equivalent noise category within Manchester Airport Noise Map Contour.

Noise level (dB)	Night time	Day time
	Number of homes	
48-50		29 700
51-53		14 700
54-56	30 700	7 200
57-59	15 550	1 500
60-62	5 560	650
63-65	1 600	100
66-68	650	<50
69-71	50	0
72-74	<50	0
75+	0	0

The above tables provide details of the number of dwellings affected, and compares the Ilford Way and Parkgate sites. The contour plans and tables together show that:

1. 39.3% of the Ilford Way site is in the 48 dB night time contour.
2. 49% of the Ilford Way site falls within the up to 51dB contour at night, compared with 71.5% of the Parkgate site. The Manchester Airport Noise Action Plan maps do not even begin to quantify the number of dwellings within this contour. This contour extends west to include a large number of existing dwellings in Mobberley and in Knutsford to the south of the Parkgate Trading Estate.
3. The highest night time contour that the Ilford Way site is exposed to is 54dB. Just 11.7% of the Ilford site lies within this noise contour, compared with 28.5% of the Parkgate site. Over 54,000 houses (121,700 people) are under the flight path for Manchester Airport in areas that are rated as being 54db or above during night time hours.

OFFICER APPRAISAL

This application was considered to be acceptable to Officers and recommended for approval on 10th July 2014. Following a lengthy debate by Members, a motion to refuse the application for the following reasons was lost: -

1. The concerns raised by EHO regarding aircraft noise on the residential dwellings.
2. The POS and community facility being within the Green Belt.
3. The number of affordable homes being beneath 30% threshold.
4. Loss of employment land.
5. Highways impact.
6. The site not being sustainable for development.

The application was deferred following a second motion to seek further advice on the specific issue of the impact of aircraft noise on public health.

It is not considered that the principle of development has changed since this application was last considered. However, for clarity the section on Housing Land Supply has been refreshed below, which supersedes the section from the original report. It is considered that all the other material considerations discussed in the report from the Agenda of 10th July are still relevant and as per the original report..

HOUSING LAND SUPPLY

The National Planning Policy Framework (NPPF) confirms at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

“identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”.

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.*

A number of principal appeal decisions have previously concluded that the Council cannot demonstrate a five year supply of housing land, albeit for different reasons. Matters such as the housing requirement, the buffer and windfalls have all prompted varying conclusions to be made. This demonstrates that there is not a consistent approach to housing land supply. This has also been recognised by the Planning Minister who had noted that in a letter to the Inspector in the Gresty Road appeal that “differing conclusions” had been reached on such appeals.

In the absence of a consistent and definitive view, the Council will continue to present a housing land supply case based on the most up to date information.

On 14 October 2014, the Council issued a Five Year Housing Land Supply Position Statement with a base date of 31st March 2014. This document brings the evidence up to date and shows progression in terms of delivering supply by supporting planned developments and utilising brownfield land wherever possible.

As of 31st March 2014, based on 1180 dwellings per annum Cheshire East had a total deliverable housing land supply of 10,562 dwellings, with a 5% buffer, this equates to 6.08 years supply of deliverable housing land and with a 20% buffer this equates to a 5.32 years supply of deliverable housing land.

To bring the housing land supply fully up to date the Position Statement illustrates that as of 31st August 2014, Cheshire East is able to demonstrate a continued increase in supply. This analysis shows that Cheshire East now has a total deliverable housing land supply of 11,051 dwellings, with a deliverable supply of housing land of **6.36 years (5% buffer)** and **5.57 years (20% buffer)**.

On this basis it is considered a 5 year supply is capable of being demonstrated.

A component of the Council’s evidence base is the Strategic Housing Land Availability Assessment (SHLAA) February 2013 Update, which identifies potential sites for housing development across Cheshire East. It is worth noting that the Ilford site is identified by the Council as being one of the sites forming part of the anticipated supply of housing land, being suitable, available, deliverable and achievable for residential development.

Therefore, if the application were approved, it would relieve pressure on the other edge of settlement sites and the Green Belt as part of the provision of housing and strengthen the Councils 5 year land supply position.

PUBLIC HEALTH NOISE IMPACT ASSESSMENT

It was evident at the Strategic Planning Board meeting on 10th July 2014 that a number of Members were concerned about the impact of aircraft noise on the health of future residents of the site. Members deferred the application in order that the applicant could provide a Public Health Impact Assessment, which specifically had regard to the impact of aircraft noise.

The report was scoped with Environmental Health Officers. The report concludes that whilst there are clearly negative health impacts associated with aircraft noise exposure, there is a great deal of uncertainty around the qualification of these impacts, and at what levels they may (or may not) occur. The report has been submitted to Public Health England and the advisor from PHE has commented that the report and evidence is sound and the advisor does not disagree with the findings in the report.

The picture that emerges is that the noise levels that affect the Ilford Way site are far from unique and are already experienced by significant numbers of dwellings beneath the flight path for Manchester Airport. Noise insulation can be incorporated into the dwellings, which will ensure that noise levels are within WHO guidelines and therefore within acceptable limits. The tranquil area within the area of public open space, together with mitigation measures on the new dwellings, which would be incorporated into the Design Code, will also ensure that residents have access to external areas of relative tranquillity.

All the proposed properties can be sound proofed to achieve good noise conditions indoors, so that significant adverse effects on health and quality of life can be eliminated at night and during the day. The houses can be constructed using ordinary materials and methods; but care will have to be exercised in selecting the glazing systems so that suitable noise reduction is achieved. Keeping windows closed will be important in managing the internal noise levels, alternative means of ventilation will have to be provided e.g. attenuated vents and/or whole house natural or mechanical ventilation systems.

96.7% of the site is above the noise level of 55 decibels that the World Health Organisation guidelines for community noise advises would protect the majority of the population against being seriously annoyed outdoors whilst using gardens and balconies etc. However, this advisory guideline has never been formally adopted in UK noise policy and is somewhat unrealistic as more than 50 % of the UK population is exposed to day time noise levels of more than 55 dBA and the majority of persons surveyed do not report being highly annoyed. Additionally, the proportion of the population protected at a level of 55 dBA is not a simple majority of 51%, but is in fact much higher. For example, the ANIS² study which underpins UK aviation noise policy shows that only 15% of persons exposed to aviation noise between 57 and 60 dBA are likely to be highly annoyed, and only 30% of persons exposed between 60 and 63 dBA (the highest noise level at only a fraction of the site) are likely to be highly annoyed i.e. the aviation noise levels across all of the site are unlikely to result in the majority of residents being annoyed.

On a qualitative basis the fact that external aviation noise levels across the proposed development site may not be ideal is substantially countered by the reality that residents will be choosing to move to the location. National policy experts prospective residents to inform themselves how aviation noise may affect a site near an airport, and recognises that people may choose to live in a location close to an airport to be near employment or to benefit from the travel opportunities or other attractive features of the locality.

The Public Health Noise Impact Assessment concludes that there is no significant risk to public health by the granting of this permission with the recognised statistical modelling of the proposal

² The research which underpins the UK government's guidance on airborne noise impacts is the ANIS study.

in this location identifying 0.0011 cases of heart problems per year due to noise and states that there are no robust national or local policy or public health grounds on which to refuse planning permission for the proposed scheme.

Following receipt of this further information, the Environmental Health Officer no longer objects to the application on noise/public health grounds.

OTHER MATERIAL CONSIDERATIONS

The representations from the supporters of the development are noted and these comments are considered to be self explanatory.

The letter of objection is noted. The information provided in the Public Health Noise Impact Assessment is a high level technical report, which appears to consider the impact of noise on future residents and its conclusions are covered in detail above. The other issues raised are related to aircraft safety. Manchester Airport has been consulted with regard to the application and raise no objections subject to conditions and informatives. The correspondence is available on the planning file and the conditions relate to crane heights, landscape and bird hazard management, lighting and drainage and flood risk. Officers are very aware of the flight paths and proximity of the proposed development to the runway, and refer to comments from Manchester Airport when assessing the application. Manchester Airport do highlight aircraft noise as being a material consideration and states that where appropriate, conditions should be imposed to ensure adequate acoustic insulation. It is considered that if Manchester Airports had considered safety of residents and vortex to be an issue, then they would have mentioned them. It should not be forgotten that the application site has employed hundreds of people in the past.

CONCLUSIONS

On the basis of the information provided above, it is considered that there are no robust national or local policy or public health grounds on which to refuse planning permission for the proposed scheme.

The proposal would bring about a number of benefits as listed in the conclusions part of the report from 10th July 2014. A key part of the proposal is that if approved it would allow a development that would safeguard an existing local employer, Harman. Achieving local economic objectives is therefore a significant benefit of the application. Securing Harman alone will secure the future of more than 200 jobs, around 40% of which are from residents in Cheshire East itself.

Additionally, the proposal includes allocating space for new employment development. It is understood that the applicant would work constructively with the Council over the next few years to market the allocated site, and promote interest for its development. The applicant is committed to developing the new employment space as soon as the need for it arises. The development cannot, however, absorb the costs of developing the space on a totally speculative basis, given the commitment to secure Harman on site. The requirement to allocate land for new employment purposes arises from the public consultation, and especially the comments by the ward councillor. Therefore as well as investing in the future of an important local employer, the development will include provision for additional employment opportunities to serve the local

community, and so enhance the overall attraction of Mobberley as a place to both live and work.

A comprehensive S106 package has been agreed as follows:

- a) £737,548 towards primary education
- b) £247,483 towards highway improvements
- c) The provision of a detailed Travel Plan for both residential and commercial parts
- d) 15% - 23% Affordable housing provision
- e) Provision of open space
- f) 15 year sum for maintenance of the open sum
- g) Provision of a LEAP, two LAP's and a linear park

Conditions would be required to ensure that the additional mitigation features that provide the canopies to the dwellings and tranquil areas are submitted at details at the reserved matters stage. Therefore, in addition to the conditions recommended at the end of the report, which went to SPB on 10th July 2014, it is recommended that if the application is approved the following additional conditions are attached: -

The reserved matters layout of the dwellings hereby approved shall identify dwellings to include outdoor noise mitigation measures, in accordance with the illustrative details contained at Appendix B to the Design Code. This shall include as a minimum all residential dwellings with outdoor amenity spaces within the daytime 57 – 60 and 60 – 63 Noise Contour prevalent at the time of the reserved matters application.

The area of public open space hereby approved shall include a tranquil area to provide outdoor mitigation from aircraft noise, in accordance with illustrative details contained at Appendix B to the Design Code

ORIGINAL REPORT (10 July 2014)

DESCRIPTION OF SITE AND CONTEXT

The application site extends to approximately 22.9 hectares and provides an assortment of bespoke industrial, warehouse and office space, which is largely vacant. The industrial site is occupied by Harman Technology Limited.

Within the Macclesfield Borough Local Plan (2004), the whole site is allocated under Policies E3 and E4. These policies allow for offices (Class B1(a)), research and development (Class B1(b)), and light industrial (Class B1(c)), general industry (Class B2), warehousing (Class B8), high technology (Class B1(b)), and light industry (Class B1(c)) usage.

The adjacent field, which also forms part of the application site, is not used, and forms part of the green belt.

The site is surrounded to the south and south west by housing as part of Mobberley village. Mobberley Brook and a small waste water treatment works bound the site to the north east, separated by a line of trees as part of a landscape buffer. Open countryside surrounds the rest of the site.

DETAILS OF PROPOSAL

This hybrid planning application seeks consent for a mixed-use redevelopment comprising:

- A. Full planning permission for alterations to existing employment buildings, construction of new employment buildings and installation of new over ground services, piping and ducting; and
- A. Full planning permission for demolition of remaining redundant employment buildings and removal of redundant over ground services, piping and ducting;
- B. Outline planning permission for construction of up to 375 dwellings, associated infrastructure, landscaping and other associated works (means of access); and
- C. An optional outline planning permission for construction of two storey office development comprising approximately 1,431m²/15,403ft² gross floorspace, with space for approximately 34 parking spaces.

RELEVANT HISTORY

Iford's have been manufacturing (*specialising in black and white photography*) on the Mobberley site for 106 years. The original Iford's site and premises fronting Town Lane have since been redeveloped as part of the Barratt housing scheme. The remaining site to the north was purpose built between 1980 and 1982 and reflected the campus style of a large corporate business in the 1980s.

Iford were placed in receivership in August 2004, however following a management buy-out, the new company (now known as Harman Technology Ltd) continues production of black and white film and fine art inkjet papers.

At the height of the operation there were some 1,700/1,800 staff on site. Now there are approximately 200. The current industrial/warehousing accommodation and layout is inefficient and does not currently meet the company's modern day requirements. The application proposals seek to consolidate the Harman's operation and provide new modern efficient accommodation for their business.

Although there have been numerous historic planning application on the site, none are relevant to this current application for the redevelopment of the site.

POLICIES

By virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan for Cheshire East currently comprises the saved policies from the Congleton Borough (January 2005), Crewe and Nantwich (February 2005) and Macclesfield Local Plan (January 2004).

Local Plan Policy:

The part of the application site currently occupied by Ilford's is allocated as an industrial site and is within the settlement boundary for Mobberley. The open areas to the north and east are allocated as Green Belt. The Mobberley Conservation Area is to the east of the industrial site, and includes within it the proposed open space/recreation field. Therefore the relevant Local Plan policies are considered to be: -

Built Environment Policies:

Policy BE1: Design Guidance
Policy BE3: Development adjoining conservation area
Policy BE4: Conservation areas

Development Control Policies:

Policy DC1: New Build
Policy DC3: Amenity
Policy DC5: Natural Surveillance
Policy DC6: Circulation and Access
Policy DC8: Landscaping
Policy DC9: Tree Protection
Policy DC35: Materials and Finishes
Policy DC36: Road Layouts and Circulation
Policy DC37: Landscaping
Policy DC38: Space Light and Privacy
Policy DC40: Children's Play Provision and Amenity Space
Policy DC41: Infill Housing Development
Policy DC63: Contaminated Land

Employment Policies:

Policy E1: Retention of existing and proposed employment areas

Policy E3: Business

Policy E4: General Industrial Development

Transport Policies:

Policy T1: Integrated transport policy

Policy T2: Provision of public transport

Policy T3: Improving conditions for pedestrians

Policy T4: Provision for people with restricted mobility

Policy T5: Development proposals making provision for cyclists

Policy T6: Highway improvements and traffic management

Environment Policies:

Policy NE2: Landscape character areas

Policy NE14: Natural habitats

Policy NE11: Protection and enhancement of nature conservation interests

Policy NE17: Nature Conservation in Major Developments

Policy NE18: Accessible areas of nature conservation from residential properties

Housing Policies:

Policy H1: Phasing policy

Policy H2: Environmental Quality in Housing Developments

Policy H5: Windfall Housing

Policy H8: Provision of Affordable Housing

Policy H9: Occupation of Affordable Housing

Policy H13: Protecting Residential Areas

Recreation and Tourism Policies:

Policy RT1: Recreational land and open space

Policy RT2: Open spaces/amenity areas in residential areas

Policy RT5: Standards for open space provision

Green Belt Policies:

Policy GC1: Greenbelt boundaries

Implementation Policies:

Policy IMP1: Development Sites

Policy IMP2: Transport Measures

Cheshire East Local Plan Strategy – Submission Version (CELP)

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28 February 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

The National Planning Policy Framework

The National Planning Policy Framework came into effect on 27 March 2012, and replaces the advice provided in Planning Policy Guidance Notes and Statements. The aim of this document is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development.

Since the NPPF was published, the saved policies within the Macclesfield Borough Council Local Plan are still applicable but should be weighted according to their degree of consistency with the NPPF. The Local Plan policies outlined above are consistent with the NPPF and therefore should be given full weight.

Supplementary Planning Documents:

Supplementary Planning Guidance provides a more detailed explanation of how strategic policies of the Development Plan can be practically implemented. The following SPGs are relevant and have been included in the Local Development Scheme, with the intention to retain these documents as 'guidance' for local planning purposes.

- SPG on Section 106 Agreements (Macclesfield Borough Council)

Other Material Considerations

- Cheshire East Interim Planning Policy: Release of Housing Land
- Cheshire East Interim Planning Statement: Affordable Housing (Feb 2011)
- Cheshire East Interim Planning Policy: Release of Housing Land (Feb 2011)
- Cheshire East Interim Planning Statement: Affordable Housing (Feb 2011)
- Cheshire East Strategic Market Housing Assessment (SHMA)
- Cheshire East Strategic Housing Land Availability Assessment (SHLAA)
- Conservation of Habitats & Species Regulations 2010
- Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
- North West Sustainability Checklist
- Ministerial Statement – Planning for Growth (March 2011)

CONSULTATIONS (External to Planning)

Strategic Highways Manager:

Access to the site will be via the existing access arrangements at Ilford Way where there is a priority junction with Mobberley Road. There is no vehicular access to Smith Lane but there is a pedestrian access provided. There is already a commercial use on the site, Harman Technology are not proposing the scale of activity to change on the site. The same number of employees, 211, is to remain on the site with these development proposals, to trip generation associated with the current use has been surveyed and the trips in and out the site is some 90 in the morning peak and 60 in the evening peak.

As the Harman Technology operation will remain generally the same, the highway impact to consider is the additional residential development of up to 375 units on the site. The trips associated with the residential element has been based upon Trics database rates, the morning peak would have 239 trips two-way and the evening 259 two-way trips.

The trips have been distributed on the road network on the basis of workplace destinations from the Mobberley ward from data in the 2001 census. The destinations of trips can be broken down as shown in the Table.

Peak Hour	Destination	Proportion of Traffic	
		Arrivals	Departures
AM Peak	Town Lane E	51%	57%
	Knutsford Road	30%	33%
	Smith Lane N	19%	10%
PM Peak	Town Lane E	54%	55%
	Knutsford Road	31%	30%
	Smith Lane N	15%	14%

The background traffic flows used to assess the development were taken from traffic counts undertaken in 2013 at various junctions. The flows were the projected forward using TEMPRO rates to an assessment year of 2018 for the development.

A number of junctions on the local road network have been assessed in regards to their capacity and these are as follows:

1. Town Lane / Ilford Way - Priority Junction;
1. Town Lane / Smith Lane – Priority Junction;
2. Ilford Way / Marion Drive – Priority Junction;
3. Brook Street / Hollow Lane – Signal Junction; and
4. Knutsford Road / Broadoak Lane – Priority Junction.

Although the scope of assessment has been agreed with the applicant, the junction of Adams Hill /Toft Road should be included in the assessments as the development will also have an impact at this junction as it is very close to the Brook Street / Hollow lane junction.

As would be expected all the local priority junctions close to the site work within capacity limits in the assessment year in 2018. The applicant has submitted a Linsig assessment of the

signals at the Brook Street/ Hollow Lane junction that indicate that the junction will be operating over capacity in 2018 with development in place. However, the conclusion reached is that overall the additional traffic would not have significant impact on the junction.

A number of recent planning applications have undertaken capacity assessments of the Brook Street / Hollow lane junction using 2013 counts and have found that the DoS (degree of saturation) to be higher than presented in the applicant's assessment, therefore the applicant has under estimated the development impact. It is clear from the capacity assessments undertaken by CEC and external consultants that the Brook Street/Hollow Lane junction will be operating well in excess of 100% DoS with very long queues forming. This development proposal will likely add a further 73 additional trips using average trip rates in the PM peak to the flow passing through the junction, given that there already is a serious capacity issue at the junction then this additional development traffic would only make matters worse.

With regard to accessibility, there are existing footways on both sides of Town Lane and also on Ilford Way leading into the site. There are no footways on Smith Lane to the west of the site as this a rural country lane. The site can safely be accessed by pedestrians and as such there are no issues raised regarding walking accessibility to the site. There is a bus service that runs hourly through Mobberley and connects with Knutsford, Wilmslow and Altrincham, the bus stops with shelters are located approximately 50m east of the Ilford way junction and are on both the westbound and eastbound sides of Town Lane. Overall, the site can be considered to be accessible to non-car modes.

A site plan has been submitted with the application although this is indicative plan only being an outline application and therefore no detailed comments concerning the internal road layout have been made. The design of the internal road system will be dealt with at the reserved matters stage.

Environmental Health Officers (EHO):

NOISE:

In relation to noise, the acoustic environment at this location is substantially affected by:

- Aircraft noise from Manchester airport flight path;
- Industrial noise from Harmon Technologies existing cooling towers; and
- Railway noise (However, this is not considered significant)

It is the Environmental Health Officers view that the cumulative impact of the aircraft and to a lesser degree the industrial noise sources would cause a substantial loss of amenity to future occupiers of the noise sensitive dwellings at this location.

If granted permission, it is the EHO's view that there will be a significant adverse impact on health and quality of life, arising from the existing noise climate at this location.

The indoor living environments will depend on extensive mitigation measures to achieve a satisfactory acoustic environment, such as non-opening windows, a mechanical ventilation system required in bedrooms with no openings in the facades of these rooms (bedrooms), which will also include trickle ventilators.

If permission were to be granted for housing at this location, then a number of conditions are recommended to ensure that all residential habitable rooms are acoustically insulated through a noise mitigation scheme and a site Construction Environmental Plan (to avoid occupants of the first houses constructed being adversely affected by later stages of the construction) is also imposed. Industrial noise conditions are also recommended for the new Harmon site.

AIR QUALITY:

With regard to air quality an Air Quality Impact Assessment has been submitted with the application. The report concludes that modelled impacts from road traffic on air quality conditions for residential units on the proposed development site will be below the air quality objectives. In addition, it is not anticipated that emissions from the existing industrial use or emissions from aircraft will be significant. Mitigation should be adopted in the form of direct measures to reduce the impact of traffic associated with the development. Conditions should be attached which require a residential Travel Plan to be submitted and agreed, and Electric Car Charging Points should be provided on car parking spaces.

ODOUR/DUST CONTROL:

The odour assessment concludes that the odour from the Sewage Treatment Works is unlikely to cause a nuisance within the proposed residential development. With regard to dust control, a condition should be attached to control dust emissions arising from demolition / construction activities on the site.

CONTAMINATED LAND:

This application site is adjacent to an existing industrial estate and therefore, the land may be contaminated. The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. The Contaminated Land officer recommends that further investigations are required to allow the preparation of a suitable remedial method statement. A Phase II investigation shall be submitted and approved in writing and any remediation works carried out as necessary.

Environment Agency (EA):

Raises no objections in principle to the proposed development subject to the conditions and informatives which relate to the

Raises no objections in principle to the proposed development subject to the conditions and informatives which relate to the provision of a surface water regulation system and scheme to reduce the risk of flooding for future occupants.

United Utilities (UU):

No objection subject to the following conditions being met:

- A public sewer crosses this site and United Utilities will not permit building over it. UU will require an access strip width of 6 metres, 3 metres either side of the centre line of the sewer, which is in accordance with the minimum distances specified in the current issue of "Sewers for Adoption", for maintenance or replacement.
- This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to a watercourse and may require the consent of the riparian owner.

For the avoidance of doubt, no surface water from this development should be allowed to discharge to the public sewer network either through direct or indirect means.

United Utilities can readily supply water for domestic purposes, but for larger quantities we will need further information. Our water mains may need extending to serve any development on this site. The applicant, who may be required to pay a capital contribution, will need to sign an Agreement under Sections 41, 42 & 43 of the Water Industry Act 1991.

Public Rights of Way Team (PROW):

No objection subject to conditions as the development does not adversely affects a Public Footpaths, Mobberley FP11a extinguishment, Mobberley FP13 (part) diversion, Mobberley FP13 (part) extinguishment and Mobberley FP13a extinguishment.

Sport England:

No comments received.

Natural England:

Natural England advises the Council that the proposal is unlikely to affect any statutorily protected sites or landscapes.

Manchester Airport Group (MAG):

Manchester Airport were consulted prior to submission, and did not raise any concerns subject to the inclusion of suitable conditions relating to crane heights, landscape and bird hazard management, lighting and drainage and flood risk.

Similar comments have been made within the formal consultation response and the Airport has confirmed that it does not have any objections to the proposal subject to complying with these conditions.

Archaeology Planning Advisory Service (APAS):

In July 2008 the University of Manchester Archaeological Unit prepared an archaeological desk-based assessment, which considered the archaeological implications of any re-development of the above site. The study concluded that the potential of the area was limited due to the extensive disturbance that would have accompanied the construction of the current works. It was noted, however, that the line of the Roman road from Middlewich to Manchester, as recorded in the Cheshire Historic Environment Record, crosses the site and fragmentary remains of the road may survive in the few, less disturbed parts of the site. In particular, a small area of open ground at the south-western limits of the, to the north of the sports' ground, appears to have the most potential for the survival of remains of the road, similar to those recently uncovered at Manchester Airport and on the outskirts of Middlewich.

It is not suggested that this potential is significant enough to generate an archaeological objection to the development or to justify any further pre-determination work. In line with the

recommendations contained in the 2008 study, however, it is advised that in the event that planning permission is granted, the area of open ground referenced above should be subject to a programme of targeted trenching in order to identify and record any traces of the road. A single, machine cut trench measuring c 40m long should be sufficient to accomplish these aims. A report will also be required and the mitigation may be secured by condition.

The School Organisation and Capital Strategy Manager (Education):

The Education Department have stated that the current position in the village is that Mobberley Primary School cannot accommodate all of its in area pupils and in light of this the Education Department is already looking at expanding the school, however this in itself is proving difficult in that the school site is undersized and therefore the proposal has been based on the acquisition of additional land. Education Department have stated that the existing proposal for the school does not take into account nor does it provide space for the additional pupils which are expected from this application site. Given the difficulties in accommodating the current pupil numbers on the existing school grounds then the Education Department have requested a level and fully serviced site to be provided by the developer and the contribution of £737,548 (for the pupils generated) towards the cost of relocating Mobberley Primary School onto the site. In the event that the Local Authority can expand the school on its existing site then the land will be returned to the developer after a period to be agreed.

Housing Strategy and Needs Manager (Affordable Housing):

The Councils Affordable Housing Interim Planning Statement states that Cheshire East Council will seek provision of 30% affordable housing on any sites over 15 units, with a tenure mix of the affordable housing of 65% rented affordable housing and 35% intermediate tenure. However a 50/50 mix has been agreed for this site.

The Housing Strategy and Needs Manager have raised objection to the application as the provision of 15% Affordable Housing would not accord with the adopted policy.

Jodrell Bank:

The application site is located outside of the Jodrell Bank Consultation Zone. Therefore their consultation response dated 27 January 2014 from the Jodrell Bank Observatory is a standard response and does not relate to the application site. No observatory related conditions are required.

VIEWS OF THE PARISH / TOWN COUNCIL

Mobberley Parish Council, have objected to the application on the following grounds:

- Scheme would conflict with the Local Plan;
- Cheshire East Council has a housing land supply;
- The presumption in favour of sustainable development in the NPPF is not engaged;
- Too many dwellings proposed;
- Represent an increase in the village of 25-30%;
- Application contrary to the Parish Plan;
- Paramount importance to maintain the character of the village and its village status;

- The low level (5%) of affordable housing proposed;
- The type of housing proposed within the application does not reflect the needs of the area;
- There is insufficient representation of dwellings for single and elderly people;
- There must be some retention of the employment allocation (in addition to Harman's) to facilitate start-up or small-scale employment development;
- The development and parking associated with this open space would be disproportionate and constitute inappropriate development;
- The change from agricultural use to a management regime for this land would introduce an unacceptable urban influence into the rural area, which would not preserve or enhance the character or appearance of the Conservation Area;
- The roads and footways around the site are inadequate to cope with the increase of traffic that this proposal will invariably bring. The application does not adequately address how these problems will be resolved;
- Our local school is already oversubscribed, as are the schools in Knutsford.

REPRESENTATIONS

The application has been advertised in accordance with the General Development Management Order 2010, in this case originally incorporating the following elements:-

- On site, by the means of a three site notices on Smith Lane, Town Lane and Great Oak Square making reference to major planning application that affects a right of way and is a departure;
- Site notice were posted on 22 January 2014;
- Notice was published in the local press (Knutsford Guardian) on 22 January 2014; and
- Surrounding residential properties have also been written to directly.

The original publicity period for this application expired on 12 February 2014.

Following amendments to the scheme being received interested parties who commenting on the application were re-notified and the publicity period for the re consultation expired on 6 June 2014.

Local Ward Councillor

Cllr Jamie Macrae (Mobberley Ward) has objected to the application and his comments are detailed below:

SITE ALLOCATION AND LAND DESIGNATION:

This Hybrid application includes both developed land currently allocated for employment use, as allocated in the Macclesfield Local Plan together with adjacent un-developed land within the Green Belt and included within the Mobberley Conservation Area. The site has not been included as a Strategic Housing site within the emerging Cheshire East Local Plan Core Strategy, and has been classified as a Non-Preferred Site (ref NPS54) following the pre-submission consultation November 2013 (additional sites).

Taking account of the current planning use I do not object to the principle of redevelopment of the buildings and structures associated with the employment uses within the developed area of the application site. The site is referred to as a ' brown field site ', as developed for employment use, it is clearly currently "active" with the majority of the buildings being

operational albeit under utilised for the current business requirements for Harman Technology. The proposed none employment uses, predominantly residential (outline application) for up to 375 houses is in direct conflict with the current employment allocation.

LOCAL HOUSING NEEDS AND AFFORDABLE HOUSING:

Cheshire East Council has recently confirmed, that in accordance with CLG statutory guidance it is confident that it has identified a 5-year supply of readily available housing land + 5% for the emerging Core Strategy period. As such, the presumption in favour of sustainable development evidenced by the National Planning Policy Framework is not engaged.

Taking account of the residential site allocations as identified in the final draft of the core strategy both in the nearby settlements of Knutsford and Wilmslow area together with additional applications currently being considered (inc. 200 houses at the nearby Parkgate employment site), the proposal to include up to 375 additional houses in Mobberley cannot be justified or evidence based and would represent an increase in the village of 25-30%. (the current mixed housing stock being approximately 1450). This would also be in conflict with the adopted Mobberley Parish Plan.

Over the past 15 years the Parished area of Mobberley has accommodated a significant level of growth from approximately 1200 to 1450 houses, with 200 of the new houses being built on former employment land (inc. of 100 houses at the Ilford site). To safeguard the assets of the village and maintain its village status and character, I consider that in consideration of any housing growth the maximum figure should be in the region of 10% phased over the forward plan period and addressed when CEC considers local sites allocations in the near future.

The application proposes an unacceptably low level of affordable housing at 5%, and is not justified by the information provided on ground contamination and other essential demands on the developer in respect of a viability argument. Any housing development in Mobberley and surrounding rural settlements must address the most pressing need for mixed affordable housing allocations to meet the known demand. I include below the 2013 Strategic Market Assessment for Mobberley – Chelford – Alderley Edge.

“The site falls within the Mobberley, Chelford and Alderley Edge sub area for the purposes of the Strategic Housing Market Assessment update 2013. This highlights a requirement for 87 affordable homes per annum for the period 2013/14 – 2017/18, broken down this is a requirement for 16 x 1bd, 17x 2bd, 11x 3bd and 13x 4+bd general needs units and 9x 1bd and 22x 2+bd older persons accommodation

In addition, information taken from Cheshire Homechoice, the Council’s choice based lettings system shows there are currently 32 live applicants who have selected the Mobberley lettings area as their first choice. These applicants require 5x 1bd, 13x 2bd and 13x 3bd units, 1 applicant did not specify a bedroom size”

The type of housing proposed clearly does not reflect the needs of the area and the indicative layout comprises almost entirely family accommodation, which is already well provided for in the village, and will not deliver the essential affordable element, particularly needs of dwellings for single and elderly people, which, as the Parish Plan also identifies as, a priority requirement in the area. The proposal to deliver 18 to 20 “affordable Houses” for such a scale of development is perverse.

FUTURE EMPLOYMENT LAND AND NEEDS:

The Draft Local Plan Core Strategy identifies the need for additional employment land to enable growth in the economy of Cheshire East. As already stated all of the employment sites in Mobberley have been developed over the past 15 years for housing, these sites allowed incubation and start up business to grow. The nearby Parkgate housing application is for land designated for employment, and will effectively remove all the remaining employment land locally when there is already a shortage. I therefore consider it is essential that any redevelopment of the Harman site includes for future employment allocation for growth businesses, in addition to the needs of the main employment use.

