

Strategic Planning Board

Agenda

Date: Wednesday, 13th October, 2021
Time: 10.00 am
Venue: Council Chamber, Municipal Buildings, Earle Street, Crewe
CW1 2BJ

PLEASE NOTE – This meeting is open to the public and anyone attending this meeting will need to wear a face covering upon entering and leaving the venue. This may only be removed when seated.

The importance of undertaking a lateral flow test in advance of attending any committee meeting. Lateral Flow Testing: Towards the end of May, test kits were sent to all Members; the purpose being to ensure that Members had a ready supply of kits to facilitate self-testing prior to formal face to face meetings. Anyone attending is asked to undertake a lateral flow test on the day of any meeting before embarking upon the journey to the venue. Please note that it can take up to 30 minutes for the true result to show on a lateral flow test. If your test shows a positive result, then you must not attend the meeting, and must follow the advice which can be found here:

https://www.cheshireeast.gov.uk/council_and_democracy/council_information/coronavirus/testing-for-covid-19.aspx

Please note that members of the public are requested to check the Council's website the week the Strategic 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.

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 top of each report.

It should be noted that Part 1 items of Cheshire East Council decision meetings are live audio recorded and the recordings are uploaded to the Council's website.

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

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 5 - 10)

To approve the minutes of the previous meeting held on 15 September 2021 as a correct record.

4. Public Speaking

A total period of 5 minutes is allocated for each of the planning applications for the following:

- Ward Councillors who are not members of the Strategic Planning Board
- The relevant Town/Parish Council

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
- Objectors
- Supporters
- Applicants

5. 20/3762N-Residential development for 146 new build dwellings & associated works, Land Off Sydney Road, Crewe for Andrew Taylor, David Wilson Homes/Duchy of Lancaster (Pages 11 - 60)

To consider the above application.

6. WITHDRAWN BY OFFICERS FROM THE AGENDA IN ORDER TO CONSIDER ADDITIONAL INFORMATION SUBMITTED BY THE APPLICANT 20/4976M- Proposed development of a Retirement Care Community (Class C2) involving the demolition of existing dwelling and outbuildings, retained single point of vehicular access, retained tennis court, fishing/boating lake, Japanese Water Garden, secret/sensory garden, with new allotments, bowling/feature greenspace and woodland walks; construction of a 60 bed registered care home with isolation capability; 72 no. assisted living extra care 1, 2 and 3 bed apartments; a village centre hub building comprising health and wellness and communal facilities, integrated satellite community healthcare (GP) clinic and 5 no. 2 bed and 9 no. 1 bed close care suites and

health and wellness; associated parking (including electric car share and community minibus), bin storage, pumping station, electricity sub-station, means of access and off-site pedestrian footpath link along Pepper Street, highway improvements and biodiversity net gain, Holly Tree House, Pepper Street Chelford for Mr David Hughes (Pages 61 - 114)

To consider the above application.

7. **WITHDRAWN BY OFFICERS FROM THE AGENDA FOLLOWING THE RECEIPT OF NEW PLANS REQUIRING CONSULTATION AND CONSIDERATION-21/2412C-Reserved Matters for approval of access, appearance, landscaping, layout and scale following outline approval 14/1193C for the erection of 170 dwellings, car parking, public open space and associated works, Land South Of, Old Mill Road, Sandbach for Mr C R Muller, Muller Property Group** (Pages 115 - 142)

To consider the above application.

8. **Draft Recovery of Forward Funded Infrastructure Costs Supplementary Planning Document** (Pages 143 - 180)

To consider the above report.

9. **Draft Environmental Protection Supplementary Planning Document** (Pages 181 - 244)

To consider the above report.

Membership: Councillors S Akers Smith, A Critchley, B Burkhill, S Edgar, S Gardiner (Vice-Chair), P Groves, S Hogben, M Hunter (Chair), B Murphy, B Puddicombe, P Redstone and J Weatherill

This page is intentionally left blank

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 15th September, 2021 at The Ballroom, Sandbach Town
Hall, High Street, Sandbach, CW11 1AX

PRESENT

Councillor M Hunter (Chair)
Councillor S Gardiner (Vice-Chair)

Councillors B Burkhill, J Clowes (Substitute), A Critchley, S Edgar, S Hogben,
J Nicholas, B Puddicombe, P Redstone and J Weatherill

OFFICERS IN ATTENDANCE

Adrian Crowther (Major Applications Team Leader), Nicky Folan, (Planning
Solicitor), Paul Hurdus (Highways Development Manager), David Malcolm
(Head of Planning) and Philippa Radia (Senior Planning Officer)

31 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors P Groves and B
Murphy.

32 DECLARATIONS OF INTEREST/PRE DETERMINATION

In the interest of openness in respect of application 20/0333N, Councillor
S Edgar declared that he was a member of the Public Rights of Way
Committee however he had not been consulted on the application or
discussed it.

In the interest of openness in respect applications 20/0333N and
21/2067N, Councillor M Hunter declared that he was a non-Executive
Director of ANSA however he had not discussed the applications or made
any comments on either of them.

In the interest of openness, in respect of application 21/2067N, Councillor
S Gardiner declared when he was a Cabinet Member assistant he did
regularly attend Cabinet meetings whereby on a number of occasions the
redevelopment of Crewe town centre was discussed, however he did not
feel this precluded him from taking part in the item nor had he considered
to have pre-determined the matter.

In the interest of openness, Councillor P Redstone declared that had had
received email correspondence in relation to application 21/2067N.

In the interest of openness in respect of application 21/2067N, Councillor J
Clowes declared that as a former Cabinet Member she had been involved

in similar conversations some years ago involving the redevelopment of Crewe town centre, however she did not feel she had pre-determined the application.

In the interest of openness, Councillor S Gardiner declared that both he and Councillor M Hunter had received email correspondence in respect of application 21/2067N.

In the interest of openness in respect of application 21/2067N, Councillor A Critchley declared that prior to becoming a Councillor and since his election, he had broadly supported the idea of something happening in Crewe, however he had not stated what and therefore had not pre-determined the application.

(It was noted that Councillor A Critchley made this declaration prior to consideration of item 6 on the agenda).

33 MINUTES OF THE PREVIOUS MEETING

RESOLVED

That the minutes of the meeting held on 18 August be approved as a correct record and signed by the Chair subject to Councillor P Redstone's declaration of interest in respect of application 21/1205C being amended to remove any reference to him being acquainted with Councillor N Mannion as a friend as well as a colleague and that it be noted it was Councillor B Puddicombe who made the declaration of knowing Councillor N Mannion.

34 PUBLIC SPEAKING

RESOLVED

That the public speaking procedure be noted.

35 20/0333N-MATERIALS RECOVERY / RECYCLING FACILITY (MRF) AT HILL FARM, WHITCHURCH ROAD, BROOMHALL FOR MR BRAD RUSHTON

Consideration was given to the above application.

RESOLVED

That for the reasons set out in the report and in the written and verbal update to the Board, the application be approved subject to the following conditions:-

1. Temporary permission for 3 years
2. Approved plans

3. The mitigation recommended in the acoustic report shall be implemented in full prior to the MRF commencing operations
4. Provision of a site-specific dust management plan
5. The hours of operation at the site shall be restricted to the following:
08:00 to 18:00 hours Monday to Friday
09:00 to 14:00 hours Saturday
No working on Sundays or public holidays
6. Safeguarding of nesting birds
7. Provision of features for nesting Swifts
8. No new external lighting
9. Records of vehicle movements
10. Limits on numbers of vehicle movements
11. Sheeting of vehicles carrying waste
12. Waste shall only be sorted within the building
13. Materials imported into the site shall only be commercial waste and shall not be household waste
14. Surfacing of the access road and junction with Whitchurch Road
15. Measures to deal with any unsuitable waste brought onto the site

And subject to the informatives included within the report and the following additional informatives:-

Footpath diversion
Environmental Permitting regime

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 Planning, in consultation with the Chair (or in their absence the Vice Chair) of the 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.

(Prior to consideration of the following item the meeting was adjourned for a short break).

- 36 **21/2067N-HYBRID PLANNING APPLICATION COMPRISING: (I) FULL PLANNING APPLICATION FOR THE DEMOLITION OF THE EXISTING BUS STATION AND CREATION OF NEW BUS STATION AND MULTI-STOREY CAR PARK AND ASSOCIATED LANDSCAPING, PUBLIC REALM AND OTHER WORKS INCLUDING NEW ELECTRICITY SUBSTATION; AND (II) OUTLINE APPLICATION (INCLUDING MEANS OF ACCESS) FOR MIXED USE TOWN CENTRE DEVELOPMENT INCLUDING CAFÉ/RESTAURANT, LEISURE, GYMNASIUM, BOWLING, COMPLEMENTARY RETAIL USES (CLASS E) AND CINEMA (SUI GENERIS) USE AND ASSOCIATED PUBLIC REALM WORKS, ROYAL ARCADE, LAND BOUNDED BY VICTORIA STREET, QUEENSWAY, DELAMERE STREET AND LAWRENCE STREET, CREWE FOR PEVERIL SECURITIES LTD**

Consideration was given to the above application.

(Mr Wilcox, 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 written and verbal update to the Board, the application be approved subject to the following conditions:-

OUTLINE

1. Outline Timescales
2. Outline Matters Reserved
3. Development to proceed in accordance with the approved plans/report recommendations.
4. Materials – building and surface
5. Landscaping
6. Implementation of the scheme of landscaping
7. Prior to the commencement of development a Tree Protection Scheme is to be submitted and approved
8. Prior to the commencement of development an Arboricultural Method Statement for tree retention is to be submitted and approved
9. Prior to the commencement of development a scheme for arboricultural supervision is required to be submitted and approved
10. Prior to the commencement of development a Construction Environment Management Plan is to be submitted and approved
11. Noise protection measures to be implemented
12. Lighting to be approved
13. Travel Plan to be approved
14. Electric vehicle parking facilities
15. Ultra-low emission boilers
16. Anti-Idling Signage
17. Phase 1 Contaminated land remediation strategy to be submitted.
18. Verification report for contaminated land.
19. Soil testing
20. Measures to deal with unexpected contamination
21. Bird nesting season
22. Ecological enhancement measures
23. Surface water drainage scheme
24. Foul & surface water to be drained on separate systems
25. Archaeology
26. 10% Renewable Energy
27. Cycling details to be submitted

FULL

1. Three year start
2. Development to proceed in accordance with the approved plans/report recommendations.
3. Materials – building and surface

4. Landscaping
5. Implementation of the scheme of landscaping
6. As part of any reserved matters application an Arboricultural Impact Assessment & Arboricultural Method Statement should be submitted.
7. Prior to the commencement of development a scheme for arboricultural supervision is required to be submitted and approved
8. Prior to the commencement of development a Construction Environment Management Plan is to be submitted and approved
9. Noise protection measures to be implemented
10. Lighting to be approved
11. Travel Plan to be approved
12. Electric vehicle parking facilities
13. Ultra-low emission boilers
14. Anti-Idling Signage
15. Phase 1 Contaminated land remediation strategy to be submitted.
16. Verification report for contaminated land.
17. Soil testing
18. Measures to deal with unexpected contamination
19. Bird nesting season
20. Ecological enhancement measures
21. Surface water drainage scheme
22. Foul & surface water to be drained on separate systems
23. Archaeology
24. 10% Renewable Energy
25. Infrastructure (i.e. ducting) to be incorporated into the scheme (car park and bus station) to provide additional provisions for EV charging-Electric vehicle parking facilities – to include Infrastructure (i.e. ducting) to be incorporated into the scheme (car park and bus station) to provide additional provisions for EV charging
26. Cycling details to be submitted
27. Surface water drainage scheme - to include details of discharge rates

And subject to the informatives contained within the report and the additional informative included below:-

Provision of community uses within future scheme; Landmark/townscape feature (in lieu of clock tower).

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 Head of Planning has delegated authority to do so in consultation with the Chair of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Board's decision.

The meeting commenced at 10.00 am and concluded at 12.43 pm

Councillor M Hunter (Chair)

Application No: 20/3762N

Location: Land off Sydney Road, Crewe

Proposal: Residential development for 146 new build dwellings & associated works

Applicant: Andrew Taylor, David Wilson Homes/Duchy of Lancaster

Expiry Date: 16-Dec-2020

SUMMARY

The proposal seeks to provide 146 dwellings on a greenfield site off Sydney Road which is allocated under CELPS policy LPS 6 Crewe Green for around 150 dwellings. The principle of residential development on the site has been established. Although the north-western corner of the site is located within the strategic green gap, this will only accommodate POS and consequently maintain openness in accordance with the aims of CELPS Policy PG5.

Amendments to design and layout of the proposal have been secured during the application. Following the deferral by Strategic Planning Board the play area has been relocated to a more central position within the development. It is considered that the overall benefits of relocating the play area to an easily accessible position with an enlarged areas of POS at the centre of the site would in this case, outweigh issues arising from the siting of further dwellings alongside the main access road, and the slight shortfall in combined amenity green space and children's play space.

The proposal provides the required amount of affordable housing with an appropriate mix of housing. The proposal achieves an appropriately designed residential development and its detailed design and layout accords with the overall principles for the development of the site and the CEC Design Guide. It achieves an acceptable relationship with both character of the locality, without material harm to neighbouring residential amenity, and would provide sufficient amenity for the new occupants.

The proposals would not adversely affect the significance of heritage assets including the Crewe Green Conservation Area and nearby listed buildings nearby. Tree and hedgerow losses have been accepted and would be mitigated in the proposed landscaping of the site and through off-site habitat creation to achieve biodiversity net gain.

The proposed access arrangements for the development will not adversely affect highway safety or result in traffic management issues on the local highway network and provides satisfactory on-site parking. The impact on Air quality arising from the proposals and the impact of on development itself from road traffic noise can be satisfactorily mitigated.

To satisfactorily address the impact on local services/facilities, contributions to education, healthcare provision and indoor/outdoor sport will be secured through a S106 agreement.

On this basis, the proposal is for sustainable development which would bring environmental, economic and social benefits and is therefore considered to be acceptable in the context of the relevant policies of the adopted Cheshire East Local Plan Strategy, the Borough of Crewe and Nantwich Local Plan, and advice contained within the NPPF.

RECOMMENDATION

Approve subject to s106 agreement and conditions

REASONS FOR DEFERRAL

UPDATE

At the meeting of 18th August 2021, Members resolved to defer this application for the following reasons:

(1) for further design review of properties adjacent to Crewe Green roundabout to achieve better layout/spacing of development.

Revised proposals

In response to the issues raised by Members, the site layout has been amended to provide additional green space within and around the main courtyard parking area behind the frontage to the development onto Crewe Green Roundabout, through the repositioning of plots 88/89 and 94/95 to the north

The reconfiguration of parking provision, with fewer spaces needing to be provided within the courtyard, has allowed further space to be provided amenity as well as for planting to soften and further break-up blocks of parking. Private amenity space serving the flats over garages (plots 90-93) located at the entrances to main courtyard and parking areas is also provided.

It is considered that the proposed changes to the layout have resulted in greater spaciousness within and adjacent to the main courtyard located to rear of units which face onto the roundabout and provided more opportunities for greater greening and soft planting elements to be introduced within this part of the scheme helping to reduce the visual impact of car parking.

Overall, there remain some additional opportunities to enhance the overall greening of the development, and as recommended previously a condition is considered suitable requiring the submission of full details of site landscaping and enable details of planting to be finalised and approved.

Furthermore the scheme has been reduced to an overall total of **146 units**. This has been achieved through the replacement of an apartment block with a pair of semi-detached houses (Plots 17 & 18) and replacement a 1 bed unit and 2 bed unit with a semi-detached house (Plot 28). The housing mix has been slightly adjusted from that previously proposed with three additional 3-bedroom units, one less 2-bedroom unit and five less 1-bedroom units. The proposed development now comprises;

1 bed unit x 5
2 bed unit x 21
3 bed unit x 88
4 bed unit x 32

Affordable housing provision has also been amended to reflect the reduced number of overall units and small changes to the housing mix, as follows;

Affordable Rent

House Type	No. of bedrooms	Number of units
------------	-----------------	-----------------

BCWL56P1	2	1
BCWL56PE	2	2
P230-DG7	2	1
P231-DG7	2	1
SH72-DG7	2	1
SH73-DG7	2	1
SH 50 End (Gable)	2	2
SH 50 Mid	2	2
TARP	1	4
SH 52 Mid	3	3
SH 52 End (Hip)	3	4
SH75 -E-7	1	1
SH80 -E-7	2	1
BCRW56AP	2	6

Total: 30

Shared Ownership:

House Type	No. of bedrooms	Number of units
BCWL56PI	2	1
BCWL56PE	2	2
SH 54 End (Gable)	4	2
SH 55 End	3	1
SH 52 End (Hip)	3	4
SH 52 Mid	3	4

Total: 14

44 Affordable Units (30%) are proposed and split 65% Rented and 35% Intermediate in accordance with Policy SC 5 of the Cheshire East Local Plan.

The Housing Officer is satisfied that as proposed the affordable housing provision will meet identified housing needs and it is still considered that the units are adequately “pepper potted” across the site. The affordable housing provision will be secured as part of the S106 agreement as set out in the report and recommendation below.

Other Matters

Biodiversity Net Gain

Further discussions have taken place between the applicant and a third-party habitat provider in terms of securing an offsite location to deliver compensatory habitat creation works, but agreement has yet to be reached. In the event that agreement is not reached between the applicant and third party, the Council's Ecologist has agreed that a commuted sum will be secured through the Section 106 Agreement.

The Council would then use the commuted sum to either undertake the works itself, or in partnership with another body.

Education S106 Contribution

The Council's Education team has advised that the amended scheme comprising of 146 dwellings (dwelling 2bed+), is expected to generate the following contributions;

141 dwellings x 0.19 = (27 - 1 SEN pupil) 26 primary children x £11,919 x 0.91 (Cheshire East weighting factor) = £282,003

141 dwellings x 0.15 = (21 --1 SEN pupil) 20 secondary children x £17,959 x 0.91 (Cheshire East weighting factor) = £326,853

141 x 0.51 x 0.023 (2.3%) = 2 SEN children x £50,000 x 0.91 (Cheshire East Weighting Factor) = £91,000

Total - £699,856

Without a secured contribution of £699,856, Children's Services would raise an objection to this application. This position is on the grounds that the proposed development would have a detrimental impact upon local education provision as a direct cause from the development. Without mitigation, the proposal would not comply with LPS 6 in the CELPS.

Healthcare

The NHS CCG has re-calculated the financial contribution based on the revised development of 146 dwellings and which is required towards funding improvements to GP practice infrastructure as set out in the Committee report.

The financial contribution is calculated on the basis of occupancy x number of units in the development x £360. This is based on guidance provided to other CCG areas by NHS Property Services.

Size of Unit	Occupancy Assumptions Based on Size of Unit	Health Need/Sum Requested per unit
1 bed unit	1.4 persons	£504 per 1 bed unit
2 bed unit	2.0 persons	£720 per 2 bed unit
3 bed unit	2.8 persons	£1,008 per 3 bed unit
4 bed unit	3.5 persons	£1,260 per 4 bed unit
5 bed unit	4.8 persons	£1,728 per 5 bed unit

1 bed unit x 5 = £2,520

2 bed unit x 21 = £15,120

3 bed unit x 88 = £88,704

4 bed unit x 32 = £40,320

Total: £146,664

The contribution of £146,880 is required towards the development of Hungerford, Millcroft and Earnswood Medical Centres and will be secured through a Section 106 agreement as per the recommendation. This would comply with policy LPS 6 of the CELPS.

The application therefore remains recommended for approval, subject to the completion of a Section 106 Agreement and the conditions detailed at the end of this report.

FIRST DEFERRAL REPORT PUBLISHED 17 SEPTEMBER 2021

UPDATE

This application was deferred by Cheshire East Council's Strategic Planning Board on the 15th June 2021 for the following reasons;

- 1.Reconsideration of the proposed location of Public Open Space to be more central on the site;*
- 2.Reconsideration of the design of the apartments at the southern end of the site and in particular concerns of the balcony/outdoor amenity space of the apartments facing onto Crewe Green roundabout*

And to seek further clarification on the following issues:

- *Traffic levels at the time of traffic flow assessments undertaken and the implications for the accuracy of noise/air quality assessments*
- *Parking provision and Electrical Vehicle Charging Points*

Revised proposals

In response to the concerns raised by Members, the applicant has amended the site layout to enable the play area to be re-located to a more central position within the development. The originally proposed “pocket park” has effectively been enlarged to accommodate an enhanced Locally Equipped Play Area (LEAP).