It is the lack of employment land and incubator sites locally which is driving businesses and employment to areas such as Lostock and Northwich (CW&C). Housing provision is important but jobs and opportunity is this location is essential. The re-development of the Rajar site included such a provision and is fully occupied.

OPEN SPACE AND COMMUNITY FACILITIES

The proposal includes for development of agricultural land within the green belt to the east of the employment site and proposed residential development. Open space and playing fields (sports uses) would not, of itself, be an inappropriate use. However, the built development and parking associated with the open space would be disproportionate and, therefore, constitute inappropriate development. In addition, this land forms a part of and the setting to the Mobberley Conservation Area. The change from agricultural use to a management regime for this land would introduce an unacceptable urban influence into the rural area, which would not preserve or enhance the character or appearance of the Conservation Area and, thereby, cause harm.

The Village of Mobberley is well served by existing public open space within the vicinity of the site including 3 children's play areas, recently upgraded, a football pitch adjacent to the existing Harman site and 30 acres of public open space land off Town Lane recently acquired by the Parish Council. The sustainability accreditation for the scheme is lacking in terms of the economic, social and environmental audits and the indicative layout shows scant regard for this, which again would be contrary to the Parish Plan provisions. In particular, the scheme would deliver no built social contribution, such as shops or make contribution to the existing village facilities. The open space offered is merely a way (some might say cynical way) of maximising the level of development on the brown field land at the expense of the surrounding countryside and Conservation Area.

TRANSPORT AND HIGHWAY INFRASTRUCTURE:

The transport audit for the site is lacking and fundamentally flawed in the assessment of travel mode and vehicle generation. Moreover, the roads including the B5085, and footways around the site are inadequate to cater for the increase in all forms of traffic and no where does the application indicate adequately how these difficulties would be reconciled. The proposed development could generate up to 3000 additional vehicle movements per day if calculated by car ownership for 375 houses, in addition to the 100 houses already accessing Town Lane and shared access for the 250 employees.

EDUCATION NEEDS:

The education facilities in Mobberley at infant and primary school level are already under severe stress and unable to cater for all the children in the village with children currently being placed elsewhere in Knutsford. Education provision has been recently assess by CEC and formal consultations are currently underway for the expansion of both Mobberley Primary School and Manor Park in Knutsford. The proposed expansion will enable the current projected shortfall of school places (10 per year) to be met through to 2018, for Mobberley an additional 70 places. This expansion does not allow for any additional education provision as a result of new housing on this scale. The financial contribution (£737,548) would not provide for children being educated locally, the expansion of the school numbers as proposed and the physical limitations of even further build in the Schools current location cannot be accommodated.

ENVIRONMENTAL PROTECTION:

The application identifies the need to address the environmental health implications of residential development within the vicinity of Manchester Airport. The site partly sits within the 60 Leaq contour which will result in additional sound insulation in homes to mitigate against aircraft noise. This only partly addresses the issue as outside space, gardens and public space cannot be addressed in this way. Although PPG24 has been removed along with other guidance, the environmental protection of residents must be addressed. In addition the noise footprint is likely to increase in future years day and night time as Manchester is only operating at approximately 50% capacity with 80% of aircraft departing to the west over Mobberley.

I also wish to raise concerns within respect of the Public Safety Zone (PSZ) associated with the airport operations. The current PSZ reaches the boundary of the site to the north, and the size and shape of the PSZ's are being reviewed by the CAA and may have implications of development. It is not clear from the application if the safety obligations and safeguarding required by Manchester International Airport would be met.

Following amendments to the scheme, Councillor Macrae has stated that the minor concessions made since the original application do not in any regard address the issues that he raised in his original objection. The reduction of 15 dwellings from 375 to 360, clearly demonstrates that the applicant has no intention of addressing the substantive issues raised in the original objections, the small concession to introduce 1,431sq m of Class B1 office space is considered a 'gesture'.

Councillor Macrae also stated: -

- Firstly I fully concur with the response from Environmental Health with regards to the reasons and conclusions reached in respect of the environmental impact on Health of residents living within the high level noise footprint as a result of overflying aircraft.
- In this regard I have also discussed the issue with Children and Families regarding their consultation comments on provision of onsite education provision to meet the increased school demands. Clearly this would be an unacceptable environment for the location of education facilities.
- With regards to the Consultation response from Highways, I consider there are two issues. Firstly the access road from Town Lane (B5085) was redesigned to meet the development of the 100 dwellings recently built at the south end of the site, which included Class B1 office development. The access road has now become a ' car park ', hence this

shared access to the existing businesses, residents and Harman Technology is no longer a free flow to the junction . CEC Highways are reviewing the issues and may introduce TRO's to stop parking on this stretch of the Highway. Secondly there is a presumption that the proposal to construct up to 360 dwellings will have a major impact on the congestion at junctions in Knutsford on the B5085 Hollow Lane junction with Brook Street? The majority of the residents in Mobberley either rely on local services or those in the Wilmslow direction. Indeed the work flow commuter travel pattern is towards Manchester Airport and Wilmslow. The requirement for a commuted sum for highway works in Knutsford is unacceptable, bearing in mind there are pressing issues of 'bottle necks ' on the B5085 in Mobberley and beyond on the B5085.

Amenity Groups:

Residents against Mobberley Sprawl (RAMS) have objected to the application on the following grounds:

- **Scale** - Most of our member's objection to this development are about destroying the character of the village. Mobberley village has already grown by over 200 dwellings in the last 10 years, and the addition of nearly 400 new homes (likely to amount to over 1000 new residents) will irreparably change the character of the village forever and turn it into a town. RAMS also note current guidelines recommend a village should grow by no more than 10% over a 10-15 year timeframe. With Mobberley currently having around 1400 dwellings, the maximum number of new houses we would expect over this period should be no more than 140.
- **No Evidence Of Need** – There is no evidence to support there is demand for such a large number of houses. Recent data from Cheshire Homechoice state there are only 32 requests for lettings in Mobberley at the moment. Furthermore, significant space has been allocated in the new local plan for housing growth in nearby Wilmslow and Knutsford, including a 250 dwelling development that has recently been granted planning permission to the north of Parkgate Industrial Estate, less than two miles away. Cheshire East Council has published its latest assessment of housing land supply in the borough – which shows that the authority now has more than a five-year supply of housing land, inclusive of a crucial five-per cent buffer for choice and competition. These homes are demonstrably **not needed** to meet planned housing demand.
- **Change of Use** - The Ilford Way site is currently a commercial business site which provides considerable employment. This is not a proposal to knock down a derelict gasworks - ***all of the buildings on the site are still in use***. Furthermore, if this site is converted to mainly residential use, where will land be found to retain space for commercial activity in the village - as mandated in the current local plan?
- We believe this area of land should remain as a business park to provide future employment to the village and not be changed to residential use. With the advent of fibre broadband coming to the village and our closeness to the airport and motorways the site if redeveloped could be an attractive location for start-up businesses.
- **The site is a 'non preferred site' in the new Local Plan** – The draft of the new Cheshire East Local Plan which is due for completion this year has determined this site to be a 'non preferred site' in the site allocation documentation, with other sites in Knutsford and Wilmslow being preferred for development.
- **Lack of Affordable Homes** – RAMS notes that the developer is looking to reduce significantly the number of affordable homes on the site to ensure the development is viable. We dispute their figures and believe they are underestimating the value of the

properties they intend to build. 5% affordable housing on a site this size is simply too small and would not benefit the village or younger residents looking to remain in the village when they buy their first home.

- **Traffic** – Over 1000 new residents will bring hundreds of new cars to our busy village roads. The site feeds directly onto Town Lane, which is already extremely busy and backs up during rush hour. 800 cars trying to get out of the proposed estate for work in the morning would be a nightmare for local residents. There is also a proposal for an additional exit onto Smith Lane, a country road that reduces to a single track in places. The road is wholly unsuitable for that amount of traffic. We have also been informed that a development of this size would result in **4000** additional vehicle movements every day in the area. The traffic survey put forward with the proposal concludes there would be less new traffic generated than when the site was employing a large number of people many years ago. We dispute this conclusion – and furthermore state the survey doesn't take into account that the village has grown nearly 20% in the last 10 years and that Town Lane is much busier with traffic going to and from Knutsford/Wilmslow than it was previously.
- **Parking** – Parking at our local co-op and other shops is extremely limited and at peak times it's very difficult to get into the car park. This results in cars parking on Town Lane, further exasperating the traffic situation. 800 new cars in the village would make this even worse.
- **Schooling** – Our [outstanding](#) village school is already massively oversubscribed and according to LEA figures there are already 30-40 children in the village for each cohort in 2014 and 2015, when the school only has 20 places. The school has recently gained permission to expand significantly just to cope with current demand – and even after this expansion some local children will miss out. Furthermore, ***schools in Knutsford are also full***. Manor Park, the nearest Knutsford school to the development is having to expand to keep up with local demand, even before 250 new homes are built near Parkgate.
- **GP Surgery** - The Mobberley village surgery is a single consultation room but is highly valued by the older residents and parents with young families. Getting an appointment here would become even harder and the majority of residents would have to drive to Knutsford for appointments.
- **Flight Path** – The development falls under the flight path for planes landing at Manchester Airport. We believe this is a safety risk and would like this to be confirmed by Cheshire East Council. RAMS also note that the development approved at Parkgate has had to be reduced in size as parts of it are below the same flight path that goes over this proposed development.
- **Football Pitch & Allotments** – There are plans to build changing rooms and a car park in this area, which is inappropriate use of green belt land, particularly as it borders onto Mobberley's conservation area. Mobberley already has a full size football pitch that is rarely used.
- **Wildlife** – As the site has been fenced off for many years, important wildlife has been able to develop on the site including bats, owls and great crested newts. We request that a wildlife survey of the site should go ahead to establish which species are on the site and to determine their numbers.
- **Train Station** – The proposal states that many residents of the development could use the train station to travel to work. The parking at the train station is extremely limited, and the small number of trains that come through the station are already overcrowded during rush hour.

- **Parish Plan** – Mobberley has a complete and established parish plan which states: ‘Too many houses are being built in the village without benefits for Mobberley’ ‘Too few affordable/low cost houses are available in the Village’ “Planning permissions for re-builds are delivering disproportionate, structures that are leading to a material loss in the character of the Village” We believe this development contravenes all three of these points.
- **LPC Living** – The developers, owned by the [Pervaiz Naviede Family Trust](#) have no track record in rural developments. They specialise in large scale modern style urban developments in the UK and United Arab Emirates and we are concerned they will inherently not understand what would be appropriate for a village development.

Local Residents:

173 original letters of objections were received from local residents and their comments are summarised below. Following amendments to the scheme being received a further 44 letters of objections were received from local residents and their comments are also summarised below.

Infrastructure Issues:

- During the last 20 years, there have been significant residential developments at least 6 sites and all through this time there hasn't been any increase in infrastructure to keep pace with the rising population of the village;
- Mobberley does not need a large housing estate and does not have the infrastructure (road network, public transport, schooling, shops, local health facilities or car parking) in place to cope with the housing development;
- The public transport infrastructure is insufficient and consists of an hourly bus service Monday to Saturday (approx. between 7 to 7am) and a hourly train service is available Monday to Saturday, two hourly on a Sunday, peak time trains usually provide standing room only. There is very limited parking at the railway station, (6-8 space);
- The Village School is already oversubscribed and will not be able to accommodate the additional number children expected from this size of development. £735,000 offered by LPC Living is insufficient in negated the increase in population.
- There is no facility to improve the insufficient parking near local shops and services with access located along relatively narrow lanes;
- Train station has insufficient parking to sustain commuters;
- The Village is well served by existing public open space within the vicinity of the site including 3 children's play areas, recently upgraded, a football pitch adjacent to the existing Harman site and 30 acres of public open space land off Town Lane recently acquired by the Parish Council – the developer should be paying more attention in providing infrastructural improvements which are needed; and
- The sewerage farm which adjoins the site would have to be expanded greatly to cope with the great number of new residents, posing a pollution risk to Mobberley brook & also contributing to the devaluation of properties alongside the proposed new homes.

Highways Issues:

- Increased congestion through highways issues will effect the living conditions of local residents;

- Ilford Way and the traffic in Mobberley village is already a massive problem. The scale of this development will only exacerbate the situation by adding a considerable number of additional vehicles on the main road going through the village and on the surrounding country lanes. The country lanes are extremely busy and are extremely dangerous and the vast majority of accidents on these lanes do not get reported
- Concerns that there will be between 1000-3000 additional car movements.
- Smith Lane should be reduced from a 60 to a 30 mph.
- Pedestrians walking their children to and from school would be unsafe with so many extra cars on the roads and there are no footpaths at all on Smith Lane. Many of the surrounding roads are narrow country lanes, with Smith Lane in particular being single track in a number of places.
- The 30 mile zone already in place on Town Lane doesn't work
- The footpaths in Mobberley along Town Lane and Hall Lane are not wide enough for people to walk safely with so much extra traffic on the roads,

Environmental issues:

- The Environmental Report does not support the location of the development under the flight path of Manchester Airport - The site partly sits within the 60 Leaq contour;
- The current (Public Safety Zone) PSZ reaches the boundary of the site to the north, and the size and shape of the PSZ's are being reviewed by the CAA and may have implications of development. It is not clear from the application if the safety obligations and safeguarding required by Manchester International Airport would be met;
- The pollution could include, noise and fumes from heavy vehicles, noise and fumes from the plant, hazardous waste from the existing buildings if demolished. Further noise and pollution will be created as a result of the increase in the number of cars on the roads in the area if the development goes ahead;
- Risk of flooding is outlined in one of this reports-this seems to have been ignored in the revised plans;
- Any and all development should meet high environmental and urban design standards, i.e. Building for Life 12, Code for Sustainable Homes Level 4 or above;
- Wildlife Survey should be submitted due to the potential for European Protected Species.

Neighbouring Amenity:

- The new development backing onto Summerfield Road should retain the existing trees and public footpath to remain to reduce loss of daylight or sunlight, overlooking, overshadowing or affect the privacy of the occupiers.

Housing Need and Affordable Housing:

- There is a lack of affordable housing on the application (5%);
- There should be a high percentage, e.g. 30% affordable housing, preferably social rent; failing that, affordable rent. Shared equity should not be an option;
- Cheshire East Planning demonstrates sufficient scope for the next 5 years residential build;
- Cheshire Homechoice states that there have been only 32 requests for the village at the present time (14/04/2014);
- 250 unit residential development permitted under 2 miles away at Parkgate Industrial Estate and more in the local vicinity;

- The site has not been included as a Strategic Housing site within the emerging Cheshire East Local Plan Core Strategy, and has been classified as a Non-Preferred Site (ref NPS54) following the pre-submission consultation November 2013 (additional sites);
- The proposal to include up to 375 additional houses in Mobberley cannot be justified or evidenced based and would represent an increase in the village of 25-30%. (the current mixed housing stock being approximately 1450). This would also be in conflict with the adopted Mobberley Parish Plan;
- Over the past 15 years the Parished area of Mobberley has accommodated a significant level of growth from approximately 1200 to 1450 houses, with 200 of the new houses being built on former employment land (inc. of 100 houses at the Ilford site);
- The type of housing proposed clearly does not reflect the needs of the area and the indicative layout comprises almost entirely family accommodation, which is already well provided for in the village, and will not deliver the essential affordable element, particularly needs of dwellings for single and elderly people; and
- Accepted national planning policy that no village should be the subject of an expansion of more than 10% in a 10 year period?

Design and Built Environment issues:

- Properties appear to have little imagination on the design side and are particularly poor in supplying a range of home styles. The settlement currently has enough of this type of housing since the original new works back in the late 1980s at which time the community was promised that housing would benefit local families and provide affordable properties;
- Proposed housing density is too high;
- properties built should be in keeping with those that already exist on summerfield road ie detached and link detached 3 bedroom 2 story properties and not 3 story town houses which already exist elsewhere in the village;
- The proposed development is over-bearing, out-of-scale and out of character in terms of its appearance compared with existing development in the local environment.

Loss of Employment Land:

- Mobberley has lost much of its employment land to housing already and it should now be retained;
- What will happen to the promise of more jobs for our local young people if this site is earmarked for residential?
- The site is referred to as a ' brown field site ', as developed for employment use, it is clearly currently "active" with the majority of the buildings being operational albeit under utilised for the current business requirements for Harman Technology. The proposed none employment uses, predominantly residential (outline application) for up to 375 houses is in direct conflict with the current employment allocation.

Miscellaneous:

- The reduction in the proposed size of the development by 15 dwellings will have little material change to the considerable impact that the overall development would have on the village of Mobberley.
- The character, appearance and community cohesiveness of the village would be significantly impacted upon. Census data shows Mobberley village has already grown by over 80% in the last 10 years, and the further addition of nearly 400 new homes (likely to amount to over 1000 new residents) will irreparably change the settlement.

- The development could decrease the value of properties in both Mobberley and the surrounding villages and Knutsford.
- Poor notification of the proposed development. Should have been sent to local residents.
- No local jobs will be created by this housing.

2 letters of support were received which are summarised below:

- Aid young professionals in purchasing property in the local area; and
- Attract new generations to move into the settlement.

A full copy of all the comments made by the local residents toward this application as summarised above, can be viewed on the electronic file on the Council's public access website.

APPLICANT'S SUPPORTING INFORMATION

The applicant has submitted the following reports/documents in support of the application, details of which can be read on the electronic file on the Council's public access website.

- Design & Access Statement incorporating details of Landscaping Scheme and Design Code;
- Planning Statement;
- Heritage Statement;
- Affordable Housing Statement;
- Employment Marketing Report by Savills;
- Energy Audit;
- Transport Assessment;
- Arboricultural Survey;
- Amphibian Survey Report;
- Bat Report;
- Code for Sustainable Homes Pre-Assessment Report;
- Residential Development Phase 1 Flood Risk Assessment;
- 15. Commercial Development Stage 1 Flood Risk Assessment;
- Phase 1 and Phase 2 Environmental Site Assessment;
- Extended Phase 1 Habitat survey;
- Landscape and Visual Assessment;
- Air Quality Impact Assessment;
- Statement of Community Involvement;
- Noise Assessment; and
- Proposed Heads of Terms for S106 legal agreement.

OFFICER APPRAISAL

Having considered this application, it is the considered view that the main issues in this case are:

- The principle of the development;
- Loss of a site allocated for employment purposes;
- Housing policy and supply;
- Need for additional affordable housing in the area and viability issues;

- Education contribution and school provision issues;
- Creation of new public open space;
- Sustainability of the site;
- Impact on highway safety and traffic generation;
- Noise issues from the adjacent industrial estate and aircraft;
- Design, layout and density considerations;
- The scale of the proposal and any impact of the height, mass, bulk on the character and appearance of the area;
- Amenity implications;
- Other environmental issues;
- Flooding and drainage;
- Impact on landscape, trees and ecology;
- Redevelopment benefits; and
- Heads of Terms for a Legal Agreement.

The Principle of the Development:

Paragraphs 12 and 13 of The Framework states that the development plan is the starting point for decision making. *“Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.”* The: *“NPPF constitutes guidance for local planning authorities and decision-takers”*... and is: *“a material consideration in determining applications”*.

Paragraph 14 states: *“At the heart of the NPPF is a presumption in favour of sustainable development”*...*“For decision-taking this means”* (unless material considerations indicate otherwise)... *“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 this Framework taken as a whole: or*
- *Specific policies in this Framework indicate development should be restricted”*

The National Planning Policy Framework marks a shift in emphasis of the planning system towards a more positive approach to development. As the minister says: *“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”*.

The site is allocated as an existing employment area where policies E3 and E4 (which, normally permits Use Classes B1(a), B1(b), B1(c), B2, B8, B1b and B1c) apply. Furthermore, Policy E1 seeks to normally retain both existing and proposed employment areas for employment purposes to provide a choice of employment land in the Borough. As such, there is a presumption that the site will be retained for employment purposes.

Policy EG1 of the Core Strategy (Submission Version) also states that *‘Proposals for employment development (Use Classes B1, B2 or B8) will be supported in principle within the*

Principal Towns, Key Service Centres and Local Service Centres as well as on employment land allocated in the Development Plan.'

Clearly the refurbishment and new build aspects of the proposal to meet the current and future business needs of Harman Technology are entirely appropriate for the site and fully accord with the economic development objectives of the Adopted and emerging Plan and the NPPF. As would be the proposal for small scale employment uses, located directly to the north west of the Harman buildings.

The proposals also include for play area, allotments/community growing space, football pitch and changing room with car parking in the green belt and is discussed in detail below.

This proposal therefore constitutes a departure from the Development Plan. Planning decisions must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case, there are a number of relevant material considerations when considering the proposed loss of proposed employment land. These are:

- The delivery of up to 375 residential dwellings comprising a mix of detached, semi-detached, mews, apartments and bungalows. The indicative scheme provides a good mix of housing types. 15% to 23% of which is offered to be affordable;
- Provision of 8.4ha (20.6 acres) of open space; comprising; 18 allotments on approx 0.7 acres, Football pitch, Public open space around football pitch, Car parking for POS/football pitch, Changing rooms to Sport England standards and commuted sum payment to for future management and maintenance; circa £1.175m;
- Extensive landscaping, including a linear park and other incidental open space/landscaping within the residential area, including a three plays areas;
- Highway improvements to provide improved junction access to the site;
- Highways improvements to Knutsford Town Centre at the A537 Brook Street and Adams Hill. The amount of contribution would be £247,483;
- The site is unviable for further employment use and there is an oversupply of employment land in both the former Macclesfield Borough and the wider Cheshire East area;
- An education contribution of £737,548;
- Increased spending in the local economy (*£5.5m of additional retail spending generated within Mobberley and £3m of additional leisure spending generated*);
- New construction jobs. The construction phase of the development would provide up to 563 full time equivalent jobs in the construction sector over 1 5 year period;
- New Homes Bonus. A development of up to 375 houses would generate approximately £3.25 million from the New Homes Bonus Scheme to CEC for investment in the local area;

- The site is previously developed, within the village envelope of Mobberley and has good access to the road network;
- There is an identified shortage of housing supply and a need for affordable housing; and
- The site is deliverable.

Consequently, although contrary to the Development Plan, it is acknowledged that there are significant material considerations that indicate that the principle of a residential-led development on this site is acceptable in this location and that a case to retain the entire site for employment land would not be sustainable. This is looked at in more detail below.

Loss of a site allocated for employment purposes:

The application site is designated for employment uses within the Macclesfield Local Plan.

Policy E1 seeks to retain employment land for employment purposes. However, Paragraph 22 of The Framework states that:

“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”

Developing part of the site for housing would not accord with the Adopted Plan allocation for the site. However, Policy EG3 of the Submission Version of the Local Plan also relates to existing and allocated employment sites, and recognises that a more flexible approach may be required in certain circumstances. It states that:

1. Existing employment sites will be protected for employment use unless:
 - i. Premises are causing significant nuisance or environmental problems that could not be mitigated; or
 - ii. The site is no longer suitable or viable for employment use; and
 - a. There is no potential for modernisation or alternate employment uses; and
 - b. No other occupiers can be found.

The primary and most significant economic benefit of the proposals is the substantial investment into the Harman business, which will help to secure a sustainable and long term future for the business, safeguarding over 200 jobs. By downsizing Harman into appropriately sized accommodation, the business can operate far more efficiently than it does at present.

It is accepted that the existing buildings were designed for a specific use and are now out of date and not suitable for alternative occupiers. The redevelopment of the premises is necessary to enable a viable future for the company. However arguments for the application proposals are that the redevelopment of the rest of the site for industrial purposes is not realistic or viable in order to deliver the new Harman buildings.

Whilst it is accepted that the site is a remaining employment site in the area, the site is not ideal for larger scale businesses or industrial premises in any event. Mobberley is accessed by country lanes and does not meet the accessibility requirements of most modern businesses. This contrasts with other industrial and business parks located in Cheshire East, which all have very good access to 'A' roads.

A number of the points made above are considered to be valid. Table 5.3 of the Cheshire East 2011-2012 Annual Monitoring Report indicates there is 328.43 hectares of employment land in Cheshire East. Of this, 5.51 hectares is committed for non-employment uses, leaving 322.92 hectares.

The key consideration for this application is whether there is sufficient employment land with the local area, to meet current needs. The following is a list of large employment sites in the former Macclesfield Borough where employment land is available:

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

At this juncture, it is considered that there is adequate Employment Land available across the District, and the loss of this site will not lead to an inadequate supply in this area.

Housing policy and supply:

The National Planning Policy Framework (NPPF) confirms at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

“Identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”.

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.”

Appeal decisions in October 2013 concluded that the Council could not conclusively demonstrate a five year supply of deliverable housing land. This was founded on information with a base date of 31 March 2012 selectively updated to 31 March 2013.

In response, in February 2013 published a 5 Year Supply Position Statement which seeks to bring evidence up to date to 31 December 2013. The approach taken to the Statement has been informed by policy requirements and by consultation with the Housing Market Partnership.

The Position Statement set out that the Borough’s five year housing land requirement as 8,311. This was calculated using the ‘Sedgefield’ method of apportioning the past shortfall in housing supply across the first five years. It included a 5% buffer, which was considered appropriate in light of the Borough’s past housing delivery performance and the historic imposition of a moratorium.

A standard formula of build rates and lead-in times was applied to most housing sites, unless more detailed site-specific information is available. Those considered deliverable within the five year supply were ‘sense-checked’ and assumptions altered to reflect the circumstances of the particular site. The Criticisms made of the yields from certain sites in the recent appeals, particularly those in the merging Local Plan, were also been taken on board.

Sources of supply included sites under construction; sites with full and outline planning permission; sites awaiting Section 106 Agreements; selected Strategic Sites which are included in the emerging Local Plan; sites in adopted Local Plans; and small sites. This approach accorded with the National Planning Policy Framework, existing guidance and the emerging National Planning Policy Guidance at that time.

A discount was been applied to small sites, and a windfall allowance included reflecting the applications which will come forward for delivery of small sites in years four and five.

A number of sites without planning permission were identified and could contribute to the supply if required. However, these sites were not relied upon for the five year supply.

The current deliverable supply of housing was therefore assessed as being some 9,757 homes. With a total annual requirement of 1,662 based on the ‘Sedgefield’ methodology and a 5% ‘buffer’ the Five Year Housing Land Supply Position Statement demonstrated that the Council has a 5.87 year housing land supply. If a 20% ‘buffer’ was applied, this reduced to 5.14 years supply.

Notwithstanding this, however, the recent appeal at Elworth Hall Farm, Sandbach (11 April 2014) determined that the Council had still not evidenced sufficiently the 5 year supply position, although the Inspector declined to indicate what he actually considered the actual supply figure to be.

Members should note, however, that the Elworth Hall Farm inquiry took place shortly after the publication of the Position Statement with only very limited time available to evidence the case. Since that time, the housing figures have been continuously refined as part of the preparation of evidence for further public inquiries which have taken place during March and April 2014 and are scheduled to take place within the coming months and against the RSS target, Cheshire East Council can now demonstrate a 5.83 year housing land supply with a 5% buffer or 5.1 year housing land supply with a 20% buffer.

Following the release of the Planning Practice Guidance (PPG), which now proposes that Council's include development which falls into the C2 Use Class category (i.e. care homes, halls of residence etc.) when considering housing land supply figures, the requirement provisionally drops to 6,496 (due to increased delivery in previous years) and the supply is elevated to 10,514. This equates to 7.9 years supply.

At the time of the Elworth Hall Farm inquiry the PPG was only in draft form, and although the Inspector gave consideration to the potential contribution of C2 accommodation to supply, the full implications of its inclusion were not known at that stage. The Inspector considered that the Council had a record of under-delivery and expressed the view that a 20% buffer would be appropriate. However, the inclusion of the C2 consents takes away the suggestion of persistent under supply.

The Elworth Hall Farm inspector also criticised assumptions which the Council had made around build rates and lead in times, which he considered to be overly optimistic. In response Officers have been reworking the supply figures using longer lead in times, and on build rates which do not assume that on large sites there will be two or more developers except where there is the actual site specific evidence. Whilst this clearly reduces the overall supply, this is balanced out by the inclusion of the C2 permissions, and (subject to confirmation) the most recent figures still indicate that the Council can demonstrate a 5 year supply of housing land.

A component of the Council's evidence base is the Strategic Housing Land Availability Assessment (SHLAA) February 2013 Update, which identifies potential sites for housing development across Cheshire East. It is worth noting that the Ilford site is identified by the Council as being one of the sites forming part of the anticipated supply of housing land, being suitable, available, deliverable and achievable for residential development.

Therefore, if the application were to be approved, it would relieve pressure on other edge of settlement sites and the Green Belt as part of the provision of housing and strengthen the Councils 5 year land supply position.

Need for additional affordable housing in the area and viability issues:

Policy H8 of the Local Plan requires the negotiation for the provision of 25% affordable housing. However, since then the Council has adopted the Interim Planning Statement on Affordable Housing which, on sites of 0.4ha or 15 or more dwellings in settlements of over 3,000 population, seeks to provide a minimum proportion of affordable housing of 30% in accordance with the recommendations of the 2010 Strategic Housing Market Assessment. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally, the Council would expect a ratio of 65/35 between social rented and

intermediate housing. In addition, this document also looks for developments of 10 or more dwellings to provide a minimum of 25% low cost housing.

The site falls within the Mobberley, Chelford and Alderley Edge sub area for the purposes of the Strategic Housing Market Assessment update 2013. This highlights a requirement for 87 affordable homes per annum for the period 2013/2014 to 2017/2018, broken down this is a requirement for 16 x 1bed, 17x 2bed, 11x 3bed and 13x 4plus bed general needs units and 9x 1bed and 22x 2+bed older persons accommodation. In addition, information taken from Cheshire Homechoice (the Council's choice based lettings system) shows there are currently 32 live applicants who have selected the Mobberley lettings area as their first choice. These applicants require 5x 1bed, 13x 2bed and 13x 3bed units.

A Viability report was submitted with the application proposals in order to establish how much affordable housing the applicant is able to provide through the planning application process. The applicant has stated that due to exceptional or abnormal costs to be taken into account, the original included for 5% of dwellings in the development to be affordable. Following discussions and assessment by a financial consultant, the application has increased this affordable housing offer to 15%, with an affordable mix of 50% social housing and 50% intermediate housing. Whilst the housing mix has been agreed, the Council's external advice is that a further viability review is needed and the site could achieve an affordable housing offer of 23%. A further update on this element will be presented at Committee.

Members need also to be aware that the offer to provide the two storey office development comprising approximately 1,431m²/15,403ft² gross floorspace, should it be deliverable would have an impact on the level of affordable housing provided.

Education contribution and school provision issues:

A development of 375 dwellings would be expected to generate in the region of 68 primary aged pupils and 49 secondary aged pupils. Having looked at the primary schools within a 2 mile radius of the site this identifies Mobberley C.E. Primary, Manor Park, and St Vincents Catholic Primary as the local schools.

That being said, it is not unreasonable in this instance that parents would expect their child to attend the local village school. Therefore only Mobberley Primary School has been considered for capacity.

On this basis The Education Department would require a contribution which would be sought for every pupil that the development is expected to generate. This would equate to a financial sum of £737,548.00. This commuted sum has been secured through this application and would form part of the S106 legal agreement.

An on-site school does not form a part of the current planning application, although the applicant has expressed willingness to work constructively with the Education Department to achieve their aims. The application accords with the Council's SPG on Section 106 Agreements.

Creation of new public open space:

The development proposed within the green belt comprises:

1. Allotments/community growing space;
1. Sports pitch;
2. Changing room;
3. Car parking for allotments and sports pitch;
4. Play areas; and
5. Informal open space surrounding the above.