The scheme has been reduced to an overall total of **149 units**. To achieve this number of dwellings more units are now located alongside the access into the site from Sydney Road. These units occupy part of the formerly proposed area of POS located in the north-western part of the site but are sited to remain outside of the Strategic green gap. An area of POS is proposed behind these units, and this extends up to the northern site boundary with the PROW.

The housing mix has also been slightly adjusted from that previously proposed with one additional 3-bedroom unit and two additional 2-bedroom units, and three fewer 4-bedroom units and two less 1-bedroom units. The proposed development now comprises;

1 bed unit x 10

2 bed unit x 22
3 bed unit x 85
4 bed unit x 32

There is no change to the proposed affordable housing proposals (45 units = 30%) as set out in the original report below.

Open Space, Sport and Recreation

The local plan allocation (LPS 6) states that the development of this site should include, “the incorporation of green infrastructure, to include open space provision, including children’s equipped play space/multi-use games area”

Policy SE6 of the CELPS sets out the open space requirements for housing development which are (per dwelling):

- Children’s play space - 20sqm
- Amenity Green Space - 20sqm
- Allotments - 5sqm
- Green Infrastructure connectivity 20sqm

Therefore, based on a scheme of 149 dwellings a minimum requirement of 5,960 m² of combined amenity green space should be provided.

The amended layout provides two areas of POS, with the largest area (3,468 sqm total) in the north west corner of the site and an enlarged area (2,209sqm total) at the centre of the development which was formerly identified as a “pocket park”. This provision falls slightly short of the minimum combined amenity green and children’s play space.

Re-located Play Area

The Leisure Officer considers that the provision of an “enhanced” LEAP will address the above shortfall, as well as being provided in lieu of the provision of a MUGA (or financial contribution).

The play area has been relocated to a central position within the scheme. This is a safer and more accessible position for use by residents of the development than that previously proposed within the north western part of the site and adjacent to the main vehicular site access. In addition, it will also be easily accessible from nearby housing areas which have little formal play space via a pedestrian/cycle link into the development adjacent to the position of the enhanced crossing (Toucan) required to be provided on Sydney Road.

The Leisure Officer has advised that although available space is limited within the POS at the centre of the site a LEAP of a “bespoke” and creative design can be satisfactorily accommodated here and still meet the necessary stand-off distance to adjacent property.

The proposed play equipment for the LEAP is indicated to be of a height which would not over-dominate the space or impact on the privacy/amenities of the surrounding properties. The proposals also show buffer areas of 20m being provided between equipment and the nearest adjacent dwelling. Natural materials (primarily timber) are also proposed to be used to ensure

a less intrusive feel to the play area. A multi-unit has been selected as the 'base' of a bespoke design, which will include multi-use aspects of play. In addition, a steam train play unit is also proposed to sit on 'railway tracks' for very young children, to add co-ordination, sliding and role/imaginative play as well as educational value to the play area. However, detail of the design of the play area remain to be finalised.

A condition is therefore recommended requiring full details of the design and specification of play area to be submitted to and agreed, to ensure appropriate provision of play space for the development. Details of its hard and soft landscaping, including the specification of planting, will be secured by a condition.

The provision of the LEAP will be secured by the S106 agreement prior to the occupation of no more than 50% of the dwellings.

Northern POS

The applicant has stated that to enable the provision of the enlarged area of POS to accommodate the play area and also to secure the provision of 149 units in line with the site allocation (LPS 6), further dwellings need to be provided along the site access road.

The gardens of several of these dwellings adjoin the retained public open space. The boundaries of these properties will be secured from the adjoining POS by a boundary wall, augmented by planting to deter antisocial activity and crime.

In addition, to ensure acceptable levels of natural surveillance of the adjoining space is achieved, together with active frontages along the access road, the proposed units will be dual aspect, with 'corner turner' house types being used in this prominent location.

However, the Design Officer considers that the introduction of additional plots in this location will weaken the quality of the entrance to the development, as garden boundaries will extend up to the highway on both sides of the main access street to the shared surface area, which prevents significant roadside tree planting.

The Leisure Officer has advised that to fulfil the requirement for growing space under Policy SE6, and in preference to an off-site financial contribution, the northern POS should incorporate an area for the provision of fruiting trees located near the pumping station to fulfil the requirement for growing space by Policy SE6. This provision will be secured as part of the approved landscaping scheme for the development.

On balance, it is considered that the overall benefits of relocating the play area to an easily accessible position with an enlarged areas of POS at the centre of the site would clearly outweigh the issues arising from the siting of dwellings alongside the northern area of POS and the slight short fall in combined amenity green space and children's play space.

Design

Layout

The revised proposals offer an opportunity for additional greening within the centre of the estate, resulting from the enlarged POS to accommodate the children's play space. Revised planting proposals particularly around the periphery of the proposed play area will be secured through a condition. As set out above, given the limited size of the available space, care is being taken to ensure that the design and specification of the play area to ensure it will not constitute unduly dominant feature particularly in view of the proximity of adjacent dwellings.

It is recognised that in design terms that roadside tree planting at the site entrance should ideally be strengthened, but as set out above this cannot be secured due to the siting of additional units sited close to the edge of the highway within the formerly proposed area of POS.

Following assessment of the latest amendments and landscaping proposals, the Design Officer has advised that whilst some improvement has been achieved, there remain some additional opportunities to enhance the overall greening of the scheme. As recommended previously to secure further improvements a condition is considered suitable requiring the submission of full details of site landscaping and enable details of planting to be finalised and approved.

The criteria of '*Character*' and '*Creating well defined streets and spaces*' of the BFL 12 assessment therefore remain rated at amber.

Apartment Balconies

Members raised concerns in respect to the proposed provision of balcony/outdoor amenity space of the apartments facing onto Crewe Green roundabout and the resulting impact of passing traffic. To address these concerns, the applicant has submitted a sectional drawing to demonstrate the large separation distances that will remain between the proposed balconies and carriageway of the roundabout.

The ground floor balcony is located more than 25 metres from the back edge of kerb, and this distance from passing traffic increases for 1st & 2nd floor balconies when the height of the building is taken into account.

Furthermore, landscaping of the southern edge of the site with roundabout will be strengthened. This will include the retention of newly planted hedgerow associated with the roundabout enlargement, additional wildflower and tree planting within the site, and to establish a naturalised verge between the footway and site boundary further to agreement with the Highway Officer. Given the proposed planting on the site boundary and on the roundabout itself, together with the setback of the apartment buildings from the carriageway, this will create an acceptable outlook from the scheme once matured.

In view of this relationship with the roundabout, it is therefore considered the balconies would provide reasonably attractive and usable private amenity space for residents of the apartments, and particularly at evenings and weekends when traffic is lighter.

Traffic levels at the time of traffic flow assessments

The Environmental Health Officer (EHO) has confirmed that with reference to the submitted Noise Report, and as also advised by the applicant, noise monitoring was undertaken on the 5th-6th March 2020, which was before the start of the national lockdown due to COVID-19.

Therefore, the EHO remains satisfied with the noise assessment, its recommendations and proposed mitigation for the development.

The Environmental Protection Officer has advised that for the Air Quality Assessments it is standard practice to use the same year for all modelling inputs, i.e. diffusion tube data, meteorological data and traffic data. The Air Quality Assessment used 2019's tube data and the submitted transport assessment is also dated 2019. The applicant has confirmed that as travel patterns had been impacted by the Covid19 pandemic at the time Air Quality Assessment was prepared, traffic data was therefore used from the Transport Assessment which was factored to 2019.

Car Parking Provision

The Councils Highway Officer has assessed the amended layout and has raised no concerns in respect of highway safety or in respect of the proposed car parking provision.

It is further advised that as set out in by Table 4.1 of the Transport Assessment below the scheme previously considered by SPB on 15 June provided the appropriate number of spaces in accordance with CEC parking standards.

The development comprises 151 residential dwellings, including 106 private market and 45 affordable homes. The type and mix of properties are set out in Table 4.1.

Table 4.1: Type and Mix of Homes

House Type	No. of Private	No. of Affordable	Total
1 Bedroom	0	10	10
2 Bedroom	4	24	28
3 Bedroom	56	11	67
4 Bedroom	46	0	46
Total	106	45	151

Development Type	Car Parking
1 Bedroom	1
2 Bedrooms	2
3 + Bedrooms	2

Following consideration of the amended layout for 149 units, the required changes to parking arrangements are very limited and primarily relate to the amended siting of units adjacent to the site access, and consequently the proposed provision is acceptable and in line with CEC standards.

Electrical Vehicle Charging Points (EVCPs)

The applicant has advised that in line with the Environmental Protection Officer (EPO) requirements all charging points will be Mode 3 (fast charging) units. A layout plan has been submitted showing that each dwelling will have a charging point and all apartments will have access to shared, post-mounted, charging points of mode 3 specification.

It is recommended that a condition is imposed to secure the provision of the proposed Electric Vehicle Infrastructure within the development.

Other Matters

For completeness, matters referred to in the update to the previously considered officer report presented on 15th June 2021 are set out below:

Additional Representations

Since publication of the previously considered report, 13 further representations have been received objecting to the proposals following the Re-consultation exercise undertaken on 24 May 2021 in relation to amended proposals.

The grounds of objection of these representations have reiterated those summarised within the previous report which were made to the original proposals.

Representations do however question whether there is a need to develop this site given the Council has a 5-year Housing land Supply and housing delivery over the past three years has exceeded the number of homes required. The housing position is updated below.

Housing Land Supply

The Local Plan Strategy sets out the overall strategy for the pattern, scale and quality of development, and makes sufficient provision for housing (minimum 36,000 new dwellings over the plan period, equating to 1,800 dwellings per annum) in order to meet the objectively assessed needs of the area.

The council's most recent Housing Monitoring Update (base date 31 March 2020) was published on the 11th March 2021. The published report confirms a deliverable five-year housing land supply of 6.4 years. The 2020 Housing Delivery Test Result was published by the Ministry of Housing Communities and Local Government on the 19 January 2021 and this confirms a Cheshire East Housing Delivery Test Result of 278%. Housing delivery over the past three years (8,421 dwellings) has exceeded the number of homes required (3,030). The publication of the HDT result affirms that the appropriate buffer to be applied to the calculation of housing land supply in Cheshire East is 5%. In the context of five year housing land supply and the Housing Delivery Test, relevant policies concerning the supply of housing should therefore be considered up-to-date and consequently the 'tilted balance' at paragraph 11 of the NPPF is not engaged through either of these mechanisms.

Importantly, the existence of a 5-year supply of housing land is not a reason, in principle, to prevent permission being granted for a site that is allocated in the Local Plan for housing development. The requirement is to maintain at least a 5-year supply of deliverable housing land. This is an ongoing requirement reliant on the timely release of additional land for housing

development so this can be maintained. It is also a minimum requirement. It is not a ceiling that should be used to prevent the release of land for further housing development where such schemes are consistent with Local Plan policy – as is the case with this site, in principle, through its allocation.

The Allocation of a site in the Local Plan Strategy establishes the principle of development on that site. The site contributes towards the Council's housing land supply and assist in meeting the development requirements of Crewe and the wider Borough. It is important that the Council maintains not only a five year supply of deliverable sites but also provides for sufficient sites to meet the plan supply of a minimum of 36,000 new dwellings (2010 – 2030) at an average of 1,800 dwellings per annum. Indeed, the Housing Monitoring Update (base date 31 March 2020), appendix 5 also includes the allocated site at Crewe Green (LPS 6) within its forecasting and assumes that the site delivers 84 units within the next five years.

This site therefore contributes to the Council's overall five-year supply of deliverable sites.

Education

The Council's Education team has confirmed that a scheme comprising of 149 dwellings (dwelling 2bed+), is expected to generate:

149 dwellings x 0.19 (28 – 1 SEN pupil) = 27 Primary Children
149 dwellings x 0.15 (22 – 1 SEN pupil) = 21 Secondary Children
149 dwellings x 0.51 x 0.023 (2.3%) = 2 SEN Children

As set out in the Committee report , the development is expected to impact on primary school, secondary school, and SEN places in the locality. To alleviate forecast pressures, the following contributions would be required to account for the increase of units within the scheme.

27 x £11,919 x 0.91 (Cheshire East weighting factor) = £292,850
21 x £17,959 x 0.91(Cheshire East weighting factor) = £343,196
2 x £50,000 x 0.91 (Cheshire East weighting factor) = £91,000 (SEN)
Total education contribution: **£727,046**

Without a secured contribution of £727,046, Children's Services would raise an objection to this application. This position is on the grounds that the proposed development would have a detrimental impact upon local education provision as a direct cause from the development. Without mitigation, the proposal would not comply with LPS 6 in the CELPS.

The contribution will be secured through a Section 106 agreement as set out in the recommendation.

Healthcare

The NHS CCG has re-calculated the financial contribution based on the revised development of 149 dwellings and which is required towards funding improvements to GP practice infrastructure as set out in the Committee report.

The financial contribution is calculated on the basis of occupancy x number of units in the development x £360. This is based on guidance provided to other CCG areas by NHS Property Services.

Size of Unit	Occupancy Assumptions Based on Size of Unit	Health Need/Sum Requested per unit
1 bed unit	1.4 persons	£504 per 1 bed unit
2 bed unit	2.0 persons	£720 per 2 bed unit
3 bed unit	2.8 persons	£1,008 per 3 bed unit
4 bed unit	3.5 persons	£1,260 per 4 bed unit
5 bed unit	4.8 persons	£1,728 per 5 bed unit

1 bed unit x 10 = £5,040
 2 bed unit x 22 = £15,840
 3 bed unit x 85 = £85,680
 4 bed unit x 32 = £40,320

Total: £146,880

The contribution of £146,880 is required towards the development of Hungerford, Millcroft and Earnswood Medical Centres and will be secured through a Section 106 agreement as per the recommendation. This would comply with policy LPS 6 of the CELPS.

Designing Out Crime

The applicant has confirmed that gates can be provided to the entrances to the underpasses serving parking courts to address issues raised by Cheshire Police (Designing Out Crime Officer) as regard the potential for anti-social behaviour / criminal activity. This will provide additional security to those areas, (southern courtyards) and give the impression of private space. The detailed design of these gates and their provision will be secured through a planning condition.

The application therefore remains **recommended for approval**, subject to the completion of a Section 106 Agreement and the conditions detailed at the end of this report.

Previously considered Committee Report below (incorporating updated recommended conditions)

DESCRIPTION OF SITE AND CONTEXT

The application Site (4.52ha) is an undeveloped greenfield site approximately 1.45 km from Crewe Town Centre. The majority of the site is allocated for housing development under policy LPS 6 (Crewe Green) in the CELPS, which allows for the delivery of around 150 new homes.

Part of the north-western corner of the site lies within the Crewe/Haslington Strategic Green Gap.

This triangular shaped site lies between Sydney Road to the West, the A534 Haslington Bypass to the east and the Crewe Green roundabout to the south.

The northern boundary is defined by an existing hedgerow beyond which lie open fields within the Strategic Green Gap. A private access road leading to Fields Farm extends along part of the northern boundary which is also a Public Right of Way (Haslington FP41).

To the south, the site fronts onto the Crewe Green Roundabout which was subject to an improvement scheme recently implemented by Cheshire East Council. Crewe Green Conservation Area lies to the south east of the site and is centred on the junction of Crewe Road with Narrow Lane. (B5077).

The front and rear elevations of existing residential properties located on the western side of Sydney Road face towards the western boundary of the site.

DETAILS OF PROPOSAL

This application seeks full planning permission for the development of 151 new homes with associated access, public open space, and landscaping.

The development includes a mix of 2, 3 and 4 bed houses and 1 and 2 bed apartments of a range of sizes and design. The maximum height of buildings will be three storeys with most properties being 2 storeys.

The southern corner of the site adjacent to Crewe Green Roundabout is characterised by a strong built edge comprising of three storey townhouses flanked by 3 storey apartment Buildings designed to create a strong gateway feature.

It is proposed that the site is served by a single point of vehicular access onto Sydney Road. Pedestrian/cycle connections onto Sydney Road are provided at two points along the western site boundary.

The main area of public open space serving the scheme occupies the north west corner of the site and will accommodate an equipped children's play area (NEAP). It is proposed that pedestrian routes running through the open space connect with the existing Public Right of Way FP41 which runs along the private access road to Fields Farm adjacent to the northern site boundary.

Mature hedgerows and trees around the perimeter of the site will be retained. A landscaped buffer will be provided alongside the northern site boundary with land within the green gap to ensure retention of existing trees and hedgerows.

Revised plans and additional information have been received during the application process in response to issues raised by the Council. This has been predominantly in relation to design, but also in respect of ecology, highways, drainage and enhanced planting/landscaping. The amended scheme has also increased the overall number of units from a 148 to a total of 151.

RELEVANT HISTORY

17/3096N - Redevelopment and extension of Crewe Green Roundabout to provide additional traffic lanes and improvements to pedestrian and cyclist facilities, landscaping, and re-contouring of the roundabout, and ancillary works. Approved 5th October 2017.

POLICIES

Cheshire East Local Plan Strategy (CELPS)

LPS 6 Crewe Green
MP1 Presumption in favour of sustainable development
PG1 Overall Development Strategy
PG2 Settlement hierarchy
PG5 Strategic Green Gaps
PG6 Open Countryside
PG7 Spatial Distribution of Development
SD1 Sustainable Development in Cheshire East
SD2 Sustainable Development Principles
IN1 Infrastructure
IN2 Developer Contributions
SC1 Leisure and Recreation
SC2 Indoor and Outdoor Sports Facilities
SC3 Health and wellbeing
SC4 Residential Mix
SC5 Affordable Homes
SE1 Design
SE2 Efficient use of land
SE3 Biodiversity and geodiversity
SE4 The Landscape
SE5 Trees, Hedgerows and Woodland
SE6 Green Infrastructure
SE7 Heritage Assets
SE9 Energy Efficient development
SE12 Pollution, land contamination and land stability
SE13 Flood risk and water management
CO1 Sustainable travel and transport
CO3 Digital connections
CO4 Travel plans and transport assessments

The Cheshire East Local Plan Strategy was formally adopted on 27th July 2017. There are however policies within the legacy Local Plan that still apply and have not yet been replaced. These policies are set out below.

Crewe and Nantwich Replacement Local Plan

BE.1 – Amenity

BE.3 – Access and Parking
BE.4 – Drainage, Utilities and Resources
BE.6 – Development on Potentially Contaminated Land
NE.5 – Nature Conservation and Habitats
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.17 – Pollution Control
NE.20 – Flood Prevention
NE.21 – New Development and Landfill Sites
TRAN.3 – Pedestrians
TRAN.5 – Provision for Cyclists
RT.9 – Footpaths and Bridleways

Other Material Considerations

National Planning Policy Framework (The Framework)
National Planning Practice Guidance
Cheshire East Design Guide

CONSULTATIONS (External to Planning)

United Utilities - No objection subject to surface water drainage condition.

Natural England - No objection.

Housing - No objection.

Flood Risk Manager - No objection, subject to conditions requiring the development to accord with FRA and details of surface water drainage.

Environmental Health - No objection subject to conditions relating to noise mitigation, electric vehicle infrastructure, ultra-low emission boilers and contaminated land.

Education - No objection subject to a financial contribution towards local primary and secondary school and SEN places.

Public Rights of Way – No objection

Head of Strategic Infrastructure – No objection subject to conditions to secure the upgrading of the existing pedestrian crossing and associated pedestrian/cycleway improvements, and a financial contribution towards improvements to Crewe Green Roundabout.

Leisure - No objections subject to conditions and contributions to outdoor sport and financial contribution for health & fitness equipment at Crewe lifestyle Centre.

NHS Cheshire Clinical Commissioning Group - No objection subject to a financial contribution to fund improvements to GP practice infrastructure.

Cheshire Police (Designing Out Crime Officer) - Concerns raised due to potential for anti-social/criminal behaviour as canopy court entrances act as shelters and lack of surveillance of courtyard parking in the southern part of the development.

Cheshire Brine Subsidence Compensation Board - The area has previously been affected by brine subsidence and board recommends that precautions are incorporated within the construction design of the development. (An informative will be attached on the decision notice)

Crewe Town Council - Objects on the following grounds.

- positioning of the playground area is inadequate and not appropriate as too close to the road and far from the highest density of the proposed development.
- development will create unacceptable traffic congestion at an already highly congested point of the highways network
- Insufficient parking provision, which does not meet Cheshire East Local minimum requirements
- Insufficient provision of electric vehicle charge points
- Boundary treatments to allow access through for wildlife (e.g. hedgehogs)
- The communal residential waste bin storage areas are not readily or safely accessible for kerbside waste collection services

The following additional grounds of objection have been made to the application further to re-consultation on the amended proposals.

- Lack of time for consideration of the application (consultation period to below the requisite 21 days)
- The shared waste collection points are impractically far from residences and will lead to localised waste and anti-social issues.
- The play area is inadequate provision for the density of the proposals
- Associated traffic and congestion will adversely impact air quality
- The site does not meet the net gain biodiversity policies and wildlife planning Initiative should be considered and provision for wildlife nesting and habitats should be included (e.g. pollinator and nesting bird infrastructure, wildlife dormancy provision, native planting, fruit trees and shrubs)
- the proposals represent over development and the high density / affordable housing aspect of the proposals are concentrated in one area and should be spread through the development evenly

Crewe Green Parish: Comment as follows.

- Insufficient grounds not to support the application

Haslington Parish Council: Objects as follows.

- Whilst the application site relates to the Cheshire East Local Plan strategic site LPS6 for 150 houses, it is in a very prominent position adjacent to the Green Gap separating urban Crewe from rural Crewe Green and Haslington. Any development on the site needs to minimise the intrusion into the open countryside, but also needs to screen the potential residents from the high levels of noise and fumes associated with the very busy Crewe Green Roundabout and the Haslington Bypass.

- The current development plans do not adequately screen the development from the bypass, a two or three metre soil bund covered in dense shrubs and trees should be required alongside the bypass to create higher levels of amenity to residents than the current proposals, soundproofing of the buildings will not be enough, the gardens also need protection from the noise and fumes.
- The Parish Council notes the submission from the CCG relating to the overstretched local GP Surgeries, we would strongly request funding of £120,000 be allocated to the Haslington Surgery to address the identified shortfall in accommodation.
- To avoid the development becoming isolated from the adjacent community facilities it is essential that additional pedestrian and cycling provision is made, specifically light controlled crossings on Sydney Road, safe walking routes to schools must be provided.
- The height of all properties, including the apartments need to be restricted to 2 stories to reflect the character of residential property in the adjoining communities. 2.5 storey houses and 3 storey apartments are out of character given the developments location on the rural/residential fringe.
- parking provision appears to be below the minimum acceptable standard for developments in Cheshire East.
- Concern is expressed that the Police do not consider the development to be safe and fails to incorporate acceptable features to design out crime.
- The Parish Council would also like comments from the neighbouring landowner at Fields Farm to be taken into consideration, in particular the retention and protection of the existing boundary hedgerows and trees, new access from the development onto FP41 which is a driveway used by HGV's visiting the farm and the request to move the play area to the centre of the site.

OTHER REPRESENTATIONS

Letters have been received from residents, interested parties and ward councillors.

Approximately 108 representation were received objecting to the proposal on the following grounds:

- Cheshire East already meets its housing supply requirements and development of site is not required.
- Development of Green Belt land contrary to local and national policy.
- Development breaches environmental policies of the National Policy Planning Framework 2019, in relation to traffic and congestion, air pollution risks and other wider environmental issues contrary to local plan
- Land was not originally a strategic allocation in the Cheshire East Local Plan but added after further consultation period.
- There are better sites elsewhere such as more suitable brown field sites more central to Crewe.
- Development required to be accompanied by an Environmental Impact Assessment (EIA)
- Environmental impact of development including increase in CO2 emissions will contribute to global warming.
- Erosion of the Green Gap and green space between Haslington and Sydney/Crewe.
- Loss of open countryside detrimental to the character of the surrounding settlements.
- Adverse visual impact.
- Loss of agricultural land.
- Hedgerows and existing trees should remain in place and be protected.

- Loss of hedgerow to facilitate link to public footpath (FP41).
- Damaging to local nature and loss of wildlife habitat.
- Loss of green space detrimental to health and well-being
- Reduction in quality of life.
- Intrusion within Conservation Area.
- Excessive residential development and infilling in the Sydney Road/Crewe Green area.
- Cumulative impact of ongoing and proposed developments along Sydney Road and existing infrastructure unable to cope following developments.
- Local services including Schools, childcare, hospitals, GP services and dentists already overstretched.
- Additional pressure on road infrastructure, especially Crewe Green roundabout.
- Crewe Green roundabout is already inadequate and hazardous in its current format and additional vehicles from the development will exacerbate problems.
- Detrimental to highway safety.
- Increase in traffic and congestion on Sydney Road which is a busy road and Crewe Green Roundabout at peak times.
- Increase in pollution and adverse impact on air quality from increased traffic
 - Submitted Air Quality Assessment is inadequate.
- Inadequate provision for cycling and public transport.
- Shakespeare Drive will become even more of a rat run than currently.
- Increase in speeding traffic on Sydney Road.
- Difficult for pedestrians to safely cross Sydney Road.
- Increased difficulty in ability to safely access Sydney Road from the proposed development, Stephenson Drive, and other properties, particularly when turning right.
- Insufficient on-site car parking proposed resulting in on road parking
- Inadequate turning circles for emergency vehicles and for refuse collection
- No provision of visitor car parking.
- Overdevelopment of a small site. Development crammed and of excessive density.
- Lack of space to provide adequate public open space/greenspace and play space within development.
- Provision of mainly smaller properties out of character with the locality.
- Proposed 3 storey high homes will be an eye sore.
- Housing layout does not meet the required separation distances between dwellings set out by the Councils SPD.
- Inadequate mix of houses with no provision of Bungalows to meet community needs.
- Lack of affordable housing.
- Unclear from layout plans which are the Open Market Houses / Affordable Houses.
- Conflict with affordable Housing Policy as can clearly differentiate between house types proposed for Open Market units and Affordable Homes.
- Play area is sited next to a busy road (Sydney Road) and should be located at the centre of the development.
- Proposed play area of insufficient size to serve a development of 148 dwellings.
- Lack of information as regards future management of public open spaces, which should not be by a management company funded by resident of the development.
- Access should not be provided from play area/POS to public footpath as this is also a private driveway serving Fields Farm used by HGVs and agricultural machinery.
- There should be a walkway /access from the site to the new pedestrian crossing on the A534.
- Adverse impacts from increased use of public footpath because of increased dog walking and anti- social behaviour.

- Development should include green measures such as solar panels, ground, or air source heat pumps.
- Lack of electric vehicle charging points.
- Development does not include measures to address impact of Covid 19
- Overlooking and loss of privacy.

Noise and disturbance from during construction and from new properties.

- Adverse impact of Maw Green Landfill on the local area due to odour/smell, HGV traffic and pollution.

- Exacerbate existing surface water drainage and flooding problems
- Increased strain on sewage and water services and exacerbate existing problem of low water pressure.

- Broadband coverage is weak.

- Disruption/ impact on highway network of construction work

and all construction vehicles during the development should turn left out of the site.

- Noise and disturbance during construction and from new properties.
- Adverse impact from traffic noise and need for mitigation measures
- Reduction in house prices
- Inadequate consultation with failure to inform all effected residents of the proposed development and account not taken of the current exceptional conditions of the Covid 19 pandemic restricting the consultation process

16 further representations have been received from residents following the re-consultation exercise in respect of amended proposals undertaken on 24 May 2021. The grounds of objection of these representations reiterate those summarised above which were made to the original proposals.

A Letter of objection was received Cllr Hazel Faddes set out below;

This planning application has brought forward a lot of strong opinions from nearby residents who realise the daily issues of noise and speeding traffic around Crewe Green roundabout and its surrounding highways.

Cheshire Constabulary do not support the application and I feel their views on the designs possible flaws which could encourage ASB should be noted.

Although the road safety record for five years shows no fatalities, sadly since the report was written two deaths have occurred on the inlet roads to the roundabout. Speeding traffic, and a large number of vehicles make this area quite dangerous. Having a GP surgery, school and shopping facilities within walking distance is of little use if you are worried about walking there safely.

To access one of the bus routes into town one would also have to cross a busy road. while we are trying to encourage more to walk, cycle and use public transport, I feel people living on this proposed development site would tend to use a car for both long and short journeys. both adding to the traffic congestion and high air pollution levels nearer to Crewe's town centre and hindering our bid to be carbon neutral friendly.

Even without this extra traffic the area suffers with the noise and pollution of a steady stream of traffic, to mitigate this noise I would have liked to see trees along the boundary, instead we read that a 1.8m high brick screening wall is proposed for the outer boundary of the site. Not as pleasing to the eye and certainly with none of the air purifying qualities of native trees.

I note in the Arboricultural Impact Assessment we have not received an updated ecological assessment, has this been delivered yet. I have concerns that the bat survey could still be ongoing and a report suggests that some of the established trees on site are conducive for bat colonies.

The hedgerow along the northern border of the site has been identified as meeting the criteria for important biodiversity and I hope as much of this hedgerow as possible could be retained. The application does state that a section of hedgerow on the sites western boundary will require removal for access.

It is a worrying fact that the report states there will be a high Biodiversity habitat loss of 49%, our planning policies and decisions should contribute to and enhance the local environment and provide net gain for diversity. This application does not adhere to that policy.

We read that there are 22 established trees on site 14 of high or medium value, certainly it would be hoped that any development would be finalised with as little loss of trees as possible and any new planting are of high quality species.

It is linkage will be a benefit stated that houses should not be built within a certain distance from the base of established trees, to offset any issues with roots damaging foundations and the lack of light from high species of trees, to my untrained eye some of the proposed houses are to be built very close to the original trees.

CTC state that the positioning of the playground is too close to the road.

Although ANSA states that the main open space is far from ideal, it says it has the advantage that it is linked to PRow FP41 and both will benefit from the linkage. Whilst completely agreeing that the playground is too close to the road and the fact that the open space is far from ideal, I disagree with the latter part of ANSA's statement. I am extremely worried that the PRow, which is the driveway for the residents and workforce of Fields farm, carries heavy tractors and haulage vehicles from the farm to the road. For excited young children this entry from the play area onto the PRow could be dangerous as children do not always look before crossing and would not expect traffic to be on the footpath. There is also a danger that they could wander along the path, which leads to the busy bypass, or cross onto the other PRow which passes a small lake, water always being a temptation to inquisitive children. The linkage access spot from the play park to PRow FP 41 is a short distance from the busy Sydney Road, a danger for those older children out on their own.

For these reasons I feel that the linkage between the play area and the PRow should be avoided, and indeed this makes the statement that the linkage will be a benefit to both obsolete. I feel the developers should consider a playground more in the centre of the development, in view of residents properties and not squashed into a poorly overlooked corner.

I am in favour of the widening of the existing footpath along Sydney Road to 3m wide, for shared pedestrian and cycle use.

I am also pleased that 10 one bedroom properties and 28 two bedroom houses are included in the plans, but worry that those older residents who may buy a property here at a younger age will one day be without the advantage of being able to drive a car and find themselves isolated here. There does not appear to be any consideration for disabled access to properties, I hope this can be addressed.

In all, I cannot give my support to this application and wish to raise my objections, which far outweigh any benefits I can find.

A Letter of objection has also been received from Cllr Suzanne Brookfield which is set out below;

- I consider this site to be over developed. The original plans for this site were fewer units.*
- I have concerns about the access and egress to the site from Sydney Road. Whilst the new Crewe Green roundabout works well in terms of congestion there have been concerns from nearby residents that vehicles leaving the roundabout can be travelling at speed and with an additional junction onto Sydney Road this is a worry.*
- The number of allocated parking spaces per dwelling is inadequate. There is little space for any on street parking if required. In current times there should also be a requirement for more electric car charging points.*
- I would like reassurance that the Public Right of Way is not fettered in any way and am looking into this more. As proposed, this may affect nearby properties.*
- As mentioned by other parties I would ask if there are sufficient medical provisions in the locality as nearby doctor practices/medical centres have in recent months removed patients due to over-subscription.*

In respect of the Re-consultation on the amended proposals Cllr Brookfield has further added the following grounds of objection;

- There has to be concern about the increase of 300 vehicles accessing the nearby highway network.*
- The amount of properties being constructed onto this site is in my opinion excessive, which will result in over development.*
- The volume of development along this corridor has resulted in flooding in other locations in the ward and I would request further detail in order residents are assured there will not be issues in nearby locations.*
- In similar developments concerns are always raised by new occupiers of the play areas. The location of the play park is in my opinion situated too far from the majority of the properties, which will from experience increase the likelihood of anti-social behaviour as seen on other new build estates in the locality. I would also raise questions about the ongoing maintenance of the play area and the suitability/adequacy of the proposed equipment.*
- In respect of the communal waste collection points I consider these to be inadequate and would foresee there to be issues as the properties are occupied.*

OFFICER APPRAISAL

Principle of Development

The application site is an allocated Strategic Site for housing in the CELPS. Site LPS 6 states that the development of land at Crewe Green over the Local Plan Strategy period will be achieved through:

- 1. The delivery of around 150 homes;*
- 2. The provision of land to Cheshire East Council that is necessary to facilitate the delivery of highway improvements at Crewe Green Roundabout. Such improvement to be completed before development of the new homes starts on site; and*
- 3. The incorporation of green infrastructure, to include open space provision, including children's equipped play space/multi use games area.*

The proposal for 151 dwellings is considered to meet the definition of “around 150 new homes” and is therefore considered to be acceptable in principle. The delivery of the site for residential development will contribute towards the Council’s housing land supply and assist in meeting the development requirements of Crewe and the wider Borough. The further requirements of policy LPS 6 are considered further below.

In addition, a small area of the north-western part of the site lies within the Strategic Green Gap between Crewe and Haslington where Policy PG5 aims to;

- Provide long-term protection against coalescence
- Protect the setting and separate identity of settlements; and
- Retain the existing settlement pattern by maintaining the openness of the land

However, this specific part of the site will not contain built form and only accommodate public open space/play equipment and therefore the proposal will accord with the aims of policy PG5. The openness of this small part of the green gap will essentially be retained with no adverse impact on the character of the open countryside.

An EIA Screening Opinion has determined that the proposals are not likely to have significant effects on the environment and consequently the application is not required to be accompanied by an Environmental Statement (EIA).

SOCIAL SUSTAINABILITY

Housing

Affordable Housing

Policy SC5 of the CELPS states that “in developments of 15 or more dwellings (or 0.4 hectares) in the Principal Towns and Key Service Centres at least 30% of all units are to be affordable.” As a full application for 151 dwellings, in order to meet the Council’s Policy on Affordable Housing there is a requirement for 45 dwellings to be provided as affordable units. 29 units should be provided as Affordable rent and 16 units as Intermediate tenure

The current number of those on the Cheshire Homechoice waiting list with Crewe as their first choice is 2021. This can be broken down as below:

How many bedrooms do you require?

First Choice	1	2	3	4	5	5+	Grand Total
Crewe	938	623	307	87	66	0	2021

The applicant's Affordable Housing Statement explains that they are providing the full policy requirement in Affordable housing. The proposal will provide:

Affordable Rent

House Type	No. of bedrooms	Number of units
P230-DG7	2	1
P231-DG7	2	1
SH72-DG7	2	1
SH73-DG7	2	1
SH 50 End (Gable)	2	2
SH 50 Mid	2	2
TARP	1	8
SH 52 Mid	3	1
SH 52 End (Hip)	3	2
SH75 -E-7	1	2
SH80 -E-7	2	2
BCRW56AP	2	6
		Total: 29

Shared Ownership:

House Type	No. of bedrooms	Number of units
BCWL56PI	2	2
BCWL56PE	2	4
SH 54 End (Gable)	4	2
SH 55 End	3	1
SH 52 End (Hip)	3	3
SH 52 Mid	3	4
		Total: 16

The Housing Strategy and Needs Manager is satisfied that the submitted Affordable Housing Statement and the Affordable Housing Plan are meeting the identified housing need. 30% (45) Affordable Units are proposed and are to be split 65% Rented and 35% Intermediate in accordance with Policy SC 5 of the Cheshire East Local Plan. In addition, it is considered that the units are adequately pepper potted across the site.

The affordable housing provision will be secured as part of the S106 agreement.

Residential Mix

Policy SC4 of the CELPS states that new residential development should maintain, provide, or contribute to a mix of housing tenures, types, and sizes to help support the creation of mixed, balanced, and inclusive communities.

The proposed development comprises:

35 x 4 bed units

84 x 3 bed units

20 x 2 bed units

12 x 1 bed units

Taken together with the affordable provision outlined above, the proposed residential mix comprising of detached, semi-detached and apartment units ranging from 1-4-bedroom units is considered to meet the requirements of policy SC4 of the CELPS.

Education

One of the site-specific principles of LPS 6 in the CELPS is “contributions to education and health infrastructure”.

In the case of the original proposal for 148 dwellings (dwelling 2bed+), this is expected to generate:

27 primary children (146 x 0.19) 28 – 1 SEN child

21 secondary children (146 x 0.15) 22 – 1 SEN child

2 SEN children (146 x 0.51 x 0.023%)

CEC education have advised that to meet immediate and long term school capacity needs created by the development of allocated housing sites in the area of Crewe North, expansions have been undertaken at Monks Coppenhall and Hungerford Primary Academy, of an additional 210 places at each school. A further new primary school is proposed to meet the needs in Leighton and whilst part of Crewe North, this falls out of the 2-mile radius of this development.

Although the application site falls within Haslington Primary catchment it is closer in proximity to Hungerford Primary Academy. A financial contribution to primary school places is required towards works forward funded by CEC for the strategic expansion of Hungerford Primary Academy, in anticipation of the development of LPS 6 and other allocated sites.

The development is expected to impact on primary school, secondary school, and SEN places in the locality. Contributions which have been negotiated on other developments are factored into the forecasts both in terms of the increased pupil numbers and the increased capacity at schools in the area. Notwithstanding that an additional 300 secondary school places being provided at Sandbach through expansion, the analyses and forecasting undertaken has identified that a shortfall of secondary school places will remain.

Special Education provision within Cheshire East Council currently has a shortage of places available with at present over 47% of pupils educated outside of the Borough. It is acknowledged that this is an existing concern, however the 2 children expected from the proposed development will exacerbate the shortfall.

To alleviate forecast pressures, the following contributions would be required:

$27 \times £11,919 \times 0.91 = £292,850$
 $21 \times £17,959 \times 0.91 = £343,196$
 $2 \times £50,000 \times 0.91 = £91,000$ (SEN)
Total education contribution: £727,046

Without a secured contribution of £727,046, Children's Services would raise an objection to this application. This position is on the grounds that the proposed development would have a detrimental impact upon local education provision as a direct cause from the development. Without mitigation, the proposal would not comply with LPS 6 in the CELPS.

Healthcare

The NHS Cheshire Clinical Commissioning Group (CCG) advises that the development falls within the following practice boundaries: Millcroft and Earnswood Medical Centres, based in Eagle Bridge Health and Wellbeing Centre and Hungerford Medical Centre.

The NHS CCG's updated consultation response requests a financial contribution being secured to support the development of Hungerford, Millcroft and Earnswood Medical Centres, and their ability to continue to provide the expected level of Primary Care services in Crewe.

In particular improvements have been identified to include the following GP Practice infrastructure;

- Hungerford Medical Centre – internal reconfiguration and extension to maximise use of space, create additional clinical space to enable key services to continue to be delivered. Initial scoping has resulting in indicative costs of £350,000
- Eagle Bridge Health and Wellbeing Centre – conversion of vacant space on the third floor; as a supercentre of Crewe there continues to be mounting pressure on GP Practices to enhance the service offer and with the implementation of the Primary Care Network additional roles scheme; there needs to be a large scale investment to future proof the site. Indicative costings estimate the fit out costs to be £650,000.

Additional growth in patient numbers will add pressures to the GP practices, with an increase in clinical and non-clinical staff required in order to meet these future patient needs. As set out in the CCGs consultation response, Plans have been formulated across NHS Cheshire CCG GP Practices, including for those premises listed above, to identify appropriate provision of extra space to go some way to address capacity issues due to the increasing patient population.