Guidance on planning for green belts is contained at paragraphs 79 – 92 of the NPPF. Paragraph 89 relates to new buildings. It states:

'A local planning authority should regard the construction of new buildings as inappropriate in Green Belt. Exceptions to this are:

- *buildings for agriculture and forestry;*
- ***provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it;***
- *the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*
- *the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;*
- *limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or*
- *limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use*
- *(excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.'*

Paragraph 90 identifies forms of development that are also not inappropriate. It states: *'Certain other forms of development are also not inappropriate in Green Belt provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land in Green Belt. These are:*

- *Mineral extraction;*
- ***Engineering operations;***
- *Local transport infrastructure which can demonstrate a requirement for a Green Belt location;*
- *The re-use of buildings provided that the buildings are of permanent and substantial construction; and*
- *Development brought forward under a Community Right to Build Order.'*

Having regard to the policies above, the majority, if not all of the development proposed within the green belt can reasonably be classified as appropriate development. Uses which are not inappropriate are not specified, so there is no clear guidance from paragraph 90 alone that even the existing use as a field (agricultural, even though no productive agricultural use takes place) is appropriate. For guidance on uses, it is necessary to refer to paragraph 89 as well.

In this case, the majority of the works proposed are engineering operations e.g. earthworks to create a level playing pitch. Engineering operations to deliver outdoor recreation space and landscaped buffers are not inappropriate development under paragraph 90, as they do not conflict with the five purposes set out at paragraph 80, which are as follows:

Green Belt serves five purposes:

- *To check the unrestricted sprawl of large built-up areas;*
- *To prevent neighbouring towns merging into one another;*
- *To assist in safeguarding the countryside from encroachment;*
- *To preserve the setting and special character of historic towns; and*
- *To assist in urban regeneration, by encouraging the recycling of derelict and other urban land.*

Secondly, the new changing room is not inappropriate development, as it falls under one of the exceptions at paragraph 89 bullet 2, namely *'provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.'* The car park associated with the changing room, and the outdoor play areas would also fall into this category. The allotments/community growing space, being a horticultural activity, can reasonably fall under the exception for agriculture and forestry.

However, even if the change of use from agricultural to public open space is considered to be constitute inappropriate development, very special circumstances arise in this case which fully justify the proposals in any event.

The main issues are:

1. The effect of the proposed new sports pitch and field shelter on the character and appearance of the area and the openness of the Green Belt; and
1. Whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

The first issue is addressed in the Landscape and Visual Assessment which accompanied the planning application, the conclusions of which were:

- *The proposed temporary and permanent development works would not adversely impact any significant features of ecological, historical or cultural value and any short term effects could largely be made good by remedial works;*
- *The proposed works would not detrimentally affect a National Park / AONB or other Nationally or Regionally significant landscape;*
- *The proposed works would not detrimentally affect a scheduled ancient monument, listed building or other feature of historical note or historically significant landscape / landscape feature;*

Taken overall, despite the substantial scale of the proposal, the relatively nominal effects on landscape character & quality together with both the generally beneficial and the very limited adverse effects on visual receptors the proposal, when taken as a whole, is considered to be an acceptable feature in the landscape.'

The Council's Landscape Architect confirmed that there is no visual harm, agreeing with the assessment as set out within the Landscape and Visual Assessment.

There would be only a very slight impact on openness as a result of the changing room building, the engineering operation to create the sports pitch together with the allotments and play areas. The character of part of the field would change from informal grazing land to one of more manicured sports/recreation, but views across it would be retained. There is therefore only a very minor degree of harm to any of the five purposes of green belts identified at paragraph 80 of the Framework.

The 'harm' caused by inappropriateness is clearly outweighed by other considerations. These include that the proposals:

1. Fully accord with NPPF guidance at paragraph 81, which states: *'Once Green Belts have been defined, local planning authorities should plan positively to enhance the beneficial use of the Green Belt, such as **looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation**; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.'*
1. Will formalise and enhance opportunities to access the countryside across previously private land for both the existing and new residents of Mobberley
2. Will provide open space and recreation facilities that the community is presently lacking
3. Will provide open space and recreation facilities that will cater for all age groups and a diverse range of activities, such as working, formal sport (football) play areas for children and allotments/community growing space for adults.
4. Will provide new recreation facilities which frankly, given that Mobberley is surrounded by green belt, could not be provided on non-green belt land in this locality. In other words, the improvement in community facilities being proposed could not otherwise be delivered if not on green belt land.

In conclusion on this element, the Framework advises that substantial weight attaches to the harm to the Green Belt by reason of inappropriateness, but the Framework also encourages the development of outdoor sport and recreation in the Green Belt, which is not inappropriate if it preserves the openness of the Green Belt and does not conflict with the purposes of including land in it. In this case, the harm due to inappropriateness, the slight degree of harm to the openness of the Green Belt due to engineering operations, changing facility and allotments are significantly and demonstrably outweighed by the benefits of the new sport and recreation facilities, a qualitative improvement in playing field provision in Mobberley; and the supply of a substantial area of new housing on the adjacent brownfield land, including affordable units. These advantages amount to the very special circumstances necessary to justify the development.

Sustainability of the site:

The applicant has stated that the energy saving that will be achieved by the redevelopment of the Harman site to consolidate the business onto a smaller part of the site, with no reduction in production capacity, would result in a reduction of carbon emissions in excess of 75% of the original site emissions each year and a savings of up to 30% each year by a much smaller, more efficient operation on site.

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. A 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 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 site is considered by the SHLAA to be sustainable and is within the village envelope of Mobberley.

The new residential properties would be constructed to target Code Level 3 and the application identifies a variety of potential measures to achieve that goal.

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. Future residents would also contribute to economic activity in Mobberley.

Impact on highway safety and traffic generation:

It is intended that the industrial element of the proposed site layout will continue to be used by Harman Technology Ltd, as the number of employees are proposed to remain at similar levels, the amount of trips associated with the industrial use will remain the same that is currently using the road network.

Therefore, it is the impact of residential development of 375 units that needs to be assessed, the applicant has assessed a number of local junctions close to the site and these all will operate well within their capacity. The concern of the Highway Authority is the operation of the congested junctions in Knutsford, especially the junctions of Brook Street/Hollow Lane and Adams Hill/A50 Toft Road where there are extensive queues in the peak hours. Additionally, there are a number of major approved committed developments in Knutsford that will directly increase traffic flows using these junctions.

It is not accepted that the development will not have a material impact on the Brook Lane/Hollow lane junction. It is also not accepted that the traffic signal model submitted correctly identifies the DoS of the junction and has underestimated the capacity of the junction.

Clearly, it is not accepted that the development does not have an impact and in the absence of any proposed mitigation measures proposed by the developer a highways objection would have to be raised.

To address the congestion problems at both the Brook Street/Hollow Lane and Adams Hill/A50 Toft Road, junctions CEC have, as part of the local infrastructure plan, designed improvements to both these junctions and it is intended that these improvements are funded through developer contributions. As this development will have a direct impact, this application can be acceptable subject towards a contribution of £247,483 being provided based upon the percentage impact of the development on the congested junctions.

In summary, the access to the site is using an existing junction that serves an existing industrial use and is capable of accommodating the additional residential that is proposed. There is no vehicular access to the site from Smith Lane except for an emergency access to the site; this is supported by the Highway Authority as Smith Lane is a narrow rural lane.

In response to issue raised by third parties, the issue of parking on Ilford Way was considered in the submitted Transport Assessment, which took account of the reduced width of the carriageway due to on-street parking and the junction during junction modelling. The junction was still shown to be operationally sound, which suggests that the on-street parking is not affecting junction capacity. Provided the parking provision within the new development meets standards (which would be a reserved matter), then there is no reason to expect an increase in on-street parking of site on Ilford Way.

The traffic impact from the development can be mitigated subject to a financial contribution be provided towards planned infrastructure improvements and subject to the contribution being agreed the Council Strategic Highways Manager would not raise objections to the application.

Noise issues from the adjacent industrial estate and aircraft:

As stated above, the acoustic environment at this location is substantially affected by:-

- Aircraft noise from Manchester airport flight path;
- Industrial noise from Harmon Technologies existing cooling towers; and
- Railway noise (However, this is not considered significant)

The cumulative impact of the aircraft and industrial noise sources (if not appropriately designed out) would cause a substantial loss of amenity to future occupiers of the noise sensitive dwellings at this location.

The Environmental Health section has assessed the application with reference to current policy and guidance which relates to noise. The assessments follow several meetings with the applicants' agent and specialist noise consultants.

NOISE:

The NPPF revoked Planning Policy Guidance 24 (PPG 24) which was previously used to assess noise impacts of planning applications. The NPPF indicates that the Noise Policy Statement for England (NPSE) should be used to define "significant adverse impacts". It

further, provides some general guidance to local authorities on taking noise into account in planning policies and decisions. Paragraph 123 of the National Planning Policy Framework (NPPF).

Planning policies and decisions should aim to:

- Avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and
- Mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions;

The National Planning Policy Framework states that the planning system should *"prevent both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability"*

Another requirement of Paragraph 123 of the NPPF is that "existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established". Therefore, the proposed new residential development must not impact on the current and future operation of Harmans.

The Macclesfield Borough Local Plan Policy T18 states:

"In Areas Subject To Daytime Noise Levels Between 57 And 66 Laeq 16hr (0700-2300), And/Or Night-Time Noise Levels Between 48 And 57 Laeq 8hr (2300-0700), Planning Permission For Residential Development (Which Satisfies Other Planning Policies For The Area), Will Only Be Granted If Soundproofing Is Provided To The Satisfaction Of The Local Planning Authority. In Addition, Planning Permission For New Dwellings Will Not Normally Be Granted Where Individual Noise Events Or Aircraft Overflights Regularly Exceed 82 Dbla Max (Slow Time Weighting), Several Times In Any One Hour Period Between 2300 And 0700 Hours"

It is noted that the site is within this zone, however the policy above *does not* mitigate noise in external areas. Whilst the acoustic report states there is nothing in this policy to justify the refusal of planning permission, it is noted that the Macclesfield Local Plan allocates this site for employment use and as such (using the Macclesfield Local Plan) the test of "satisfies other planning policies for the area") fails.

As such the development is contrary to the Macclesfield Local Plan

AIRCRAFT NOISE

There are no regulatory instruments available to control the noise impact from aircraft noise on the proposed residential dwellings, post development. Therefore, it is essential that amenity issues are appropriately assessed and addressed at the planning application stage. Statutory noise nuisance enshrined in the Environmental Protection Act 1990 does not apply to transportation noise sources.

Aircraft noise propagates differently to road and rail noise. Aircraft noise can cause greater annoyance because it is heard on all sides of a building unlike road/rail noise. Overhead aircraft noise at this location will be heard uniformly in all directions.

MANCHESTER AIRPORT NOISE IMPACT ASSESSMENT

This site lies under the Manchester International Airport flight-path. The application seeks to introduce noise sensitive dwellings within the 57-63 LAeq 16 hr (daytime) noise contour. The site is subject to aircraft take-off noise for (on average) 80% of the year.

Aircraft noise will negatively impact the proposed noise sensitive dwellings and is contrary to Para 123 of NPPF: Avoid noise from giving rise to a significant adverse impact on health and quality of life.

In order to assess the impact of aircraft noise on the proposed noise sensitive dwellings at this location, reference has been made to Manchester Airport Noise Action Plan 2012.

The noise contours used at Manchester Airport are prepared annually by the Environmental Research and Consultancy Department of the Civil Aviation Authority (CAA). The assumptions on aircraft departure profiles (rate of climb, speed and thrust) are taken from the actual departure profiles for the predominant types of aircraft in use at the Airport (B737-300, B737-800, A319, A320 and B747). Data on time of operation, destination, departure route, aircraft type etc. is all actual data from summer 2012.

INDUSTRIAL NOISE SOURCES – HARMAN TECHNOLOGIES LTD

Most of the noise sources will no longer exist once Harman Technologies Ltd has transferred its manufacturing operations to the extended and modified building at the south end of the site. This is because no other industrial buildings will exist, although the cooling towers to the east side of the plant will remain in situ. A reduction of sound power levels can be achieved by improved engineering. The impact of the cooling towers on private garden areas and public amenity spaces should be assessed for compliance with BS4142. No noise shall arise at the nearest proposed noise sensitive dwelling due to tonal or impulse noise arising from the existing cooling towers. For this purpose, suitable conditions can be incorporated to control background noise levels.

It should be noted that there are no controls limiting occupants of the Industrial Estate from undertaking their activity at any time of the day / night 365 days / year. There are also no controls on future occupiers of the industrial estate being noisier than present businesses.

The Noise Policy Statement for England NPSE was published in March 2010. The document seeks to clarify the underlying principles and aims in existing policy documents, legislation and guidance that relate to noise. It also sets out, in paragraph 1.6, the long term vision of Government noise policy: "Promote good health and a good quality of life through the effective management of noise within the context of Government policy on sustainable development". The aims of NPSE are: -

- Avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.
- Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.

As such, it is the Environmental Health Officers view that the development does not comply with the NPSE, especially with regard to aircraft noise.

NATIONAL PLANNING PRACTICE GUIDANCE

The National Planning Practice Guidance puts noise impacts into the following bands:

- **Significant observed adverse effect level:** This is the level of noise exposure above which significant adverse effects on health and quality of life occur.
- **Lowest observed adverse effect level:** this is the level of noise exposure above which adverse effects on health and quality of life can be detected.
- **No observed effect level:** this is the level of noise exposure below which no effect at all on health or quality of life can be detected.

Based on the acoustic report submitted, together with site visits and measurements undertaken by officers from the Environmental Health section, the Environmental Health Officer categorises the noise environment as Noticeable and Disruptive. The outcome of this category is that the noise causes a material change in behaviour and/or attitude, e.g. having to keep windows closed most of the time, avoiding certain activities during periods of intrusion. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty getting back to sleep. Quality of life due to change in acoustic character of the area.

As the windows in the dwelling would have to be kept closed (as the mitigation suggests), and following visits to the site, the aircraft noise (take off) interferes with conversation at a 1m distance and would make conversation at greater distances increasingly difficult resulting in a diminished quality of life in outdoor living areas.

On the basis of the above, the recommended action from the Environmental Health Officer is to “avoid” residential dwellings with this relationship.

OTHER POLICY CONSIDERATIONS

The Air Transport White Paper (ATWP) (The Future of Air Transport, DoT, December 2003) confirms that 57 dB LAeq (16 hour daytime) is the onset of significant community annoyance. The ATWP describes the Department of Transport’s policies for the appraisal and management of environmental impacts from aerodromes, including noise. The basic aim stated is to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise.

This policy is further reiterated in the Department for Transport, Aviation Policy Framework, March 2013, section 3.12: The Government’s overall policy on aviation noise is to limit and, where possible, reduce the number of people in the UK significantly affected by aircraft noise.

This is consistent with the Government's Noise Policy, as set out in the Noise Policy Statement for England (NPSE), which aims to avoid significant adverse impacts on health and quality of life.

AIRCRAFT NOISE MITIGATION THROUGH LAND USE PLANNING

Sustainable Aviation, Spring 2013, launched the industry's first Noise Road Map, demonstrating how noise from UK aviation will not increase despite a near doubling in flights over the next 40 years. One of the reasons that this will be achieved is by improved land use planning. (The SA Noise Road-Map, A Blueprint for Managing Noise from Aviation Sources to 2050 (Noise Road Map, spring 2013).

The sentiments in this statement are further echoed in the Airports Commission, Discussion Paper 5: Aviation Noise, July 2013 (Independent commission appointed by Government). Details at section 5.3: Only compatible land-use development takes place in areas affected by aircraft noise. This works in two ways:

1. To direct incompatible land use (such as housing) away from the airport environs, and
1. To encourage compatible land use (such as industrial and commercial use) to locate around airport facilities.

Department for Transport, Draft Aviation Policy Framework (2012), recognises that planning has a role to play in controlling the numbers of people affected by aircraft noise.

NOISE INSULATION AND COMPENSATION

Reference to the Aviation Policy Framework, 2013, section 3.36 - The Government continues to expect airport operators to offer households exposed to levels of noise of 69 dB LAeq, 16hr or more, assistance with the costs of moving. Section 3.37 The Government also expects airport operators to offer acoustic insulation to noise-sensitive buildings, exposed to levels of noise of 63 dB LAeq, 16 hr or more.

To put this into the context of the application under consideration: if permitted, a proportion of noise sensitive dwellings to the north east of the site would fall into the 63 dB LAeq, 16 hour contour, whereby airport operators would offer acoustic insulation.

HEALTH IMPACT OF AIRCRAFT NOISE EXPOSURE

The main effects of Aircraft noise exposure are:

- Negative Public Health Impact – hearing loss, hypertension, mental health, cardiovascular disorders, stress, sleep disturbance;
- Detrimental impact on amenity/quality of life – annoyance; and
- Decreased productivity and learning difficulties in children.

PUBLIC HEALTH IMPACT

The World Health Organisation has outlined a strong link between cardiovascular disorders and exposure to aircraft noise (WHO, 2011, Burden of disease from environmental noise quantification of healthy life years lost in Europe).

A recent study in August 2013 by Hansell & Blangiardo et al, investigated the association of aircraft noise with risk of stroke, coronary heart disease, and cardiovascular disease in the

general population. The results suggest that high levels of aircraft noise are associated with an increased risk of stroke, coronary heart disease and cardiovascular disease.

AMENITY & QUALITY OF LIFE

Aircraft noise can intrude on a person's daily life through interrupting desired activities such as having a conversation, breaking concentration or disturbing whilst relaxing. This results in a loss of amenity and reduced quality of life through increased stress and irritation (Heaver, 2002, Attitudes to Aircraft Annoyance around Airports (5A) Focus Group Report EEC/ENV/2002/009).

PRODUCTIVITY

The main ways in which noise is linked to productivity are: sleep disturbance impacting upon next day productivity, productivity impact from the health effects of noise, links between academic performance and noise and environmental noise and workplace distraction. (The Airport Commission, An Independent Commission Appointed by Government, Discussion Paper 05: Aviation Noise, July 2013, page 15).

APPLICANTS NOISE AND VIBRATION ASSESSMENT

A Noise and Vibration Assessment has been submitted in support of the outline planning application. The noise assessment illustrates, that the site is negatively impacted by aircraft noise, and noise from the existing Harmon Technologies site. The noise mitigation measures identified the main source of noise affecting the site is aircraft from Manchester Airport and noise from fixed plant and processes from Harmon Technologies existing cooling towers and from occasional passing trains.

INDOOR ACOUSTIC ENVIRONMENT

Sound insulation specifications have been suggested for all dwellings across the site. In order to achieve the BS8233 reasonable indoor ambient noise levels, the noise assessment has determined that:

- Ventilation shall be provided without the need to open windows (although windows may still be operable at the resident's discretion); and
- Mechanical ventilation system is required for all bedrooms, whilst living rooms shall require acoustic trickle ventilators as detailed.

The acoustic report, demonstrates that the dwellings can be designed to mitigate noise to a satisfactory level. However, residents are still entitled to reasonable acoustic environmental standards. The sound level within a residential building is not the only consideration. Most residents will also expect a reasonable degree of peaceful enjoyment of their gardens and adjacent amenity areas.

It should be noted that the Environmental Health section ordinarily recommend that developers aim to achieve the stricter "GOOD" standard within indoor living environments.

OUTDOOR LIVING AREAS

The World Health Organisation (WHO) Guideline value for community noise for outdoor living areas is 55 dB LAeq (16 hour) (a health based guideline). The author of the applicant's noise assessment states, that external noise levels across the site is generally between 58-63 dB. Therefore, at this location the existing background noise levels exceed the 55 LAeq WHO

guideline for outdoor living areas. Further, the author stipulates, that there is no practical mitigation to reduce noise levels in garden areas.

The aim is to protect future occupiers of new noise sensitive premises, from the noise from existing industrial premises. If residential development is permitted, in close proximity to the existing Harmon Technologies operations; it is reasonable to foresee that amenity will be affected, as the boundaries of statutory noise nuisance will be changed. In this event it is likely that businesses may suffer formal statutory noise nuisance action in the future, when the properties are occupied and this is contrary to policy.

In order to alleviate the potential conflict between both existing and future industrial estate uses and future residents a noise mitigation scheme is proposed and it is considered that the proposed measures would allow for the integrity of the operation of Harmon Technologies site as it operates today, to be maintained.

The mitigation measures, which include acoustic glazing and mechanical ventilation, are not unconventional and meet with current Building Regulations. To achieve the BS8223 noise level the windows would have to remain closed and accordingly mechanical ventilation is proposed. It should be noted that the Noise Assessment Report explicitly confirms the windows will still be operable at residents' discretion. Mechanical ventilation systems are frequently proposed for new property designs, in locations close to major roads for example. The proposed measures will acceptably mitigate internal areas from noise associated with both aircraft noise and Harmon Technologies site. It is accepted by the Environmental Health Officer that the resulting internal noise levels within the proposed residential properties will be below health-based standards and guidance.

It should be noted that traffic noise and noise from passing trains was recently considered as an issue in an appeal decision for a site in Crewe. In that case, the Inspector considered that as a noise assessment had demonstrated that target internal noise levels in habitable rooms and in external areas could be achieved, the matter could be dealt with by a condition to ensure that the noise protection measures would be carried out.

CONCLUSION ON NOISE

The Environmental Health Officer considers that the site is not suitable for residential development. This is due to the inability to mitigate noise from aircraft to a satisfactory level for outside living/amenity areas. Strong concerns are raised that if the development is granted permission, there will be significant adverse impacts on health and quality of life in external areas, arising from existing noise climate at this location. The consideration of air quality, dust control and contaminated land are referenced above.

Design, layout and density considerations:

The application is outline with details of scale, layout, appearance and landscaping to be determined at a later date. In support of this planning application, a Design and Access Statement has been provided.

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that: "Although visual appearance and the architecture of individual buildings are very

important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

Local Plan policies BE1, H2, H13, DC1 and DC35 address matters of design and appearance. Policy DC38 provides the space, light and privacy guidelines for housing development. Policy BE1 states that the Council will promote high standards of design and new development should reflect local character, use appropriate materials and respect form, layout, siting, scale and design of surrounding buildings and their setting. Policy H2 requires new residential development to create an attractive, high quality living environment. Policy DC1 states that the overall scale, density, height, mass and materials of new development must normally be sympathetic to the character of the local environment, street scene, adjoining buildings and the site itself.

The approach to the residential layout is based around a hierarchy of streets at differing densities to provide distinct character areas. The original masterplan showed how up to 375 dwellings can be accommodated, at an overall average density of 11.1 units per acre (27.5 units per hectare), ensuring that the development is in keeping with the existing density and character of Mobberley village. A central element of the development is an emphasis on permeability, open space and recreation provision. The adjacent unused field will deliver walking routes, allotments/community growing space, play area, sports pitch and changing room.

The lengthened green spine road has been included on the Masterplan, which provides a connection between the northern section of the site and the green linear park and the public open space. It further enhances the overall green network across the site and opens up the access along the northern boundary.

The scale of the proposal and any impact of the height, mass, bulk on the character and appearance of the area:

The applicants have produced both a Design and Access Statement and a Design Code, which examine the indicative details for the final form of the development and provides supporting information for the design of the scheme.

The Design Code and Design and Access Statement provide a detailed character assessment most of which is very attractive and should provide a good and useful guideline for the reserved matters and to ensure that a high quality development is achieved. It sets parameters for key issues such as the street hierarchy, minimum spacing distances between dwellings, focal buildings, and scale of dwellings, landscape features, and key features of the open space strategy.

Amenity implications:

The indicative layout submitted satisfies the Local Plan separation distances for the two and three storey dwellings. The indicative layout illustrates that satisfactory separation distances can be achieved between the existing buildings on the proposed Harmon Site and Sewage works and the existing houses the boarder the site. It is considered that it should be possible

to condition the design code to secure these separation distances which would comply with the requirements of Local Plan Policy DC38.

Agricultural Land:

The proposed development at Ilford Way includes the provision of public open space on land to the east of Harman Technology, on what is currently a privately owned agricultural field.

It is noted that Policy GC13 (Agricultural Land) of the Macclesfield Borough Local Plan has not been saved. However, the National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (Grades 3b, 4 & 5) in preference to higher quality land.

In this instance, the agricultural field is Grade 3 and due to its limited size and the existing site constraints (i.e. surrounded by development) it does not offer a significant contribution to the high quality agricultural land in the area.

In conclusion, whilst the proposal would result in the loss of a small quantity of Grade 3 agricultural land, the loss would not be 'significant' and would not outweigh the benefits that would come from delivering this development and assisting with the Council's housing land supply situation helping to relieve pressure on less sustainable and preferential Greenfield sites elsewhere.

Flooding and drainage:

Policy DC17 of the Macclesfield Local Plan relates to water resources and states that development will not normally be allowed which would be in an area liable to flooding and which would lead to an inadequate surface water run-off provision. Policy SE13 of the emerging Local Plan also states that developments must integrate measures for sustainable water management to reduce flood risk by making sure that development avoids areas of flood risk except in circumstances where a sequential and exception test indicate development is necessary. In these cases, development must be safe without increasing flood risk elsewhere. Furthermore, the emerging policy states that new development must be designed to be safe, taking into account the lifetime of the development, and the need to adapt to climate change.

The NPPF supports the above policies by stating that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere.

Two Flood Risk Assessments have been produced to support the two separate elements of the proposed redevelopment of the site, one for the residential element and the other for the Harman site.

In relation to the new Harman development, the proposed site is not currently within an Environment Agency defined flood zone. A review of the Master Plan shows that the scheme is to be constructed outside of the currently defined flood risk areas and therefore the risk to the proposed development is considered to be negligible. As the scheme is likely to result in

impermeable areas (roads and buildings) there will need to be consider some issues regarding storm water drainage so as not to create a flood risk to surrounding areas.

A review of the EA indicative flood mapping and other relevant data indicates that the site is located outside any predefined area that is deemed to be at risk from flooding by rivers and other surface water bodies. There is a potential moderate groundwater flooding risk at the site, however, no evidence of historical flooding has been recorded. Furthermore, a pluvial risk within a small area in the north of the site has been identified, increasing the elevation of this localised area will alleviate any likely pluvial flooding issues.

Landscape Implications:

As part of the application a landscape and Visual Impact assessment was submitted. The assessment includes a proposed development layout, although this can only be considered as an indicative layout for the residential part of the proposals. This indicative layout has been used as the basis for the assessment.

There are no landscape designations within the application area, which lies in an area identified as Urban in the Cheshire Landscape Character assessment 2009. Although the application site is not located within the boundary of the Greenbelt, the surrounding agricultural land to the west, north and east is within the boundary of the Greenbelt. The assessment identifies that there are a number of footpaths that cross the application site, as well as other footpaths in close proximity to the site.

The Council's Landscape Architect has confirmed that landscape impact assessment and visual impact assessment are acceptable. With regard to mitigation, the assessment indicates that existing trees, hedges will be retained where possible and that the existing visual buffering will be supplemented; this also identifies the value of the existing peripheral vegetation, these are identified on the Site and its context section of the Design and access Statement 'Existing Trees and hedgerow' as well as the 'Constraints & Opportunities' plan, although shown on the Initial Masterplan, the existing structural vegetation including trees and woodlands needs to be incorporating this information on a Parameters Plan which could then be conditioned. The peripheral vegetation has a significant and important impact on the site and the loss of some of this could have an immediate and detrimental impact on the proposals.

Additional meeting points across the middle linear park have been illustrated on the Masterplan as requested by the landscape officer

Arboricultural Implications:

The application is supported by an Arboricultural Survey and this assessment is broadly in accordance with the Industry Standard.

The Council's Principal Forestry and Arboricultural Officer has confirm that is not anticipated that there will be any significant arboricultural implications associated with parts A and B of the application that cannot be controlled via the appropriate tree protection conditions.

Part C Outline planning permission for dwellings is shown on illustrated plans and indicates existing protected trees (Green Acre and Smith Lane TPO 2004) to the rear of properties on Smith Lane located within Public Open Space. In addition, the woodland belt along the western boundary to the rear of properties on Summerfield Road and to the rear of Rajar Cottages are shown within POS. In this regard it is not anticipated that there will be any significant impact upon these existing protected trees.

The Arboricultural Survey identifies two trees will be lost by virtue of their poor condition; a semi mature Field Maple and semi mature Pine. Two groups of semi mature Sycamore/Alder to the north east of the site identified as 'C' low category trees and a small group of 'C' category Maple, Cypress and Cherry to the North West of the site together with various low category scattered small 'C' category groups of Willow, Scots Pine and Alder will be required for removal to accommodate the proposed indicative layout and access road.

One large mature 'B' category Ash located in the central southern section of the site will also require removal to accommodate the layout. The tree has some associated branch shedding and whilst retention could be considered, the indicative layout would require significant modification to ensure its successful long term retention. The proposed provision of a linear Park and provision of POS that integrates existing protected trees and other trees with significant growth potential mitigates for the likely loss of this particular tree.

The indicative layout shows separation of the residential development by way of an access road to the woodland located offsite to the north of the site. This is to be welcomed; however the position of the access and residential footprint must be designed at detailed application stage to respect Root Protection Areas of adjacent woodland edge trees and allowance for social proximity/future growth potential of trees in relation to built form and private amenity space.

Ecological implications:

The application was supported by an 'Extended Phase One' habitat survey which was undertaken in February. Whilst it was a poor time of year to undertake such a survey, as much of the site proposed for development is occupied by buildings, hard standing and amenity grassland the Council's Ecologist advised that enough information was gathered to assess the broad value of the habitats on site.

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.

In the UK, the Habitats Directive is transposed as The Conservation of Habitats and Species Regulations 2010. This requires the local planning authority to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those 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 consider two of the three tests in respect of the Habitats Directive, i.e. (i) that there is no satisfactory alternative and (ii) that the development is of overriding public interest. Evidence

of how the LPA has considered these issues will be required by Natural England prior to them issuing a protected species license.

Current case law instructs that, if it is considered clear or very likely, the requirements of the Directive cannot be met because there is a satisfactory alternative or because there are no conceivable “other imperative reasons of overriding public interest” then planning permission should be refused. Conversely if it seems 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 would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

GREAT CRESTED NEWTS:

Great Crested newts, a European protected species are known to occur in a high proportion of ponds at Mobberley. A number of ponds are located within 250m of the proposed development and a small population of great crested newts has been recorded at a pond on the opposite side of Smith Lane.

The areas of hard standing, amenity grassland and buildings on site are of limited value for great crested newts. The submitted ecological assessment advises that the proposed development is not likely to have a significant impact upon a great crested newts provided the woodland and hedgerows along the western boundary of the site are unaffected by the proposed development. This recommendation has been incorporated into the submitted indicative layout plan with the vast majority of this habitat being retained. It is noted that the removal of a section of hedgerow may be required to facilitate a pedestrian access point, this is however unlikely to have a significant impact upon great crested newts.

To avoid a potential impact upon great crested newts the Council’s Ecologist has recommend that if outline planning consent is granted a condition be attached requiring the retention and enhancement of the woodland and hedgerows along the western boundary of the site in accordance with the submitted indicative plan.

COMMON TOAD:

This UK Biodiversity Action Plan species, which is a material consideration, is also likely to be present on site. The Council’s Ecologist has advised that the retention of the habitats described above is also likely to mitigate any significant potential impact upon this species.

HEDGEROWS:

Hedgerows are a Biodiversity Action plan priority habitat and a material consideration. They proposed development is likely to result in the loss of two short sections of hedgerow to facilitate the proposed site entrances. It should be ensured at the detailed design stage that any loss of hedgerows is compensated for through the creation of replacement native species hedgerows.

BATS:

Two trees to the north of the site have been identified as supporting roosting bats. Based on the submitted indicative layout plan it appears likely that these trees will be retained as part of the proposed development. A further tree (identified as *Tree 10*) which will be lost to the proposed development has been assessed and (following a further survey being recieved) the

Council's Ecologist is now satisfied that tree 10 is not reasonably likely to support roosting bats.

BREEDING BIRDS:

The Council's Ecologist has recommended that conditions are placed on any approval that would protect breeding birds and that the reserved matters would include some enhancement for breeding birds.

Other material considerations:

The comments provided by consultees and neighbours in relation to infrastructure issues, highways issues, environmental issues, neighbouring amenity, housing need and affordable housing, design and built environment issues and loss of employment land are noted. It is considered that the majority of issues are addressed in the report above. The majority of issues can be addressed by way of attaching an appropriate condition, or designed out when it comes to the Reserved Matters application.

Phasing:

In relation to phasing, the key feature is that phase 1 will comprise the development of new premises for Harman before any demolition of existing space or development of new housing commences. Thereafter, the development of the remainder of the site is likely to come forward in phases, over a 3- 5 year period. A phasing condition is proposed that 'none of the residential dwellings hereby approved shall be occupied until the new buildings for HARMAN technology as shown on the Illustrative Masterplan have been completed.' A mechanism for the phased delivery of open space and recreation facilities is proposed in the S106 heads of terms.

CONCLUSIONS

This is a hybrid planning application that seeks consent for a mixed-use redevelopment comprising:

- Full planning permission for alterations to existing employment buildings, construction of new employment buildings and installation of new over ground services, piping and ducting; and
- Full planning permission for demolition of remaining redundant employment buildings and removal of redundant over ground services, piping and ducting;
- Outline planning permission for construction of dwellings, associated infrastructure, landscaping and other associated works (means of access); and
- An optional outline planning permission for construction of two storey office development comprising approximately 1,431m²/15,403ft² gross floorspace, with space for approximately 34 parking spaces.

Whilst the application site is allocated for employment uses, it is acknowledged that there is an over-supply of employment land, and it is recommended that the part of the site is released from employment use.

The site is in the village envelope Mobberley and it is considered that the site would be accessible to non-car modes.

The proposal will bring a number of redevelopment benefits namely:

- The delivery of up to 375 residential dwellings comprising a mix of detached, semi-detached, mews, apartments and bungalows. The indicative scheme provides a good mix of housing types. 15% to 23% of which is offered to be affordable;
- Provision of 8.4ha (20.6 acres) of open space; comprising; 18 allotments on approx 0.7 acres, Football pitch, Public open space around football pitch, Car parking for POS/football pitch, Changing rooms to Sport England standards and commuted sum payment to for future management and maintenance; circa £1.175m;
- Extensive landscaping, including a linear park and other incidental open space/landscaping within the residential area, including a three plays areas;
- Highway improvements to provide improved junction access to the site;
- Highways improvements to Knutsford Town Centre at the A537 Brook Street and Adams Hill. The amount of contribution would be £247,483;
- The site is unviable for further employment use and there is an oversupply of employment land in both the former Macclesfield Borough and the wider Cheshire East area;
- An education contribution of £737,548;
- Increased spending in the local economy (*£5.5m of additional retail spending generated within Mobberley and £3m of additional leisure spending generated*);
- New construction jobs. The construction phase of the development would provide up to 563 full time equivalent jobs in the construction sector over 1 5 year period;
- New Homes Bonus. A development of up to 375 houses would generate approximately £3.25 million from the New Homes Bonus Scheme to CEC for investment in the local area;
- The site is previously developed, within the village envelope of Mobberley and has good access to the road network;
- There is an identified shortage of housing supply and a need for affordable housing; and
- The site is deliverable.

The above factors need to be weighed against the clear concerns from Environmental Health which relate to the suitability of the site for residential development. The issue being the combined impact of industrial noise and aircraft noise impacting on the site.

To protect internal habitable spaces, residential noise sensitive properties will require acoustic mitigation in the form of acoustic glazing, combined with full mechanical ventilation and heat

recovery systems to ensure that habitable rooms can achieve compliance with the “good” BS8223 standard.

It is acknowledged that it is impossible to mitigate the severe impact of aircraft noise on external gardens / amenity areas and this is contrary to the NPPF and NPSE.

In terms of sustainability, this proposal would satisfy the economic and social roles by providing for much needed housing in an existing settlement where there is existing infrastructure and facilities. With respect to fulfilling the environmental role, this proposal will safeguard the natural, built and historic environment.

Whilst the proposal will result in the loss of some grade 3 agricultural land, it is considered that the benefits of the delivering the site for much needed housing and affordable housing would outweigh this loss.

In summary, for the reasons outlined, it is considered that the principle of residential use on the site is considered on balance to be acceptable, and although the proposal does not comply strictly with policy, there are sufficient material considerations in relation to an oversupply of employment land and the provision of housing in accordance with future policies, which result in a recommendation of approval being made, subject to conditions and a S106 agreement.

Heads of Terms for a Legal Agreement:

- **15% to 23%** Affordable Housing (50% social or affordable rent, and 50% intermediate tenure);
- A contribution of **£737,548.00** is required towards primary education;
- A contribution of **£247,483.00** towards highway improvements to be made to junctions at A537 Brook Street and at Adams Hill;
- Undertaken to provide a detailed Travel Plan for both the residential and commercial parts of the development to reduce traffic on the local highway network;
- Speculative new build office space (15,403 sq ft) of speculative across 2 floors with 34 car parking spaces, to be developed if demand can be established through a 36 month agreed marketing process and period;
- Provision of 8.4ha (20.6 acres) of open space (estimated cost £925,000) comprising; 18 allotments on approx 0.7 acres. Including a Football pitch, Public open space around football pitch item, car parking for POS/football pitch, changing rooms to Sport England standards (**Circa £925,00.00**);
- A 15 year sum for maintenance of the open space will be required IF the council agrees to the transfer of the open space to CEC on completion. (**Circa £250,00.00**);
- Provision of a LEAP, two LAP's and a linear park and other incidental open space/landscaping within the residential area;

- Alternatively, arrangements for the residential open space to be maintained in perpetuity will need to be made by the developer, subject to a detailed maintenance schedule to be agreed with the council, prior to commencement; and
- Further viability testing throughout the development.

Community Infrastructure Levy (CIL) Regulations

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;
- a) Directly related to the development; and
- b) Fair and reasonably related in scale and kind to the development.

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

The commuted sum in lieu for recreation / outdoor sport is necessary, fair and reasonable, as the proposed development will provide up to 375 dwellings, the occupiers of which will use local facilities, and there is a necessity to provide facilities. The contribution is in accordance with the Council's Supplementary Planning Guidance.

The development would result in increased demand for primary school places in Mobberley, where there is very limited spare capacity. In order to increase capacity of the school(s) which would support the proposed development, a contribution towards school education is required. This is considered to be necessary and fair and reasonable in relation to the development.

As explained within the main report, the amount of traffic added to the local network will add cumulatively to junctions that are already congested and the required mitigation is directly related to the development and is fair and reasonable.

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

On this basis the S106 the scheme is compliant with the CIL Regulations 2010.

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 Planning and Place Shaping Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.

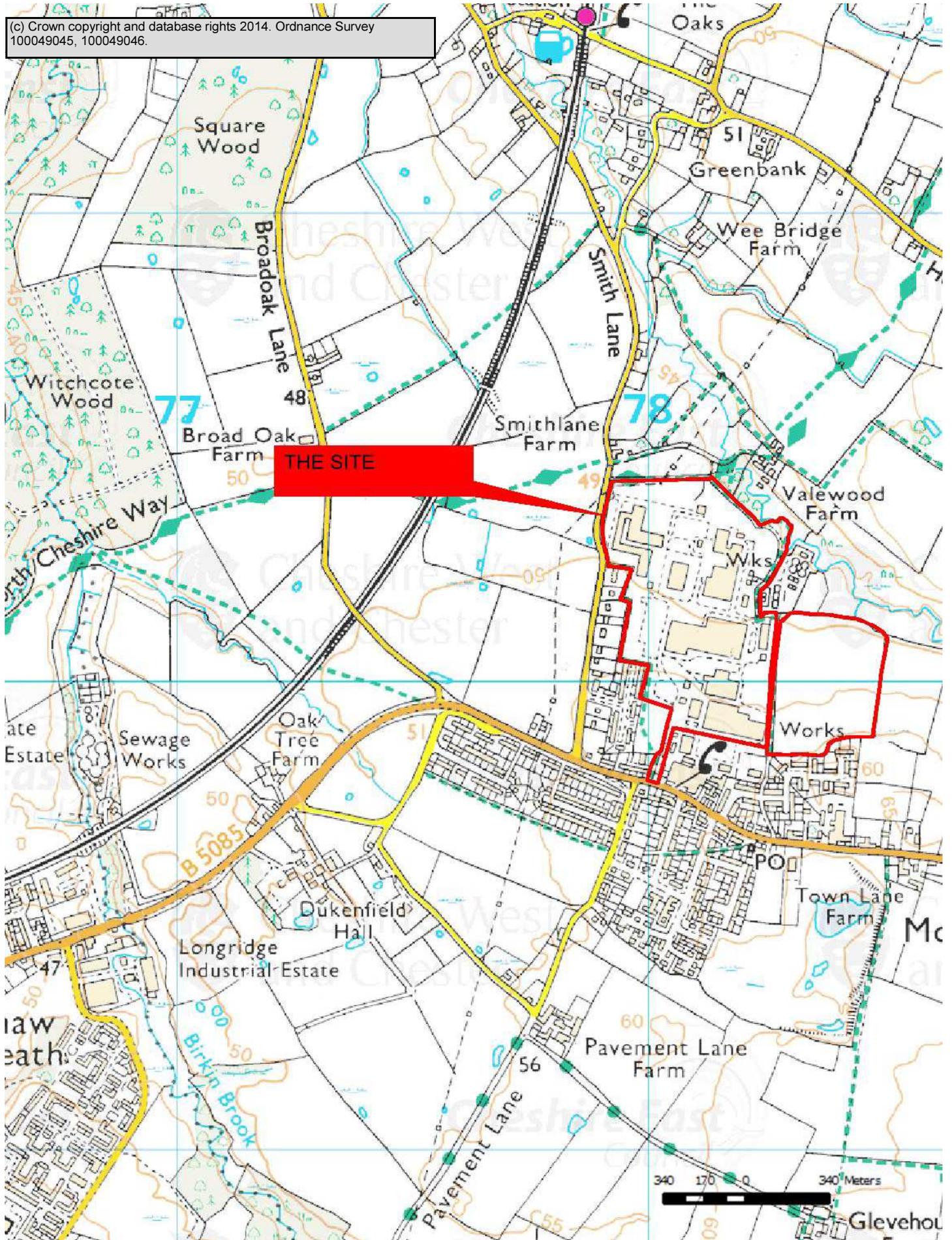
Application for Outline Planning

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

1. A06OP - Commencement of development (phasing)
2. A03OP - Time limit for submission of reserved matters (phasing)
3. A01OP Submission of reserved matters (appearance, landscaping, layout and scale)
4. A02OP - Implementation of reserved matters (phasing)
5. A09OP - Outline residential scheme in compliance with design code
6. A01AP Outline residential development in accord with approved plans
7. A01OP_1 Full industrial redevelopment in accord with approved plans
8. A23M Details of ground levels to be submit
9. A01MC - Reserved Matters to include Site Construction Environmental P
10. A01MC_1 Reserved Matters to include noise mitigation scheme
11. A01MC_ Review of noise mitigation scheme
12. A01MC_3 - Industrial Noise Condition (from all fixed plant and machinery)
13. A01MC_4 - Industrial Noise Condition (Noise measurements and assessments)
14. A01MC_5- TravelPlan
15. A01MC_6 Electric car charging points
16. A03MC - Construction Management Plan (hours of work/deliveries/Pile foundation/site compound)
17. A17MC - Decontamination of land
18. A06EX - External materials (for each phase)
19. A04EX - Surface materials (for each phase)
20. A17LS - Boundary treatments (for each phase)
21. A02LS - Landscaping for industrial scheme
22. A03LS - Landscape implementation for industrial scheme
23. A01LS - Landscape management for industrial scheme
24. A02TR - Tree protection
25. A07TR - Service / drainage layout
26. A08TR - Arboricultural Impact Assessment
27. A17LS_1 - Protection of breeding birds
28. A19LS - Breeding bird enhancements
29. A08MC - Lighting details to be approved

- 30. A09MC - Details of bins and serving
- 31. A06BC - Access laid out for each phase
- 32. A02CA - Secure cycle storage
- 33. A02EX - Public right of way safeguarding
- 34. A04EX_1 - Surface water details
- 35. A07EX - Foul surface water details
- 36. A08EX - Other relevant requested UU/EA conditions

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Application No: 13/4049N

Location: LAND TO THE WEST OF WRENBURY HEATH BRIDGE, NANTWICH ROAD, WRENBURY

Proposal: Development of marina with associated dredging to accommodate this development; Associated marina amenities including facilities building, boat workshop, car parking and hardstanding, and landscaping; and A new access road and farmer's entrance to the existing field, footbridge and associated footpaths

Applicant: Mr Paul Beswick, Enzygo Limited

Expiry Date: 23-Dec-2013

**SUMMARY RECOMMENDATION
REFUSE**

MAIN ISSUES

- Principle of Development
- Sustainable Development
- Loss of Agricultural Land
- Impact upon the Landscape
- Highway Safety
- Amenity
- Trees and Hedgerows
- Design
- Ecology
- Flood Risk

REASON FOR REFERRAL

The application has been referred to the Strategic Planning Board as the proposal is for a large scale major development (the site area is approximately 5.6 hectares).

This application was deferred from the last meeting (17.9.14) to enable the agent to provide additional information in respect of the recommended reasons for refusal.

DESCRIPTION OF SITE AND CONTEXT

SITE DESCRIPTION

The application site measures 5.66 hectares, is irregular in shape and comprises two fields of gently undulating pasture land bisected by hedgerows and bounded by Nantwich Road and the canal towpath of the Llangollen Branch of the Shropshire Union Canal (by Wrenbury Heath Bridge).

The site lies within the designated open countryside.

DETAILS OF PROPOSAL

The proposed development contains the following elements:

A new 178 berth marina with associated dredging to accommodate the development. All boats will be moored on floating pontoons, held in place by driven piles, permitting a rise and fall beyond the predicted 100 year flood levels. Pontoons will be linked together for stability and for the purpose of dry egress in time of flood. Three main types of mooring will be provided:

- Small leisure craft
- Narrow beam narrow boats 2 x 21m max
- Wide beam craft/Dutch barges 4 x 21m max.

Associated marina amenities including facilities building 392 sq. m, Secondary Toilet Block, Service Compound and Bin Store and Recycling points around the site.

A new access road and farmer's entrance to the existing field, footbridge and associated footpaths.

SUPPORTING INFORMATION

Agricultural Land Classification Assessment

The land comprises 3b which is not the "best and most versatile" agricultural land.

Sustainability Statement

Indicates proposals will utilise renewable energy and recycled materials where possible.

Need Assessment

There is a justified need to provide the moorings proposed within this application.

Design & Access Statement

Provides details on the proposals and concludes that it would have a positive impact upon the environment.

Transport Assessment& Travel Plan

These assessment reports upon the transport accessibility of the proposed development location, and assesses the impact of the likely traffic generation upon the road network. Travel Plan would encourage car sharing.

Biodiversity Enhancement Plan

Provides details on how habitat enhancement can be incorporated

Landscape Visual Impact Assessment

Slight change in character of the landscape

Planning Statement

Includes details on need and availability of other sites

Tree Survey

Poor category trees and removal necessary to facilitate the development but impact would be mitigated through landscaping scheme.

Contaminated Land Report

Limited evidence of contamination

Protected Species Survey

Impact on GCN mitigated and compensated for

Flood Risk Assessment

This assessment reports upon the flood risk and drainage proposals for the development and assesses any likely impacts

Statement of Community Involvement

Details how community were involved prior to submission of application.

Letter Dated 30.9.14

Letter responding to content of committee report considered by members at the meeting on 17.9.14.

RELEVANT HISTORY

There have been many other applications relating to the use of the site, the following of which are relevant to this application:

12/3358N Development of marina with associated dredging to accommodate this development; Associated marina amenities including facilities building, boat workshop, car parking and hardstanding, and landscaping; and A new access road and farmer's entrance to the existing field, footbridge and associated footpaths Withdrawn

09/3429N Proposed New Marina, Facilities Building, Workshop, Associated Car Parking & Hardstanding, New Entrance off Nantwich Road and New Farmers Entrance to Existing Field Re-Submission of P08/1123 Withdrawn

P08/1123 Proposed Marina at Wrenbury Heath. Withdrawn

POLICIES

Crewe and Nantwich Replacement Local Plan 2011

Policy NE.2: Open Countryside
Policy NE.5: Nature Conservation and Habitats
Policy NE.9: Protected Species
Policy NE.11: River and Canal Corridors
Policy NE.12: Agricultural Land Quality
Policy NE.13: Rural Diversification
Policy NE.17: Pollution Control
Policy BE.1: Amenity
Policy BE.2: Design Standards
Policy BE.3: Access and Parking
Policy BE.4: Drainage, Utilities and Resources
Policy TRAN.4: Access for the Disabled
Policy TRAN.9: Car Parking Standards
Policy RT.6: Recreational Uses in the Open Countryside
Policy RT.8: Promotion of Canals and Waterways
Policy RT.9: Footpaths and Bridleways
Policy RT.10: Touring Caravans and Camping Sites

Cheshire East Local Plan Strategy – Submission Version

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, unless other material considerations indicate otherwise, decision-takers may give weight to relevant policies in emerging plans according to:

- The stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);
- The extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- The degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28th February 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

The relevant policies are as follows:

Policy MP 1 Presumption in Favour of Sustainable Development
Policy PG 5 Open Countryside
Policy SD 1 Sustainable Development in Cheshire East
Policy SD 2 Sustainable Development Principles

Policy EG 2 Rural Economy
Policy EG 4 Tourism
Policy SC 1 Leisure and Recreation
Policy SC 2 Outdoor Sports Facilities
Policy SE 1 Design 1
Policy SE 3 Biodiversity and Geodiversity
Policy SE 4 The Landscape
Policy SE 5 Trees, Hedgerows and Woodland
Policy SE 6 Green Infrastructure
Policy SE 8 Renewable and Low Carbon Energy
Policy SE 9 Energy Efficient Development
Policy SE 13 Flood Risk and Water Management
Policy CO 1 Sustainable Travel and Transport
Policy CO 4 Travel Plans and Transport Assessments

Other Material Considerations

National Planning Policy Framework
National Planning Practice Guidance
The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Cheshire East Visitor Economy Strategy

CONSULTATIONS AND REPRESENTATIONS

Environment Agency – no objections recommends conditions in respect of SUDS and biodiversity action plan

Archaeology – Based on previous Archaeological information submitted on the previous application, recommends conditions in respect of a watching brief and

Canals and Rivers Trust – No objections subject to conditions relating to the footbridge, lighting, landscaping and surface water drainage.

Visitor Economy - This new development is in line with the Cheshire East Visitor Economy Strategy agreed by Council in February 2011.

Natural England –recommends refusal as insufficient information in respect of Otters and GCNs and if proposals approved, inclusion of green infrastructure, habitat enhancement and landscape enhancement.

Environmental Health - no objections but recommends conditions in respect of the submission of an Environmental Management Plan, Noise Control, Dust Control, Contaminated Land, Construction Hours and Lighting

Highways – No objections

Inland Waterways Association – The applicant's Design & Access Statement says in paragraph 2.9.1 that 'The existing marinas along the Shropshire Union Canal network are not able to service the demand for offline moorings at present'. This is very misleading. Whilst some parts of the Main Line (near Waverton, and south of Cheswardine) have an excess of on-line moorings, this is not an issue on the Llangollen Canal, where there are few on-line moorings. Furthermore, the existing marinas, one of which is only three miles east of the proposed site, have plenty of vacancies. I appreciate that over-supply is not in itself a valid planning reason for objection.

The main constraint on boating on the Llangollen Canal is the delay already experienced at many locks, in particular the 'staircase' at Grindley Brook, where delays of several hours already occur at peak periods. Because this canal is a branch, with the attraction of the Pontcysyllte World Heritage Site at the western end, the main boating movement is up the canal at the start of each week, and down the canal at the end. This is exacerbated by the number of hire bases on and near this canal — and most hirings start on Saturdays.

This canal is also the most popular in the country for first-time hirers. Thus any significant increase in the number of boats attempting to use the Llangollen Canal is likely to have the perverse effect of discouraging people from hiring for a second time or becoming boat owners. Granting planning permission could therefore be contrary to other planning aims of Cheshire East and neighbouring councils.

Cheshire East's policy is to refuse development in open countryside unless there is a net community benefit. In this instance the employment gains are negligible and the tourism aspects are in the long run negative. Although the applicant claims in 2.1.1 of the Design & Access Statement that creation of a marina would result in 'an enhancement of the landscape quality and biodiversity interest', it would seem that the landscape would be better left untouched.

Parish Council – that the Council objects to this application on the grounds that it would be detrimental to the highway safety owing to the adjacent two canal bridges; increased canal traffic to the detriment of waterway users owing to over-use along the canal; adverse effect on the listed Wrenbury Lift bridge with a large increase in the amount of time that the bridge was raised and thus the road was closed; the development will have a major visual impact on local landscape; and concerns regarding the environmental and highways impact during the construction phase and subsequent boat deliveries by road.

The lift bridge is one of only two in the country along public highways. The bridge is under constant use by highways as a major route into the village. When canal traffic is going through the bridge, the highway is blocked. Clearly as a main thoroughfare into the village this could hinder emergency and well as other vehicles entering the village. Currently there is an informal three barges through at a time and this is often insufficient during the summer in particular. This part of the canal is a cul-de-sac therefore there is only one way in and out of the basin. Therefore any additional canal traffic will cause severe pressure on the lift bridge and result in much longer highway closures and inconvenience to road users including emergency services.

8 Letters of objection raising the following issues:

- Need
- Impact on Landscape
- Impact on Views
- Noise and Disturbance
- Impact on Highway Safety
- Impact on working of the canal bridge
- Crime
- Light pollution
- Health & Safety considerations
- Suggestions of Alternative Locations
- Intrusion into open countryside
- Consultation arrangements/ inaccuracies within submission
- Amenity issues

OFFICER APPRAISAL

Principle of Development

The site is allocated as Open Countryside (Policy NE2) within the Crewe and Nantwich Replacement Local Plan - the policies within that plan indicate that facilities required for the promotion of outdoor recreation would be permitted. This policy is in accordance with the NPPF and policy PG5 within the emerging Local Plan also considers facilities for outdoor recreation to be appropriate within the open countryside.

The construction of a marina with associated facilities would constitute facilities required in connection with outdoor recreation- there is a presumption in favour of development.

Para 14 indicates that permission should be granted, unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits'.

These issues are considered below.

Sustainable Development

Paras 34 and 55 of the NPPF indicate 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.

Accessibility is a key factor of sustainability that can be measured. A methodology for the assessment of walking distance is that of the North West Sustainability Checklist- Planners can use it to assess a planning application and, through forward planning, compare the sustainability of different development site options.

To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to locational accessibility, the 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.

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).

In this case the development fails to meet all of the standards with the exception of the railway station and bus stop where the proposals would constitute a significant failure (being 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).

Public transport accessibility to the site is very poor. Even this limited analysis demonstrates, for day to day services and facilities that any visitor would need, the site fails more criteria than it passes and locationally must be regarded as being unsustainable.

The agents letter dated 30.9.14 states that:

'despite the submission of a comprehensive Travel Plan identifying that limited weight can be given to the North West Sustainability Checklist as it has a number of limitations that do not consider precedent not the overriding policies of the NPPF'.

This infers that officers have incorrectly applied the North West Sustainability Checklist. It is duly noted that not all of the criteria would be directly applicable or be used by patrons of the marina such as primary school or child care facility. However, many of the criteria would be applicable such as a pharmacy, local shop, post box, medical centre, play area. As para 28 of the NPPF supports tourism in appropriate locations accessibility is a consideration in determining whether or not this is an appropriate location for the marina. In any event, the assessment of sustainability does not rest on the North West Sustainability Checklist alone as explained below.

There are, in addition, 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:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

Inspectors have determined that locational 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 demand for moorings and making a positive contribution towards the visitor economy, an environmental role in protecting and enhancing the natural environment, reducing energy consumption through sustainable design, and assisting economic growth and development.

The Sustainability Statement provides some indication as to how principles of sustainable development / energy reduction would be met within the development. The Travel Plan would encourage car sharing and a taxi 'buddy' system. However, this would be ineffective in contributing to sustainable transport options because there are limited options in this isolated rural area.

No economic benefit analysis has been provided as part of the application, however, it is accepted that the construction of a marina of this size would bring the usual economic benefit to the closest shops in Wrenbury for the duration of the construction, and would potentially provide local employment opportunities in construction and the wider economic benefits to the construction industry supply chain. There would be some economic and social benefit by virtue of new visitor's spending money in the area and using local services and a small number of new jobs as a direct result of the proposals.

The Agents letter dated 30.9.14 suggests that officers have not given sufficient weight to the benefits of the proposals following an appeal decision (Barby Moorings). In response to this, officers note that that decision was pre-NPPF and places significant reliance on guidance within The Good Practice Guide on Planning for Tourism which was superseded by para 28 of the NPPF. Moreover, that decision placed greater weight on the 'need' for the marina justifying a less accessible location. In respect of these proposals

a) evidence of need is inconclusive given that there is conflicting evidence between the applicant and other parties in this regard.

b) a marina was proposed in a more sustainable location in this area (ref 14/1579N) which would also have met the functional requirements of a marina

In addition, the letter dated 30.9.14 requests that the employment benefits are clear – however officers note that in the employment section within the application forms, zero has been inputted for job creation and there are no details of FTE jobs within the submission or an economic benefit analysis (noted above). Moreover isolated sites offer restricted opportunities for visitors to undertake the search and comparison of goods and services within the local area.

On that basis, due consideration has been given to the economic benefits of the proposals, however, the assessment below would be consistent with the NPPF.

To conclude, the benefits include the provision of recreational facilities and the positive contribution towards the visitor economy do not outweigh the harm caused by virtue of the unsustainable location of the site.

Loss of Agricultural Land

Policy NE12 of the Local Plan states that development on the best and most versatile agricultural land (grades 1, 2 and 3a in the ministry of agriculture fisheries and food classification) will not be permitted unless:

- The need for the development is supported in the Local Plan;
- It can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non agricultural land; or
- Other sustainability considerations suggest that the use of higher quality agricultural land is preferable to the use of poorer quality agricultural land.

This is supported by the National Planning Policy Framework, which states that:

“where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality”.

The agent has advised that the site falls within category 3b which is deemed to be lesser quality agricultural land. Whilst the loss of any agricultural land is regrettable and the concerns of residents in this respect are duly noted, the benefits of the proposal in terms of provision of outdoor recreation facilities and the associated benefits to the tourism economy outweigh the loss of such land to agriculture.

Design and Impact upon the Landscape

Design

The Facilities Building which is the more prominent of the two buildings would be constructed of timber, and located adjacent to the roadside to ensure the visual impact of this is restricted to an already compromised area. The toilet block would extend further into the site however the combination of planting and its reduced size would reduce its visual impact and prominence within the site.

The amenity space areas provide relief from the infrastructure, and the planting avoids the creation of wooded areas which would appear out of context within this area of undulating fields.

Nevertheless ground levels would be increased and the building and associated car park would be at the higher level than the tow path.

However, it is the impacts upon landscape and wider views are also a consideration in respect of the design impacts. These issues are considered below.

Landscape Impacts

The site is in the East Lowland Plain Character Type and the Ravensmoor character area. The area has no landscape designations of national, regional or local importance.

The LVIA submitted with the application indicates that its sensitivity to alteration is low given that views of the site are limited and features such as hedgerows are of poor quality. The impact of the proposals has been considered in the short, medium and long term (15 years). However, given the scale of development proposed and the undeveloped nature of the site at present, appropriate landscape mitigation is required to minimise visual intrusion.

The worst effects would be during the construction period, with effects reducing to minor adverse once constructed – the LVIA considers that the mature boundaries provide screening and that the marina would fit in with the most dominant landscape feature- the canal. The longer term effects would be slight adverse once the landscape planting has matured.

The LVIA states that proposals would not have a significant adverse impact as the proposals would extend the impact of the canal which is seen as a positive component of the landscape. Infrastructure is sensitively located and the design and landscaping would be consistent with the character of the rural area.

The Council's landscape architect considers that the identification of a moderate /substantial adverse residual impact on landform and moderate adverse residual impact on landscape character is a concern. In addition, the study underestimates the sensitivity of receptors and significance of impact on the visual receptors of users of the canal towpath and Nantwich Road.

Given the prominence of the site, its relatively isolated location and the changes in levels/ amount of built development proposed this development is very capable of having a significant adverse impact upon the character of the area. Unlike the marina proposed under application 14/1579N, the impacts are not obscured from wider views and there is no masterplan for landscaping and the development would not be obscured from view due to the presence of existing built development.

The agent has commented that the change in levels is between 2.4m (just under 8ft) and 3.8m (just over 12ft) and that this is 'entirely in keeping with existing levels within the immediate vicinity.

Officers consider that the change in levels would be out of character given that the land at present is low lying and comprises low flat plains with the canal running through – the land at present does not significantly undulate in this location. The agent references levels at Wrenbury Hall Farm however this does not form part of the immediate context of the site.

The agent has indicated that ‘it is inevitable that a marina would result in a change of land form and landscape character of the marina but one must also recognise that a marina is entirely congruous.’

It is acknowledged that any marina would change the character of the land from a quiet pastoral landscape to a busy, more vibrant place with people, boats, vehicles and low level lighting and that this need not necessarily be unacceptable. The agent also states that a location closer to the village would have greater impacts. To the contrary, under application 14/1579N also for a marina, there were no landscape objections for the following reasons:

1. There was no build up of levels
2. Bunding was proposed obscuring the worst visual impacts
3. Buildings along Cholmondeley Road obscured wider views
4. A landscape masterplan was provided

Those proposals would have sat comfortably with the existing settlement pattern however this is a much more exposed site and the combination of the visual prominence of the site coupled with the change in levels and absence of landscaping or existing features to obscure views would result in a significant adverse impact upon the landscape character and result in visual impacts to users of the towpath and road.

The agent has requested that this application not be compared to application 14/1579N however the comparison above is only to demonstrate that it is entirely possible to design a marina in a more accessible location without adverse landscape / visual impacts and that the assertion that any marina would attract objections from the landscape architect on landscape grounds cannot be substantiated in light of that recommendation.

It is acknowledged that there is a difference in professional opinion between the agent and the Council’s landscape architect. Officers have considered both views but agree with the Council’s landscape architect that the above concerns justify a reason for refusal.

On that basis, it is considered that the information submitted is not sufficient to demonstrate that the proposals would not have an adverse impact upon landscape character nor visual impacts on road users and towpath users.

Highway Safety

The key issues regarding this application are accessibility, car parking, access and traffic generation.

Accessibility

The site is not particularly accessible by sustainable means of travel and would be reliant on cars, a taxi 'buddy' system proposed in the Travel Plan, infrequent bus services and potentially some albeit limited cycle usage.

It is not a particularly accessible site, and the measures mentioned within the Travel Plan would be unlikely to achieve a step change in travel patterns to and from the site.

Car Parking

The emerging Local Plan does not contain any standards in respect of car parking requirements for a marina. The marina would provide 139 spaces for the 179 berths proposed. This level of car parking is in excess of similar proposed marinas elsewhere i.e. at Coole Lane, Audlem and The Outlanes Church Minshull and that proposed for application 14/1579N. However, given the isolated nature of the location, it is expected that almost all traffic generation would be car borne travel and this level of car parking is necessary for the particular needs of this development.

Access

The site is accessed off Nantwich Road. The layout submitted indicates that the scheme would comprise one main point of access and an arterial road including a new footpath. A gates access is provided deeper into the site away from the main access.

The proposed access into the site features 7.5m (max) entry radii and a 6.3m carriageway width. The arrangement shown is acceptable and the construction of the access road beyond the access would serve to limit vehicle speeds.

Nantwich Road has a speed limit of 60mph and the drawings indicate that visibility splays of up to 2.4m x 70m (approx) are achievable in each direction. Therefore, the achievable visibility demonstrated from the proposed site access is acceptable based on vehicle speeds from a traffic survey conducted in 2009.

Traffic Generation

The applicant has submitted a Transport Statement indicating that traffic generation to the site would inevitably be via Nantwich Road where there would be sufficient capacity to accommodate the proposals.

However, it is noted that a number of residents and the Parish Council have concerns regarding the ability of the local highways network to accommodate the likely traffic generation- there is no evidence to support this view and the SHM indicates that the impact of the proposal is likely to be minimal during peak hours on the highway network.