A financial contribution is therefore sought as part of this application, which is based on a calculation consisting of occupancy x number of units in the development x £360. This is based on guidance provided to other CCG areas by NHS Property Services.

Size of Unit	Occupancy Assumptions Based on Size of Unit	Health Need/Sum Requested per unit
1 bed unit	1.4 persons	£504 per 1 bed unit
2 bed unit	2.0 persons	£720 per 2 bed unit
3 bed unit	2.8 persons	£1,008 per 3 bed unit
4 bed unit	3.5 persons	£1,260 per 4 bed unit
5 bed unit	4.8 persons	£1,728 per 5 bed unit

1 bed unit x 10 = £5,040
 2 bed unit x 22 = £15,840
 3 bed unit x 84 = £84,672
 4 bed unit x 35 = £44,100

Total: 151 units

Total: £149,652

As such the CCG requests a contribution to health infrastructure via Section 106 of £149,652. This would comply with policy LPS 6 of the CELPS.

Open Space, Sport and Recreation

The local plan allocation (LPS 6) states that the development of this site should include, “the incorporation of green infrastructure, to include open space provision, including children’s equipped play space/multi-use games area”

Policy SE6 of the CELPS sets out the open space requirements for housing development which are (per dwelling):

- Children’s play space - 20sqm
- Amenity Green Space - 20sqm
- Allotments - 5sqm
- Green Infrastructure connectivity 20sqm

Based on 151 dwellings the minimum requirements consist of green infrastructure connectivity, 5m² (755m² total) growing space/community gardens/allotment and a 40m² (6,040m² total) combined amenity green space and children’s play space.

The layout provides areas of POS, with the largest area (4,400m² total) in the north west corner at the entrance to the site and a small area (700m²) in the centre identified as a pocket park. This falls slightly short of the minimum combined amenity green and children’s play space.

The main open space is located within the widest part of the application site. It is located between the site access road and northern boundary and extends up to the western site boundary with of Sydney Road. As pointed out by the Leisure Officer, although a more central location for this POS and further away from the site access would be preferred, the site is significantly constrained due to its triangular shape which markedly narrows towards the south as well as the reduction in its size to facilitate the Crewe Green Roundabout improvement scheme. As a result, the delivery of around 150 dwellings within this allocated site would not be achievable, if a more centrally located public open space were to be provided.

Although the proposed position of the main area of POS does have the advantage in that it is adjacent to the PROW FP41 to which a link is proposed. Concerns raised by representations in respect to this link to the PROW are addressed in a later section of the report

The Leisure Officer has advised that the amendment to the layout at the entrance to the scheme including the omission of Plot 3 has ensured an improved relationship of dwellings with the main area of POS and increases natural surveillance of this area.

The Leisure Officer considers that the provision of a multi-use games area is not appropriate for this development. A higher quality play facility on this site consisting of a NEAP should be provided and be located within the main area of POS. This needs to comply with Fields in Trust standards for inclusivity and accessibility using resurfaced paths. It should contain 12 items covering all age ranges and enjoy a 30m buffer from the nearest dwelling. Amenity space for informal games should also be catered for.

A play area is proposed to be located within the main POS, and the “pocket park” in the south of the site is proposed to include informal/natural play features to give it a suitable function.

A condition is however recommended requiring details of the design and specification of the play area to ensure the provision of an appropriate NEAP, and to finalise details of features to be provided within the Pocket Park. Details of hard and soft landscaping, including the specification of planting, will be secured by a condition requiring the submission and approval of the landscape scheme for the development.

The Leisure Officer has advised that to fulfil the requirement for growing space under Policy SE6, and in preference to an off-site financial contribution the main POS should incorporate an area for the provision of fruiting trees located near the pumping station. To fulfil the requirement for growing space by Policy SE6. This provision will be secured as part of the approved landscaping scheme for the development.

A condition is also recommended to require the submission and approval of management plan for all areas of POS and landscaping. The provision of a management company to maintain all on site open space will be secured through secured in the S106.

Policies SC1 and SC2 of the Local Plan Strategy provide a clear development plan policy basis to require developments to provide or contribute towards both outdoor and indoor recreation.

In particular Policy SC2 of the CELPS requires major residential developments to contribute, through land assembly and / or financial contributions, to new or improved sports facilities where development will increase demand and / or there is a recognised shortage in the locality that would be exacerbated by the increase in demand arising from the development.

Outdoor Sport

In terms of outdoor sports facilities Policies SE6 and SC2 require appropriate provision of sports facilities. The proposal will increase demand on existing facilities and as such a financial contribution towards off site provision will be required. The financial contribution is required at a rate of £1,000 per family (2+bed) dwelling and £500 per 2+ bed apartment. The funds would

be used in line with the Council's adopted Playing Pitch Strategy and the FA's Local Football Facilities Plan.

Indoor Sports Facilities

The development will increase the need for local indoor leisure provision and as such a financial contribution should be sought towards Crewe Lifestyle Centre being the nearest provision.

The Indoor Built Facility Strategy has identified that for Crewe there should be a focus on improvement of provision as set out in the Strategy. Whilst new developments should not be required to address an existing shortfall of provision, they should ensure that this situation is not worsened by ensuring that it fully addresses its own impact in terms of the additional demand for indoor leisure provision that it directly gives rise to.

Based on the size of the proposed development and participation rates for Cheshire East Council a contribution of £26,650 has been calculated to be necessary to and ensure health and fitness provision will meet increased demand for indoor physical activity.

For the above reasons the proposal is considered to comply with the open space and sport and recreation requirements of LPS 6 and policies SC2 and SE6 of the CELPS.

ENVIRONMENTAL SUSTAINABILITY

Design, Character and Appearance

Policies SD2 and SE1 of the CELPS expect housing developments to achieve Building for Life 12 (BfL12) standard, and that development proposals consider the wider character of a place in addition to that of the site and its immediate context, to ensure that it reinforces the area in which it is located. These principles are also reflected in the CEC Design Guide. BfL12 uses a traffic light system, with the aim of eliminating reds, whilst maximising the number of greens. The Council's Design Officer has undertaken a BfL12 assessment of the application, which is reflected in the commentary below.

1 Connections (subject to satisfactorily addressing the landscaping on southern and northern boundaries via condition)

The existing pedestrian crossing point on Sydney Road which provides a connection to local facilities from the development is to be upgraded to a Toucan design and footway widened in proximity to serve pedestrians/cyclists. In addition, Haslington FP41 lies immediately to the north of the site, which connects with the wider footpath network and the scheme identifies a direct connection from the main area of public open space.

A written commitment has been provided by the applicant to strengthen the landscaping of the southern edge of the site with Crewe Green roundabout. This will include the retention of newly planted hedgerow, associated with the roundabout enlargement, additional wildflower and tree planting within the site and seeking agreement with the Highway authority to establish a naturalised verge between the footway and site boundary. There is also commitment to provide the northern landscape buffer, following similar principles to that adopted for phase 2 of the Shavington Triangle development (18/2492N) Consequently, whilst the landscape detail still

remains to be finalised given the commitment on the part of the applicant, this can be secured by planning condition.

Given the above a green is considered appropriate.

2 Facilities and services – Crewe town centre is within 2km of the site, with the Grand Junction retail park 1.5km away. Employment opportunity exists close by at the Crewe Business Park and along University Way

Whilst no facilities are proposed on site, there are a range of services and amenities within a relatively short distance (10 mins walk time). However, the directness of connections is affected to a degree by the busy nature of Sydney Road and the environment that creates for pedestrians. A pedestrian crossing point will however be required to be upgraded to a Toucan crossing to improve this pedestrian connection. Play provision is provided in the North western corner of the site, with a smaller local space (pocket park) in the southern part of the site.

3 Public transport – The site is less than 2km away from Crewe railway station. There is also a principal bus route on Crewe Green Road, with bus stops nearby, some 200 metres from the site entrance. There are further bus stops on Sydney Road circa 500 metres from the site.

4 Meeting Local Housing requirements – A range of house types from single bed apartments to larger family dwellings is proposed. A range of affordable housing types/tenures is provided across the site and situated in relatively small groupings although the western part of the site has no affordable provision. Whilst bungalows are not proposed, there are apartments and cottage style ground floor apartments within the mix of house types.

Creating a place

5 Character

The layout provides a framework that creates a positive structure of streets and spaces and a distinct hierarchy of street type. It also provides a primarily outward looking development overlooking adjacent roads, public spaces, the countryside, and landscaped edges. Variation in density across the site helps to create areas of different character within the development with the highest density located at the southern end of the development with a greater proportion of apartments and townhouses and lower density across with a mix of house types across the remainder of the development and particularly alongside the Sydney Road frontage. Therefore, the average density at approximately 33 units per hectare across this allocated gateway site is considered appropriate to the local context and character of the site.

An area of bespoke housing has been included on the frontage adjacent to the Sydney Road roundabout occupied by the tallest buildings on the site. The Design Officer considers that the siting, distinctive design approach and presence of these buildings is appropriate for this prominent part of the site. Amendments to the scheme has ensured that the more bespoke treatments for these buildings on the southern part of the site have been used more extensively, particularly to define key points in the site as focal points/areas.

The Design Officer has commented that although the amended scheme has included more tree planting, there are some areas where further tree planting could be achieved, with the right

species selection and tree pit design. Ideally the entrance into the site off Sydney Road should still be strengthened with tree lining of the main POS and in front of plots 1 and 2 if they were set further back from the street. In addition, there are remain a few locations where additional landscaping alongside site boundaries could be provided.

The incorporation of the CEC Design Guide street materials is positive in helping better characterise the street hierarchy, including the sue of the gutter detail up to the raised table. Ideally a gutter detail should extend further into the site, but this requirement can be relaxed here on the basis more street greening is achieved across the site.

The southern square and associated parking courts has been further improved but more soft panting elements could still be introduced into the space and associated courts. The 'flats over garages' grouping at the south of the square has been enhanced, although the Design Officer considers that the parapet design should be amended to reflect that of the key southern frontage plots with a stepped gable parapet.

The Design Officer has advised that the car ports should not be open, and some form of gating that has a degree of transparency should be used. This will be secured through a planning condition.

Despite the enhancements included within amended scheme, this is still considered to merit an amber but could become green with the suggested changes above. Planning conditions are however considered appropriate to secure the necessary improvement to the landscaping scheme and planning, including further refinement of the landscaping in the southern square and to finalise street- scape materials.

6 Working with the site and its context (subject to satisfactorily addressing the landscaping on southern and northern boundaries via condition)

The landscape treatment of the southern and northern edges of the scheme are addressed in point 1 above.

Several trees within the heart of the site are being removed and ground levels altered in the southern part of the site, with the site being raised toward the southern site edge. However cross sections and indicated treatment of levels at the southern edge of the site provides reassurance in terms of landscaping and appearance of the development that will be secured from the Crewe Green Roundabout. Finalised details of the landscape scheme, levels and retention structures will be secured through conditions.

Most existing hedgerows are retained and set within publicly accessible areas. In addition, existing hedgerows and associated trees along the northern site boundary are retained within a naturalised buffer area is shown on the landscape scheme. Details of planting of the buffer area will be finalised through a planning condition requiring the approval of the landscaping scheme for the development.

In addition to properties at the southern part of the site, the amended scheme has included an increase the use of feature glazing and Juliet balconies for house types elsewhere, but ideally there could have been a more considered approach to exploiting the passive opportunities of the site.

A green is awarded here.

7 Creating well defined streets and spaces

Streets are defined by perimeter blocks and improvements to the site layout have strengthened relationships between buildings and street edges. The scheme includes corner turning house types, with active secondary elevations. Spaces are generally overlooked by the fronts of properties, with the scheme being largely outward facing.

The omission of Plot 3 has achieved an improved relationship with the main areas of public open space in the north western part of the site. In addition, Plots 1 and 2 have also been re-configured to better terminate views up the western principal street.

Although the amended layout has included more tree planting there is still scope for a little more street greening, not least on the entrance street. As set out above, this will be achieved through a condition which will require details of the landscaping scheme to be submitted and finalised.

The comments from the Designing Out Crime Officer (Cheshire Police) in respect of making courtyards secure has not unfortunately led to them being gated. The applicant has commented that gating is ineffective and the square itself is well overlooked by the flats. The car ports below plots should however have some form of permeable screen designed into them to ensure their security and a condition is recommended to ensure that a scheme is submitted and approved to ensure that the southern courtyard /parking areas are adequately secured.

Despite the enhancements to the scheme, the Design Officer still considers this criterion to merit an amber but should become green with the suggested changes which will be secured through the recommended conditions.

8 Easy to find your way around

The scheme is very legible being modest in size. The open space and play at the site entrance, help to define the main gateway into the site and the southern pocket space will relate a further focus at the southern end of the site. The use of a more contemporary character range of buildings has been used to identify focal points within the layout further reinforcing the legibility of the development.

The landscaping and function of the southern green space itself has been enhanced, but the detail needs further refinement. Efforts have been made to improve the approach to the southern square/court landscaping which have improved the scheme, although there is still scope to achieve more greening.

The eastern primary street has been designed with more polite surfacing (block does not bitmap) which will help to make it feel more of a social space, but the landscape could be further enhanced. All of this is recommended to be secured through suitable conditions in respect of details of landscaping and surface treatment

9 Streets for all

Although improved, there is potential to further improve tree planting and greening of streets, as discussed in relation to several criteria above. Confirmation on the use of the gutter detail for the first part of the entrance street is positive. Despite the improvements to the southern square, there is still potential for further greening of it and the associated parking courts. This is recommended to be addressed by the planning condition requiring details of the landscaping scheme to be finalised.

10 Car parking

Amendments to the layout have reduced the visual impact of parking throughout the scheme. However, there remains a few locations where more than 4 frontage parking spaces are not broken up by landscaping (plots 52-55; 137-140,39-42 and 23-26), although all are surfaced in block rather than bitmac. Whilst localised, in a couple of locations, it is especially prominent and should really be addressed. The applicant has advised that these issues will be considered in advance of the Committee Meeting, and an update will be provided accordingly.

Furthermore, revisions have improved the dominance of parking within the southern square/courtyard, but the carports should have screens for security and landscape quality could be further enhanced, as set out above.

The Design Officer has advised that despite these enhancements, this is still considered to merit an amber but could become green with the suggested changes.

11 Public and private space (subject to satisfactorily addressing these issues via conditions)

Public open space, including play provision is provided in the NW corner of the site. Housing is now better designed to address this area, and the omission of plot 3 has increased open space and provided less rear garden against its edge. Plots 1 and 2 have also been re-configured to address townscape issues.

The pocket space in the south of the site is going to include informal/natural play features to give it a suitable function, but the detail needs to be finalised. Further street planting has been included but more could be achieved. As stated above this will be secured by a landscape condition.

Landscape management of open spaces is confirmed as being in perpetuity by a management company with arrangements to be secured through a Section 106 Agreement.

12 External storage and amenity space

Private garden spaces are now provided for FOGs. Juliet balconies rather than walk on have been provided for these plots. Whilst access to private space for these plots is not ideal, it is very localised. All other plots have direct access to outdoor private space.

A plan has now been provided showing bin and cycle storage areas and majority of gardens have sufficient space for external storage. Although the bin collection point adjacent to plot 3 needs review as it may be compromising potential for some greening of the southern square.

Conditions are recommended requiring full details to be submitted and approved of bin and cycle storage arrangements.

Summary

There have been numerous amendments to the proposal which have addressed issues that have been raised with the applicant during the application.

Significant improvements have been made to the layout and design of the scheme, resulting in most criteria achieving green in the assessment, albeit some areas have been identified where further improvement are could be secured. In comparison to the initially submitted scheme, a significant enhancement in design quality has been achieved, better reflecting the standards set out in the Design Guide.

Overall, the design of the scheme has therefore developed to a point where it is acceptable, when considered against the requirements of policies SD2 and SE1 of the CELPS, and the CEC Design Guide.

Trees and Landscape

Policy LPS6 provides the policy background for this location and states that any development should provide high quality design on this gateway to Crewe; that the development should have regard to the need to conserve the character and appearance of the conservation area (which is located to the south of the site), including its setting; that the site should incorporate green infrastructure and reflect the Green Infrastructure Plan for Crewe: that any development should include provision of planting buffering along the northern boundary, amongst other principles.

The site has a limited number of trees on the site. Several trees within site will require removal to accommodate the access/internal road infrastructure and dwellings, while existing trees and boundary hedges are being retained. Furthermore existing trees and the hedgerow along the northern boundary of the site are important as they provide a buffer to the countryside beyond and protect views into the site from the public footpaths (FP41 to the north). A landscape buffer area is indicated to be provided along the northern site boundary to incorporate the existing hedgerow and trees and augmented with additional planting. This buffer area will remain outside domestic garden areas.

The Council's Landscape Officer recognises that as part of the amended scheme a number of high canopy trees are proposed along the northern boundary along together with a number of smaller sized specimens that may mature into high canopy trees. However, it is considered that there is still scope to increase the percentage and number of high canopy trees along the northern and western boundaries and across the site to establish a satisfactory landscape hierarchy across the site.

While there are trees within the remainder of the site these are made up of smaller species or columnar or fastigate species, many of which are located within the curtilages of dwellings. The location of tree planting is considered irregular and while a small number of trees are located along each route within the scheme these do not deliver sufficient visual impact as they are widely separated and of small stature and species. It is however accepted that this is

mainly due to constraints of this site, but there are a number of locations that could accommodate larger tree species.

The applicant has agreed to strengthen the landscaping of the southern edge of the site with Crewe Green roundabout. This will include the retention of newly planted hedgerow associated with the roundabout enlargement, as well as additional wildflower and tree planting within the site and seeking agreement with the Highway authority to establish a naturalised verge between the footway and southern site boundary.

It is therefore recommended that a condition be imposed to ensure that landscape scheme for the development secures additional boundary planting, along with tree planting within the site as also referred to by the Design officer's assessment of the scheme.

Therefore, on this basis no significant landscape impacts will result from the development, and subject to landscape conditions, the proposal is considered to comply with policy SE4 of the CELPS.

Heritage

Crewe Green Conservation Area lies to the south east of the application site which includes several listed buildings. A Heritage Statement has been submitted in support the application to address the impact of the scheme on heritage assets.

The significance of Crewe Green Conservation and listed buildings has the potential to be affected by the development. Although the application site falls outside of the Conservation Area boundary and is physically remote from it, it nevertheless provides a context for the proposed development.

However, The narrowest point between the Conservation Area boundary and the site southern boundary measures approximately 80 metres. The nearest building to the site within the Conservation Area (Rose Tree Cottage) is over 120 metres from the application site. In addition, there is limited intervisibility between the Conservation Area and the application site due to the physical separation and intervening vegetation which includes mature trees and high hedgerows along Crewe Road and in the front and rear gardens of properties. The clearest views of the application site are from the footpath at western end of the Conservation Area footpath close to Crewe Green Roundabout.

The Heritage Statement concludes that whilst the proposals will bring built development closer to the conservation area, restricted visual impact ensures that it would not harm the character and appearance or significance of the designated area. Crewe Green will continue to be separated from built development by open land and the sense of it being a separate hamlet will be sustained. In addition, listed buildings within the Conservation Area are sufficiently distanced from the proposed Development to ensure that the experience of them and the ability to appreciate their significance will be unaffected.

The Council's Conservation Officer concurs with the Heritage Statement assessment of the impact of the scheme on the significance and setting of the Crewe Green Conservation Area and nearby listed buildings. It is therefore concluded that there will be no harm to designated heritage assets arising from the proposed development.

Ecology

There are various ecology matters to consider. These are broken down into the following subsections and assessed accordingly. Additional survey information and clarification in respect of ecological issues has been provided during the course of the application.

Designated Sites

The submitted ecological assessment does not anticipate the proposed development having any impacts upon designated sites.

The application site falls within Natural England's SSSI impact risk zones for residential developments of over 50 units. Natural England have been consulted on this application and has not raised any objections in respect of statutory designated sites.

Trees with bat roost potential

A number of trees on site were identified as having bat roost potential. Although the proposals will result in the removal some trees these were all found to be of low bat roost potential. The Council's Ecologist therefore advises that roosting bats are not reasonably likely to be directly affected by the proposed development. The submitted ecological assessment includes recommendations for precautionary measures for the felling of trees with low bat roost potential.