Road Network

Given the sheer amount of excavation required to facilitate this development, the associated HGV movements could well have an adverse impact upon the condition of local roads. It is therefore considered appropriate to condition that a highway condition survey to be undertaken prior to works taking place and after earth works have been completed. The

condition would require that the applicant would enter into a contract with CEC to undertake any repairs required.

Amenity

The main concerns of neighbours and consultees relate to:

- Impacts during construction period
- Overlooking
- Loss of Outlook
- Overshadowing
- Air Quality
- Noise for future occupants
- Contamination

Impacts during construction period

A development of this scale could well result in dust emissions, noise and disturbance and an impact upon air quality during the course of the construction period. To mitigate for the impacts, Environmental Health has recommended conditions relating to pile driving operations, hours of construction, dust control and the submission of an environmental management plan. These conditions are deemed necessary to mitigate the environmental impacts of the development.

Loss of Outlook

The concerns of neighbours are duly noted, but the Planning System does not exist to protect private interests and there is no right to a view. Whilst overlooking a marina may not necessarily be to everyone's taste, such development is appropriate within the countryside and is attractive in its own way.

Overlooking

The concerns of neighbours are duly noted however the combination of separation distances and proposed landscaping and retention of hedges would provide sufficient obscurity to neighbours and the buildings are set back within the site.

Air Quality

Air quality has not been specifically raised by Environmental Health as an issue, however given the scale of the development is such that there is potential to increase traffic and also alter traffic congestion in the area. Environmental Health has not recommended the submission of an air quality assessment however they have requested a condition requiring mitigation for any dust emissions during the construction period.

The Travel Plan has the potential to try to encourage uptake of low or zero emission transport options has the potential to mitigate the impacts of transport related emissions, however it is felt appropriate to ensure that uptake of these options is maximised through the development and implementation of a suitable travel plan.

In addition, modern Ultra Low Emission Vehicle technology (such as all electric vehicles) are expected to increase in use over the coming years (the Government expects most new vehicles in the UK will be ultra low emission). As such it is considered appropriate to create infrastructure to allow charging of electric vehicles in new developments.

Conditions in respect of Travel Planning and electric vehicle infrastructure are therefore considered appropriate.

Noise

Conditions have been recommended by Environmental Health regarding mitigation of noise during the construction period. Hours of operation conditions are restriction of particular works such as boat repairs would mitigate the worst effects of the development.

Contamination

As the site has been used as agricultural land, the Phase I investigation has indicated there is unlikely to be any contamination. However, the contaminated land officer has requested a condition requiring further investigation works – this would be conditioned accordingly.

Trees and Hedgerows

The applicant has submitted a Tree Report and Protected Species Survey in respect of the proposals.

None of the trees on the site are protected and only a few are of a quality worthy of retention. Those trees identified as having some amenity/ landscape value are scheduled for retention, with the majority of trees scheduled for removal being of limited value. The proposed landscaping would include tree planting which would compensate for this loss however a light touch approach is advocated as the existing character is of pasture land rather than woodland. However a mature Oak tree shown for retention close to the bridge on Nantwich Road. The detail of proposed ground works in this area is unclear however, there is the potential for impact on the tree. The loss of this tree would heighten the worst visual impacts.

The hedgerows have been assessed under the Hedgerow Regulations however Landscape Architect considers that as the hedgerows may be Important, the impact on Important Hedgerows has not been considered:- the Biodiversity Enhancement Plan does not recognise the full extent of existing hedge loss from the northern boundary as indicated on the layout plan.

Ecology

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

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

- a specified reason such as imperative, overriding public interest.

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

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

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

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

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

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

Ecological surveys were carried out by a qualified ecologist on behalf of the applicant which indicates that there was evidence of Otters and Great Crested Newts on the site.

It however recommends mitigation in respect of BAP habitat and protected species.

The Council’s ecologist and Natural England have raised concerns that further survey work is required and that without this information, the proposals would have an adverse impact upon protected species and that the Habitat Regs would not be satisfied. The proposals are therefore contrary to policy NE9 within the CNLP 2011 and guidance within the NPPF.

The agents letter (30.9.14) states that the additional survey work has not been published on the Council’s website – certain ecological reports are not published on the website in the interests of protecting the anonymity of habitats.

The letter then goes on to detail discussions between the agent and the Council’s ecologist however the letter incorrectly identifies the key issue which is that the layout as submitted raises concerns regarding the impact upon GCNs.

As an adverse impact has been identified, there is a duty to consider the habitat tests as follows:

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

No satisfactory alternative

The Council's ecologist has suggested an amended layout therefore there is a satisfactory alternative.

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

The layout submitted raises concerns in this respect and therefore the proposals would fail to maintain the favourable conservation status.

A specified reason such as imperative, overriding public interest

Given that there are other reasons for refusal identified and the benefits do not outweigh the harm, there clearly is no overriding public interest to approve the proposals.

On that basis the proposals are contrary to policy.

Flood Risk

The applicant has submitted a Flood Risk Assessment – whilst the site does not lie within an area of flood risk, the proposals relate to a major residential development.

The Environment Agency has no objections to the application subject to conditions relating to flood risk/ drainage which would be imposed accordingly.

Other Matters: Need

Letters of representation and the applicant have raised the issue of need – the applicant thinks there is a defined need, whereas residents think that there is no demand for such a facility.

Need is not mentioned as a particular factor for consideration, however, if members are to give weight to this as a material consideration relating to economic growth, it should be noted that both the Parish Council and the Canal and Rivers Trust originally raised concerns regarding 'need' as they have been cited as providing information.

The Framework does not advocate a Sequential Test approach to development proposed in the countryside. There is no defined need for the proposals as submitted identified within any Council produced document and if such a need were to exist, the designation of a site would need to go through a strategic planning process through the Local Plan allocations.

Notwithstanding that the Need Assessment carries no weight as a material consideration for the reasons noted above, there are nevertheless concerns regarding the robustness of the Need Assessment submitted. Therefore this is not considered to attract weight either positively or negatively.

Other Matters: Representations

Neighbours have raised concerns regarding the existing conflict between boat users and traffic along Cholmondeley Road and the impact of this development on this existing problem. Any development which results in either traffic generation or increases boat use of the canal would have an impact irrespective of whether this application is approved or not.

Other Matters: Duty to Cooperate

At the previous committee meeting the agent suggested that they were not aware of the recommendation on the application until the report was published.

Officers can confirm that there have been ongoing discussions with the agent regarding this application since 2013 and that the current case officer discussed the recommendation with the agent in advance of the committee meeting or the report being published.

The letter from the agent dated 30.9.14 suggests that no correspondence has been received in respect of the reasons for refusal. Officers can confirm that internal consultations have been published on the Council's website and are available to view publicly and that this was explained to the agent in an email dated 18.9.14.

CONCLUSIONS AND REASON(S) FOR THE DECISION

There are economic benefits associated with the marina, however this is an inaccessible location and would be unsustainable. In addition, it would have an adverse impact upon landscape character and there are identified adverse impacts upon protected species.

The updated response from the applicant's does not change the previous concerns with this proposal and it is recommended for refusal accordingly.

Application for Full Planning

RECOMMENDATION: Refuse for the following reasons

1. unsustainable form of development
2. proposals would have an adverse impact upon landscape character and insufficient information
3. insufficient information in respect of protected species and BAP habitat



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Application No: 14/1669N

Location: LAND TO REAR OF 71, MAIN ROAD, SHAVINGTON, CREWE,
CHESHIRE

Proposal: Outline application for the demolition of 71 Main Road and a residential
development of up to 44 houses of mixed type and tenure.

Applicant: Mr Andrew Gibbs

Expiry Date: 14-Jul-2014

SUMMARY RECOMMENDATION

REFUSE

MAIN ISSUES

Impact of the development on:-

**Planning Policy and Housing Land Supply
Affordable Housing,
Highway Safety and Traffic Generation
Landscape Impact
Hedgerow and Tree Matters
Ecology
Design
Amenity
Sustainability
Education**

REASON FOR REFERRAL

This application is referred to the Strategic Planning Board as it relates to a major development and a departure from the development plan.

DESCRIPTION OF SITE AND CONTEXT

The application site is 1.3 hectares in size and comprises the house (71 Main Road), garden, outbuildings and a paddock.

The site is bounded by hedgerows and mature trees and the existing dwellings on Main Road and there is a line of mature conifers that bisect the site. The land slopes down towards the gardens of 69 and 67 Main Road.

The site is designated as being partially within the Settlement Boundary of Shavington. However the majority of the land proposed for development is designated as being within Open Countryside and a Green Gap in the adopted local plan.

DETAILS OF PROPOSAL

The application is in outline form with only access to be determined at this point, all other matters are reserved for later consideration.

The application is for up to 44 dwellings and an indicative layout has been submitted with the application. Although all other matters other than access are reserved for later consideration, the applicants have stated that the accommodation would comprise 22 detached properties with 3, 4 and 5 bedrooms, 9, three bedroom, semi-detached properties and thirteen affordable houses with 2 and 3 bedrooms. A children's play area is shown at the northern end of the site on the indicative layout plan.

The site would have vehicular access from Main Road where number 71 would be demolished to facilitate this.

RELEVANT HISTORY

No relevant planning history relating to this site.

POLICIES

National Guidance

National Planning Policy Framework

Local Policy

The relevant policies of the **Cheshire East Local Plan Strategy – Submission Version** are:

Policy SD 1 Sustainable Development in Cheshire East

Policy SD 2 Sustainable Development Principles

Policy SE 1 Design

Policy SE 2 Efficient Use of Land

Policy SE 3 Biodiversity and Geodiversity

Policy SE 4 The Landscape
Policy SE 5 Trees, Hedgerows and Woodland
Policy SE 9 Energy Efficient Development
Policy SE 12 Pollution, Land Contamination and Land Instability
Policy PG 1 Overall Development Strategy
Policy PG 2 Settlement Hierarchy
Policy PG5 Open Countryside
Policy EG1 Economic Prosperity

The relevant policies saved in the **Borough of Crewe and Nantwich Replacement Local Plan** are:

BE.1 – Amenity
BE.2 – Design Standards
BE.3 – Access and Parking
BE.4 – Drainage, Utilities and Resources
BE.5 – Infrastructure
BE.6 – Development on Potentially Contaminated Land
NE.2 – Open Countryside
NE.4 – Green Gaps
NE.5 – Nature Conservation and Habitats
NE.9 – Protected Species
NE.17 – Pollution Control
NE.20 – Flood Prevention
RES.7 – Affordable Housing
RES.3 – Housing Densities
RT.3 – Provision of Recreational Open Space and Children’s Playspace in New Housing Developments

CONSULTATIONS (External to Planning)

Environment Agency:

No formal comments to make but refer to their standing advice on developments such as this that require a flood risk assessment.

Flood Risk Manager:

Whilst there are no objections in principle to this development proposal on flood risk grounds, it is considered essential that matters regarding disposal of surface water from this site are addressed in detail. The submitted flood risk assessment (FRA) by Bob Hindaugh , October 2014, clearly identifies the need for surface water discharges from the site to mimic existing pre-development greenfield run-off (restricted surface water discharges to apply) and the need for on-site attenuation and storage to cater for extreme 1 in 100 year storm events including allowances for climate change. These are matters to be addressed in detail at the appropriate stage as outlined in the above FRA and prior to any development commencing.

Strategic Highways Manager:

Recommend refusal on the grounds of insufficient information due to conflicting information contained within the submitted documentation.

Environmental Health:

Originally recommended refusal of the application on the grounds of lack of information relating to noise. This information has now been received and is considered satisfactory. Conditions are recommended relating to a Major Development Construction Phase Environmental Management Plan and lighting and an informative relating to hours of construction.

United Utilities:

No objection subject to conditions.

Education:

None received at the time of report writing.

VIEWS OF THE PARISH COUNCIL

The Parish Council has considered the content of the above planning application and has instructed me to submit the following objections to the proposals.

The Parish Council has received the views of a number of residents of Main Road including those whose boundary adjoins the proposed site. It wholeheartedly agrees and supports the objections contained in the representations from residents of Main Road and reflects these in this objection.

Concern has been expressed by a number of adjoining land owner residents that that had not received any notification of the planning application, and had to rely on local word of mouth to be informed. This is clearly an unacceptable situation for such a potentially large development which would have a major impact on local amenity and services. The Parish Council would endorse the residents' views that every property in Main Road should have received notification.

Loss of Open Countryside

All of the proposed houses are located **outside of the Settlement Boundary** and within Open Countryside. Local Plan Policy NE2 states: “..... *Within open countryside 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. An exception may be made where there is the opportunity for the infilling of a small gap with one or two dwellings in an otherwise built up frontage.*”

Over the last three years Shavington has experienced enormous interest from large scale housing developers with well over 1,000 additional dwellings already approved despite local objections and largely due to the absence of a demonstrable housing land supply in the Local Plan. Conservative estimates show that the size of the Parish is likely to increase by over 50% in coming years with it inevitable adverse impact on local amenities, traffic flow and

infrastructure. In addition to this a number of planning applications which have been refused are now at the appeal stage (including Gresty Oaks (880 dwellings) and Shavington East (275 dwellings)) so this figure could increase even more significantly. Any perceived demand for this number of additional houses in Shavington has already been more than satisfied by the applications already approved.

Contrary to Green Gap Policy

NE.4 green gaps states: “*Within these areas, which are also subject to policy NE.2, approval will not be given for the construction of new buildings or the change of use of existing buildings or land which would:*

- *Result in erosion of the physical gaps between built up areas; or*
- *Adversely affect the visual character of the landscape.”*

Clearly the proposed development encroaches further into the green gap and would impact on character of the landscape on the north western edge of Shavington.

Impact upon local amenity and amenity of the occupiers of neighbouring properties

Policy BE.1 Amenity requires proposals to be compatible with surrounding land uses and states that they must not prejudice the amenity of future occupiers or the occupiers of adjacent properties. Proposals must not generate such levels of traffic which would prejudice the safe movement of traffic on surrounding roads. Also new developments should not lead to an increase in air, noise or water pollution.

- The layout does not provide sufficient information of its relationship to neighbouring properties and buildings. It is not therefore possible to properly assess its impact upon them.
- The design of the proposed development is not in keeping with the character of the surroundings.
- The close proximity of the proposed access road to the adjacent houses will cause harm to the amenity of the occupiers of both properties in terms of increased noise and disturbance from vehicular and pedestrian movements.
- More than 29% of the proposed houses are proposed in a row adjacent to the site’s south western boundary with the private rear garden of an adjacent residential property. No account has been taken within this layout of its impact upon the amenities of the occupiers of the adjacent property.
- The layout has urban, car dominated frontages whilst providing insufficient car parking for many of the four bedroomed houses. This suggests that the proposals for the site would result in its overdevelopment.

Highway safety, car parking, traffic flow

Policy BE.3 permits new developments as long as they provide safe pedestrian and vehicle access and adequate parking.

- The development of 44 houses at the proposed site will increase the number of cars using Main Road substantially and further add to severe traffic congestion.
- Main Road is narrow, and many houses have no off street parking, therefore many cars are parked on the road. In practice, this means that there is only space for one lane of traffic to move at a time. An increase in traffic on Main Road will therefore result in even longer queues of cars waiting to pass along the road, and increase the risk to pedestrians

from cars and buses mounting the pavement in order to avoid oncoming traffic (dangerous events that occur already). The parked cars on Main Road will also reduce the visibility of traffic emerging from the new access road to the proposed development, increasing the risk of accidents to both pedestrians and car occupants.

- Traffic speed along this section of Main Road regularly exceeds 30 mph. In view of the scale of the development proposed, the junction and visibility standards should not be designed to the bare minimum. Increased visibility should be provided in the leading direction in order to ensure safe access and egress.
- The No. 6 bus comes along Main Road every 30 minutes and the carriageway and pavements are narrow. Large vehicles already have to mount the pavement to get past parked vehicles, and due to the long lines of parked vehicles motorists regularly speed to try to get past before meeting an on-coming vehicle.
- The appropriate level of visibility required may require third party land outside the red line boundary of the application site which cannot be delivered.

Pollution and infrastructure

There is an on-going and serious issue with the existing sewerage system along Main Road which has been unable to cope with excess rainwater and has flooded the carriageway with effluent on a number of occasions. The developer states that the proposed dwellings will be connected to the existing main drainage system so this will not only add further pressure to a sewerage system already unable to cope, but will increase the risk of flooding (due to the additional hard landscaping of the site) and therefore increase the risk of overspill from the sewerage system. Concerned residents of Main Road have been in contact with United Utilities on numerous occasions and have received correspondence from the Company to say that the existing system cannot be upgraded and that a new pumping station needs to be built, and that this work is not imminent.

OTHER REPRESENTATIONS

At the time of report writing, approximately 36 objections and 10 expressions of support have been received relating to this application. These can be viewed on the application file. The objectors express concerns about the following:

- Highway safety
- Inadequate parking provision
- Access issues
- Transport Statement fails to provide solutions to existing problems on Main Road
- Surrounding road network is already overcrowded
- Narrow road faced with dangerous conditions
- Main Road could not cope with additional traffic
- Traffic noise would be unbearable
- Loss of privacy
- Overlooking
- Loss of a green outlook
- Impact on local amenity and the amenity of neighbours
- Development is not needed in Shavington
- Village does not have the amenities to support the development
- Shavington has already experienced disproportionate expansion

- Shavington is besieged by housing applications
- Does not respect the village character
- Too many houses crammed on to the land
- There is very little local employment
- Lack of infrastructure (doctors/schools)
- Noise and light pollution
- Development in the Green Gap/Open Countryside should not be allowed
- Brownfield sites should be developed first
- Loss of agricultural land
- Existing issues with drainage
- Adverse impact on wildlife including protected species
- Lack of consultation
- Inadequate technical reports
- House price devaluation
- Would be a haven for joy riders and other criminals
- Opportunistic developer just wanting to make money

The local MP has also written in to support the objections to the proposal.

The expressions of support are as follows:

- The houses would be hidden away
- Preferable to have smaller developments such as these approved
- This is a large area in the centre of the village
- Would avoid the need for mass estate planning
- I am a first time buyer looking for a property in this area
- Young people are struggling to find properties in the village

All comments can be viewed on the application file.

OFFICER APPRAISAL

Principal of Development

The site lies within the Open Countryside as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policies NE.2 and RES.5 state 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. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

The site is also subject to Policy NE.4 (Green Gaps) and this policy states that approval will not be granted for the construction of new buildings which result in the erosion of the physical gaps between the built up areas or adversely affect the visual character of the landscape.

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*”.

The issue in question is whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

Housing Land Supply

The National Planning Policy Framework (NPPF) confirms at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

“identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”.

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.”*

A number of principal appeal decisions have previously concluded that the Council cannot demonstrate a five year supply of housing land, albeit for different reasons. Matters such as the housing requirement, the buffer and windfalls have all prompted varying conclusions to be made. This demonstrates that there is not a consistent approach to housing land supply. This has also been recognised by the Planning Minister who had noted that in a letter to the Inspector in the Gresty Road appeal that “differing conclusions” had been reached on such appeals.

In the absence of a consistent and definitive view, the Council will continue to present a housing land supply case based on the most up to date information.

On 14 October 2014, the Council issued a Five Year Housing Land Supply Position Statement with a base date of 31st March 2014. This document brings the evidence up to date and shows

progression in terms of delivering supply by supporting planned developments and utilising brownfield land wherever possible.

As of 31st March 2014, based on 1180 dwellings per annum Cheshire East had a total deliverable housing land supply of 10,562 dwellings, with a 5% buffer, this equates to 6.08 years supply of deliverable housing land and with a 20% buffer this equates to a 5.32 years supply of deliverable housing land.

To bring the housing land supply fully up to date the Position Statement illustrates that as of 31st August 2014, Cheshire East is able to demonstrate a continued increase in supply. This analysis shows that Cheshire East now has a total deliverable housing land supply of 11,051 dwellings, with a deliverable supply of housing land of **6.36 years (5% buffer)** and **5.57 years (20% buffer)**.

On this basis it is considered a 5 year supply is capable of being demonstrated.

Open Countryside and Green Gap Policies

Countryside policies in existing local plans can be considered as consistent with NPPF and are not housing land supply policies in so far as their primary purpose is to protect the intrinsic value of the countryside in accordance with paragraph 17 of the NPPF– and thus are not of date, even if a 5 year supply is not in evidence. However, it is acknowledged that where the Council cannot demonstrate a 5 year supply, they may be out of date in terms of their geographical extent, in that the effect of such policies is to restrict the supply of housing. They accordingly need to be played into the planning balance when decisions are made. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Therefore, the proposal remains contrary to Open Countryside policy regardless of the 5 year housing land supply position in evidence at any particular time and a judgement must be made as to the value of the particular area of countryside in question and whether, in the event that a 5 year supply cannot be demonstrated, it is an area where the settlement boundary should be “flexed” in order to accommodate additional housing growth.

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. A 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 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 toolkit sets maximum distances between the development and local amenities.

These comprise of:

- post box (500m),
- local shop (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).
- secondary school (2000m)
- Public Right of Way (500m)
- Children's playground (500m)

The applicant has submitted an assessment as follows:

- | | |
|-----------------------------|---------------|
| • Post box | Not specified |
| • Local shop | 482m |
| • Playground / amenity area | Not specified |
| • Post office | 321m |
| • Pharmacy | 804m |
| • Primary school | 965m |
| • Medical centre | 804m |

• Leisure facilities	1,287m
• Local meeting place/community centre	965m
• Public house	482m
• Public park	Not specified
• Child care facility	Not specified
• Bus stop	46m
• Railway station	3,219m
• Secondary school	1,287m
• Public right of way	Immediately adjacent
• Children's playground	Not specified

It is considered that as the site lies adjacent to existing residential development in Shavington, it would therefore be difficult to uphold a reason for refusal on the grounds of the site not being in a sustainable location.

Affordable Housing

Shavington is a settlement which has a population exceeding 3,000.

The Interim Planning Statement: Affordable Housing (IPS) states that in areas with a population exceeding 3,000 the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or than 0.4 hectare in size. It goes on to state that this will normally be 30% which is in line with the Strategic Housing Market Assessment 2010, with a tenure split of 65% social rent (affordable rent would be acceptable on this site) and 35% intermediate housing.

The SHMA Update 2013 identified a requirement for 270 new affordable homes between 2013/14 – 2017/18 in the Wybunbury & Shavington sub-area, which is made up of a requirement for 8 x 1 bed, 20 x 2 bed, 7 x 3 bed, 12 x 4+ bed and 1 x 1 bed older persons dwelling & 7 x 2+ older persons dwellings. There are currently 56 applicants on the housing register with Cheshire Homechoice (which is the choice based lettings system for allocating social & affordable rented housing in Cheshire East) who have selected Shavington as their first choice, these applicants require 32 x 1 bed, 13 x 2 bed, 7 x 3 bed, 3 x 4 bed and 1 x 5 bed properties.

If this application is approved the Council would require there to be a proportion of the dwellings to be provided as affordable dwellings, this should be as highlighted above 30% of the total dwellings with 65% provided as affordable or social rented dwellings and 35% as intermediate tenure dwellings. Based on the proposal for up to 44 dwellings this equates to a requirement for 13 affordable dwellings, with 8 provided as social or affordable rent and 5 provided as intermediate tenure. The Planning Statement offers 30% of the total dwellings as affordable with the correct 65%/35% tenure split. However, the application form states 65% intermediate tenure and 35% social rent which is not acceptable.

Section 3.3 of the Planning Statement states that there will be 5 x 3 bed houses and 8 x 2 bed houses. It is appreciated at this stage that the mix is only indicative, however this must be resolved at the reserved matters stage if this application is approved, to secure other property types and sizes as the SHMA Update shows a broad range of housing need. Also, the

Cheshire Homechoice information confirms that 1 bed units are in demand due to Welfare Reform changes to Housing Benefit regulations.

The Interim Planning Statement: Affordable Housing requires that affordable housing is pepper-potted, is built in accordance with the Homes & Communities Agency Design and Quality Standards and meets Code for Sustainable Homes Level 3. The indicative layout does not appear to show the affordable properties pepper-potted across the site. This could also be secured at reserved matters stage.

The affordable housing should also be provided no later than occupation of 50% of the open market dwellings. Should the application be approved the affordable dwellings should be secured in line with the Interim Planning Statement: Affordable Housing and to transferred to social or affordable rented dwellings to a Registered Provider.

Highways Implications

Access to the site is to be created by the demolition of No. 71 Main Road, there is one single access to the site and there has been a junction design submitted as part of the Transport Statement (TS).

Clearly, the main highway issue given the location of the site is the traffic impact of the development. Although, a development consisting of 44 units would not normally result in a traffic impact on the road network, there are numerous development sites in the area that either have permission or are currently at appeal. All of the committed developments will add additional traffic to the road network in the vicinity of the site and some of the principal junctions will have capacity problems. The Transport Assessment fails to consider any committed developments and in order to provide a view on the likely impact that the development traffic would have on the road network, this additional information has not been provided despite being requested in July.

The Council is not aware of the methodology used to arrive at the distribution of traffic used in the TS report; the distribution submitted seems to be the opposite to what is described in the text. This also has not been clarified despite being requested.

Considering the details submitted for the access, the design is over engineered for the level of development proposed and a narrower width of carriageway to 4.8m would suffice. The visibility splays indicated on the plan are not correct and splays of 2.4m x 43m are the minimum requirement.

In summary, there are a number of issues that need further information or revised details on, this especially relates to the assessment of the local committed developments on the road network. Therefore the application should be recommended for refusal on lack of information.

Amenity

An indicative layout has been submitted with the application and this shows that minimum separation distances could be achieved between the proposed and existing dwellings adjacent to the site.

Having regard to the amenity of future occupiers of the dwellings, adequate private residential amenity space could be provided, although it is considered that some plots may be dominated by trees that overhang the gardens. However; as this proposal is in outline with all matters other than access to be determined at reserved matters stage; this issue could be addressed at that stage.

Trees & Landscape

The proposal removes a line of Leylandi Cypress which is seen from Main Road; however, the trees of most value are those adjacent to the boundaries. These trees provide screening and shelter functions to the site and are typical landscape features of the local area. The majority of these trees are in adjacent land but their branches overhang the site. In some cases the branches appear to overhang a significant part of the rear gardens of plots, particularly in the northwest section of the proposed layout. This may give rise to trees being cut back / felled due to lack of sunlight / daylight within the gardens and this could impact on the screening value of the tree cover would be in direct contrast to the statements bullet points on page 4 of the D&A regarding the character of the site and in 2.6 of the planning statement.

The tree report identifies a significant amount of felling of existing trees on site, however, the survey plan provided is of poor definition and it is not possible to make out any specific tree numbers on it.

It is not clear from the tree report if the survey includes those trees land adjacent to the site. There is no landscape master plan provided to show how the application would integrate the apparent green infrastructure shown in the proposed layout into the surrounding landscape.

Design

The application is outline with details of scale, layout, appearance and landscaping to be determined at a later date. In support of this planning application, a Design and Access Statement has been provided. In addition an indicative layout and house types have been submitted.

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

Whilst the application is in outline form with access as the only matter to be agreed at this stage, the design and access statement has put forward that the development would be appropriate and in keeping with the area. These issues could be addressed at reserved matters stage.

Ecology

Grassland habitats on site are unlikely to be of significant ecological value.

A number of ponds are located within 250m of the proposed development site. The applicant has submitted an acceptable Great Crested Newt Assessment. The Council's Ecologist considers that the proposed development is unlikely to significantly affect Great Crested Newts. No further action is required in respect of this species.

The mature trees and hedgerows around the site are likely to support roosting and commuting bats. It is considered that any loss of habitat for bats would be at least partly mitigated if these boundary features are retained as part of the development and a sensitive lighting scheme is incorporated into the detailed design for the site. No evidence of roosting bats has been recorded on site.

If planning consent is granted standard conditions will be required to safeguard breeding birds

Education

At the time of report writing, the consultation response of Education has not been submitted. This information will be provided as an update prior to Committee determining the application.

Agricultural Land

Policy NE.12 (Agricultural Land Quality) of the Crewe and Nantwich Replacement Local Plan has been saved. The National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

The supporting statement submitted with the application states does not address this issue. However; given the scale of the proposal and limited size of the site, it is not considered that its loss would be significantly detrimental.

CONCLUSIONS

The site is within the Open Countryside where under Policy NE.2 of the adopted local plan and Policy PG 5 of the emerging local plan, there is a presumption against new residential development. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development. However, the Council can demonstrate a five year housing land supply.

Insufficient information has been provided to demonstrate that there would be no adverse impact on highway safety.

Insufficient information has been provided to demonstrate the impact on trees within and adjacent to the site.

The site is capable of accommodating the proposed dwellings in such a way that would not have any significant adverse impact on residential amenity and there would no significant

adverse impact on matters relating to nature conservation. However these issues do not outweigh the conclusions outlined above.

RECOMMENDATIONS

REFUSE FOR THE FOLLOWING REASONS:

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy NE.2 (Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan, Policy PG 5 of the Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also contrary to the emerging Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.**
- 2. In the opinion of the Local Planning Authority, the proposed development would cause a significant erosion of the Green Gap between the built up areas of Nantwich and Crewe, in an area that is also designated as being within the designated Green Belt within the Local Plan Strategy – Submission Version and would adversely affect the visual character of the landscape which would significantly and demonstrably outweigh the benefits of the scheme, notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policy NE.4 (Green Gaps) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and Policy PG3 (Green Belt) of the Local Plan Strategy – Submission Version and guidance contained within the NPPF.**
- 3. Insufficient information has been submitted with the application relating to cumulative traffic impact when considered in combination with housing schemes currently approved in the vicinity of the site, in order to assess adequately the impact of the proposed development having regard to highway safety. In the absence of this information, it has not been possible to demonstrate that the proposal would comply with Development Plan policies and other material considerations.**
- 4. Insufficient information has been submitted with the application relating to trees within and adjacent to the site in order to assess adequately the impact of the proposed development having regard to NE.5 of the Borough of Crewe and Nantwich Replacement Local Plan 2011. In the absence of this information, it has not been possible to demonstrate that the proposal would comply with Development Plan policies and other material considerations.**

In order to give proper effect to the Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chairman (or in his absence the Vice Chairman) of

Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.



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Application No: 14/2247N

Location: LAND TO THE NORTH EAST OF, COMBERMERE ABBEY,
COMBERMERE PARK DRIVE, DODCOTT CUM WILKESLEY,
WHITCHURCH, CHESHIRE, SY13 4AJ

Proposal: Installation of ground mounted photovoltaic solar arrays to provide circa 14 MW generation capacity together with inverter stations; sub station; landscaping; stock fencing; security measures; access gate; and ancillary infrastructure.

Applicant: INRG (Solar Parks) 13 Ltd

Expiry Date: 11-Sep-2014

SUMMARY RECOMMENDATION

Refuse

MAIN ISSUES

Impact of the development on:-

- Principle of Development
- Relevant Appeal Decisions
- Renewable Energy Production
- Highway implications
- Amenity
- Impact Upon Local Heritage Assets
- Landscape
- Trees and Hedgerows
- Ecology
- Flood Risk & Drainage
- Archaeology
- Agricultural Land Quality
- Aircraft Safety
- The impact upon the Public Right of Way
- The impact upon the Hazardous Installation

REASON FOR REFERRAL

This application has been referred to the Strategic Planning Board as it is a major development that includes an Environmental Impact Assessment.

DESCRIPTION OF SITE AND CONTEXT

The application site extends to 28.6 hectares and is located to the west of the A530 (Whitchurch Road) within the open countryside as defined by the Crewe and Nantwich Replacement Local Plan. Directly to the south of the site is an Area of Special County Value.

The application site lies adjacent to Combermere Historic Park & Garden which is listed as Grade II. There are a number of listed buildings in the grounds of that park (Grade I listed Combermere Abbey, Grade II* Game Larder, Grade II Sundial, the Grade II listed North Service Wing and Grade II listed South Service Wing, the Grade II Stable Block and the Grade II Ice House.). Adjacent to the site to the south is the Grade II New Lodge and directly to the south of that is the Grade II Kennelwood.