Lighting

Additional lighting associated with this proposed development could however have a localised adverse impact upon foraging and commuting bats. A condition is recommended requiring external lighting to Bat Conservation Trust Guidance Note 08/18 (Bats and Artificial Lighting in the UK) and to be agreed with the LPA.

Nesting Birds

A standard planning condition is recommended to protect nesting birds during the nesting season

Hedgerows

Hedgerows are a priority habitat and hence a material consideration. In addition, the species rich hedgerow along the northern hedgerow has been identified by the previously submitted ecological assessment as potentially being Important under the Hedgerow Regulations.

A revised plan has been submitted showing the extent of hedgerow removed. This includes the removal of a length of species rich hedgerow in the north of the site. The Councils Ecologist advises that the revised biodiversity metric (as discussed below) indicates the loss of 0.42 hedgerow units.

Where the loss of hedgerows is unavoidable, the applicant has indicated that compensatory hedgerow works would be provided at an off-site location as part of the proposed Biodiversity Net Gain works addressed below.

Amphibians, reptiles and badger

The Council's Ecologist has advised that these species groups are not reasonably likely to be affected by the proposed development. The submitted ecological assessment includes a suite of reasonable avoidance measures to minimise the risk to badgers during the construction phase.

Hedgehog

Hedgehogs are a priority species and hence a material consideration. This species is known to occur in the broad locality of the application site and so may possibly occur on the application site on at least a transitory basis. To minimise the impact on this species it is recommended a condition is imposed to secure the incorporation of features for hedgehogs. In addition, the reasonable avoidance measures proposed for badger would also assist in minimising the risk posed to hedgehog during site clearance and construction works.

Biodiversity net gain

Local Plan Policy SE 3(5) requires all developments to aim to positively contribute to the conservation of biodiversity. In order to assess the losses and gains for Biodiversity resulting from the proposed development of the site the applicant has undertaken and submitted an assessment using the Defra biodiversity 'metric'.

The submitted revised metric (As agreed with Cheshire Wildlife Trust) shows that the proposed development would result in a net loss of biodiversity amounting to -5.91 units (-56.78%).

The applicant has been in negotiations with Cheshire Wildlife Trust to deliver compensatory habitat creation works at an offsite location. The compensatory habitat creation provided by the Trust will be sufficient to deliver a notable net gain for biodiversity. An outline of the proposed offsite habitat creation works is required to be agreed with the Council's Ecologist.

A S106 agreement will secure the submission of detailed proposals for the habitat creation works, their delivery and long-term management.

Ecological enhancement

These proposals provide an opportunity to incorporate features to increase the diversity value of the final development in accordance with Local Plan Policy SE 3. A condition is recommended for the submission of an ecological enhancement strategy to include the provision of features for nesting birds including house sparrow and roosting bats, gaps in garden fences to facilitate the movement of hedgehogs and brash/deadwood piles.

Conditions

In summary, the Councils raises no objection to the development and the following conditions are recommended:

- Submission of bat friendly lighting scheme
- Safeguarding of nesting birds
- Development to proceed in accordance with measures to safeguard badgers, trees with bat roost potential as detailed in the submitted Ecological Assessment Version 2 prepared by TEP dated 13/11/2020.
- Submission of ecological enhancement strategy (bat and bird boxes etc).

A Planning S106 obligation is also required to secure off-site Biodiversity Net Gain works.

Amenity

Policy BE.1 of the Local Plan advises that new development should not be permitted if it is deemed to have a detrimental impact upon neighbouring amenity in terms of overlooking, visual intrusion or noise and disturbance Policy SE1 of the CELPS further states that development should ensure an appropriate level of privacy for new and existing residential properties.

The Crewe and Nantwich Supplementary Planning Document (SPD) relating to new residential development states that to maintain an adequate standard of privacy and amenity between residential properties interface distances should be achieved of 21 metres between principal elevations, and 13.5 metres between a non-principal and principal elevations. However, the CEC Design Guide states that separation distances should be guide rather than a hard and fast rule. The Design Guide does however acknowledge that the distance between rear facing habitable room windows should not drop below 21m. 18m front to front will also provide a good level of privacy, but if this applied too rigidly it will lead to uniformity and limit the potential to create strong street scenes and variety, and so this distance could go down as low as 12m in some cases.

Interface distances of at least 37m will be achieved between elevations of existing residential properties which either front or back onto opposite side of Sydney Road with proposed units on the western and southern frontages of the development. In addition, Fields Farm is located about 100m to the north of the northern site boundary.

These relationships with the nearest existing dwellings are considered to result in acceptable standards of amenity for existing and proposed residents having regard to the distance guidelines set out above.

In consideration of amenity for future occupiers of the proposed development, the layout adheres to, or closely adheres with, the recommended separation standards within CEC Design Guide to ensure the future occupiers of the proposed development are not detrimentally impacted in terms of loss of light, or privacy, or an overbearing impact from each other.

Noise

The applicant has submitted an acoustic report which considers the impact of noise on the development from nearby roads including the Haslington bypass (A534), the Crewe Green Roundabout and Sydney Road in accordance with BS8233:2014 Guidance on Sound Insulation and Noise Reduction for Buildings Department of Transport (1988) Calculation of Road Traffic Noise (CRTN). This is an agreed methodology for assessing noise of this nature

The report also recommends noise mitigation measures designed to achieve BS8233: 2014 and WHO guidelines; to ensure that future occupants of the properties are not adversely affected by transportation noise sources. The Council's Environmental Health Officer has accepted the acoustic reports methodology, conclusion, and recommendations.

A condition is recommended to ensure the development is implemented in accordance with the recommendations of the acoustic report which requires the provision of noise barriers as specified for a small number of plots, together with the specification of glazing and ventilation for dwellings as set out. The proposals accord with Policy SE12 of the CELPS as satisfactory mitigation measures can be achieved to minimise and mitigate the effects of traffic noise.

A number representations raise concerns about the impact of the development upon during the construction phase in terms of noise, as well as dust etc. Impacts during the construction phase are a temporary manifestation of the development process, and as such will be temporary in nature. A residential development itself does not raise any significant concerns in this regard and it is considered that a construction environmental management plan (CEMP) can ensure that any such impacts upon existing development are minimised. The submission and implementation of a CEMP can be secured by condition.

Subject to the conditions referred to above, the proposal will comply with policy SE12 of the CELPS

Air Quality

CELPS Policy SE12 states that the Council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality. This is in accordance with paragraph 181 of the NPPF and the Government's Air Quality Strategy.

When assessing the impact of a development on local air quality, it is necessary to have regard to (amongst other things) the Council's Air Quality Strategy, the Air Quality Action Plan, Local Monitoring Data and the EPUK Guidance "Land Use Planning & Development Control: Planning for Air Quality May 2017).

Air quality impacts have been considered within the air quality assessment submitted in support of the application. The report considers whether the development will result in increased exposure to airborne pollutants, particularly as a result of additional traffic and changes to traffic flows. The assessment uses ADMS Roads to model NO₂, PM₁₀ and PM_{2.5} impacts from additional traffic associated with this development and the cumulative impact of committed development within the area.

A number of modelled scenarios have been considered within the assessment. These were:

- Scenario 1 – 2020 Baseline
- Scenario 2 – 2024 Baseline (with included committed developments)
- Scenario 3 – 2024 Baseline (with included committed developments) + Proposed Developments

The assessment concludes that the impact of the future development on the chosen receptors will be **negligible** with regards to NO₂, PM₁₀ and PM_{2.5} concentrations. None of the receptors are predicted to experience greater than a 1% increase relative to the AQAL. A sensitivity analysis has also been undertaken which makes the assumption that real world driving emissions will not reduce as much as predicted over the coming years. This can be taken as a "worst case scenario" assessment and the results of this also show that the impacts on the receptors are predicted to be **negligible**.

However, Crewe has three Air Quality Management Areas, and as such the cumulative impact of developments in the area is likely to make the situation worse, unless managed.

Poor air quality is detrimental to the health and wellbeing of the public and also has a negative impact on the quality of life for sensitive individuals. It is therefore considered appropriate that mitigation should be sought in the form of direct measures to reduce the adverse air quality impact.

A development of this scale and duration would be expected to have an adequate demolition, construction and track out dust control plan implemented to protect sensitive receptors from impacts during this stage of the proposal and this is mentioned within the assessment as a form of mitigation.

Environmental Health recommend conditions are imposed to secure the provision of satisfactory Electric Vehicle Infrastructure within the development and the provision of ultra-low emission boilers to ensure that local air quality is not adversely impacted for existing and future residents.

Highways

Access

The proposed access serving the development from Sydney Road is a priority junction arrangement with a carriageway width of 5.5m. The Council's Highway Officer advises that this is of an acceptable standard to serve 151 units. There is a 2.0m footway on the northern side of the access and a 3.0m ped/cycle path on the southern side that links with the existing facility at the pedestrian crossing.

The Highway Officer considers that the use of a priority junction to serve the development is a satisfactory junction arrangement and there is no requirement for a right turn lane to be provided. A capacity assessment of the junction has been undertaken in both 2021 and 2024 and it is shown to operate comfortably within capacity.

Development Impact

Policy LPS 6 requires that the improvements to Crewe Green roundabout (CGR) be completed prior to any work commencing on site. The Highway Officer advises that as part of the Council's design work for CGR the housing allocation for the site was included in committed developments to ensure that adequate capacity was provided in the roundabout design.

The improvement work at CGR has been completed and as such the Highway Officer has advised that the development can be satisfactorily accommodated. The site will generate only modest trip generation in the peak hour periods with 74 two-way am trips and 70 two-way pm trips, the distribution of these trips will be mainly south toward along Sydney Road to the CGR.

Design

A single point of access is acceptable to serve this level of development (151 units) and there is no requirement for a secondary access to be provided. The internal road layout has a looped main access road with the secondary roads connected in a similar nature. This design is promoted in regard to highway policy as it provides connectivity within the site.

The level of car parking provision for the units proposed is in accordance with CEC standards.

Accessibility

It is important that developments are readily accessible to non-car modes and measures are put in place to promote sustainable trips. It is proposed to provide a new 3m shared pedestrian/cycle track on the site frontage that links to the existing facilities at CGR, which is welcomed. However, the Highway Officer advises that the existing zebra crossing also needs to be upgraded to a Toucan Crossing to promote cycle trips to the site. It would also provide a safer pedestrian route for residents to access the public transport services that operate along the A534 Crewe Road.

Development Contribution

The Strategic Highway Manager has requested a financial contribution of £384,800 towards the Crewe Green Roundabout improvement scheme under the provisions of Policy LPS6. This is essentially on the basis that the Council has implemented and forward funded the CGR Improvement Scheme and the development of this site (LPS 6) has relied upon the capacity improvements at CGR being implemented to enable it to be acceptable in highway terms given the high levels of congestion previously.

However it is not considered that the requested contribution to the completed CGR scheme is justifiable and CIL compliant.

CELPs Policy LPS 6 states that the development of Crewe Green over the plan period will be achieved by...." the provision of land to [CEC] that is necessary to facilitate the delivery of highways improvements at Crewe Green Roundabout. Such improvements to be completed before development of the new homes starts on site". It was always envisaged that the land transfer would occur before the development, as reflected in the policy.

In addition, site specific principles of LPS 6 includes:

- (b) "the development of this site will assist in the facilitation and delivery of highway improvements at Crewe Green roundabout".
- (h) "the development will be expected contributions to education provision and health infrastructure.

The supporting text of policy LPS 6 (at paragraph 15.106) states that "funding sources for improvements to the Crewe Green roundabout are a Local Growth Fund Grant and third-party developer contributions secured by the council". In comparison, Policy LPS 7 (Sydney Road, Crewe) expressly references expected contributions to highway improvements at Crewe Green Roundabout.

As a result, Policy LPS 6 provides no justification for the requested contribution (£384,800). Paragraph 15.106 is supporting text, not policy and has to be read in context. The key context

is the requirement for the provision of land, which has been provided to facilitate the CGR improvement. The land Transfer documents expressly acknowledge that CEC's purchase of the land is for the purpose of completing the defined highways works and using it as a roundabout and associated highways land.

Summary

The proposed access is of a suitable design to serve the 151 units proposed and has been assessed regarding capacity to ensure that it can operate satisfactorily. The proposed internal road layout conforms with CEC design standards and provides internal connectivity within the site.

The proposed accessibility improvements to provide a pedestrian/cycleway on the site frontage and the crossing upgrade to a Toucan on Sydney Road will be secured by conditions and be subject to a S278 Agreement

The proposal therefore raises no significant highway safety or traffic generation issues, in accordance with policy BE.3 of the CNRLP.

Public Rights of Way

It is proposed that pedestrian routes running through the open space connect with the existing Public Right of Way FP41 which runs along the private access road to Fields Farm adjacent to the northern site boundary.

No objections are raised by the Council's Public Rights of Way Officer who stresses the benefits of linking development to the footpath network. In particular attention is drawn to the National Planning Policy Framework (para 98) which states that "planning policies and decisions should protect and enhance public rights of way and access including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails"

Concerns have been raised, including the proximity of the proposed NEAP to the connection to FP41 from the POS with the potential risk of young children wandering onto the PROW. However, the detailed design of the NEAP will incorporate perimeter fencing and gates.

It is not considered that the increased use of this public right of way would result in any unacceptable safety issues. Particularly as it is not uncommon for public footpaths to run along private tracks, such as in this case, which carries limited farm and domestic traffic associated with Fields Farm. Given the nature and low level of vehicular movements along the track, the Council's Highway officer has also advised that the footpath connection to the site and likely use of FP41 would not pose a highway safety problem.

There is also no evidence that the increased use of the FP41 by residents of the development, facilitated by the proposed link, would result in increased anti-social behaviour within the locality.

Flood Risk/ Drainage

The site is situated within Flood Zone 1, which is deemed to have a low probability of flooding. A site specific Flood Risk Assessment (FRA) supports the application and The Council's Flood Risk Officer (LLFA) considers this satisfactorily demonstrates that the proposed development would not be subject to fluvial flooding, and would not increase the risk of flooding elsewhere.

The Flood Risk Officer has raised no objection in principle to the proposed development and indicated drainage arrangements. It is however noted that an existing Land Drain within the site boundary and alterations to this existing culvert will be subject to a Land Drainage Consent application.

A condition is recommended requiring that full details of the surface water drainage scheme are submitted and approved prior to the commencement of development. Such details will need to include the specification, precise location and depth of the proposed attenuation tank located below the main area of public open space.

In summary, the Councils Flood Risk Team (LLFA) and United Utilities have not raised objections to the indicative drainage arrangements for the site, subject to a condition securing details of its detailed design. It is considered that the drainage system will satisfactorily address the development, without resulting in flooding within the locality or elsewhere because of surface water discharge.

The application proposals are therefore deemed to adhere with Policy SE13 of the CELPS.

ECONOMIC SUSTAINABILITY

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

OTHER MATTERS

Material planning considerations raised by representations have been considered by the relevant specialist officers of the Council, and in the preceding text. Other issues are addressed below.

COVID-19

Representations consider that the development should be designed to take account of issues arising from the COVID-19 pandemic. However, National planning policy has not been changed in the light of COVID19. The Government's focus has been to introduce greater planning flexibilities through changes to permitted development rules and the Use Classes Order so buildings and changes of use can take place without the need for a planning application. The Government has also made changes to enable planning decision making and consultation to continue. It is therefore considered that CELPS policies are generally well placed to respond to these challenges in terms of good placemaking and the need to create quality homes and neighbourhoods, amongst other things.

Consultation

Representations have raised concerns that inadequate consultation has been undertaken in respect of the application (20/3762N) and particularly during the pandemic. However, the planning application notification process is a statutory led process, with the requirements stated in the Development Management Procedure Order. The procedures governing the publicity of planning applications are also set out in the Council's Statement of Community Involvement, and the Council has complied with these regulations and has exceeded them in this case

A further round of publicity concerning amendments to this planning application was undertaken prior to the Committee meeting for which there is no Statutory requirement and is therefore entirely at the Council's discretion. In view of the changes to the description of the development and also the additional information which had been submitted in support of the application, reasonable and proportionate neighbour re-notification and re-consultation of relevant consultees was undertaken.

S106 HEADS OF TERMS

Further to the comments above, a s106 agreement will be required to secure:

- 30% affordable housing
- Off-site habitat creation and contribution
- Open space provision and management
- Education contributions of:
 - £292,850 (primary)
 - £343,196 (secondary)
 - £91,000 (SEN)
 - Total - £727,046
- Indoor sports contribution of £26,650
- Recreation and outdoor sport contribution
- Healthcare contribution of £149,652

CIL regulations

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

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

The provision of affordable housing, off-site ecological mitigation, indoor and outdoor sport (financial) mitigation, education (financial) and healthcare (financial) mitigation are all necessary, fair and reasonable to provide a sustainable form of development, to contribute towards sustainable, inclusive and mixed communities and to comply with local and national planning policy.

The development would result in increased demand for primary school, secondary school and SEN places within the catchment area. In order to increase the capacity of the schools which would support the proposed development, a contribution towards primary, secondary and SEN school education is required based upon the number of units applied for. This is considered to be necessary and fair and reasonable in relation to the development.

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

CONCLUSION

The principle of residential development on the site has been established through its allocation within the Cheshire East Local Plan Strategy (CELPS) under Policy LPS 6 (Crewe Green). Furthermore, the proposal for 151 dwellings is considered to meet the definition of “around 150 new homes” as set out under LPS 6. Although the north western corner of the site will be located within the Strategic Green Gap, this will only accommodate POS and consequently maintain its openness in accordance with the aims of CELPS Policy PG5.

The proposal provides the required amount of affordable housing with an appropriate mix of housing. The proposal achieves an appropriately designed residential development and its detailed design and layout accords with the overall principles for the development of the site and the CEC Design Guide. It achieves an acceptable relationship with the both character of the locality, without material harm to neighbouring residential amenity, and would provide sufficient amenity for the new occupants.

The proposals would not adversely affect the significance of heritage assets including the Crewe Green Conservation Area and nearby listed buildings nearby

The proposed accessed arrangement for the development will not adversely affect highway safety or result in traffic management issues on the local highway network.

Appropriate public open space including a Neighbourhood Equipped Area for Play (NEAP) will be provided.

Tree and hedgerow losses have been accepted and would be mitigated in the proposed landscaping of the site and through off-site habitat creation to achieve biodiversity net gain.

The impact on Air quality arising from the proposals and also the impact on the development from traffic noise can be satisfactorily mitigated

To satisfactorily address the impact on local services/facilities, contributions to education, healthcare provision and indoor/outdoor sport will be secured through a S106 agreement.

On this basis, the proposal is for sustainable development which would bring environmental, economic and social benefits and is therefore considered to be acceptable in the context of the relevant policies of the adopted Cheshire East Local Plan Strategy, the Borough of Crewe and Nantwich Local Plan, and advice contained within the NPPF.