Comber Mere SSSI (Site of Special Scientific Interest) is located about 100m from the proposed development at the closest point. Newhall Cut Local Wildlife Site (LWS) is located on the eastern boundary of the application site. The LWS supports a regionally significant population of white clayed crayfish. Combermere Big Wood LWS is located on the western boundary of the application site.

The application site is in agricultural use and is split into two fields with a wooded pond located in the south-western field. A water course (Newhall Cut) runs along the eastern boundary of the site.

There is a pipeline crossing the site which is identified as a hazardous installation.

There is a number of PROW in the vicinity of the site including PROW (Newhall FP16) which runs across part of the eastern boundary of the site.

DETAILS OF PROPOSAL

The development proposal is for a circa 14MW Solar Park laid out across approximately 28.6 hectares of agricultural land within the agricultural holding of Combermere Abbey Estate. This would provide the annual power needs of approximately 3,000 households and the Environmental Statement identifies that this would save in the region of 8,200 tonnes of carbon dioxide that may be otherwise be generated through the burning of traditional fossil fuels.

The photovoltaic panels would be mounted on a supporting metal framework orientated south. The panels would be laid out in arrays (rows) running east to west across the field enclosures. The maximum height of the arrays will respond to topography and will be capped at approximately 2.2m above ground level. The arrays are supported at approximately 3m intervals by posts which are driven into the ground.

A total of 10 Inverter cabinets and transformer cabinets are required to ensure that the DC energy produced by the PV arrays is converted into AC energy, as required by the national grid and ensure it is transferred from low to medium voltage. A sub-station would be positioned within the development site to house the equipment that connects the PV plant to the local energy distribution network.

The development would have an operational lifespan of around 25 years.

In this case the application is accompanied by an Environmental Statement.

RELEVANT HISTORY

14/1202S – EIA Scoping Letter

14/1135S – EIA Screening Letter – EIA Required

POLICIES

National Planning Policy

The National Planning Policy Framework

Local Plan 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

BE.14 – Development Affecting Historic Parks and Gardens

BE.16 – Development and Archaeology

BE.21 – Hazardous Installations

NE.2 – Open Countryside

NE.3 – Areas of Special County Value

NE.5 – Nature Conservation and Habitats

NE.6 – Sites of International Importance for Nature Conservation

NE.7 – Sites of National Importance for Nature Conservation

NE.8 – Sites of Local Importance for Nature Conservation

NE.9 – Protected Species

NE.11 – River and Canal Corridors

NE.12 – Agricultural Land Quality

NE.17 – Pollution Control

NE.19 – Renewable Energy

NE.20 – Flood Prevention

RT.9 – Footpaths and Bridleways

Cheshire East Local Plan Strategy – Submission Version

PG2 – Settlement Hierarchy

PG5 - Open Countryside

PG6 – Spatial Distribution of Development

SD1 - Sustainable Development in Cheshire East

SD2 - Sustainable Development Principles

SE1 - Design

SE2 – Efficient use of Land

SE3 – Biodiversity and Geodiversity

SE4 – The Landscape

SE5 – Trees, Hedgerows and Woodland

SE6 – Infrastructure

SE7 – The Historic Environment

SE8 – Renewable and Low Carbon energy
SE9 – Energy Efficient Development
IN1 – Infrastructure
IN2 – Developer Contributions

Other Considerations

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Circular 02/99: Environmental Impact Assessment
Town and Country Planning (Environmental Impact Assessment) Regulations 2011

CONSULTATIONS (External to Planning)

English Heritage: No comments received at the time of writing this report.

Environment Agency: No objection in principle to the proposed development. However the EA request that the following planning condition is attached to any approval:

- No development shall take place until a scheme for the provision and management of the undeveloped buffer zone alongside New Hall Cut is submitted to and agreed in writing by the local planning authority.

An informative should be attached to any decision notice.

Natural England: Originally objected due to lack of information.

Following the receipt of additional information they have stated that:

Natural England has reviewed the additional information submitted. Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which Comber Mere SSSI has been notified. We therefore advise your authority that this SSSI does not represent a constraint in determining this application.

The Local Authority should assess the impact upon local sites of biodiversity/geodiversity, local landscape character and local or national BAP Habitats and species.

For advice on protected species refer to the Councils standing advice.

United Utilities: No comments received.

Strategic Highways Manager: The application form says there will be a new access however the D&A statement says the site will be accessed via the existing entrance and then onto the A530 which suggests the new access is not to the public highway.

In response the Strategic Highways Manager would require any new access to the public highway to be subject to an informative as follows:

Informative:- Prior to first development the developer will enter into and sign a Section 184 Agreement under the Highways Act 1980 and provide a new vehicular crossing over the adopted footpath/verge in accordance with Cheshire East Council specification. The developer should contact: CEHSouth@cheshireeasthighways.org

Environmental Health: Informatives suggested in relation to hours of operation and contaminated land.

Health and Safety Executive: The HSE does not advise, on safety grounds, against the granting of planning permission in this case.

Archaeology: It would appear that below-ground disturbance will be limited and restricted to the trenches for the cables, the service track, the footprints of the ancillary buildings, and a number of other installations. These represent a fairly small percentage of the site's total area and the Councils Archaeologist does not consider that further archaeological mitigation would be appropriate in this instance.

Shropshire Council: No comments received.

Garden History Society: No comments received.

National Grid: No comments received.

Cheshire East PROW: Informative to be attached to the decision notice.

Mid-Cheshire Footpath Society: No comments received.

Civil Aviation Authority: No comments received at the time of writing this report.

Manchester Airport: No comments received at the time of writing this report.

VIEWS OF THE PARISH COUNCIL

Newhall Parish Council: Support the application.

Dodcott cum Wilkesley Parish Council: No comments received.

Wrenbury Parish Council: Wrenbury-cum-Frith Parish Council object to this application. The PC is concerned about the loss of agricultural land in the area, exacerbated by the number of solar parks currently proposed. There is also concern about the visibility of the site and the detrimental effect on the visual amenity of the area.

OTHER REPRESENTATIONS

No representations received.

APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Environmental Statement
- Design and Access Statement
- Supporting Planning Statement
- Tree Survey
- Statement of Community Involvement
- Waste Statement

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Principle of Development

National Planning Policy

The proposed development should be considered against the NPPF. This document identifies that in assessing and determining development proposals, local planning authorities should apply the presumption in favour of sustainable development.

The NPPF defines sustainable development and states that 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:

- *an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;*
- *a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and*
- *an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy.*

The National Planning Policy includes the core planning principles of encouraging 'the use of renewable resources (for example, by the development of renewable energy)' and 'recognising the intrinsic character and beauty of the countryside'.

Paragraph 98 of the NPPF then goes on to state that local planning authorities should approve applications for energy development unless material considerations indicate otherwise if its impacts are or can be made acceptable.

There is further guidance within the Planning Practice Guidance which states as follows:

The deployment of large-scale solar farms can have a negative impact on the rural environment, particularly in undulating landscapes. However, the visual impact of a well-planned and well-screened solar farm can be properly addressed within the landscape if planned sensitively. Particular factors a local planning authority will need to consider include:

- *encouraging the effective use of land by focussing large scale solar farms on previously developed and non agricultural land, provided that it is not of high environmental value;*
- *where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be necessary and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.*
- *that solar farms are normally temporary structures and planning conditions can be used to ensure that the installations are removed when no longer in use and the land is restored to its previous use;*
- *the proposal's visual impact, the effect on landscape of glint and glare and on neighbouring uses and aircraft safety;*
- *the extent to which there may be additional impacts if solar arrays follow the daily movement of the sun;*
- *the need for, and impact of, security measures such as lights and fencing;*
- *great care should be taken to ensure heritage assets are conserved in a manner appropriate to their significance, including the impact of proposals on views important to their setting. As the significance of a heritage asset derives not only from its physical presence, but also from its setting, careful consideration should be given to the impact of large scale solar farms on such assets. Depending on their scale, design and prominence, a large scale solar farm within the setting of a heritage asset may cause substantial harm to the significance of the asset;*
- *the potential to mitigate landscape and visual impacts through, for example, screening with native hedges;*
- *the energy generating potential, which can vary for a number of reasons including, latitude and aspect.*

Local Plan Policy

The relevant policies relating to the principle of development, as contained within the Borough of Crewe and Nantwich Replacement Local Plan, are Policies NE.2 (Open Countryside) and NE.19 (Renewable Energy).

Policy NE.2 identifies that the open countryside should be protected for its own sake and that development should be kept to a minimum in order to protect its character and amenity. The policy states that:

'within the open countryside 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 be clearly contrary to Policy NE.2.

Policy NE.19 is considered to be consistent with the NPPF in that it is intended to ensure that such proposals cause minimum harm to the countryside, ensuring a quality environment for all

residents of the Borough. Amongst other things policy NE.19 states that development will only be permitted where:

- *The development would cause no significant harm to the character and appearance of the surrounding area;*
- *The proposal includes effective measures to safeguard features or areas of particular landscape or nature conservation interest*

Emerging Policy

The most relevant policy of the Cheshire East Local Plan Strategy Submission version is Policy SE8 (Renewable and Low Carbon Energy) which states that *'the development of renewable and low carbon energy schemes (including community-led initiatives), together with any ancillary building(s) and infrastructure, will be positively supported and considered in the context of sustainable development and any impact on the landscape'*.

The Policy then goes on to state that weight will be given to the wider environment, economic and social benefits arising from renewable and low carbon energy schemes, whilst considering the anticipated adverse impacts, individually and cumulatively upon:

'The surrounding landscape including natural, built, historic and cultural assets and townscape; including buildings, features, habitats and species of national and local importance and adjoining land uses'.

The justification to the Policy then goes on to identify the technologies that will be most viable and feasible including *'solar thermal and photovoltaics on south facing buildings throughout the Borough. Ground mounted schemes may be more appropriate where they do not conflict with other policies of the plan'*.

Need for Renewable Energy

In relation to need, paragraph 98 of the NPPF makes it clear that Local Planning Authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy.

Conclusion

In this case the principle of the proposed development would be contrary to the Policy NE.2 contained within the Borough of Crewe and Nantwich Replacement Local Plan. However, there is significant support within the NPPF and through the emerging policy. As a result it is necessary to consider whether other material considerations indicate if the development is acceptable.

Relevant Recent Appeal Decisions

This is the first application of this type within Cheshire East and it should be noted that there may be many more applications to follow with EIA Screening letters submitted or issued for 17 sites within the Southern part of the Borough.

Each application should be determined on its own merits but in this the case officer considers it prudent to draw Member attention to the following similar appeal decisions which have been issued since the publication of the Planning Practice Guidance;

- Suffolk Coastal District Council – Hacheston (Appeal reference 2193911) – 22nd May 2014 – Application for a solar panel farm on 51 hectares of land within the open countryside. As part of this decision which was recovered and dismissed by the SoS it was concluded that; *‘there would be a major/moderate adverse impact on the landscape as perceived from the north side of the development and a similar visual impact for local recreational walkers’* and *‘there is significant doubt that maintenance and retention of the mitigation planting could be ensured for the 25 years of the scheme on the basis that the Unilateral Undertaking and associated agreements carry little weight. This is a critical consideration because of the site’s location in an area of countryside that is of special quality. The Secretary of State places significant weight on the harmful visual impacts’* and *‘the loss of a substantial area of productive agricultural land for at least 25 years is another negative factor’*
- Babergh District Council (Appeal Reference 2204846) – Wherstead – 2nd June 2014 – Application for a solar panel farm on 38.4 hectares of land within the open countryside. As part of this decision which was dismissed the Inspector concluded that; *‘the proposal would result in a significant, localised, adverse impact on the landscape in the short term, and whilst this impact would gradually reduce over time, it would nonetheless remain a considerable detraction from the rural character of the area. Therefore, the development does not respect the landscape’* and *‘it has not been demonstrated that the development of the agricultural land comprising the site is necessary. Nor has it been demonstrated that no suitable brownfield sites or sites of lower agricultural quality are available. Consequently, the Appellant has not complied with the sequential test set out in the PPG and, therefore, the proposal is not in accordance with Government guidance in this respect and is contrary to paragraph 112 of the Framework’*
- Swale Borough Council – Littles Farm, Kent (Appeal reference 2212592) – 13th June 2014 –As part of this decision which was dismissed the Inspector concluded that; *‘in view of the Planning Practice Guidance I have referred to, I conclude that the site’s use of BMV land, and its loss to most crops which rely (or crop most heavily) on such land, would significantly and demonstrably outweigh the renewable energy, biodiversity, employment, farm diversification and other benefits of the scheme and its accordance with certain elements of national and local policy. I therefore conclude that the scheme is not the sustainable development for which the Framework indicates there is a presumption in favour’*. In terms of the landscape impact the inspector found that the landscaping would take 5-7 years to take affect and would cause harm to the landscape during this period. It was found this added weight to the appeal decision but in view of the relatively limited period during which the harm would be likely to be experienced, it was not a determining factor in the decision.

Renewable Energy Production

The environmental Statement submitted in support of this application identifies that the development would have *‘the potential to generate up to 14 MW of power (the equivalent to the annual energy consumption of about 3000 households)’*.

This would contribute to tackling the challenges of climate change, lessening dependence on fossil fuels and benefiting energy security. These benefits would accord with the Framework's renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental dimensions of sustainable development.

Highway Implications

Policy issues

The test contained within the NPPF is that:

'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'

The development would use an existing access onto Whitchurch Road and the main impact upon the highway network would be a temporary nature from construction traffic. The submitted Environmental Statement states that the proposed development will *'have an impact of less than 10% on the local highway network and the level of impact is considered to be minor or negligible and as such not significant'*.

In this case the Councils Strategic Highways Manager has considered the application and raised no objection to this development subject to the imposition of an informative.

Amenity

Given the isolated rural nature of the site there are no residential properties in close proximity to the application site. As a result it is not considered that the proposed development would raise any issues such as noise and disturbance.

Impact upon the setting of the Local Heritage Assets

As stated above there are a number of heritage assets in close proximity of the proposed developments and it is necessary to consider the impact upon the setting of these heritage assets. The heritage assets are as follows:

- Combermere Historic Park & Garden which is listed as Grade II.
- The Listed Buildings in the grounds of Combermere Historic Park & Garden (Grade I listed Combermere Abbey, Grade II* Game Larder, Grade II Sundial, the Grade II listed North Service Wing and Grade II listed South Service Wing, the Grade II Stable Block and the Grade II Ice House.).
- To the south of the site to the south is the Grade II New Lodge and directly to the south of that is the Grade II Kennelwood.
- Other Listed Buildings located in Wrenbury and Aston

Combermere Historic Park & Garden

The proposed solar arrays are to be located to the east of the Historic Park & Garden and will not be visible from within the park given the presence of the large area of adjacent tree planting within the Historic Park and Garden.

The proposed solar arrays will however have a modest degree of impact on the setting of the Historic Park & Garden in views from the footpath adjacent to its curtilage and in views of the Historic Park & Garden from routes leading to it and when viewed from afar. There may be scope to mitigate this in the case of the former for those using the footpath by the introduction of planting, and for the latter in terms of views from afar by planting trees in existing hedgerows and by good landscaping shields.

The Councils Conservation Officer does not consider that the proposed solar arrays will have an impact on the intrinsic merit of this Historic Park & Garden.

The Listed Buildings

As above the proposed solar arrays will not be visible from within the park or the Listed Buildings given the presence of the large area of adjacent tree planting within the Historic Park and Garden. The solar arrays will therefore not have a direct visual impact on the listed buildings within the park.

Similarly the proposed solar arrays will not have a direct visual impact on the adjacent Grade II listed New Lodge or Kennelwood to the south for the same reason.

In addition the distance between the proposed solar arrays and the Grade II listed buildings to the east of the site in Aston and in the southern part Wrenbury will similarly serve to minimise the direct impact of the proposed solar arrays on these listed buildings.

Landscape

A key issue in the determination of this application is the landscape impact of this large scale development upon the open countryside and landscape character. This is a core principle of the NPPF and also identified within the Planning Practice Guidance and Local Plan Policies.

In the Cheshire Landscape Character Assessment 2008, the site falls within two different landscape character types and character areas. The western field falls within the Estate, Woodland and Mere Character type and the Cholmondeley character area and the eastern field is within the East Lowland Plain character type and the Ravensmoor character area.

Changes in farming including pressure to diversify is listed as an issue affecting landscape character within both the East Lowland Plain and the Estate, Woodland and Mere character types.

The applicant's agent has carried out a desk-based assessment of the local landscape character within a 2km radius of the site which reviews the sensitivity and capacity of the local landscape to accommodate the proposed development using defined criteria. It concludes that due to the low nature (i.e. height) of the proposals the landscape scale, landform, enclosure, skylines, and inter-visibility would not be affected by the proposed development.

It then states that on the site itself, the proposed development would result in a slight increase in complexity, built infrastructure and perceived human influence. The Councils Landscape Officer disagrees with this view and considers that there would be a major increase in these aspects on the site itself.

Within the local landscape of the 2km study area it considers that the development would represent a minor increase in complexity, built infrastructure and perceived human influence.

The assessment concludes that the landscape value of the area is medium and the overall sensitivity of the local landscape to the proposed development is medium.

The sensitivity to the proposed development of the various site elements and features were also assessed separately. These are: topography, trees and hedgerows, herbaceous vegetation, water bodies, public rights of way & highways.

The effects on the local landscape character and the site elements and features are assessed at the construction phase, at year 1 and at year 5 by considering the sensitivity and the magnitude of change. In EIA only substantial or major impacts are considered to be significant.

The L&VIA concludes the following:

- The effects of the development are reversible, any effects would be short to medium-term and there would be long-term residual beneficial effects through mitigation planting.
- The development could be accommodated within the existing landscape pattern and assimilated into the surrounding landscape without causing any long-term harm to the landscape character, visual amenity or existing landscape attributes.
- Significant effects would apply to the public right of way FP16 and the permissive footpaths. Mitigation planting would reduce the effect on the public right of way over time.
- The landform and enclosure of the site make this a location ideal for a solar installation of the type proposed and short-term local effects could be moderately mitigated by the proposed planting measures.

The proposed development would be for up to a 25 year period which is long-term but the solar panels and all infrastructure (except the access track) could be relatively easily removed and any adverse impacts are therefore reversible.

The existing site features would not be affected and the hedgerows would be enhanced through the proposed mitigation scheme.

The development would obviously have a major adverse impact on the landscape character of the site itself which would change from an agricultural character to an almost industrial character.

The development area is extensive (28.6 hectares) but due to the enclosure provided by the woodland to the south, the topography of the area and the abundance of trees and hedgerows in the landscape the Councils Landscape Architect feels that it would have a relatively low impact on the visual character of the wider landscape i.e. the Ravensmoor and Cholmondeley character areas and the ASCV.

The development would not affect the adjacent listed Combermere Park & Garden which is well screened by Brickbank wood, though users of the permissive footpaths within the wood would have filtered views of the development.

There would be an adverse impact on users of the public footpath FP16 which would in the short to medium-term be mitigated by the proposed landscape scheme.

There would be a long-term adverse visual impact on users of the permissive footpaths around the site – but these are only permissive routes.

There are relatively few residential properties in the area and due to distance, orientation, intervening landform and vegetation it is unlikely that any occupiers would have a significant adverse visual impact.

Views from the A530 Whitchurch Road (which is fast and busy) are well screened by roadside hedges and other intervening vegetation including Brickbank wood.

It is difficult to assess whether the solar panels located on the more elevated parts of the site would be discernible in longer distance views from the north but any views would be against a backdrop of Brickbank wood and are unlikely to be prominent.

Reflection and glare would not have an impact in the wider landscape as the panels are said to have no discernible reflection or glare and would be orientated towards Brickbank wood.

There are no objections to the proposed development from a landscape point of view subject to the imposition of planning conditions.

Trees and Hedgerows

The submitted Arboricultural Impact Assessment/Draft Tree Protection Plan states that no trees are proposed to be removed for the development. However in respect of those trees to be retained in and adjacent to the site the submission does not appear to have addressed or demonstrated the impact or otherwise of shading and solar access from existing trees and Brickbank Wood to the south on the long term efficiency of the proposed array. If it is to be assumed that the 20 metre shading zone shown in yellow on the site layout plan takes into account maximum existing and potential shading from trees and this allows for the array to work effectively without the requirement for future management of trees (pruning/topping/lopping/felling etc) then on this element of the application there would be no significant objections to be made from an arboricultural point of view. The lack of any discussion/evidence in the Arboricultural report on this matter leaves a question mark over the future management of trees in this location.

The Arboricultural report has indicated that the existing farm access to the site will be suitable and that facilitation pruning will be required to 2 Oak trees (T1 and T8) and trees within W2 and W3. The report states that such pruning will be minimal for ground clearance of construction traffic and lowest branches have been recorded in the Tree Survey at 4 and 5 metres. This should be acceptable provided it accords with the requirements of BS3998:2010. There are no details provided in the report as to the type of Construction vehicles that will use the farm access, so the comment that the existing farm access will be suitable cannot be verified.

As a result there are no tree objections to this development subject to the imposition of planning conditions.

Ecology

Comber Mere Site of Special Scientific Interest (SSSI)

The SSSI is located about 100m from the proposed development at the closest point.

Natural England has provided initial consultation comments on the potential impacts of the proposed development on the features for which the SSSI was designated. As a result of Natural England's comments the applicant has now submitted detailed breeding and wintering bird surveys.

A small number of the bird species for which the adjacent SSSI was designated have been recorded on site during both the winter and summer. These bird species are however associated with habitats on site that that would be retained on site as part of the proposed development.

In this case both Natural England and the Councils Ecologist state that it appears unlikely that the proposed development would have an adverse impact upon Comber Mere SSSI.

Newhall Cut Local Wildlife Site (LWS)

Newhall Cut Local Wildlife Site is located on the eastern boundary of the application site. The LWS supports a nationally significant population of white clayed crayfish.

There are unlikely to be any direct impacts on the LWS, however the submitted ES has identified a potential adverse impact occurring if there is any additional run off caused during periods of heavy rain. The Crayfish population present is of national importance consequently if any adverse impact were to occur as a result of run-off etc the impact of this it would be moderate significance. An 8m fenced buffer is proposed adjacent to the LWS.

The Councils Ecologist advises that the potential impacts on Newhall Cut could be further mitigated by means of a condition requiring the submission of a construction environment management plan prior to the commencement of development.

Combermere Big Wood LWS

This Local Wildlife Site is located on the western boundary of the application site. The submitted ES has identified a Minor adverse impact resulting from damage to tree roots, installation of security fencing, and the potential impacts of runoff and dust associated with the development.

Adjacent Woodlands

The proposed works compound is located immediately adjacent to the woodland located to the south of the application site. A letter from the applicant states that the works compound has been relocated however the submitted site layout plan (revision 8) appears to show the temporary works compound in the same location as previously. This issue could be resolved through the imposition of a planning condition.

Ephemeral ponds

A number of small ephemeral ponds occur on site. The submitted ES states that there are 4 in total.

The Councils Ecologist advises that small ephemeral ponds can be of considerable nature conservation value and ponds of this nature are regarded as being a Local Biodiversity priority habitat.

In accordance with the earlier consultation comments from the Councils Ecologist two of the ephemeral ponds have now been shown as being retained as part of the proposed development.

Permanent pond

The main pond located in the centre of the site has been identified as a great crested newt breeding pond and will be retained as part of the proposed development. A minor negative impact is anticipated by the submitted ES due to construction related disturbance. The submitted ES proposes a 6m buffer be provided around the retained ponds to mitigate this impact.

The submitted ES states that sheep grazing which may occur on site once the solar arrays are operational may result in a minor negative impact on the pond and proposes the pond be fenced to mitigate this impact.

The great crested newt report however recommends that the southern aspect of the pond be opened up to allow more light to penetrate the pond and the Councils Ecologist advises that some access by grazing animals to the south of the pond would be beneficial in ensuring that the this aspect of the pond remains open.

Hedgerows

It appears that the existing hedgerows on site would be retained as part of the proposed development. The submitted ES however anticipates a minor negative impact during construction phase due to dust, run off and disturbance.

Summary of potential impacts on Habitats and Designated Sites

In summary, the ES identifies a number of potential impacts occurring as a result of disturbance and dust etc during the construction phase. It should be born in mind however that these impacts would not be significantly greater than those associated with the existing agricultural operations on the site. These impacts could be mitigated through the implementation of a Construction Environmental Management Plan, outline details of which are included with the ES. The Councils Ecologist advises that if planning consent is granted a condition should be attached requiring the submission and agreement of the Construction Environment Management Plan prior to the commencement of development.

Protected and Priority Species

Breeding and Wintering Birds

As a result of the recently completed Wintering and Breeding bird surveys the application site has been assessed as being of 'District' value for birds with a number of notable bird species being present many of which are a material consideration for planning . The value of the site reflects the range of habitats present on and adjacent to the site which include; woodland, scrub, hedgerows, marshy grassland and open agricultural fields.

The Councils Ecologist advises that much of the habitat utilised by some of the species of breeding and wintering birds on site would be retained as part of the proposed development.

There would however be a loss of habitat for those species associated with the open agricultural fields. Some bird species associated with this habitat may adapt to the presence of the solar panels, but those specialist open habitat species are likely to be deterred from using the application site once the solar panels were installed. The number of individual birds affected by the development is relatively small and the application site presents only a proportion of the available habitat. The application has been assessed by the submitted ES as having a moderate adverse impact upon these specialist bird species at the district scale.

The submitted bird surveys recommends that the residual adverse impacts of the development be compensated for through either off site habitat enhancement works or by means of a commuted sum (which appears to be the preference of the applicant). The Councils Ecologist advises that in the event that planning consent were granted, this approach would be acceptable to address the residual impacts of the proposed development in the event that planning consent is granted.

Great Crested Newts

Great Crested Newts have been recorded at a number of ponds within 250 of the proposed development. The cluster of ponds supports a medium sized meta-population of Great Crested Newts. No Great Crested Newt breeding ponds will be affected by the proposed development and the terrestrial habitat lost as a result of the proposed development is of low value for this species.

The proposed development could however, in the absence of mitigation, result in the killing or injuring of great crested newts during the construction phase.

To mitigate the potential impacts of the proposed development the applicant is proposing to retain the more important areas of terrestrial habitat and the Councils Ecologist advises that the change of land use from the existing arable usage to permanent grassland would lead to an increase in the available terrestrial habitat for amphibians.

Considering the poor quality of the terrestrial habitat offered by the proposed development site, the submitted ES advises that the proposed development could potentially proceed without resulting in a significant risk of great crested newts being killed or injured if the works are completed between 1st November and the 28th February when Great Crested Newts are likely to be in hibernation outside the application boundary.

If planning consent is granted the Councils Ecologist recommends that a condition be attached limited operations on site to this period. Provided this condition is attached the Councils Ecologist advises that the proposed development would not pose a significant risk of an offence occurring under the Habitat Regulations and the Council would not be required to have regard to the requirements of the regulations during the determination of the application.

Common Toad

This UK BAP species which is a material consideration for planning has been recorded during the Great Crested Newt surveys. The Councils Ecologist advises that the potential impacts of the

proposed development upon this species would be adequately addressed through the proposed great crested newt mitigation described above.

Other Protected Species

An acceptable survey has been submitted. A main sett has been recorded on site. To mitigate the potential impacts of the development a 25m undeveloped standoff from the sett is proposed by the Environmental Statement and is shown on the submitted revised layout plan. The submitted ES identifies a minor negative impacts anticipated due to minor disturbance, temporary loss of foraging, installation of security fencing etc. The ES states that this impact will be mitigated through the provision of a 200mm gap beneath the security fence which would enable badgers to access the application site for foraging purposes. This approach is acceptable.

The Councils Ecologist advises that if planning consent is granted a condition be attached to ensure that a further badger survey is undertaken prior to the commencement of development. A condition should also be attached requiring the provision of the 200mm gap beneath the security fence.

Bats

The Councils Ecologist advises that on balance roosting bats are unlikely to be significantly affected by the proposed development to any greater extent than the existing agricultural usage of the application site.

Water Voles and Otter

A survey for these species was undertaken in November which is a poor time of year for determining the presence /absence of water voles. These species are unlikely to be directly affected by the proposed development. However there is the potential for minor disturbance of Otters to occur (if the species was present) during the construction phase of the development. The Councils Ecologist advises that this disturbance is unlikely to be significant and would not, in respect of otter, be likely to result in an offence under the Habitat Regulations.

Brown Hare and Hedgehog

These two priority species may potentially occur on site. The greatest majority of habitat for these species would be retained upon site and cessation of ploughing may increase the available habitat. The site would not however be accessible to some species due to the need for security fencing resulting in a minor impact on hares. The proposed gap under the security fence, required for badgers, would however assist in mitigating the potential impacts of the development upon these species.

There is very low risk of juvenile hares being killed during the construction phase.

Landscape and Ecological Management Plan

A management plan has been submitted in support of the application. This includes a suite of mitigation proposals to be implemented during the construction phase to minimise the potential

impacts of the development upon ecological interests and also proposals for the on-going management of the site.

The Councils Ecologist advises that the implementation of these measures, together with the required Construction Environment Management Plan would mitigate the majority of potential adverse impacts of the development and potentially lead to an overall gain for nature conservation.

Flood Risk/Drainage

In this case the area to be developed site is located within Flood Zone 1, as identified by the Environment Agency Flood Maps. This defines the site as having less than 1 in 1000 years annual probability of flooding in any 1 year.

The submitted Flood Risk Assessment concludes that *'the proposed change of use will provide a real contribution to soil improvement and biodiversity, and a significant reduction in runoff from the site, bringing significant overall benefits to the environment and renewable energy. The site will be safe and durable and is not at risk of flooding'*.

The Environment Agency has considered the Flood Risk Assessment and has raised no objection subject to the imposition of a planning condition.

Archaeology

The application is supported by a Cultural Heritage study which has been prepared by Cotswold Archaeology on behalf of the applicants.

The report considers data held in the Cheshire Historic Environment Record and also contains the results of an examination of the historic mapping, aerial photographs, and readily-available secondary sources. It concludes that in view of the lack of designated and undesignated Heritage Assets from within the application area, the fact that the study has not highlighted any new areas of archaeological potential, and the limited below-ground impact of the development further archaeological mitigation will not be required.

The Councils Archaeologist has stated that he had initially thought that in view of the size of the site and the disturbance that would be caused by the construction process, this final conclusion might be open to question. However having studied the information in more detail with particular reference to the *Site Layout* plan and the *Section* plan the Councils Archaeologist concludes that below-ground disturbance will be limited and restricted to the trenches for the cables, the service track, the footprints of the ancillary buildings, and a number of other installations. These represent a fairly small percentage of the site's total area and the Councils Archaeologist does not think that further archaeological mitigation would be appropriate in this instance.

Agricultural Land Quality

The Combermere Abbey Estate extends to 425 hectares of which 220 hectares are farmland with the majority down to pasture with small areas of arable use. The Environmental Statement identifies that the site was in arable use until the winter of 2013/14 and during Spring 2014 the land was reseeded as pasture for mixed grazing and wildlife conservation.

The Environmental Statement identifies that the site will not be available for livestock or grass conservation during the construction period but will remain capable of continued agricultural production, being grazed by sheep or for the rearing of free range turkeys or hens during the operational phase.

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (Grades 1, 2 and 3A) will not be permitted unless:

- The need for the development is supported by the Local Plan
- It can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non-agricultural land
- Other sustainability considerations suggest that the use of higher quality land is preferable

The National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

The Planning Practice Guidance states that Local Planning Authorities should consider '*where a proposal involves greenfield land, whether (i) the proposed use of any agricultural land has been shown to be **necessary** and poorer quality land has been used in preference to higher quality land; and (ii) the proposal allows for continued agricultural use where applicable and/or encourages biodiversity improvements around arrays.*

The guidance references a Ministerial speech of April 2013 by the Rt Hon Gregory Barker MP which includes the statements "*Solar is a genuinely exciting energy of the future, it is coming of age and we want to see a lot, lot more. But not at any cost... not in any place....*" And "*Where solar farms are not on brownfield land, you must be looking at low grade agricultural land which works with farmers to allow grazing in parallel with generation....*"

The Environmental Statement submitted in support of this application states that the development would utilise the following areas of land;

- Grade 2 – 9.2 hectares – 32% of total site area
- Grade 3a – 8.6 hectares – 30% of total site area
- Grade 3b – 10 hectares – 35% of total site area
- Non agricultural/other – 0.8 hectares – 3% of total site area

Therefore the proposed development would result in the loss of 17.8 hectares of best and most versatile agricultural land for the 25 year lifetime of the development.

The issue of loss of BMV was a key issue at the three appeals listed above where the solar panel were proposed for 25 year resulting in the loss of BMV. As part of two appeals (Swale District Council and Bebergh Borough Council) the Inspector concluded that the word *necessary* requires a developer to provide a sequential test to support their application, which demonstrates that there are no more suitable alternative sites (brownfield and then greenfield) within the vicinity. The Inspectors also concluded that the search area should not be confined by district boundaries.

In respect of both appeals, the Inspector was very dismissive of the lack of evidence provided by the developer to justify the use of a greenfield as opposed to a brown field site and agricultural

land of an inferior quality. The Inspectors set a very high bar in respect of what was needed to demonstrate that the proposal was *necessary*.

In this case the applicant has not undertaken any search for non-agricultural land which could include Cheshire East's or Shropshire's industrial areas, including distribution and warehousing buildings or the attached to the roofs of the large agricultural buildings which are located throughout the two Boroughs. This approach is far from robust and is completely inadequate. Consequently, the applicant has not demonstrated that the use of agricultural land is necessary.

Even if the use of agricultural land were considered to be necessary, the Applicant has not demonstrated that poorer agricultural land has been chosen in preference to higher quality land.

The application statement that the land could still be used for agriculture (grazed by sheep or for use by free range turkeys or hens) is not accepted. The use by hens or turkeys would require agricultural buildings (for welfare and protection from predators and unpredictable events e.g. weather, low flying aircraft) which are not present on site and such uses may require close supervision with provision of an agricultural workers dwelling. The use of land for sheep grazing was also discounted as part of the Swale District Council decision where the Inspector found that *'sheep grazing which is proposed for the site could take place on almost any agricultural land, including potentially on a non BMV site also used for solar arrays'*

In response to this the appellant has referred to 4 appeals decisions which are not considered to be comparable for the following reasons:

- Cornwall Council - Burthy Farm, Newquay (2212340) – This decision relates to 24 hectares of which 52% being Grade 3a and 48% grade 3b. In this case it is not considered that this appeal decision is comparable as the land on the current application site is of a higher grade.
- Cornwall Council – Lanyon Farm, Hayle (2213745) – This decision relates to two parcels of land (the first extending to 6.2 hectares and graded 3b and 4 the second extending to 24.3 hectares and the majority is graded 3a). Again this is not considered to be comparable to the current proposal as the current site is of a higher grade. It should also be noted that reference was also made in this appeal decision to the Littles Far, Kent decision and the Inspector stated that; *'I have had regard to the appeal decision provided by the Ipa relating to land at Littles Farm, Kent. However, in that case, I consider there were material differences to the case before me in that the land in question was Grade 2 and the only agricultural activity proposed was the grazing of sheep'*.
- Cornwall Council – Kellygreen Farm, St Tudy, Cornwall (2212325) – Most of the site in this case is graded 3b and is therefore not BMV.
- The Vale of Glamorgan Council – Treguff Farm, Cowbridge (2213400) – In this case it is not clear if the site is Grade 3a or 3b (the appeal decision just refers to the site as Grade 3. It should also be noted that this decision was made under different planning guidance in Wales.

In addition to the above the appellant has provided a supporting letter to try and justify the scheme. This does not provide a sequential test to assess whether other sites of brownfield land or not BMV agricultural land could be utilised. Indeed reference is made to the Natural England land classification maps which identify that Grade 2 agricultural land is patchy and interspersed.

Aircraft Safety

At the time of writing this report consultation responses were awaited. This issue will be dealt with as part of an update report.

Impact upon the Public Right of Way (PROW)

Public Right of Way (Newhall FP16) runs across part of the eastern boundary of the site. The proposed development would not encroach onto the PROW or obstruct any users of the PROW. No objection has been raised on these grounds from the Councils PROW Officer.

In this case the main impact would be the visual impact for users of the PROW which is considered within the landscape section above.

Impact upon the Hazardous Installation

There is an underground pipeline which runs through application site which is classes as a hazardous installation. In this case the proposed development would not be located above the pipeline and the HSE does not advise, on safety grounds, against the granting of planning permission in this case.

As a result the proposed development is considered to be acceptable and complies with Policy BE.21 of the Crewe and Nantwich Replacement Local Plan.

CONCLUSIONS

The proposed development would provide a source of renewable energy to power 3000 homes. This would contribute to tackling the challenges of climate change, lessening dependence on fossil fuels and benefiting energy security. These benefits would accord with the Framework's renewable energy provisions, which indicate that the delivery of renewable, low carbon energy is central to the economic, social and environmental dimensions of sustainable development.

Subject to appropriate mitigation and the imposition of a number of suitably worded planning conditions the development would not have a detrimental impact upon protected species, ecology, surface water quality or flood risk.

It is not considered that the development would have a detrimental impact upon the pipeline which crosses the site.

There would be no tree losses associated with this application and on balance it is not considered that a reason for refusal on landscape grounds could be sustained.

The development would not have a detrimental impact upon the local highway network or the use of the PROW which crosses the site.

The impact upon the built heritage including the Historic Park and Garden and the archaeology of the site is considered to be acceptable.

However in this case the proposed development would result in the loss of 17.8 hectares of best and most versatile agricultural land for the 25 year lifetime of the development.

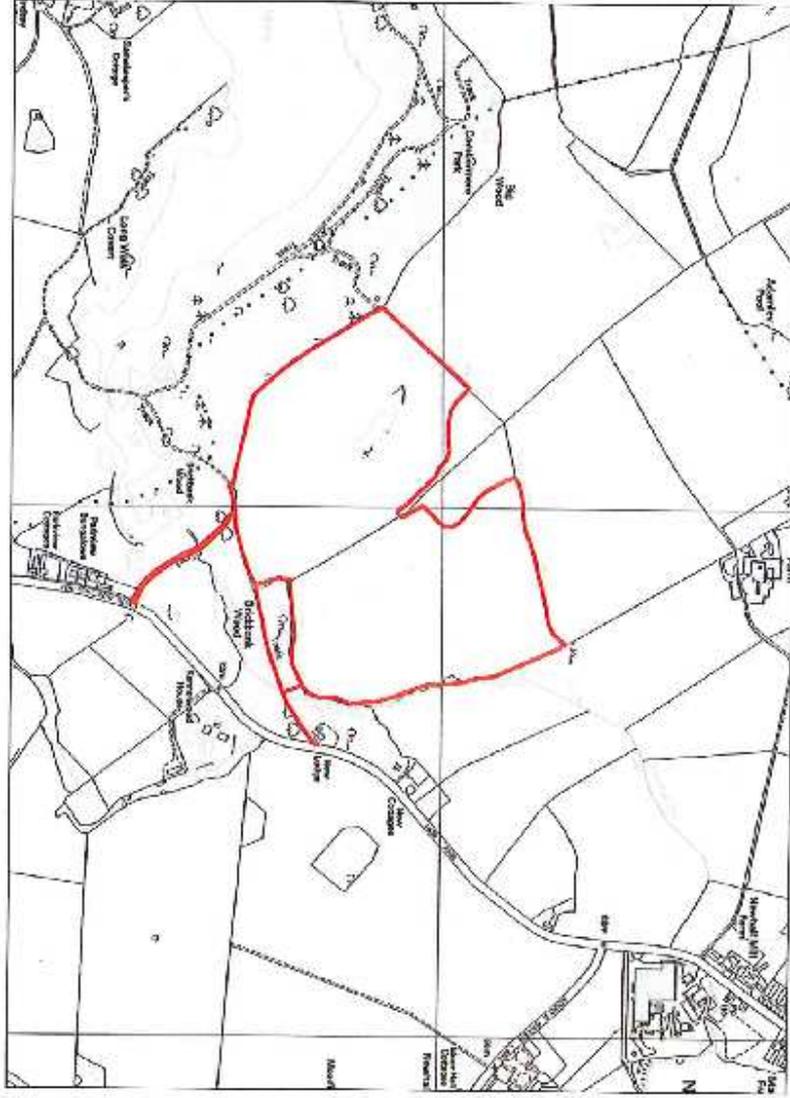
On balance it is considered that this loss would outweigh the benefits of the scheme and as such the development is recommended for refusal.

RECOMMENDATIONS

REFUSE for the following reason:

- 1. The proposal would result in loss of the best and most versatile agricultural land and there is no evidence that the development could not utilise brownfield land or agricultural land of an inferior quality. The use of the best and most versatile agricultural land is unsustainable and contrary to Policy NE.12 of the Borough of Crewe and Nantwich Replacement Local plan 2011, Paragraph 112 of the National Planning Policy Framework and guidance contained within paragraph 13 of the Renewable and Low Carbon Energy Section of the Planning Practice Guidance.**

In order to give proper effect to the Board`s/Committee`s intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chair (or in her absence the Vice Chair) of the Strategic Planning Board and Ward Member, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.



1. The map shows the site location plan for the proposed development. The site is located on the east side of the road, adjacent to the existing development. The map also shows the surrounding area, including the road network and other landmarks.

Combermere Abbey,
Whitechurch

Site Location Plan

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2014/01/01
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BR/2014/01-1a


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Application No: 14/2913C

Location: Land to the south of Hind Heath Rd, Sandbach, Cheshire

Proposal: Application for Reserved Matters the appearance, landscaping, layout & scale for Phase 2 to include 179 dwellings on planning application no: 10/2608C.

Applicant: Stewart Ball, Bovis Homes Ltd

Expiry Date: 15-Sep-2014

SUMMARY RECOMMENDATION**APPROVE subject to conditions****MAIN ISSUES****Impact of the development on:-****Principle of the Development****Affordable Housing****Highway Implications****Amenity****Landscape****Trees and Hedgerows****Design****Ecology****Open Space****Education****Flood Risk and Drainage****REASON FOR REFERRAL**

This application is referred to the Strategic Planning Board as it relates to a Reserved Matters application to a Strategic Site. The outline application was dealt with by the Strategic Planning Board.

DESCRIPTION OF SITE AND CONTEXT

The application site measures 5.09 hectares and lies to the south of Hind Heath Road. The wider site is currently being developed for residential development. To the east of the site are residential properties which front onto Oldfield Road, Marriott Road, Anvil Close and Forge Fields. To the south of the site is the Trent and Mersey Canal with a sewage works beyond with an access track to the west of the site. Land levels fall from the north to the south. The land to the west of the site

is currently undeveloped agricultural land but has recently gained outline consent for residential development at appeal (13/3887C).

DETAILS OF PROPOSAL

This is a reserved matters application for 179 dwellings (23.8 dwellings per hectare). The issues which are to be determined at this stage relate to the appearance, landscaping, layout and scale of the development.

The access would be via a single point of access off Hind Heath Road which gained approval as part of the outline application.

Reserved Matters approval has been granted for two earlier phases of development on this site as part of applications 13/0915C and 13/1215C.

The development would consist of 1 to 5 bedroom units including some apartments. The height of the units would vary to a maximum of 3 stories in height and would consist of the following mix:

- 15 x one bed units (in 2 apartment blocks)
- 38 x two bed units
- 59 x three bed units
- 12 x three/four bed units
- 31 x four bed units
- 24 x five bed units

RELEVANT HISTORY

13/1215C - Reserved Matters Application for 10/2608C for the Appearance, Landscaping, Layout & Scale for Phase 1 to Include 67 Dwellings – Approved 19th June 2013

13/0915C - Reserved matters following Outline Approval 10/2508C for the appearance, layout and scale for the show home area to include 5 dwellings – Approved 17th May 2013

10/2608C - Outline planning permission for up to 269 family-led homes together with associated public open space, and highway improvements including the widening of Hind Heath Outline planning permission is sought for up to 269 family-led homes together with associated public open space, and highway improvements including the widening of Hind Heath Road at various points and the provision of traffic signals at the Hind Heath Road/Crewe Road junction. - Refused 28th October 2010 (Appeal Allowed)

POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

PS3 – Settlement Hierarchy
PS8 - Open Countryside
GR21- Flood Prevention
GR1- New Development

GR2 – Design
GR3 - Residential Development
GR4 – Landscaping
GR5 – Landscaping
GR9 - Accessibility, servicing and provision of parking
GR14 - Cycling Measures
GR15 - Pedestrian Measures
GR16 - Footpaths Bridleway and Cycleway Networks
GR17 - Car parking
GR18 - Traffic Generation
NR1 - Trees and Woodland
NR3 – Habitats
NR4 - Non-statutory sites
NR5 – Habitats
H2 - Provision of New Housing Development
H6 - Residential Development in the Open countryside
H13 - Affordable Housing and low cost housing

Other Considerations

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Interim Planning Statement Affordable Housing
Interim Planning Statement Release of Housing Land
Nantwich Town Strategy

Cheshire East Local Plan Strategy – Submission Version

PG2 – Settlement Hierarchy
PG5 - Open Countryside
PG6 – Spatial Distribution of Development
SC4 – Residential Mix
SC5 – Affordable Homes
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE3 – Biodiversity and Geodiversity
SE5 – Trees, Hedgerows and Woodland
SE 1 - Design
SE 2 - Efficient Use of Land
SE 4 - The Landscape
SE 5 - Trees, Hedgerows and Woodland
SE 3 - Biodiversity and Geodiversity
SE 13 - Flood Risk and Water Management
SE 6 – Green Infrastructure
IN1 – Infrastructure
IN2 – Developer Contributions

CONSULTATIONS (External to Planning)

Environment Agency: No objection and no comments to make.

United Utilities: No comments received.

Canals and Rivers Trust: No objection. However, it is noted that no further information has been provided in respect of landscaping or surface water drainage. It is essential that the Canal & River Trust is consulted when details are provided in respect of Condition 10 and Condition 21 of the outline planning permission, so that the Canals and Rivers Trust comment further. An informative should be attached to the decision notice.

Cheshire Brine Compensation Board: No comments received.

Strategic Highways Manager: The Strategic Highways Manager originally objected to the application.

The Strategic Highways Manager has now considered the additional information provided by the developer and the revised planning layout and notes the comments regarding the location of the site and the current position of examination of the Local Plan which contains the current draft parking standards.

It is clear from the position that the parking provision is not a sustainable reason for refusal and the S.H.M. withdraws that objection.

CEC Flood Risk Manager: Surface water discharges from this site are flow balanced /attenuated with agreed and consented discharges to nearby non main river watercourse.

The design, structural integrity and stability of the proposed storage lagoon (part above ground water retaining earth structure on southern boundary of the site) should be checked to ensure that overtopping during extreme storm conditions does not lead to potential scour, erosion and collapse /failure of earth retaining embankments. This could lead to a sudden release of stored floodwaters with potential to endanger life and damage to third party land and property.

Full detailed design and construction details should be submitted which address these concerns and this could be secured through the use of a planning condition.

Subject to the above, no objections on flood risk grounds.

Environmental Health: No comments received.

Public Open Space: No comments received.

Education: No comments received.

VIEWS OF THE PARISH/TOWN COUNCIL

Sandbach Town Council: Object to this application on the following grounds:

- This is a Greenfield site and priority must be given to developing available Brownfield sites.
- Development would create major traffic congestion issues on Hind Heath Road.; contravening Local Plan saved policy GR6v.

- Development of this site will eliminate the vital green gap between villages.
- Concerns were raised about the stability of the site and requirement for raft foundations.

OTHER REPRESENTATIONS

Letters of objection have been received from 16 households raising the following points:

- The design of the development is not acceptable
- Proximity to existing dwellings
- Noise from construction
- The application is very different from the allowed appeal
- The development would provide very little green space
- Loss of privacy
- Garages in close proximity to the boundary
- Increased traffic generation
- Impact upon Badgers
- Loss of hedgerows
- Concerns over the proposed boundary treatment – a taller boundary treatment will be required
- There is a gap between the existing and proposed boundary treatment
- Disappointment in the previous appeal decision
- Loss of daylight
- The proposed land levels should be reduced
- Flooding from the application site
- The objections to the appeal applications remain unchanged
- The development is crammed on the application site
- Increased traffic
- Dust from the application site
- The proposed playground should not be constructed so close to the canal/pond. Dangerous for children
- Impact upon boundary trees
- Lack of a wildlife corridor
- Crammed development with small houses on small plots
- The developer is just out to make a profit
- The housing is too close to the protected trees on site
- Loss of agricultural land
- The site is not sustainable
- Loss of a view
- Impact upon Great Crested Newts
- The ecology reports submitted as part of the outline application were not adequate
- Impact upon property value
- Impact upon wildlife
- Proximity of the proposed dwellings to the existing dwellings
- Brownfield sites should be developed first
- Poor quality landscaping
- Highway improvements are required in the vicinity of the site
- There are enough houses in Sandbach
- The infrastructure/schools in Sandbach cannot cope with additional dwellings
- Hind Heath Road is not wide enough for vehicles to pass
- The access is too close to a bend
- Bovis are not complying with the hours of construction on this site

APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents;

- Design and Access Statement (Produced by Bovis Homes)

These documents are available to view on the application file.

OFFICER APPRAISAL

Principle of Development

The principle of residential development has already been accepted following the approval of the outline application at appeal (10/2608C).

Affordable Housing

The site falls within the Sandbach sub-area for the purposes of the SHMA update 2013. This identifies a net requirement for 94 affordable dwellings per annum for the period 2013/14-2017/18. Broken down this is a requirement for 18 x 1bed, 33 x 2bed, 18 x 3 bed, 9 x 4+ bed general needs units and 11 x 1 bed and 5 x 2 bed older persons accommodation. In addition to this, information taken from Cheshire Homechoice shows there are currently 208 live applicants who have selected one of the Sandbach lettings areas as their first choice. These applicants require 117 x 1 bed, 125 x 2 bed, 58 x 3 bed and 8 x 4+ bed units.

As well as this there is a UU dated 25th February 2011 for the outline application which sets out the provisions of the affordable housing.

The UU/Condition as part of the outline application requires the following in relation to the affordable housing:

- The condition outlines that the affordable units shall be provided in no more than clusters of 15 units and where reasonably practicable should not have a boundary with another cluster. The accompanying affordable housing layout appears to show that the affordable housing comprises 5 clusters of 14, 16, 11, 15, 10 affordable housing units. This is acceptable, however looking at the location of the affordable housing on phase 1 it appears that at two locations within phase 2 the affordable housing will adjoin other clusters. However, this is acceptable given that the units are not in discrete or peripheral locations and the clusters are accessed by two different access roads that are shared by market units. The Strategic Housing Manager does not object to the location of the affordable units.
- 40% of the total dwellings will be provided as affordable, comprising 50% social rented and 50% intermediate dwellings. This proposal is for a total of 179 dwellings which equates to a requirement for 72 affordable units to be provided. However the applicant is proposing 66 units as affordable. Phase 1 included a total of 72 dwellings with 34 provided as affordable with a tenure split of 20 intermediate and 14 rented. This was acceptable, as long as the total units provided across the whole set met the requirement of 40% of the total dwellings provided as affordable with 50% provided as social rented and 50% provided as intermediate tenure. Therefore including 179 units as part of phase 2 the total number of units across the site is 251 which equates to a requirement to provide 100 units as affordable with 50 units to be provided

as rented and 50 as intermediate. Therefore the remaining requirement for phase 2 is 66 units with 36 to be provided as rented and 30 to be provided as intermediate tenure.

- The applicant in the schedule of accommodation confirms they are providing 66 units as affordable. Of which 36 units would be rented and 30 would be shared ownership.
- The applicant has confirmed that the units will be delivered to meet CFSH Level 3 and HCA DQS in their affordable housing statement.

Across the whole site the intermediate dwellings would number – 48 x 2 bed houses, 4 x 3 bed houses & 2 x 4 bed houses. Social rented dwellings would be – 16 x 1 bed flats, 8 x 2 bed flats, 15 x 2 bed houses, 12 x 3 bed houses & 3 x 4 bed houses.

The Strategic Housing Manager does not have any objections to this application.

Highways Implications

The point of access and the wider traffic congestion issues in Sandbach were dealt with as part of the outline application.

To mitigate the congestion traffic impact of this development the following contributions have been secured as part of the S106 Agreement:

- Highways Contribution (towards Junction 17 of the M6) - £60,000
- Traffic Management Contribution - £10,000

In terms of the proposed layout, this would accord with Manual for Streets and the Highways Officer has raised no objection to the internal highways design or parking provision.

Amenity

In terms of the surrounding residential properties, these are mainly to the east and south of the site. The Congleton Borough SPG2 requires separation distances of 21.3m between principle elevations and 13.8m between a principle and non-principle elevation.

To the south the submitted layout plan shows that there would be a distance of 18m between the side elevation of Plot 137 and the side elevation of 11 Anvil Close. There would be a separation distance of between 23m and 30m from the rear elevations of plots 127-134 and 99-107 Forge Fields and 3-9 Anvil Close. The proposal would therefore exceed the separation distances set out within the Congleton Borough SPG2.

To the south-east corner there would be a separation distance of 3.5m between the side elevation of Plot 118 and the side elevation of 107 Forge Fields. There would be a separation distance of 15m from the side elevation of plots 111 and 117 and the rear elevations of 98 and 102 Forge Fields. The proposal would therefore exceed the separation distances set out within the Congleton Borough SPG2.

The dwellings to the east fronting Oldfield Road and Marriott Road have generous rear gardens and the required separation distances to this side would be provided.

The land levels on the site generally drop to the south of the site. In support of this application the applicant has provided information in relation to the proposed levels on the site. The main

properties affected are those to the south and south-east of the site (fronting Anvil Close and Forge Fields). The submitted plans show that the dwellings on plots 111, 117 and 118 would have a lower slab level than the nearest adjoining dwelling fronting Forge Fields.

The proposed dwellings on plots 127-135 would be set at a higher level than the existing dwellings which front onto Forge Fields and Anvil Close with the difference being between 0.6m and 1m. This difference is considered to be acceptable given the separation distances which are achieved to the dwelling to this side.

The land level differences to all other adjoining dwellings are relatively minor and are considered to be acceptable.

The letters of objection have raised concerns in relation to noise, dust and disturbance. In this case there are the following conditions attached to the outline approval:

- Prior approval of external lighting details
- Hours of construction
- Prior approval of a Method of Construction Statement (including pile driving operations, details of site deliveries, details of where materials will be unloaded and contractor parking)

It is considered that these conditions attached to the outline consent would be adequate to protect residential amenity during the construction phase.

Landscape

The submission includes landscape proposals which appear acceptable in respect of the housing area.

The landscaping of the POS indicated on plan would benefit from amendment to include a greater proportion of native species typical of the area. This view is shared by the Councils Ecologist.

A landscaping scheme will be required through the imposition of a landscaping condition.

Trees and Hedgerows

The application includes a tree survey and arboricultural impact assessment (AIA). The AIA indicates that no trees will need to be removed in order to accommodate the development. Some arboricultural works are recommended, (mainly the removal of deadwood) and tree protection measures are proposed.

Whilst not highlighted as an issue in the AIA, the tree constraints plans indicate that a number of plots could be affected by shading from adjacent trees. These include plots 128, 129, 130, 134, 137 and to a lesser extent 117. The issue of dominance of plots to the south of the site is on balance considered to be acceptable.

There would be no changes in land levels within the root protection areas which could have a detrimental impact upon the trees on the site.

Landscape

At the time of writing this report it was unclear what would happen to land levels in the area of POS and there are concerns from the Councils Landscape Officer and Ecologist in relation to the detailed landscape proposals in terms of the lack of native species, the formal nature of the POS and lack of benefits for nature conservation.

As a result it will be necessary to secure a revised landscaping scheme through the imposition of a planning condition.

Design

This is a reserved matter application for 179 dwellings including apartments. Outline planning approval was granted on appeal under planning reference 10/2608C for up to 269 units (there is already Reserved Matters approval for 72 dwellings on this site).

In terms of height this development would be for mainly two-storey developments although there would be some taller units in the form of 12 two-and-a-half storey units and 2 apartment blocks and 4 dwellings of three-storeys in height. The taller units (including the apartments) would mainly be located to the centre of the site. In this case it is considered that the proposed heights are acceptable.

Compared to the layout of the Illustrative Masterplan submitted as part of the outline application there has been watering down of the urban design concept. The Masterplan had a layout that had a looser, less engineered character, where buildings and spaces more effectively determined layout. Within this layout, street arrangement and design has had a weakening, standardising impact, the departure from which is the inclusion of the feature spaces. The route linking through the site to the landscape to the edge of the canal was one of the strengths within the illustrative proposals. Again, this seems to have been weakened and has become more standardised, rather than creating an interesting townscape element within the scheme.

Character areas have been adopted and follow the scheme approved on phase 1. In terms of the detailed design of the dwellings they are the standard Bovis House Types which have been used elsewhere in the Borough. It is considered that the design of the units is appropriate and that the development would not appear out of character with the housing to the east of the site and which has already been approved on phase 1.

Details of the proposed boundary treatment and proposed materials will be secured by condition to comply with the submitted plans.

Following negotiations with the applicant it is considered that the design of the scheme is appropriate and that it accords with Policy GR2 (Design) of the Congleton Borough Local Plan.

Ecology

As an established sett is present to the south of the site it is recommended that an additional survey is undertaken and submitted in support of this reserved matters application. The submitted report should include updated mitigation and compensation proposals. At the time of writing this report the updated survey was awaited and this will be reported as part of an update report.

The proposed open space/retained area of habitat adjacent to the canal to the south of the application is smaller in size than anticipated at the outline application stage. This would consequently reduce the potential nature conservation value of this area. An update will be provided in relation to this point.

At the outline application stage it was anticipated that the open space to the south of the site would provide an opportunity to retain and enhance the nature conservation value of the land adjacent to the canal and also provide a corridor of semi-natural habitats to ensure that the badgers associated with the sett on the top of the canal bank had sufficient undisturbed habitat to ensure the sett did not become isolated. This wildlife corridor was also anticipated to deliver benefits for foraging and commuting bats.

The submitted landscaped plans include significant numbers of non-native ornamental tree and shrub planting together with a 'lawn' type turf treatment.

The submitted landscaping scheme is overly formal in nature and would offer limited benefits for nature conservation and fail to meet the aspirations of the design and access statement submitted in support of the outline application. As lawn seeding is proposed within 30m of the identified badger sett this would imply that earthworks are required within this part of the site to remove the existing vegetation. This would be in contravention of the badger mitigation strategy submitted in support of the outline planning application which specified that no development at all would take place within 30m of the sett.

In this case the provision of an updated landscaping scheme would be secured through the imposition of a planning condition.

Public Open Space

The outline consent includes an under provision of POS on the site. To mitigate this impact a contribution of £48,124 towards off-site POS is secured as part of the S106 Agreement together with the provision of a 5 piece LEAP.

At the time of writing the exact amount of POS to be provided was awaited from the applicant. Details of this will be provided as part of an up date report.

Education

This issue was dealt with as part of the outline application as a capacity issue was identified at the local primary schools. The education department requested a contribution towards enhancing the capacity of the local primary schools and this was secured as part of a Unilateral Undertaking (UU). The exact sum to be paid is subject to a formula specified within the UU and this is dependent on the number of dwellings that would be built on the site.

Flood Risk and Drainage

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. This defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. As the application site exceeds 1 hectare, a Flood Risk Assessment was submitted as part of the outline application.

A number of objections refer to flood risk issues on this site the application includes a drainage plan which has been considered by the Councils Flood Risk Manager who has stated that

'Surface water discharges from this site are flow balanced/attenuated with agreed and consented discharges to nearby non main river watercourse.

The design, structural integrity and stability of the proposed storage lagoon (part above ground water retaining earth structure on southern boundary of the site) should be checked to ensure that overtopping during extreme storm conditions does not lead to potential scour, erosion and collapse /failure of earth retaining embankments. This could lead to a sudden release of stored floodwaters with potential to endanger life and damage to third party land and property.

Full detailed design and construction details should be submitted which address these concerns'

The Councils Flood Risk Manager has confirmed that this could be secured through the use of a planning condition.

CONCLUSIONS

The principle of development has already been accepted as part of the outline approvals on this site.

It is considered that the development is acceptable in terms of affordable housing provision and this complies with the UU and condition attached to the outline application.

The provision of the access point was accepted as part of the outline application and the traffic impact as part of this development has already been accepted together with contributions for off-site highway works. The internal design of the highway layout is considered to be acceptable.

The separation distances to the adjoining existing and proposed dwellings mean that there would not be a detrimental impact upon residential amenity through loss of outlook, loss of light, overbearing impact or loss of privacy.

The impact upon local education is considered to be acceptable and a contribution has been secured as part of the Unilateral Undertaking for the outline consent.

In terms of the POS provision on the site this will be subject to an update report.

With regard to ecological impacts, an update will be provided in relation to this issue.

Details of the proposed landscaping would be secured through the use of a planning condition.

The development is considered to be of an acceptable design and complies with the Local Plan Policies and guidance contained within the NPPF.

There are no drainage/flood risk implications for this proposed development subject to the imposition of a planning condition.

The development is considered to be acceptable in terms of its impact upon trees on this site.

RECOMMENDATIONS

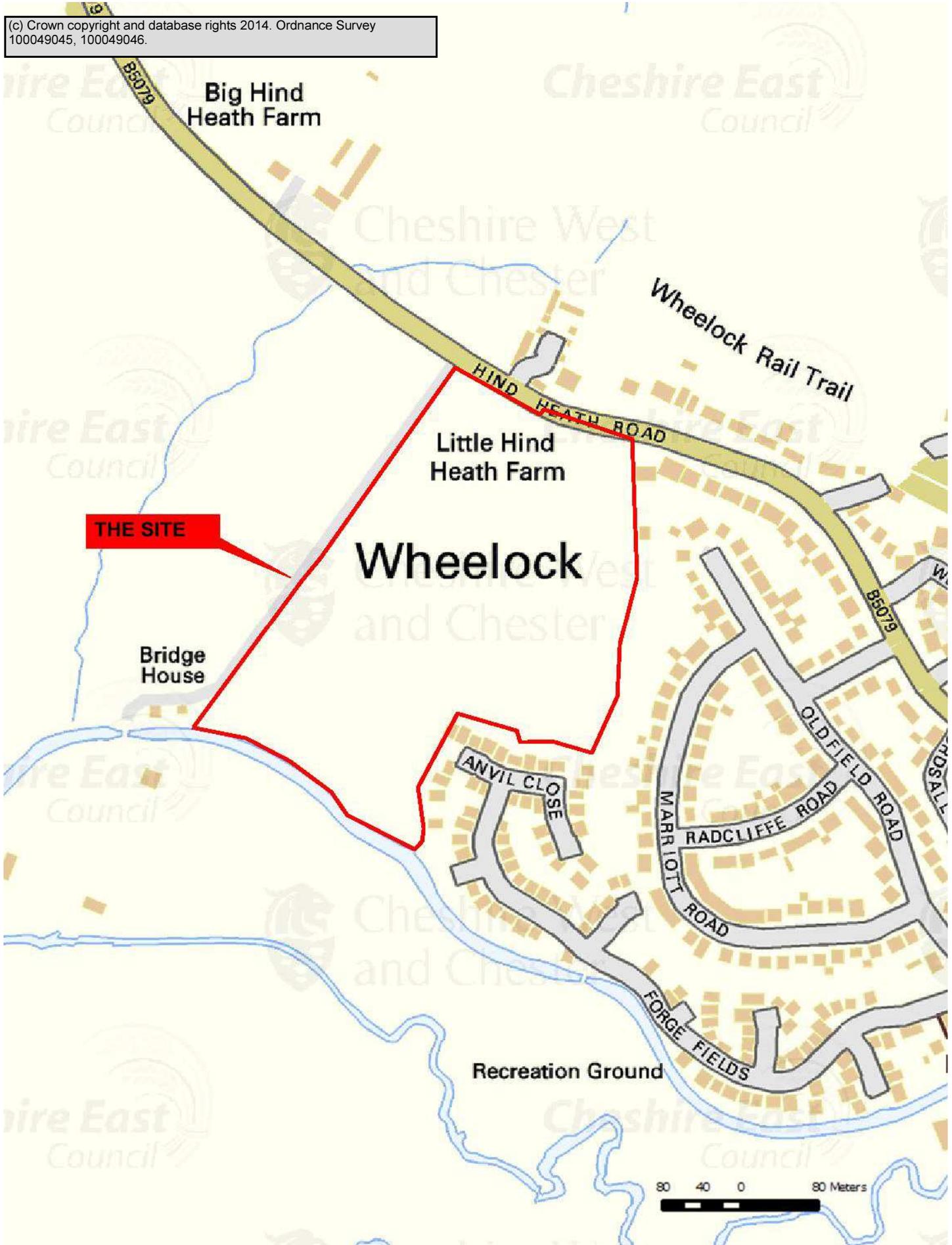
APPROVE subject to the following conditions

- 1. Approved Plans**
- 2. Materials in accordance with the submitted for approval**
- 3. Landscaping details to be submitted to the LPA for approval in writing (including land levels for the proposed POS)**
- 4. Implementation of the approved landscape scheme**
- 5. Boundary treatment details to be in accordance with the approved details**
- 6. Development to proceed in accordance with the AIA and Tree Protection Plans**
- 7. Details of the LEAP to be submitted to the LPA for approval in writing**
- 8. Details of proposed land levels in accordance with the submitted plans**
- 9. Full detailed design and construction details of the storage lagoon to be submitted to the LPA for approval in writing.**

In order to give proper effect to the Board`s/Committee`s intentions and without changing the substance of the decision, authority is delegated to the Head of Strategic & Economic Planning, in consultation with the Chair (or in his absence the Vice Chair) of Strategic Planning Board, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.