RECOMMENDATION

APPROVE, Subject to conditions and the prior completion of a S106 Agreement to secure the following:

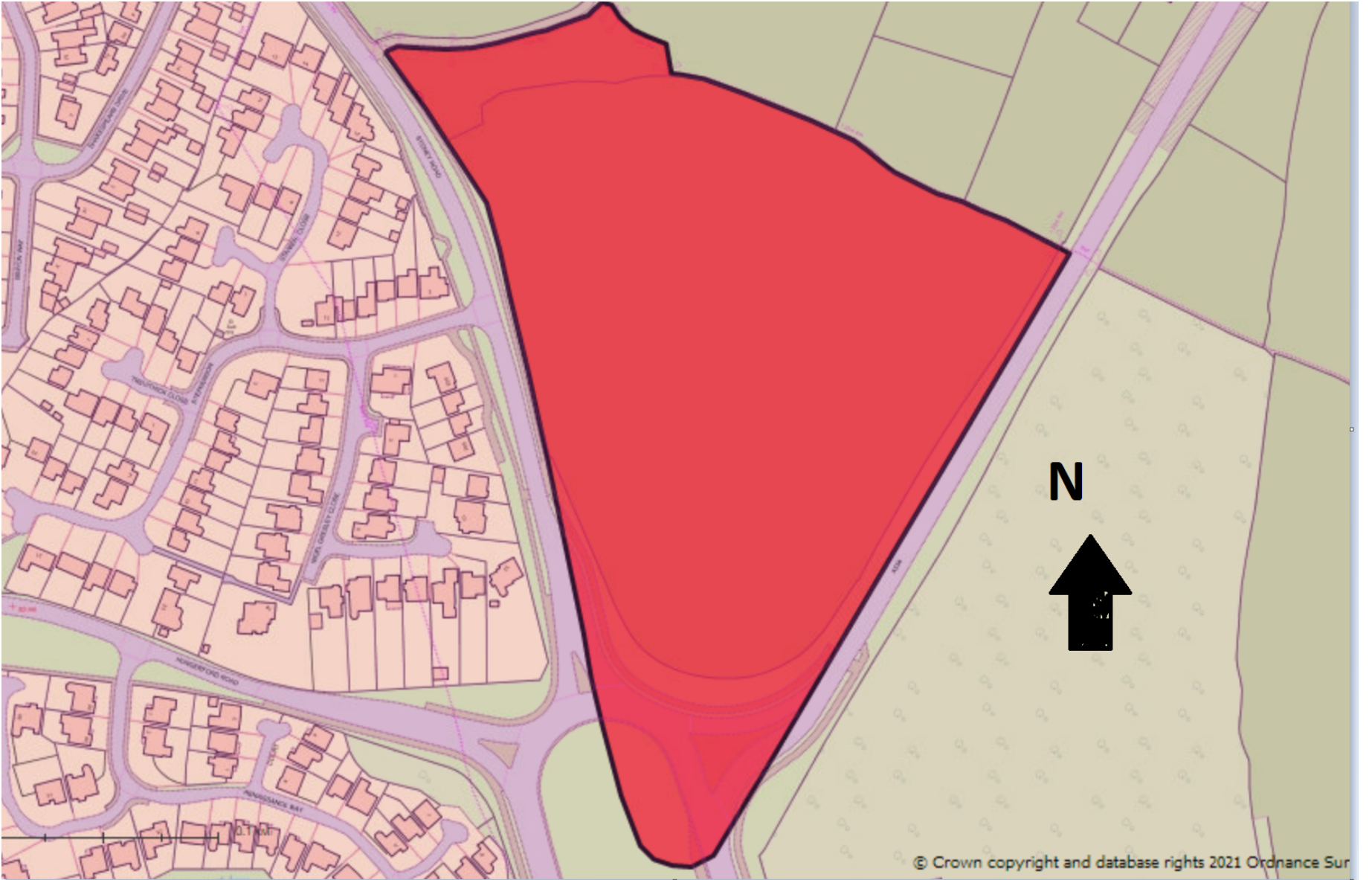
	Requirement	Triggers
Affordable Housing	30% of total dwellings to be prided (65% Affordable Rent / 35% Intermediate)	No more than 80% open market occupied prior to affordable provision within each phase. (dependent on agreement of Affordable Housing Statement)
Biodiversity Net Gain - Off site Ecological Mitigation	Committed sum toward off-site habitat creation to be delivered in conjunction with a third party. <ul style="list-style-type: none"> - To offset the 5.91 habitat units. - To offset the 0.42 hedgerow units. 	Prior to commencement
Open Space	Management Scheme for POS, play area and landscaped areas Provision of enhanced LEAP and POS	Prior to occupation Prior to the occupation of no more than 50 % of the dwellings
Indoor Sport	£26,650 towards Crewe Lifestyle Centre	Prior to commencement
Recreation & Outdoor Sports Contribution	£1,000 per family (2+bed) dwelling and £500 per 2+ bed apartment.	Prior to commencement
Education	Total - £699,856 Primary - £282,003 towards the expansion at Hungerford Academy. Secondary - £326,853 towards mitigation measure as local schools are forecast to be cumulatively oversubscribed SEN £91,000 - Due to significant shortage of SEN	50% Prior to first occupation 50% at occupation of 75 th dwelling

	placements across the Borough.	
Healthcare	£146,664 towards the cost of providing a new healthcare facility(s) and/or the improvement/upgrading of an existing healthcare facility.	50% Prior to first occupation 50% at occupation of 75 th dwelling

1. Commencement of development (3 years)
2. Development in accordance with approved plans
3. Details of materials and finishes
4. Details of Surfacing materials
5. Details of Levels
6. Submission and approval of Landscaping scheme
7. Implementation of landscaping scheme
8. Design detail, specification and implementation of play area
9. Submission of Landscape Management Plan
10. Details of Boundary treatment and retaining structures
11. Tree Protection
12. Details of lighting – minimise impact on bats
13. Safeguarding of nesting birds
14. Development in accordance with Ecological Assessment Version 2
Submission of strategy to secure features to enhance biodiversity
15. Details of surface water drainage scheme to be submitted, approved and implemented
16. Development in accordance with Flood Risk Assessment (FRA)
17. Provision of Toucan crossing
18. Implementation improvements to cycleway/footways
19. Provision of Electric Vehicle infrastructure
20. Provision of Ultra Low Emission Boilers
21. Contaminated Land – Remedial scheme to be carried out in accordance with Enabling Works Remediation Strategy
22. Contaminated land – works to stop if any unexpected contamination is discovered on site
23. Contaminated land - imported soil
24. Implementation of noise mitigation
25. Submission, approval, and implementation of a Construction Environmental Management Plan (CEMP)
26. Details of cycle storage
27. Details of Bin Stores
28. Detailed scheme to secure southern parking courts
29. Removal of permitted development rights (Part 1 Classes A-E)

In order to give proper effect to the Strategic Planning Board's intent and without changing the substance of its decision, authority is delegated to the Head of Planning in

consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice.



This page is intentionally left blank

Application No: 20/4976M

Location: HOLLY TREE HOUSE, PEPPER STREET, CHELFORD,
MACCLESFIELD, SK11 9BE

Proposal: Proposed development of a Retirement Care Community (Class C2) involving the demolition of existing dwelling and outbuildings, retained single point of vehicular access, retained tennis court, fishing/boating lake, Japanese Water Garden, secret/sensory garden, with new allotments, bowling/feature greenspace and woodland walks; construction of a 60 bed registered care home with isolation capability; 72 no. assisted living extra care 1, 2 and 3 bed apartments; a village centre hub building comprising health and wellness and communal facilities, integrated satellite community healthcare (GP) clinic and 5 no. 2 bed and 9 no. 1 bed close care suites and health and wellness; associated parking (including electric car share and community minibus), bin storage, pumping station, electricity sub-station, means of access and off-site pedestrian footpath link along Pepper Street, highway improvements and biodiversity net gain.

Applicant: Mr David Hughes

Expiry Date: 15-Oct-2021

SUMMARY

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The proposals would make a significant contribution towards specialist older persons housing provision in the area. However, the weight afforded to the need is tempered by the fact that the need for the care home element of the development proposals, is not considered 'proven' based on consultation responses and evidence provided by the Council's Adult Social Care Team and the NHS CCG. In addition, several flaws within the submitted 'Care Needs Assessment' submitted by the applicant have been highlighted by the NHS CCG. The weight therefore afforded to the 'need' for the accommodation proposed is categorised as moderate to significant.

Significant weight is given to the social benefits derived from the care village model. Having the various stages of care being provided at one site which includes a variety of services and amenities, potentially allowing couples to live together on site who need differing levels of care, represents a notable health and well-being benefit.

Moderate weight is afforded economic benefits with regards to the full-time equivalent job creation, the short-term jobs that would be created during construction period and localised spends in the area. This is afforded moderate weight given that a number of services and amenities would be provided on site and as such, there would be less need for residents, staff and visitors to visit the local services and amenities nearby.

Moderate weight is attributed to the sequential test which sets out why no other sites are sequentially preferable for the development proposed. This is afforded moderate weight as the test has not included the Principal Town of Macclesfield within its search criteria. Macclesfield is the main town in the north of Cheshire East where the development plan seeks to direct 'significant development'. In addition, it has been highlighted that of the type of accommodation proposed, the need within Cheshire East is mostly 'extra care'. The test has not considered much smaller sites which maybe sequentially preferable that could accommodate development to meet the specific, specialist accommodation needed in Cheshire East.

With regards to harm, substantial weight should be given to the harm to the Green Belt. Furthermore, it is deemed that the development would result in a substantial harmful impact upon the openness of the Green Belt. There would also be significant adverse effects on the Green Belt purpose of safeguarding the countryside from encroachment.

Significant weight is attributed to the harm that would be caused to the intrinsic character and beauty of the Open Countryside and the design harm that would be created by introducing a large volume of development in this rural location which impacts the character and appearance of the area.

Significant weight is attributed to the ecology harm that would be created due to the loss of a bat roost and the risks posed in relation to killing or injuring Great Crested Newts present on site.

Although mitigation is proposed, there are no overriding reasons in approving the application proposals and therefore the development is deemed contrary to the Habitat regulations.

Moderate weight is afforded to the lack of affordable housing provision and health and open space contributions to off-set the impacts of the development proposed. This is afforded moderate weight because a submitted viability appraisal, which has been externally examined and found to be largely correct, demonstrates that such provisions cannot be afforded.

Amenity harm for the future occupiers is also afforded moderate weight. Although the relationship between built form and principal windows would breach standards, these standards are only a guide and there would be a degree of buyer beware and knowledge that the occupiers would be buying into a community development.

Limited weight is attributed to the lack of information with regards to the loss of possible Best and Most Versatile Agricultural land given the minor scale of the land to be lost to the development.

It is also recognised that the location of the proposed development would be contrary to the strategic aims of the development plan which seeks to direct such development, including the proposed on-site commercial uses (albeit restricted to residents) to urban locations which are naturally more locationally sustainable and as such generate less harm in such rural locations.

No concerns are noted with regards to technical highway safety matters, landscape, trees, flood risk or drainage, public rights of way, Manchester Airport or subject to conditions where appropriate.

Overall, it is considered that the harm caused to the Green Belt by reason of inappropriateness, and the other harm identified, would not clearly be outweighed by the other considerations. As such, the very special circumstances necessary to justify the development do not exist.

The application is subsequently recommended for refusal.

RECOMMENDATION

REFUSE

DESCRIPTION OF SITE AND CONTEXT

The application site is located to the north of Pepper Street, Chelford entirely within the Green Belt. The majority of the site is land currently associated with Holly Tree House, a residential property. The remainder of the land subject to the application extends along the north-western side of Pepper Street and is either within the applicant's ownership or is on Highway's land.

The application site covers an area of approximately 4.21 hectares (including areas of proposed highways works). The main part of the site is bound to the north and east by Stockin Moss (a Local Wildlife Site), a large area of woodland and to the west, by Chapel Wood. Footpath 15 Marthall follows a route along the western and part of the northern boundary before aligning in northern direction. Bridleway 14 Marthall follows a route to the east of the site before aligning towards the north eastern corner of the site and following a northerly alignment. There are fences and railings and hedgerows along other boundaries.

PROPOSAL

Full planning permission is sought for the creation of a Retirement Care Community (C2 use). Works comprise of:

- Demolition of existing dwelling and outbuildings
- Creation of a 'Retirement Care Community' comprising of:
 - Erection of a 60 x 1-bed, care home, built over 2-storey's operated by a care provider
 - Erection of x72 assisted living 'Extra care' apartments in the form of 13 blocks of two-storey development, broken down as follows:
 - Block 1 – x6 3-bed apartments
 - Block 2 – x2 2-bed apartments
 - Block 3 – x6 2-bed apartments
 - Block 4 – x3 2-bed apartments and x1 1.5-bed apartment
 - Block 5 – x5 2-bed apartments and x1 1.5-bed apartment
 - Block 6 – x5 2-bed apartments and x2 1.5-bed apartments
 - Block 7 – x2 2-bed apartments and x2 3-bed apartments
 - Block 8 – x6 2-bed apartments and x2 1.5-bed apartments
 - Block 9 – x1 2-bed apartment, x2 1.5-bed apartments and x1 3-bed apartment
 - Block 10 – x6 2-bed apartments and x2 1.5-bed apartments
 - Block 11 – x2 2-bed apartments and x2 3-bed apartments
 - Block 12 – x5 2-bed apartments
 - Block 13 – x8 2-bed apartments
 - Erection of x14 'Close care' suits (also referred to as 'Assisted Living') located at first-floor of the Village Centre (VC) building (x5 1-bed and x9 2-bed) operated by a care provider

The 'extra care' and 'close care' will both be restricted to over 60's and offered on a long or short leasehold model and will retain a minimum care support package of 3 hours per week.

- Erection of a 'village hub', comprising of; Health and Wellness and community facilities and GP clinic facility.
- Ancillary structures including - pumping station, electricity sub-station, bin storage
- Landscaping including - access and parking, allotments, bowling/feature and woodland footpath
- Highway improvements including:

- Creation of a bollard-lit, 2-metre-wide footpath to Chelford Road (A537) along Pepper Street from the application site entrance to junction with the A537, diverting along and through the edge of a field adjacent to the highway, within the applicant's ownership
- Creation of a new crossing across A537
- Creation of x2 new bus stops, one either side of Pepper Street close to site entrance to provide a dedicated location for people to stand and utilise the current 'hail and ride' bus service that passes the site.

Revised plans were received during the application process in an attempt to address concerns raised by the Council's Tree and Nature Conservation Officer's. These changes included:

- Amendments to internal layout slightly moving buildings & parking away from the Root Protection Areas of trees, including a reduction in proposed parking from 165 to 130 (128 excluding minibus parking provision)
- Red line' boundary updated to include a length/strip of wildflower meadow planting, parallel with Pepper Street along the proposed footpath leading to the junction with Chelford Road

RELEVANT HISTORY:

20/2500M (Holly Tree House) - Certificate of existing lawful use for the residential curtilage and garden to Holly Tree House (Change of use) – Refused 5th February 2021 for the following reasons:

- 1. It is not considered that the evidence provided by the applicant is sufficiently precise and unambiguous as to demonstrate that, on the balance of probabilities, the site edged red as a whole has been used as garden to Holly Tree House for a continuous period in excess of ten years. In reaching this conclusion the council has considered the evidence submitted by the applicant as well as the evidence submitted by the local residents and other interested parties in addition to evidence contained within the council's own records.*

97/1586P (Holly Tree House) - Full Planning - Single-storey outbuilding – Refused on the 14th October 1997

97/0155P (Stockinwood) - Full planning - Four 6-metre-high lighting columns – Refused on the 10th April 1997

97/0118P (Stockinwood) - Full planning – Formation of pond & earth mounding with associated landscaping – Approved on the 2nd April 1997

Note condition 1:

- 1. This application solely grants consent for the formation of earth mounding, excavation and ponds as indicated on the approved drawings. Permission is not granted or implied for the erection or formation of any buildings or structures within the application site. Nor is consent implied or granted for the material change of use of the land to form part of the residential curtilage of the dwelling known as Stockinwood.*

Reason: For the avoidance of doubt and to define the plans and development to which this permission relates.

97/0121P (Stockinwood) – Full planning - Modified scheme for alterations and extensions - Approved 11th March 1997

96/0079P (Stockinwood) - Full planning - Alterations & extensions - Approved 1st April 1996

96/1863P (Stockinwood) – Full planning - Four 6-metre-high lighting columns - Refused on the 4th December 1996

82274P (Stockinwood) - Full planning - Replacement detached dwelling – Refused on the 11th October 1995

81310P (Stockinwood) – Full Planning - Replacement detached dwelling and detached triple garage with living accommodation above – Refused on the 21-Jun-1995

78491P (Stockinwood) – Full planning - Replacement dwelling triple garage tennis courts and alterations to access – Refused on the 10th August 1994

ADOPTED PLANNING POLICY:

The Cheshire East Development Plan policies relevant to this application, currently comprises of; the Cheshire East Local Plan Strategy (CELPS) and the Macclesfield Borough Local Plan. More specifically:

Cheshire East Local Plan Strategy 2017 (CELPS)

MP1 - Presumption in Favour of Sustainable Development, PG1 – Overall Development Strategy, PG2 – Settlement Hierarchy, PG3 - Green Belt, PG6 – Open Countryside, PG7 – Spatial Distribution of Development, SD1 - Sustainable Development in Cheshire East, SD2 - Sustainable Development Principles, IN1 – Infrastructure, IN2 – Developer Contributions, EG1 – Economic Prosperity, EG2 – Rural Economy, SC3 – Health and Well-being, SC5 – Affordable Homes, SC6 – Rural Exceptions Housing for Local Needs, SE1 – Design, SE2 - Efficient use of land, SE3 – Biodiversity and Geodiversity, SE4 – The Landscape, SE5 - Trees, Hedgerows and Woodland, SE6 – Green Infrastructure, SE12 – Pollution, Land Contamination and Land instability, SE13 – Flood Risk and Water Management, CO1 - Sustainable Travel and Transport and CO4 - Travel Plans and Transport Assessments

Macclesfield Borough Local Plan (MBLP)

Relevant saved policies include:

GC1 – Green Belt (New Buildings), RT7 - Cycleways, Bridleways and Footpaths, RT8 – Access to the Countryside, H9 – Occupation of Affordable Housing, DC3 – Amenity, DC6 - Circulation and Access, DC8 – Landscaping, DC9 - Tree Protection, DC10 – Landscaping and Tree Protection, DC13 & DC14 – Noise, DC15 & DC16 – Provision of facilities, DC17, DC19 & DC20 – Water resources, DC35 – Materials & Finishes, DC38 – Spacing, Light and Privacy, DC46 & DC47 – Demolition, DC57 – Community Uses – Residential Institutions, NE11 – Nature Conservation, NE14

– Nature Conservation Sites, NE17 – Nature Conservation in Major Developments, IMP3 – Land Ownership

Other Material Considerations

National Planning Policy Framework (NPPF) (2021 update)

Of particular relevance are chapters in relation to; Achieving sustainable development , Decision making , Delivering a sufficient supply of homes, Building a strong, competitive economy , Ensuring the vitality of town centres , Promoting healthy and safe communities , Promoting sustainable transport , Making efficient use of land , Achieving well design places , Protecting Green Belt land , Meeting the challenge of climate change, flooding and coastal change and Conserving and enhancing the natural environment.

National Planning Policy Guidance (NPPG)

Of particular relevance is the guidance in relation to:

- Housing for older and disabled people (2019)
- Green Belt (2019)
- Natural Environment (2019)
- Viability (2019)

Other

- ‘Vulnerable and Older Person’s Housing Strategy’ (2020-2024), Cheshire East Council
- ‘Market Position Statement’, Adult Social Care, Cheshire East Council 2017-2020
- EC Habitats Directive 1992
- Conservation of Habitats and Species Regulations 2010
- The Town and Country Planning (Use Classes) Order 1987 (as amended)
- Rectory Homes Limited v SSHCLG and South Oxfordshire District Council [2020] EWHC 2098 (Admin)
- Written Ministerial Statement December 2015 by Baroness Williams of Trafford
- Pre-application response letters - PRE/1677/19 & PRE/1263/20

Note: The Ollerton & Marthall Neighbourhood Plan is at Regulation 7 stage at the time of this report being finalised and as such, there is no draft plan at this stage to consider.

CONSULTATIONS (External to Planning)

Head of Strategic Transport (CEC Highways) – No objections on access/safety grounds but concerns raised about the sustainability of the site. There are concerns about the isolated nature of the location and distance from services and public transport. Despite the measures put forward in the application the development will rely predominantly on being served by motor vehicle. In event of approval, a condition is proposed to restrict occupancy to over 60’s in need of care

ANSA Greenspace (CEC) – Requests a contribution of £108,000 towards off-site Public Open Space provision

Adult Social Care (CEC) – Make the following points with regards to the current care ‘need’ in Cheshire East.

Care Home/Close Care Suites

- Due to Covid-19 seen a significant drop in demand for care home places across the borough
- As of 27th September 2021, there were 267 vacancies within care homes just in the north of Cheshire East in consideration of those care and nursing homes under contract with Cheshire East. This is broken down as: 97 residential care, 67 residential dementia care, 88 nursing care and 15 nursing dementia care.
- There has been a corresponding increase in the requirement for domiciliary care, and it is not clear how soon (or even whether) the market will recover to former levels.
- Anecdotally, new care homes which have opened in the last 12 months are believed to be operating well below full capacity.