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CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 12 November 2014

Report of: David Malcolm – Principal Planning Manager

Title: White Moss Quarry, Barthomley
Certificate of Existing Lawful Use for the parking
and storage of vehicles machinery and equipment

1.0 Purpose of Report

1.1 For members of Strategic Planning Board to consider a Certificate of Lawful Use or Development (CLEUD) at White Moss Quarry, Barthomley

2.0 Decision Required

2.1 To confirm the decision to issue a negative Certificate of Existing Lawful Use for the parking and storage of vehicles, machinery and equipment for White Moss Quarry, Bathomley.

3.0 Background

3.1 Members may recall that a CLEUD was submitted in October 2011 for the use of an area of land for the parking and storage of vehicles, machinery and equipment at White Moss Quarry, Barthomley. The land is known locally as Triangular Field and indicated on the attached plan.

3.2 Following the decision from the Local Government Ombudsman in April 2013 which was critical of the process in determining the Certificate the Council was advised that it should take independent professional advice about the options available and if the CLEUD could be revoked, consideration should be given to that option. After due consideration, the CLEUD was formally revoked on 17 January 2014.

3.3 Once revoked the CLEUD remained to be reassessed by an independent planning lawyer. This report therefore considers the application afresh, outlines the application and the assessment of the submitted information.

4.0 Assessment

4.1 The full independent assessment is attached as Appendix 1. The conclusion of the assessment is detailed below.

4.2 There was a material change of use of the site amounting to development and this required planning permission. Thus the main issue for the determination of the application is whether the use is immune from enforcement action.

- 4.3 The Applicant's own evidence as to the claimed lawful use is neither precise nor unambiguous given a number of inconsistencies. These inconsistencies refer to the comments made in an earlier application concerning the date that the use commenced which conflict with those dates in the Statutory Declaration on this application. Similarly in more recent correspondence there has been inconsistency in whether there has been any storage of ancillary equipment or machinery on the site or not. In addition, despite being offered the opportunity to provide any additional evidence to support the re-determination application, the applicant has chosen not to do so beyond relying on matters that were before the Council as part of the revocation process.
- 4.4 Additionally, evidence has been forthcoming from local residents, which suggests that the change of use of the Site did occur until 2005. Evidence from aerial photographs generally supports this contention. Furthermore evidence from other sources suggests that the use of the Site ceased at various points after 2005.
- 4.5 In light of all the available evidence, whilst the application is to be determined on the balance of probabilities, it is not considered that the applicant has demonstrated to this standard that the use claimed is immune from enforcement action. As a consequence the application fails to meet the requirements of section 191(2)(a) and, in accordance with section 191(4), should be refused.
- 4.6 It is therefore recommended that the application be refused for the following reason:

The Applicant has failed to demonstrate, on the balance of probabilities that the use of land known as Triangle Field, Butterson Lane, Barthomley, Crewe, as outlined in red on the attached plan, for the parking and storage / parking of vehicles, machinery and equipment is immune from enforcement action on the basis of it having been used for in excess of ten years prior to the date of the application. In reaching this conclusion the local planning authority has taken into consideration evidence submitted by the Applicant, evidence from local residents and other interested parties and evidence which is contained within the authority's own records.

5.0 Recommendation

- 5.1 That the Council issue a negative for the Certificate of Existing Lawful Use (Reference 11/3759N) for the parking and storage of vehicles, machinery and equipment at White Moss Quarry (Triangular Field).

6.0 Financial Implications

6.1 There are no specific financial implications of this decision.

7.0 Legal Implications

7.1 The certificate has now been independently assessed and a recommendation/decision made. The decision to issue a negative Certificate could be subject to an appeal in accordance with the normal procedures

8.0 Risk Assessment

8.1 There are limited risks to this decision as it has been through all identified statutory processes and appropriate legal tests.

9.0 Reasons for Recommendation

9.1 To determine the submitted CLEUD in accordance with the detailed report.

For further information:

Portfolio Holder: Councillor Don Stockton
Officer: David Malcolm – Principal Planning Manager
Tel No: 01270 686744
Email: david.malcolm@cheshireeast.gov.uk

Background Documents:

Application documents can be viewed on the application file

APPENDIX 1

APPENDIX 1

APPLICATION FOR A CERTIFICATE OF EXISTING USE WHITE MOSS QUARRY, BUTTERTON LANE, BARTHOMLEY, CREWE REPORT PREPARED FOR CHESHIRE EAST COUNCIL

1. INTRODUCTION

1.1. I have been instructed by Cheshire East Council (“the Council”) to re-assess an application for a certificate of existing lawful use for “*the parking and storage / parking of vehicles, machinery and equipment*” at White Moss Quarry, Butterson Lane, Barthomley, Crewe (“the Application”). The Application was allocated the planning reference 11/3759N. The re-assessment of the Application follows a decision by the Council to revoke the certificate granted on 14 December 2011 which itself followed a critical report from the Local Government Ombudsman.

2. RELEVANT LEGISLATIVE PROVISIONS

2.1. Section 191 of the Town and Country Planning Act 1990, as amended (“the Act”) provides, so far as is relevant, that

(1) If any person wishes to ascertain whether

- (a) any existing use of buildings or other land is lawful;*
- (b) any operations which have been carried out in, on, over or under any land are lawful; or*
- (c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted was lawful*

he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if –

- (a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and*
- (b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.*

(3) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(4) A certificate under this section shall –

- (a) specify the land to which it relates;
- (b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 5(2)(f), identifying it by reference to that class;
- (c) give the reasons for determining the use, operations or other matter to be lawful; and
- (d) specify the date of the application for the certificate.

2.2. Section 172(1) of the Town and Country Planning Act 1990, as amended, (“the Act”) provides that

The local planning authority may issue a notice (in this Act referred to as an enforcement notice) where it appears to them

- (a) that there has been a breach of planning control; and
- (b) that it is expedient to issue the notice, having regard to the provisions of the development plan and to any other material considerations

2.3. Section 171A(1) of the Act provides that

For the purposes of this Act

- (a) carrying out development without the required planning permission;
- or
- (b) failing to comply with any condition or limitation subject to which planning permission has been granted, constitutes a breach of planning control

2.4. The statutory time limits for taking enforcement action are laid down in section

171B of the Act which states that:

(1) Where there has been a breach of planning control consisting in the carrying out without planning permission of building, engineering, mining or other operations in, on, over or under land, no enforcement action may be taken after the end of the period of four years beginning with the date on which the operations were substantially completed.

(2) Where there has been a breach of planning control consisting in the change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach

(3) In the case of any other breach of planning control, no enforcement action may be taken after the end of the period of ten years beginning with the date of the breach.

2.5. As can be seen from Section 191, the planning merits of the claimed use or development, such as whether the use has an impact upon amenity or highway safety, are not matters that can lawfully be considered as part of an application for a certificate of lawful use.

2.6. It is also important to note that it is not a criminal offence to carry out development without the benefit of planning permission; the law only provides for an offence to be committed where there has been non-compliance with an enforcement or breach of condition notice.

3. GOVERNMENT GUIDANCE

3.1. In terms of the evidence submitted with an application for a certificate of existing lawful use, current Government guidance as set out in the National Planning Policy Guidance states as follows:

The applicant is responsible for providing sufficient information to support an application, although a local planning authority always needs to cooperate with an applicant who is seeking information that the authority may hold about the planning status of the land. A local planning authority is entitled to canvass evidence if it so wishes before determining an application. If a local planning authority obtains evidence, this needs to be shared with the applicant who needs to have the opportunity to comment on it and possibly produce counter-evidence. In the case of applications for existing use, if a local planning authority has no evidence itself, nor any from others, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application, provided the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a certificate on the balance of probability.

4. PLANNING HISTORY

4.1. 10/0296C – Application for a lawful development certificate for an existing use for a mixed use of agriculture and storage of skips and containers, parking of skip lorries, other vehicles and trailers, storage of construction materials, formation of a crushed stone surface – Certificate refused.

4.2. 10/4139C - Retrospective change of use from agriculture to mixed use for agriculture and storage of skips and containers, parking of skip lorries, other vehicles and trailer, storage of construction materials, formation of a crushed stone surface - Refused February 2011
4.3. 11/3759N – Application for a lawful development certificate for the parking and storage of vehicles, machinery and equipment – Current application.

4.4. 13/4132N – Outline planning application for housing – Resolution to grant planning permission subject to the completion of a s106 planning obligations.

5. THE APPLICATION

5.1. The Application has been submitted by Mr D Beecroft of Land Recovery Limited. Land Recovery Limited (company registration number 1648166) was incorporated on 5 July 1982; according to Companies House, the nature of the business is "operation of gravel and sand pits, mining of clays and kaolin". The application form states that the "parking and storage / parking of vehicles machinery and equipment" on land at White Moss Quarry has taken place since 31 August 1981 and that there has been no material change in the use of that land since that time. The Applicant considers the claimed use to falls within the sui generis class.

5.2. The Application is accompanied by a combined block / location plan at a scale of 1:500 showing a triangular shaped piece of land to the east of the access road into White Moss Quarry outlined in red ("the Site"). A notation on the plan suggests that the area comprises 1,260 square metres. The application is also accompanied by a location plan detailing the location of the application site; that plan also has a partial blue line drawn onto it. A blue line is used in planning to denote other land within the ownership of the applicant. As this blue line is only partial, the full extent of other land owned by the applicant is not specified, although this is likely to equate to the area of White Moss Quarry itself.

5.3. In terms of supporting information, the applicant has submitted a statutory declaration from Mr David Ernest Beecroft dated 16 November 2011. As the declaration is short, I set out its contents in full:

I can confirm that the use of the site at Triangle Field, currently subject of a Lawful Use Application has been continually used for the parking of vehicles, with an established hard standing, from March 2001 to the present day.

The area land shown on the image taken on 27 June 2000 clearly shows the access and hard sanding, this hard standing was extended in early 2001 and fully established in March 2001.

Attached to the statutory declaration is the same block / location plan that accompanied the application. Although not specifically referenced in the statutory declaration, it is reasonable to assume that the plan relates to what is called "the site at Triangle Field" within the declaration itself.

5.4. In addition to the statutory declaration, there is also a statement in support of the application prepared by the Applicant's Agent. This statement refers to the land in question as "a triangular plot bordered on 2 sides with mature hedges and trees, with an open unmarked, unfenced boundary to the open field. It has a gated access and is irregularly surfaced with an unbound stone layer". In terms of the use, the agent states "The site is used for the parking of operatives and visitors to White Moss Quarry [sic], the parking is irregular and not marked out. There are some ancillary items of equipment

and materials on the application site... The site is only used during the operation of the quarry and is closed off when the establishment is not operating”.

5.5. Whilst the hours of operation are not explicitly stated in the supporting information, it is understood from the latest planning consent relating to the quarry that the authorised hours of operation are 07:30 to 18:00 Mondays to Friday and 07:30 – 12:30 Saturdays. Plant maintenance may only occur between 07:30 to 18:00 on Mondays to Saturdays but that on Saturdays moveable plant and vehicle maintenance is to be carried out within designated buildings. No working takes place on Sundays or public holidays.

5.6. By way of an email dated 4 August 2014, the Applicant’s Agent has confirmed that the Applicant does not propose to submit any additional information over and above that which is already in the Council’s possession. The Agent does, however, request that correspondence between the Applicant and the Council since the Application was submitted it taken into consideration.

5.7. One of the issues previously identified by the Local Government Ombudsman related to the lack of a definitive red line for consideration by the Council. In response to a request from the Council, the Applicant has now submitted a plan that outlines the entirety of the Site with a red line with no annotations. For the purposes of this report, this new plan is considered the definitive plan upon which the application is based.

6. REPRESENTATIONS ON THE APPLICATION

6.1. Whilst not legally required to carry out consultation on such application, the Council sent letters of notification of the Application to local residents and the town Council. In response to those notifications, the Council received a number of responses, all of which objected to the grant of a certificate. Not all of the representations received are relevant to an application for a certificate of lawfulness, because they deal with issues of planning merits. The representations which are of relevance to the Application can be summarised as follows:

6.1.1. **20 Nursery Road** - Equipment was stored on the field as a short-term favour for a friend of the field owner, this was cleared. Information supplied in the past contradicts the current declarations made by the applicant.

6.1.2. **6 Woolaston Drive** – The aerial photograph dated 27 June 2000 does not support the claimed use. The area of hardstanding referred to in the accompanying flight report, certificate and statement is a fraction of the application site.

6.1.3. **66 Close Lane** – As a user of the footpath, the area was used for agriculture in 2001. The aerial photograph dated 27 June 2000 shows no parking, no storage, no vehicles, no machinery and no equipment. The hardstanding which now fills the plan area was laid in approximately 2005.

6.1.4. **68 Gowy Close** – No recollection of any vehicles, machinery or equipment being parked on the site until 2005. Aerial photographs dated 1998, 2000, 2003 and 2005 show no evidence of any vehicles. Aerial photographs dated 2006 do show the parking of vehicles and trailers. The enforcement officer for Cheshire County Council stated that the field had been cleared in 2008; this is a break in the 10-year continuous use period. At a meeting of the liaison committee it was stated that Mr Beecroft and the late Mr Needham purchased the site in 1983, this differs from the current claim that the land was purchased in 1981. It was also stated at the same meeting that Mr Beecroft had no need for parking space outside of the quarry boundary.

6.1.5. **Swallow Barn** – There has been a variety of machines on the site for only a few years and not the 10 years as suggested.

6.2. In addition to local residents, **Alsager Town Council** also made representations on the application. The Town Council states that no new evidence had been provided by the applicant following the refusal of the earlier application (application reference 10/0296C). The letter from the Town Council refers to an aerial photograph from 2000 and provides their analysis of what that photograph shows. The letter concludes by stating that the Town Council does not consider that the applicant has proven that the use of the land for the purpose of parking and storage of vehicles, machinery and equipment began more than 10 years prior to the date of the application and recommended that the certificate be not issued.

7. OTHER RELEVANT INFORMATION

7.1. The following pieces of information, held by the Council, which are considered to provide information relevant to the determination of the application are as follows:

7.1.1. Response dated 9 November 2009 to a Planning Contravention Notice issued by the Council.

7.1.2. Documents relating to application 10/0296C as referred to in paragraph 4.1 above

7.1.3. Documents relating to an application 10/4139C referred to in paragraph 4.2 above.

7.1.4. Minutes of the White Moss Quarry Liaison Group.

7.1.5. Correspondence from the Applicant's Agent in connection with the proposed revocation of the original certificate issued under the Application, including extracts from a visitor log for White Moss Quarry which covers the period 1 September 2012 to 2 August 2013.

8. RELEVANT CASE LAW

8.1. The identification of the appropriate planning unit (whether larger or smaller than the land specified in the application) is an essential part of the decision whether a certificate under s191 should be granted – *Sellars v Basingstoke and Deane Borough Council* [2013] EWHC 3673 (Admin); per Mr Ockelton sitting as a deputy high court judge

21. An enforcement action against the use of land on the ground that there had been a material change of use would not confine its ambit to the piece of land on which the use in question was taking place, nor could it be confined by the occupier's specifying that that land and no other should be taken into consideration. It would begin by identifying the appropriate planning unit. Having done that it would consider whether in relation to that planning unit there had been a material change of use, and would go on, if required, to consider whether the new use had been continuing for ten years and so had become immune from enforcement action. The operation of the provisions of s 171B (time limits for enforcement) have no meaning outside the enforcement process; and that process is in my judgment imported hypothetically into s 191 by the reference to the time for enforcement action having expired.

8.2. In respect of determining the planning unit, the leading case is that of *Burdle v Secretary of State for the Environment* [1992] 1 WLR 1207; per Bridge LJ

First, whenever it is possible to recognise a single main purpose of the occupier's use of his land to which secondary activities are incidental or ancillary, the whole unit should be considered...

But, secondly, it may equally be apt to consider the entire unit of occupation even though the occupier carries on a variety of activities and it is not possible to say that one is incidental or ancillary to another...

Thirdly, however, it may frequently occur that, within a single unit of occupation, two or more physically separate and distinct areas are occupied for substantially different and unrelated purposes [and] in such a case each area used for a different main purpose (together with its incidental and ancillary activities) ought to be considered as a separate planning unit.

....

It may be a useful working rule to assume that the unit of occupation is the appropriate planning unit, unless and until some smaller unit can be recognised as the site of activities which amount in substance to a separate use both physically and functionally.

9. ASSESSMENT OF THE APPLICATION

9.1. The first matter to be considered is whether there has been a material change in the use amounting to development. This necessitates an identification of the planning unit to which the land belongs. The Site forms part of a larger field for which the recognised lawful use is agricultural. The Site is bounded on two sides by native hedgerows. A boundary has been created to the remainder of the field with an opening that permits access into it.

9.2. In this case, the unit of occupation comprises the larger field, which is owned by Mr Beecroft and Mrs Need. The recognised lawful use of the wider field is agricultural and thus this would be the recognised use of the Site itself (subject to the outcome of this Application). Applying the starting point in Burdle, the planning unit would be regarded as being the entire field. No direct evidence has been submitted by the Applicant to demonstrate that the Site has become a planning unit in its own right. However, Officers are of the view that the Site is a separate planning unit because it has become a separate and distinct area from the larger field and is occupied for substantially different and unrelated purposes to the field as a whole.

9.3. The change in the use of the Site from agriculture to parking / storage uses amounts to a material change of use and comprises development as defined, it is then necessary to consider whether planning permission was required and, if so, whether planning permission was granted. There are no permitted development rights that would have permitted such a change of use without the need for the express consent of the Council, thus planning permission would have been required. In this respect, the Council has not granted express planning permission for the change of use.

9.4. Thus it is only if the change of use is immune from enforcement action that the requirements in section 191(2)(a) are complied with. As explained previously, the relevant period in respect of a change of use of this type is **10 years** from the date prior to the date of the application, in other words January 2000.

9.5. The paragraphs that follow evaluate the various sources of evidence available.

Aerial Photograph 1998

9.6. Although technically prior to the relevant period for the purposes of the application, within the delegated report for the previous application, there was a reference to an aerial photograph dating from 1998. The author of the report states that it shows *“one indistinct item in the very corner of the field but otherwise the whole field appears to be ploughed”*.

9.7. No trace of the actual photograph can be found within the Council's records, but the assessment made by the case officer remains relevant in the absence of any other opinion as to the photograph or in the absence of a different conclusion having been reached in an appeal. The evaluation of the photograph casts doubt on the claim in the application form that the use commenced in August 1981.

Aerial Photograph 2000

9.8. I have seen an aerial photograph supplied by the Applicant, which dates from 27 June 2000. This photograph shows, in my opinion, a change in the ground conditions within part of the Site with gap in the hedge between the Site and the access road to the Quarry itself. A total of what seems to be five vehicles are parked not in the Site itself but on the quarry side of the gap in the hedge and then along the access road to the Quarry. There is no visible

sign of any cars, machinery or equipment within the Site itself. There appears to be a pile of hardcore / stones to the south of the access, although one cannot say what the purpose of that might be. The majority of the Site remains either grass or vegetation covered.

9.9. The Applicant contends that the photo demonstrates that "*the access to the site is evident, the use of the site, with changes in the ground conditions clearly visible*". I do not agree. I accept that there is a gap in the hedge to the field from the access road, which could constitute an access to the Site. I also accept that there is a change in ground conditions to part of the Site, whether this is from disturbed earth or compacted hardcore (or similar), is not clear³. I further accept that an aerial photograph is but a snapshot of one day in time. However, the photo does not provide evidence that the Site was being used in 2000 for the parking of vehicles or the storage of machinery or equipment. As stated above, there are no cars in the Site, nor is any machinery or equipment discernible.

9.10. Given that the Applicant asserts in the application form that the use of the whole of the Site commenced in 1981 it would not be unreasonable to expect that, were that the case, the area of ground 'disturbance' would have been considerably larger than shown in this photograph particularly as the Site would have had over 19 years' worth of cars and other vehicles driving over it and equipment stored upon it.

9.11. Furthermore to the extent that the photograph could be said to demonstrate some use of part of the field for the parking of vehicles, it is impossible to discern from a photograph whether such 'disturbance' was caused by agricultural vehicles or by vehicles associated with the Quarry.

9.12. My conclusions on this photo are strengthened by the content of the statutory declaration accompanying the Application, which, contrary to the application form itself and supporting documentation, states that the continual use of the Site did not occur until 2001. 2001 clearly postdates this photograph upon which reliance is placed.

Aerial Photograph 2003

9.13. Within the delegated report for the previous application reference was made to an aerial photograph dating from 2003. According to the author of that report the photograph "*shows a roughly triangular area of bare ground measuring approx. 60 metres along the quarry access road by approx. 50 metres along Crewe Road by approx. 50 metres across in the corner of the field but there is nothing distinguishable on this area. There appear to be a number of items randomly scattered across the remainder of the field to the east but since this area is now clear no lawful use can be claimed in respect of it.*"

9.14. No trace of the actual photograph can be found within the Council's records, but the case officer's evaluation remains relevant in the absence of any other opinion as to the photograph or in the absence of a different conclusion having been reached on appeal. Whilst the extent of the 'bare

ground' appears to have increased since the 2000 photograph, given the absence of any vehicles or other equipment, it cannot be said that the photograph supports a contention that the Site was used for the parking / storage of vehicles and the storage of machinery /equipment in 2003.

Aerial Photograph 2005

9.15. Within the delegated report for the previous application reference was made to an aerial photograph dating from 2005 was referred to. According to the author of that report it showed *"the same roughly triangular area now covered in part by what appears to be a hard standing but still partly covered by vegetation from the corner alongside the quarry access road and on which there appears to be about 12 vehicles, skips and other contains and a small area covered with items which again may be stone blocks. This photograph clearly shows vehicle tyre tracks around the remainder of the field to the east but turning around outside the boundaries of the site suggestion that the farm was indeed 'ploughing around' anything in the field at that time."*

9.16. No trace of the actual photograph can be found within the Council's records, but the evaluation remains relevant in the absence of any other opinion as to the photograph or in the absence of a different conclusion having been reached on appeal. It is considered that the photograph lends some evidential support to a contention that the Site was in use as claimed in 2005.

Other Photographs

9.17. In December 2011 a number of black and white photographs were taken of the Site by an officer of the Council. These photographs show a number of parked vehicles, plant vehicles, wood, pallets, large rocks and other items on the Site. In addition, there is a clear entrance way onto the quarry access road. As the photographs are in black and white it is not possible to be certain as to the surfacing of the Site, although it does appear to be roughly surfaced in some material.

9.18. In my opinion, these photographs support the contention that the Site was being used in 2011 for the parking of vehicles and that it was being used for some form of storage.

Evidence From Local Residents

9.19. In both this and the previous application, local residents and Alsager Town Council have provided evidence contrary to the claims made by the Applicant. Whilst this evidence has not been provided in the form of statutory declarations, certain residents have offered to provide them if requested. It is not considered that the fact that the evidence does not appear in a statutory declaration format should mean that this evidence should be afforded less weight than that of the Applicant.

9.20. Clearly there are differences between the information provided by individual residents; it would be highly unusual if this were not the case. Residents accept that the Site has been used for the parking of vehicles, but state that this has only been since 2005. This evidence therefore does not

support the Applicant's claim regardless of whether the use of the Site commenced in either 1981, 1988 or 2001.

Evidence From Other Persons / Sources

9.21. In addition to residents, evidence exists from Mr Rod Brookfield, formerly an officer of Cheshire County Council, who had dealings with the Quarry during the course of his employment from April 2006 to April 2009. Mr Brookfield's recollections are set out in the delegated report for the previous application and I do not repeat them here. However, in summary, he notes that the Site was being used for various purposes, other than agricultural, in early 2007 and during 2008. A note from 2007 suggests that the owner was in the process of clearing the Site of redundant plant and machinery and stone stockpiles in January 2007. A note from 2008 suggests that the Site was being used for the sandstone blocks and gravel for the haul road and again indicates that the owner agreed to remove it. His conclusion is that the Site was not in continual use throughout the relevant 10-year period.

9.22. The minutes of the White Moss Quarry Liaison Group dated 19 November 2008 record that it was reported that Mr Brookfield "*was pleased to see that the field adjoining the quarry has been cleared of assorted materials*". In my opinion these public minutes indicate that the use of the Site has not been continuous throughout the required period.

9.23. In 2009, the Council served a Planning Contravention Notice in respect of the use of the Site. In response to the Notice, the Applicant's then agent replied on 9 November 2009 that the "*field began to be used for the parking of vehicles and the storage of ancillary equipment in 1988 after planning permission for the quarrying of sand at Whitemoss quarry was granted*". This information was confirmed in letter from Mr Beecroft dated 3 November 2009 in which he stated "*As owner of the field I am able to accurately recall when it first came into use for open storage and parking purposes. It was 1988 when sand extraction at Whitemoss Quarry first began and it was at that time that additional open storage space was needed. The field was used for storage of materials for the construction of the road, then sand washing plant and the weight bridge. Stone and hardcore needed to be stored on site*". However, the date of commencement of use of the Site as indicated in the response has subsequently been contradicted by Mr Beecroft himself in the current application.

9.24. In connection with the application for planning permission for a retrospective change of use, the case officer undertook a site visit (the precise date is unknown but would have been between mid December 2010, when the application was submitted, and the end of January 2011, when the report was completed). This is referred to in the following terms

When the case officer conducted his site visit [he noted] that the land had been used for the storage of skips / containers, building maters, and parking of vehicles and the formation of hardstanding for some time.

This information suggests that the Site was being used for parking and storage by this time.

The Applicant's Evidence

9.25. From the outset it is to be noted that the statutory declaration submitted on behalf of the Applicant does not reflect the use claimed in the application form. The application form claims that the lawful use is "*the parking and storage / parking of vehicles, machinery and equipment*". However, Mr Beecroft's statutory declaration refers the land as having been "*continually used for the parking of vehicles, with an established hard standing*". There is no mention in the statutory declaration to the storage of vehicles or the storage of machinery and equipment. The only reference to matters other than the parking of vehicles appears in the supporting statement and application form. Furthermore, the application for does not seek to establish the lawfulness of any hardstanding.

9.26. In a letter from the Applicant's Agent dated 7 August 2013, it is stated "*there has been no storage of ancillary equipment or machinery on the CLEUD site that relates to the quarry. There is a container on the site which from time to time has stored spares for machinery that is used in the quarry, but that is the only storage on the site that is linked to the quarry*"> However, apart from this statement there is not further information / evidence about the storage of machinery and equipment not connected with the quarry. Thus there is no 'evidence' submitted by the Applicant *per se* in support of the storage of vehicles or storage of machinery / equipment on the Site.

9.27. As part of the process towards the revocation of the former Certificate, the Applicant provided a visitor log for White Moss Quarry that covers the period 1 September 2012 to 2 August 2013. The letter from the Applicant's Agent explains that there is no legal requirement to keep a record of the workers, operatives or visitors at the quarry. However, as a matter of practice "*a record of those who have visited the [S]ite and who have then entered the working quarry*" is kept by the Owner. Whilst the log does provide details of visitors to the Quarry during that period, it does not on its face provide any evidence as to where those visitors parked. The log details the name, date, organisation, time in and time out and comments plus the signature of the visitor. From 2013, the log includes the car registration and details of whom the person was visiting. Even if it could be said that the visitor log is prima facie evidence of parking on the Site, it only covers the period September 2012 to August 2013 and thus does not provide evidence of parking on the Site for the entirety of the relevant period. The Applicant's Agent does explain in the letter that the log covers the "most recent" visitors to the site; however, following the Council's general invitation to submit any additional evidence, no further logs have been submitted and the Applicant has expressly stated that they wish to rely upon the evidence currently before the Council.

9.28. There are a number of inconsistencies contained in the Applicant's evidence, both in its own right and when read alongside that submitted in connection with previous applications:

9.28.1. In the previous application, the applicant claimed that the use commenced in 1988 (albeit that this related to a larger area than the current application). In the current application form it is claimed that the use of the Site commenced on 31 August 1981. Both dates appear uncertain, to say the least, given the content of the statutory declaration of Mr Beecroft submitted with the application wherein it is stated that the date upon which the continual use of the Site for the parking of vehicles commenced is March 2001.

9.28.2. In a letter dated 7 August 2013, the Applicant's Agent stated that there had been no storage of ancillary equipment or machinery on the Site. However in the supporting information submitted with the Application the same agent stated "*there are some ancillary items of equipment and materials on the application site.*"

9.28.3. As indicated above, the information provided by way of a response to the Planning Contravention Notice does not accord with the information now being provided in this Application as to when the use of the Site commenced.

10. IS THERE AN ENFORCEMENT NOTICE IN FORCE FOR THE SITE?

10.1. The final question for consideration under s191(2)(b) relates to whether the use contravenes the requirements of any enforcement notice currently in force.

10.2. There is no enforcement notice currently in force that relates to the Site and thus the use cannot be said to contravene any such requirements.

11. CONCLUSION

11.1. There was a material change of use of the Site amounting to development and this required planning permission. Thus the main issue for the determination of the application is whether the use is immune from enforcement action.

11.2. I am of the opinion that the Applicant's own evidence as to the claimed lawful use is neither precise nor unambiguous given a number of inconsistencies⁴. In addition, despite being offered the opportunity to provide any additional evidence to support the re-determination Application, the Applicant has chosen not to do so beyond relying on matters that were before the Council as part of the revocation process.

11.3. Additionally, evidence has been forthcoming from local residents, which suggests that the change of use of the Site did occur until 2005. Evidence from aerial photographs generally supports this contention. Furthermore evidence from other sources suggests that the use of the Site ceased at various points after 2005.

11.4. In light of all the available evidence, whilst the application is to be determined on the balance of probabilities, it is not considered that the Applicant has demonstrated to this standard that the use claimed is immune from enforcement action. As a consequence the application fails to meet the requirements of section 191(2)(a) and, in accordance with section 191(4), should be refused.

11.5. It is therefore recommended that the application be refused for the following reason:

The Applicant has failed to demonstrate, on the balance of probabilities that the use of land known as Triangle Field, Butterton Lane, Barthomley, Crewe, as outlined in red on the attached plan, for the parking and storage / parking of vehicles, machinery and equipment is immune from enforcement action on the basis of it having been used for in excess of ten years prior to the date of the application. In reaching this conclusion the local planning authority has taken into consideration evidence submitted by the Applicant, evidence from local residents and other interested parties and evidence which is contained within the authority's own records.

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