Extra Care Housing

- Cheshire East has an ambition to increase the number of extra care housing units. This is reflected within the Market Position Statement, the Vulnerable and Older Persons Housing Strategy and the Corporate Plan.
- The current extra care facilities owned and/or managed by Registered Providers contain 1 & 2-bed units and Adult Services note that their preference for new schemes would be for a higher proportion of 1 bed units. There may be a demand for larger units in the private market but there are no 3-bed units in the facilities currently supported by Adult Social Care.

General comments

- Proposals appear to have been designed to attract privately funded customers rather than those supported by Cheshire East and as such, are likely to attract customers that would go directly to the Care home rather than via Cheshire East referral

Strategic Housing (CEC) – Object to the proposed development because it is considered that the density of the built form and the location of this site are not appropriate. In addition, it has been highlighted that affordable housing maybe required in light of a recent High Court decision

Environmental Protection (CEC) – No objections, subject to a number of conditions including: the submission/approval of an external lighting scheme; the provision of electric vehicle charging infrastructure; the submission/approval of an updated Conceptual Model based on the findings of the Phase I Preliminary Risk Assessment; submission/approval of a contaminated land verification report; submission/approval of a soil verification report and that works should stop if contamination is identified. A number of informatives are also proposed

Flood Risk Officer (CEC) – No objections, subject to implementation of submitted drainage strategy

Public Rights of Way Officer (CEC) - No objections, subject to a condition requiring: the submission/approval of a Public Rights of Way Management Scheme; that the line of the PROW be marked out on the development site prior to commencement and during development; the pre-commencement and post-completion condition surveys are undertaken and the submission/approval of a scheme of signage for pedestrians and cyclists.

Informatives are also proposed to remind the applicant of their PROW responsibilities.

NHS Cheshire Clinical Commissioning Group (CCG) – Object to the proposed development in the first instance on the basis that (paraphrased):

- It is felt that there is sufficient provision of generic care homes in the area already, not least the planning applications within neighbouring localities which have recently been approved.
- The area has a high proportion of elderly people which already stretches the service provision of primary care and adult social care. By introducing a significant additional number of elderly, the level of enhanced care required and subsequent impact on additional Whole Time Equivalent GPs/Carers to look after the individuals becomes even more stretched.
- Notes a number of issues/flaws with the submitted 'Care needs Assessment'. For instance, the way the data has been presented without clinical peer review, the appropriateness of the analysis tool used to measure visiting GP data, the small data set used for demonstrating hospital admissions data, a possible conflict of interest given that the study is partially self-funded, that some of the data has been presented in such a way to suit the support of the application but could be interpreted a different way.

Should the application be approved, the NHS would require a contribution of £93,096 to provide infrastructure capital to sustain the existing GP practices being able to provide Primary Care services and to mitigate the impact.

Environment Agency – Proposals fall outside of EA's remit

United Utilities - No objections, subject to the following conditions: submission/approval of a surface water drainage scheme, foul and surface water should be drained on separate systems and the submission/approval of a sustainable drainage management and maintenance plan

Manchester Airport – No objections, subject to a number of conditions including: submission/approval of a bird hazard management plan (BHMP), submission/approval of a revised landscaping scheme that will dovetail with BHMP, Any solar panels shall not be installed until a Glint and Glare assessment has been submitted and approved and that all exterior lighting be capped at the horizontal

Cadent Gas Ltd – Recommend applicant be advised of infrastructure (Low to medium pressure gas pipes) within the vicinity of the proposal with an informative of steps developer must take as a result

Cheshire Wildlife Trust (CWT) – Object because the North-East of the development infringes upon the Stockin Moss Local Wildlife Site (LWS) for no real reason

Cheshire Archaeology Planning Advisory Service (APAS) – No observations

Ollerton and Marthall Parish Council – Object to the proposals for the following reasons;

Principle

- Green Belt – Inappropriate development that will result in substantial harm and no evidence of 'Very Special Circumstances'
- Draft neighbourhood plan has not identified a need for housing in the area

Community pre-consultation

- No evidence of the findings provided
- Not wide ranging in terms of who was consulted

Highways

- Application lacks an effective Construction Management Plan
- Impact on existing highway in terms of; safe access and exit from the site between services and facilities not adequately addressed
- Poor sustainability of the site resulting in car reliance
- SCP Highways Report commissioned and submitted with objection

Amenity

- Impact of increased traffic resulting in noise and light pollution

Flood risk

- 'Stockin Moss' flooded regularly and is peat land – development likely to exacerbate issues

OTHER REPRESENTATIONS:

Neighbouring units were notified, a site notice was erected and the proposals were advertised in a local newspaper. At the time of consideration, consultation responses had been received from approximately 176 interested households/groups/Councillor's and adjacent Parish Council's.

Of these 176, 133 object to the scheme and raise the following issues;

Procedural Matters

- Council have only written to a handful of residents / lack of publicity
- Site is in Marthall, not Chelford

Principle/Green Belt

- Inappropriate development in the Green Belt
- Compromise the openness of the Green Belt
- No Very Special Circumstances demonstrated - there are similar facilities in plentiful supply in the local and immediate area. Comparable examples put forward are not comparable

- Contrary to PG3 of CELPS
- Contrary to objectives and policies of the Neighbourhood Plan (HP1, NE1, DI1)
- Contrary to draft SADPD
- Development inappropriate for the village
- No need for the facility - already supported living for the elderly at Astle Court & on Elmstead Road in Chelford
- No identified a need for housing in the area (17 by 2030 – Cheshire East Draft Housing Strategy)
- Need for Care homes reduced because of Covid-19
- Will set an infill precedent
- Extent of proposed development is excessive
- Number of residents the similar as the population as a nearby village (Snelson). Proposal would increase Chelford' s population by over 10%

Rural economy & sustainability

- No benefit to the village
- Facilities proposed on site are within 5-minute drive and being on site, offer not benefit to local community
- Won't create any more jobs – site already employs gardeners and groundsmen
- Any jobs that might be created from this development will not explicitly go to the people who live in Chelford and surrounding area
- Local Dr's and chemist already at capacity
- Location of site is not sustainable - No local supermarket, chemist, post office, bank or hospital; No bus stops on Pepper St; Existing public transport provision is insufficient (Bus services are infrequent). New bus stop will not increase regularity; Far away from emergency care; Some of facilities listed nearby do not exist; Sceptical about whether electric cars and bus can mitigate issue; Unsuitable access to facilities
- 100-space car park park is excessive if site is considered to be sustainable
- House prices will not be affordable for local people / will not create affordable housing for local people
- Impact on local services such as water pressure, broadband and electricity supply

Highways

Traffic volume concerns

- Current infrastructure of Pepper Street, Knutsford Road and Chelford cannot take another 200 cars a day
- At least 165 vehicles, staff cars, delivery vehicles,
- Pepper St is a busy cut through and has a volume of accidents
- Traffic already backs up at peak times at junction of Pepper St and A537. Proposals would only exacerbate this issue
- Transport Statement/Assessment should be submitted with the application
- Do not accept trip data provided as its outdated, has not been taken from the key locations and does not account for staff
- Impact upon neighbouring Parishes

Highway safety

- No street lighting on Pepper St where it meets A537
- Pepper St narrows where meets A537
- Impact of increased traffic of horse riders (bridleway), walkers and cyclists
- No new footpath proposed in the Peover direction
- Already parking issues in the village which the proposals would exacerbate
- Speeding traffic on Pepper St is already a concern
- Pepper St narrow in places
- Pepper St already covered in potholes – would be exacerbated
- Concerns re: construction traffic – should be prohibited from using certain routes
- Application lacks an effective Construction Management Plan
- No obvious encouragement for cyclists
- SCP Highways Report commissioned by Parish Council's and submitted with objection. Key points; Application site is in remote location and will be car dependant; Safe access not demonstrated for all modes of travel; Anticipation trip attraction rates appear to be an underestimate; Submitted transport info does not adequately consider impact on local highway network and in particular on a narrow section of Pepper St nearby; Mitigation proposed is unlikely to alter car dominance of the development given remote location

Ecology

- Impact on wildlife and LWS
- Loss of hedgerows
- Impact on Local Wildlife Site
- Peatland (Stocking Moss) should be protected
- Not evidenced that the proposal will lead to a net bio-diversity gain
- Impact of noise and light upon wildlife not adequately addressed

Flood risk and drainage

- Proposals may possibly result in flooding
- Possibly result in greater flooding of adjacent farms
- Would result in greater flooding of 'Stockin Wood'
- Concerns about high water table
- United Utilities have advised that existing distribution network is insufficient for proposed development
- Sewers are not capable of supporting the development

Amenity

- Impact upon air and noise pollution of increased traffic
- Light pollution created by the development
- Noise pollution from regular activities at the site

Design

- Not in keeping with the character of the surrounding area
- Pumping station and electricity hub out of character with the area

- Scale - of some of the development proposed (2.5 storeys) is taller than some surrounding properties are permitted to be extended
- Overdevelopment as a result of scale and mass in low density area
- Cannot see that carbon footprint of development and day-to-day operation has been assessed

Trees & landscape

- Loss of trees and woodland
- No landscaping shown/proposed outside of site e.g. adjacent to footpath to Pepper St

Footpaths

- Footpaths will be unsuitable for residents and often flood
- Footpath will terminate where no further pavement
- Footpath proposed will lead users to a busy crossroad (safety concern)
- Not suitable in width

Other matters

- Insufficient financial contributions proposed
- Don't agree with the suggestion that there was 'a very good level of support for the scheme' – no evidence provided to demonstrate this

Of the 176 interested households/groups, 42 were supportive of the proposals for the following reasons:

- Development type needed in the area
- Not enough accommodation locally for the elderly
- Attractive proposal to live give facilities proposed
- Many objections aimed at applicant and not development proposed
- Location lends itself to such a development
- Pepper Street is not so extensively used that any additional traffic could not be accommodated with or without appropriate traffic control measures
- Lots of open space and wheelchair friendly
- Much needed housing for over 55's – free up local housing stock encouraging families to move into larger properties
- Enables local people to stay in the area they want to live
- Will allow people to stay independent for longer
- Maybe empty retirement apartment in Wilmslow, but that's because knowbody wants to live there
- If impacting local medical provision, solution should be to expand the provision
- Don't doubt that there are other sites, but correct scheme is well considered
- Suitable for active parents / what they have been looking for

OFFICER APPRAISAL

Procedural matters

C2 or C3 accommodation?

The description of development refers to the proposals as a '...Retirement Community (Class C2)'... Consideration needs to be given as to whether all of the development proposed indeed does fall within the C2 Use Class.

The Town and Country Planning (Use Classes) Order 1987 (as amended) defines C2 development as 'Residential Institutions' and sets out the following types of development that would be deemed to fall within this category. This includes:

- Use for the provision of residential accommodation and care to people in need of care (other than a use within C3 (dwelling houses))
- Use as a hospital or nursing home
- Use as a residential school, collage or training centre

Paragraph 010 (2019) of the 'Housing for Older and Disabled People' NPPG defines the different types of housing categorises for older people. This is broken down as follows:

- *Age-restricted general market housing* – Generally for active, over 55's with shared amenities, but no support or care services
- *Retirement living or sheltered housing* – Usually flats or bungalows with limited shared facilities. Does not generally provide care, but provides some support for occupiers to live independently
- *Extra care housing or housing with care* – Purpose built accommodation with a medium to high level of care available through an on-site care provider. Sometimes known as retirement communities/villages
- *Residential care homes and nursing homes* – individual rooms within a residential building with a high level of care provided. Usually, no independent living

The NPPG goes on to state that '*Any single development may contain a range of different types of specialist housing.*'

Paragraph 014 (2019) of the 'Housing for Older and Disabled People' NPPG sets out that:

'It is for a local planning authority to consider into which use class a particular development may fall. When determining whether a development for specialist housing for older people falls within C2 (Residential Institutions) or C3 (Dwellinghouse) of the Use Classes Order, consideration could, for example, be given to the level of care and scale of communal facilities provided.'

The applicant advises that the application proposals comprise of housing falling into the two housing categories for older people which provide the greatest level of care: Extra care housing or housing with care and Residential Care homes.

The applicant advises that the application model includes: 'Registered care', 'Close care' and 'Extra care'. The accommodation proposed comprises of:

- X60-bed Care home (Registered care) – Offering 24-hour registered care for people who need: Personal, dementia or nursing care

- X14 'Close care' apartments – Will provide a transitional step between the 'extra care' and the care home. Significant care provided, but not 24 hours
- X72 'Extra care' apartments – independent living but have to sign-up to a minimum of 3 hours care per week as part of a service charge

It is clear that the 60-bed care home, which offers 24-hour care, represents a C2 use.

How the model would be set-up for the proposed 'Close care' and 'Extra care' apartments is not hugely different. In both instances:

- Occupants must be aged over 60 and take up a minimum of 3.0 hours/week domiciliary care plan package provided by a registered care agency
- Occupants will be offered a health and care assessment upon application with this used to provide a tailored care plan and package. This assessment will be subject to regular review to determine future needs
- All suites will be linked to a 24-hour emergency on call service provided and managed by the on-site staff and registered care agency

However, the agent for the application advises that the care provided within the 'Close care' units would be for people in a transitional period, effectively between the lighter touch 'extra care' apartments and heading towards needing 24/7 registered care. The additional services included with 'Close care' but not necessarily with 'Extra care' include - daily staff monitoring, meal from village pub & meal planning, buildings insurance and utility bills, cleaning/laundry and bed making.

As well as this level of care, as the NPPG indicates, the scale of the communal facilities is also a factor when deciding if a care proposal represents C2 or C3 use. In this case, the communal facilities proposed are extensive and include facilities such as:

- Creation of a Village hub comprising of –
 - GP satellite consultation room and lobby
 - Bar / restaurant
 - Café / Deli
 - Activity room
 - Cinema room
 - Hairdressers
 - Gym
 - Lounge/IT/library room
 - Indoor swimming pool / sauna / steam and treatment room with separate male and female changing facilities
- Outdoor activities on-site including –
 - Tennis court
 - Allotments
 - Boating and fishing
 - Putting green & golf nets
 - Themed gardens

It is noted that although the minimum level of care proposed would be 3 hours per week, there are various instances where less than 3 hours of care per week has been sufficient for a development to be considered C2 use and not C3 use. For example, the Rectory Homes High Court decision which approved a C2 care facility which was for over 65's with a minimum of 2 hours care provided per week.

It is deemed that because of the minimum level of care proposed (which is greater than accepted in instances elsewhere in the country) in conjunction with the extent of the communal facilities provided, subject to the levels of care, age restriction and facilities being appropriately secured, both the x72 'Extra care' apartments and the x14 'Close care' apartments are considered to represent C2 use.

As such, the overall use of the proposals is considered, on balance, to be C2.

Principle / Green Belt

Whether inappropriate development in the Green Belt?

The site lies entirely within the Green Belt. Policies PG3 (Green Belt) of the CELPS and GC1 (Green Belt – New Development) of the MBLP therefore apply. The Green Belt paragraphs within the NPPF are also a material planning consideration.

Paragraph 137 of the NPPF states that the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence.

In order to protect the Green Belt, Policy PG3 of the CELPS and paragraph 149 of the NPPF detail that LPA's should regard the construction of new buildings as inappropriate development.

Policy PG3, the most up-to-date development plan policy in relation to Green Belt, sets out a list of exceptions. These include replacement buildings, limited infilling in villages and the redevelopment of previously developed land.

In consideration of the 'replacement building' exception, such a proposal would only be considered appropriate in the Green Belt if the new building is in the same use and would not be materially larger. The application proposals are significantly larger, in all respects, to the development being replaced and the proposal represent a change of use from C3 to C2. As such, this exception is not deemed to apply as the proposals would fail on both counts.

In consideration of 'limited infilling in villages', the development proposed by this application cannot be considered 'limited' and it is not deemed that there is a gap to be infilled. As such, this exception is not deemed to apply.

Finally, in consideration of the re-development of previously developed land (PDL), development on such land is only considered appropriate if the development would not have a greater impact on the openness of the Green Belt than the existing development.

It is questionable whether all of the application site should be accepted as PDL in light of the recently refused Certificate of Lawful Existing Use or Development (CLEUD) application which sought approval for the extent of residential curtilage and garden in association with Holly Tree House.

In consideration of openness, Paragraph 001 (2019) of the Green Belt NPPG sets out what factors can be taken into account in the assessment of openness. Three factors are listed and include-

- *openness is capable of having both spatial and visual aspects – in other words, the visual impact of the proposal may be relevant, as could its volume;*
- *the duration of the development, and its remediability – taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and*
- *the degree of activity likely to be generated, such as traffic generation.*

Given the large number of people that would either reside, work or visit the application site if approved, there is likely to be a notable higher level of associated activity compared to the existing use. Furthermore, because the proposed footprint, floorspace, volume and spread of built form would be significantly greater than the built form to be demolished, it is deemed that the application proposals for the village site itself would have a substantially greater impact on the Green Belt's openness in spatial and intensification terms than the existing use. Due to the sites location largely screened from a number of wider viewpoints by existing woodland and mature vegetation, for the first 3-5 years there would also be moderate visual harm to openness but this harm would be reduced to a lesser degree once further mitigation planting has matured.

As such, irrespective of whether all of the site should be accepted as PDL or not, as the development would clearly have a greater impact upon openness than the existing development, the proposals would not fall within this Green Belt exception either.

It is recognised that the bar for this openness test in relation to this exception is lowered in the event that affordable housing is proposed as detailed within paragraph 149 of the NPPF. However, no affordable housing is proposed and even if it was, it has already been established that the development would result in a it 'substantial' impact upon openness.

As such, the community care village development itself is considered to represent inappropriate development in the Green Belt.

With regards to the proposed off-site highways works, notably the proposed footpath link, this would be considered under the 'engineering operation' exception to inappropriate development in the Green Belt.

Policy PG3 of the CELPS states that 'engineering operations' are not inappropriate development provided they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. This is consistent with the NPPF.

The application proposes the erection of bollard-lit, 2-metre-wide footpath extending approximately 540 metres from the application site entrance on Pepper Street, along the western side of Pepper Street, leading to Chelford Road. The footpath would extend approximately 172 metres from the application site entrance along what is currently grass verge, before slightly changing direction and entering into an agricultural field (within the applicant's ownership), and following the line of the Pepper Street, but extending through the field, separated from Pepper Street by the existing hedgerow that is proposed to be retained, until it reaches the junction with Chelford Road.

It is deemed that this footpath would not preserve the openness of the Green Belt both visually, spatially or in terms of the degree of activity it would generate. It would also conflict with the purposes of including land within the Green Belt due to encroachment.

The proposed bus stops sought on either side of Pepper Street on grass verge and the pedestrian refuge crossing on Chelford road are deemed to have a minor impact upon openness and encroachment.

All elements of the application proposals are therefore deemed to represent inappropriate development in the Green Belt and contrary to Policy PG3 of the CELPS, GC1 of the MBLP and the NPPF. Indeed, the agent for the application has advised that they accept that inappropriate development comes into play and they therefore rely on the Very Special Circumstance case presented.

Paragraph 147 of the NPPF states that *'Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.'*

Paragraph 148 of the NPPF states that *'when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.'*

As such, before considering whether or not any very special circumstances exist in this instance, consideration needs to be given to *'any other harm resulting from the proposal'*. This is considered below.

Whether or not there is any other Green Belt harm?

The proposed development, in the round, is deemed to result in a substantial harmful impact upon the openness of the Green Belt primarily in spatial terms and with regards to the increased level of activity that would be introduced in this rural location. To a lesser extent, there would also be harm to openness in visual terms.

It is also considered that the proposed care village itself, due to the spread of additional built form proposed on the site compared to the existing situation would result in additional harm to the Green Belt in terms of encroachment.

Other relevant Development Plan considerations

Open Countryside

Policy PG6 (Open Countryside) of the CELPS states that *'The Open Countryside is defined as the area outside of any settlement with a defined settlement boundary'*.

Footnote 34 of Policy PG6 states that settlement boundaries will be reviewed and defined through the production of the SADP and neighbourhood plans. However, until then, the spatial extent of settlement boundaries are those defined in the saved policies and proposals maps.

The application site is outside of any defined settlement boundary and as such, is deemed subject to Policy PG6. Policy PG6 of the CELPS states within the Open Countryside, only development that is essential for the purposes of agriculture, forestry, outdoor recreation, public infrastructure, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.

The proposal does not meet any of the exceptions noted in points 2 or 3 of Policy PG6 of the CELPS and as such, is deemed contrary to Open Countryside policy.

Settlement Hierarchy

The site is located in the 'Other settlements and rural areas' tier of the settlement hierarchy within the CELPS. Policy PG2 (settlement hierarchy) of the CELPS sets out that in the interests of sustainable development and the maintenance of local services, growth and investment in the 'other settlements' should be confined to proportionate development at a scale commensurate with the function and character of the settlement and to locations well related to the existing built-up extent of the settlement.

In this case, the application site is not well related to the existing built-up extent of a settlement and is not of a scale commensurate with the function and character of the local area. The development is therefore deemed contrary to Policy PG2 of the CELPS.

Locational Sustainability

Policy SD1 of the CELPS relates to sustainable development within Cheshire East. It states that development should, wherever possible (amongst other requirements), prioritise the most accessible and sustainable locations.

Policy SD2 of the CELPS refers to sustainable development principles. It is stated that one of these principles is that new development should provide access to a range of forms of key services and amenities.

Policy CO1 of the CELPS relates to Sustainable Travel and Transport. This policy encourages a modal shift away from car travel to public transport, cycling and walking. This sets out 5 headline sub-policies that the Council will expect developments to do. These are: 1. Reduce the need to travel; 2. Improve pedestrian facilities so that walking is attractive for shorter journeys; 3. Improve cyclist facilities so that cycling is attractive for shorter journeys; 4. Improve public transport integration and 5. Approve routes associated with freight.

To assist with the assessment of locational sustainability, a table is provided within the subtext of Policy SD2 which outlines recommended distances from application sites to services and amenities. An assessment of the scheme using this table is set out below. It should be noted that the figures below are based on walking distances (not as the crow flies) but on real life distances.

The following services and amenities currently meet the minimum standard:

- Public right of way (500m) - 200m PROW's 14 and 15 directly adjacent to site
- Post Box (500m) – 480m outside Methodist Chapel on Pepper Street
- Railway station (2km where possible) – 1.28km Chelford Railway Station
- Public house (1km) – 800m Edgerton Arms

- Public Park or Village Green (1km) – Proposed on site (or Mere Court Open Space 990m)

Services and amenities either proposed on site or off-site as part of the scheme (within the recommended minimum distances):

- Pharmacy (1km) – Proposed on site
- Bus stop (500m) – 200m Pepper Street (Proposed as part of development)
- Leisure Facilities (1km) – Proposed on site (Swimming, tennis, golf and bowling)
- Medical Centre (1km) – Proposed on site (Satellite GP provision)
- Amenity open space (500m) – Proposed on site
- Outdoor Sports (500m) – Proposed on site (Swimming, tennis, golf and bowling)
- Local meeting place/Community Centre (1km) – Proposed on site

The following amenities/facilities are all over the minimum distances suggested:

- Bank or Cash Machine (1km) – 2,090m Shell Petrol Filling Station on A537
- Convenience Store (500m) – 1,120m Londis on Chelford Rd
- Primary School (1km) – 1,120m Chelford Primary School and Pre-school
- Supermarket (1km) – 7km Waitrose and Tesco in Alderley Edge
- Post Office (1km) – 1,120 metres in community hall on Elmstead Rd (4hrs twice a week)
- Child-care facility (nursery or creche) (1km) – 1,120 metres Chelford Pre-school

The following facilities are not deemed to be applicable in this case due to the nature of the development sought:

- Secondary School (1km) – 9km in Wilmslow
- Children's Playground (500m)

Based on the above, without any of the development proposed by the application proposals, the application site would meet just 5 (28%) of the 18 relevant services and amenities listed and as such, would be concluded to be locationally unsustainable. With the proposed services and amenities sought by this application taken into consideration, the development would meet the recommended distances of 12 (67%) of the 18 relevant services and amenities. Whilst the provision of amenities on site, if delivered and sustained, would inevitably improve the credentials of the site when measured against the checklist, it does not address the fundamental weaknesses of the site such as the very poor access by means of public transport.

Of the services and amenities listed, public transport is a key consideration that can carry notable weight in the assessment of locational sustainability depending on the frequency of the services and where they travel to and from.

Bus services

At present, there is no formal bus stop on Pepper Street. The closest official bus stop is located in the heart of the village of Chelford on Knutsford Road, opposite Dixon Drive just short of 1 Kilometre away from the main body of the application site. There is currently no safe pedestrian access to this bus stop from the site as Pepper Street to Chelford Road (which turns into Knutsford Road), does

not currently have a footpath. In addition, the existing footpath on Chelford Road is narrow in places (1 metre – 1.2 metres wide).

The No.88 Bus (currently operated by D&G) travels in both directions from its stop on Knutsford Road in the heart of Chelford Village and serves Altringham, Wilmslow, and Knutsford when travelling west and Henbury and Macclesfield when travelling east.

It is advised within the submitted Transport Statement that this service travels east to Henbury & Macclesfield 5 times a day Monday-Friday and west to Knutsford, Wilmslow & Altringham also 5 times a day with a reduced service at weekends. These services travel along Pepper Street, but do not formerly stop along it. However, the agent for the applicant advises that there is a 'hail and ride' service that the No.88 offers, along Pepper Street.

The application proposes the introduction of x2 bus stops (including raised kerbs and post). According to the plan within the submitted Transport Statement, these would be located on either side of Pepper Street close to the application site entrance. The intention is that these x2 stops would allow a safe place to stand for the future occupiers of the site (and residents) to 'hail and ride' the No.88 service.

The applicant also proposes to provide a private shuttle bus service from the application site. The applicant advises that as such, the scheme is not reliant on the public bus service because *'...the shuttle bus service being proposed is more convenient for staff and residents and we can control how and when that operates whilst a commercially run service is not as flexible.'*

The benefits of this and therefore the weight afforded to it are only realised / delivered if this can be secured through the planning permission. In any event, the bus service is infrequent and even with proposed enhancements the credentials of the site in terms of access to public transport are poor.

Train services

In the village of Chelford is a train station. This has hourly trains to Manchester Piccadilly in one direction and hourly trains to Crewe in another. The station is approximately 1.28km from the application site.

Footpath improvements

At present, there is no safe pedestrian access from the application site to the village of Chelford, where a number of services and amenities are located, including the closest formal bus stops and train station.

Between the application site and Chelford Road, is an approximate 540-metre-length of country lane, Pepper Street, which has no pavement and is unlit.

As part of the application proposals, as well as x2 bus stops, the applicant also seeks to provide a new, bollard-lit footpath. This footpath would start from the site entrance on Pepper Street and extend along the western side of Pepper Street, diverting along the edge of an adjacent field, to the junction with Chelford Road. Running the length of the proposed footpath, bollard lighting is proposed. At Chelford Road, once the pedestrian has crossed Chelford Road itself (where a crossing is also proposed by the application proposals), the village can be directly accessed by an

existing footpath which is largely lit. However, this existing path is narrow in places between 1m and 1.2m wide.

As set out already, this footpath is deemed to represent inappropriate development in the Green Belt.

Without the development sought by this application, the site would be deemed wholly locationally unsustainable for the development proposed. Many of the works, services and amenities proposed in an attempt to make the site locationally sustainable result in additional built form and/or greater activity being introduced in this rural, Green Belt location. In addition, it is questionable whether walking into Chelford will be an attractive route for pedestrians given the narrowness of parts of the existing footpath to the village centre along the busy A537. It is therefore considered that the site is locationally unsustainable for the scale of the development proposed. As highlighted by the strategic policies of the CELPS, such development should be directed to existing urban locations which are naturally more locationally sustainable, rather than rural locations which are more naturally locationally unsustainable and therefore require further development to overcome the issue.

Provision of older persons accommodation / Residential Institutions

Point 2 of Policy SC4 (Residential Mix) of the CELPS requires developers to demonstrate how their proposal will be capable of meeting and adapting to the long-term needs of the borough's older residents. This would include the provision of a variety of dwelling types, measures to support Health and Wellbeing and independent living through new developments that recognise the needs of older people, those with dementia and other vulnerable people.

Point 3 details that development of such accommodation will be supported where there is a proven need; they are located within settlements; accessible by public transport; and within reasonable walking distance to community facilities such as shops, medical services and public open space.

In response, the development proposes what point 2 of Policy SC4 seeks to encourage, new development that recognises the needs of older people including those with dementia and supports independent living.

In response to the criteria of the instances where this type of development is supported (Point 3):

Is there a 'proven need'?

The applicant suggests that there is proven need for the development sought. A 'Care Needs Assessment' produced by Christie & Co accompanies the application. This makes the following conclusions based on a catchment area which has been drawn 10km from and around the application site:

- The site is located within an area where there is materially above the national average of elderly people
- The proportion of people in SK11 9 postcode meets the criteria of being a defined 'naturally occurring retirement community'. Only 4% of country meet the criteria of this definition
- No comparable retirement villages within the catchment area, nearest one is in Nantwich in the south of the Cheshire East
- Latest Cheshire East Council Market Position Statement for Adult Social Care (2017-2020) acknowledges a need for a new, high quality nursing home and extra care provision

- The draft Cheshire East Council 'Vulnerable and Older Person's Housing Strategy' references a notable increasing elderly population
- Deem that there is a clear need in the absence of such a development in an area that meets the definition of a 'naturally occurring retirement community'
- Assessment of need demonstrates an 'undersupply of future fit market standard care home provision' coupled with a substantial shortage in extra care provision. More specifically:
 - Care home – Undersupply of 563 market standard beds as at 2020, increasing to an undersupply of 939 as at 2030
 - Extra care – Undersupply of 840 units (extra care and dementia) as at 2020, increasing to an undersupply of 1,1517 as at 2030

Note: This has been calculated by comparing projected and current demand against supply and projected supply.

- Suggest that due to Covid-19, the type of accommodation proposed (with en-suite wet rooms, wider corridors etc), have enhanced benefits in terms of infection control
- Need for a facility that allows a stepped progression of care and allows couples for example, with differing levels of care needs, to live on one site.

In response, matters of 'need' have been raised and or commented upon within consultation responses received from the Council's Spatial Planning Team, the Council's Affordable Housing Team, the Council's Adult Services Team and the NHS CCG. These comments are summarised below.

Cheshire East Council Development Plan and C2 'need':

Policy PG1 (Overall development strategy) of the CELPS states that '*sufficient land will be provided to accommodate the full, objectively assessed needs for the borough of a minimum of 36,000 homes between 2010 and 2030. This will be delivered at an average of 1,800 net additional dwellings per year*'. No specific reference to C2 accommodation is made within the policy.

The Housing Development Study (2015) established the objective assessment of housing need (OAN) in the CELPS for Cheshire East as 36,000 homes over the plan period (2010-2030). A component of the OAN was for 2,185 units of elderly persons accommodation (C2 accommodation). The Housing Development Study (2015) noted that: -

- older people are living longer and more healthy lives;
- the specialist housing offered today may not be appropriate in future years;
- the council and governments approach are underpinned by the principle of sustaining people at home for as long as possible.

Therefore, it does not necessarily follow that identified need for C2 accommodation will be provided as additional bed spaces (C2 uses). C2 accommodation forms part of the overall 36,000 figure and is considered as part of the overall housing supply. C2 accommodation does not have a 'target' to be met in the CELPS.

In accordance with the NPPF, the council produces an annual update of housing delivery and housing land supply. The council's most recent Housing Monitoring Update (base date 31 March 2020) was published on the 11th March 2021. The published report confirms a deliverable five-year housing land supply of 6.4 years.

The 2020 Housing Delivery Test Result was published by the Ministry of Housing Communities and Local Government on the 19 January 2021 and this confirms a Cheshire East Housing Delivery Test Result of 278%. Housing delivery over the past three years (8,421 dwellings) has exceeded the number of homes required (3,030). The publication of the HDT result affirms that the appropriate buffer to be applied to the calculation of housing land supply in Cheshire East is 5%.

As such, in the context of the wider housing need of Cheshire East, within which C2 provision is included, there is currently in excess of a 5-year supply.

Affordable Housing Officer (CEC) reference to 'need':

The Council's Affordable Housing Officer advises that the Housing Team has updated its 'Vulnerable and Older Persons' Housing Strategy' which seeks to identify the needs and requirements of a number of cohorts across the borough, including older adult provision. Extra care provision is included within the document.

The strategy includes a dataset which was composed in 2019, which outlined the borough-wide requirement for extra care development over the CELPS period. This data suggested there was a need for 3,611 extra care spaces up until 2030. This was further split out as 2,266 owned units and 1,345 rented units. This data applied to the *whole borough* of Cheshire East.

To ascertain the local need requirements for Cheshire East, a number of indicators obtained from various sources (including mid-census data and the Cheshire East Tartan Rug) were applied to a map of the borough. These indicators referred to a range of areas which could suggest a future need for extra care accommodation – including, but not limited to;

- prevalence of older adults
- prevalence of self-reported poor health in residents aged 50 and over
- prevalence of day-to-day activities being limited because of a health problem or disability which has lasted, or is expected to last, at least 12 months
- proportion of pensioners who stated they were living alone in the 2011 Census

Each of these indicators were analysed further, in an attempt to assess the parts of Cheshire East with the 'need'. Alderley Edge, Chelford, Handforth and Wilmslow were identified suggesting that there was a level of need for 'extra care' in the area subject to this application.

The Council's Affordable Housing Officer concludes that the need for extra care accommodation within Cheshire East is not disputed, and the data analysis indicators have suggested that Chelford forms part of the wider area which has a need for 'extra care'.

Adult Social Care Officer (CEC) reference to 'need':

This team advises that there is no data currently available to validate the statistics in the submitted 'Care Needs Assessment'. However, the team make the following observations.

Care Home/Close Care Suites

- Due to Covid-19, have seen a significant drop in demand for care home places across the borough
- As of 27th September 2021, based on care and nursing homes which are under contract with the Council only, there were 267 vacancies within care homes just in the north of Cheshire East.

Note: A 'vacancy' is a room not occupied, but is not necessarily available for use (e.g. being re-decorated, used for storage etc) and there may not be staff available for the homes to have the capacity to support new service users.

Note: This data is collected twice weekly and collected on a standalone spreadsheet by CEC Adult Services

- These vacancies are broken down as: 97 residential care, 67 residential dementia care, 88 nursing care and 15 nursing dementia care.
- There has been a corresponding increase in the requirement for domiciliary care, and it is not clear how soon (or even whether) the market will recover to former levels.
- Anecdotally, new care homes which have opened in the last 12 months are believed to be operating well below full capacity.

Extra Care Housing

- Cheshire East has an ambition to increase the number of extra care housing units. This is reflected within the Market Position Statement, the Vulnerable and Older Persons Housing Strategy and the Corporate Plan.
- The current extra care facilities owned and/or managed by Registered Providers contain 1 & 2-bed units and Adult Services note that their preference for new schemes would be for a higher proportion of 1 bed units. There may be a demand for larger units in the private market but there are no 3-bed units in the facilities currently supported by Adult Social Care.

General comments

- Proposals appear to have been designed to attract privately funded customers rather than those supported by Cheshire East and as such, are likely to attract customers that would go directly to the Care home rather than via Cheshire East referral

In summary, these comments *suggest* that there is not a 'proven need' for those requiring care within a care home within the north of Cheshire East based on those that go through the Council's Adult Social Team to obtain a place at a care homes under contract with the Council. Whilst it is recognised that this data only reflects care home vacancies at care or nursing homes under contract with Cheshire East, it does seem to suggest that there indeed may not be a 'proven need' for this element of the application proposals. In addition, Adult Services note that there has been a drop-off in demand because of Covid-19. Correspondingly, there has been an uplift in demand for domiciliary care.

Although there is a recognised need for 'extra care' accommodation in Cheshire East, the Council's Adult Services Team do not currently support any 3-bed extra care facilities which raises a question about the 'proven need for these larger units.

NHS CCG Officer reference to 'need':

The NHS CCG Officer within correspondence sent to the LPA has advised that: *'CHAW [comprising of - Chelford Surgery, Handforth Health Centre, Alderley Edge Medical Centre, Wilmslow Health Centre and Kenmore Medica Centre] as a Primary Care Network is in top 10% of all Primary Care Networks across Cheshire and have a total of 563 total care home beds. In addition to this, they have 445 total Nursing Home beds, the second highest in Cheshire. As a locality, there has been a high degree of nursing/residential homes approved in the area and overall from a Public Health perspective there is usually a shortage of Dementia/Complex behaviour nursing beds. This development therefore does not address any apparent need in the area or indeed provide future operating capacity not already been approved by other recently approved care homes.'*

These comments appear to support the findings of the Cheshire East Council's Adult Services team that they do not consider that demand exists for the care home element of the application proposals.

'Proven Need' conclusions:

The applicant has commissioned a 'Care Needs Assessment' which they consider demonstrates a proven need for the development proposed. The CELPS does not set any targets for C2 provision within Cheshire East.

With regards to the need for 'extra care' provision, the Council's Affordable Housing Officer details that the latest draft of the Cheshire East 'Vulnerable and Older Person's Housing Strategy', based on data from 2019, demonstrates that there is a need for 'extra care' borough-wide and in the part of the borough that includes the application site.

The Cheshire East Council Adult Social Care Team also recognise the need for 'extra care' provision. However, the weight afforded to the level of need for the extra care proposed is marginally tempered by the fact that Adult Services say that they do not tend to commission 3-bed extra care units. That not to say that there is not a need for 3-bed extra care provision in the private market, but the suggestion is that it is not the norm from their experience.

With regards to the proposed care home and close care units, the Cheshire East Council Adult Social Care Team note that as of the 27th September 2021, there were 267 vacancies within existing care homes in the north of Cheshire East that are registered with Cheshire East. It is also noted that there has been a drop-off in demand for care-home places due to the Covid-19 pandemic and a corresponding upturn in the demand for domiciliary care. It is also noted that some existing facilities are operating well below capacity. The submitted 'Care Needs Assessment' acknowledges that one of the limitations of their assessment was the possible impact of Covid-19.

In addition to these figures and observations, the NHS CCG also consider that there is sufficient provision for this element of the care proposal in the area. Although the Adult Services data does

not include data for private facilities not under contract with the Council, it brings into question whether or not there is a 'proven need' for this element of the application proposals. The Council's Adult Social Care Officer has grouped Close Care provision in with care home provision in reaching this conclusion.

Another factor impacting whether there is a 'proven need' for the development proposed is the concerns the NHS CCG Officer raises in relation to the submitted 'Care needs Assessment' which is the basis of the applicant's case to demonstrate need. For instance, the NHS CCG Officer has concerns about the way the data has been presented without clinical peer review, the appropriateness of the analysis tool used to measure visiting GP data, the small data set used for demonstrating hospital admissions data, a possible conflict of interest given that the study is partially self-funded and that some of the data has been presented in such a way to suit the support of the application but could be interpreted a different way. Within correspondence to the LPA, the NHS CCG Officer concludes that *'Upon review of the additional reports, although the outcomes presented in a way that these types of facilities outwardly benefit health and social care on a number of levels; hospital capacity, reduced admissions, reduced strain on the system. The report reads in a biased way; the data is used to present the required outcome and does not independently and factually present the findings; both from an operational and clinical perspective.'*

Located within settlements

The application site is located entirely within the Cheshire Green Belt, so fails this policy test of Policy SC4 of the CELPS.

Accessible by public transport

At present, there is no footpath to the closest village (Chelford) from the site. However, the No.88 Bus travels along Pepper Street and offer's a 'hail and ride' service. As part of the application, a footpath is proposed linking the site to the footpath into Chelford, x2 bus stops are proposed and a private bus service is proposed as part of the development.

At present, the site is not readily accessible by public transport. However, it is recognised that it would be more accessible in the event of approval should all of the elements be appropriately secured.

Reasonable walking distance to community facilities

There is no definition of 'reasonable' walking distance and specific mention is made to the following facilities to which should be with a 'reasonable' walking distance – shops, medical services and public open space.

It has been set-out in the locational sustainability section of this report that the site does not fall within the recommended distances for either a convenience store or a supermarket. It is noted that a pharmacy collection/dispensary service would be provided on site. It is considered that these are the only facilities listed within the checklist which you could interpret as possibly being 'shops'. Furthermore, even in the event of the proposed off-site highway works being implemented, the convenience store and the supermarket would still not be within a reasonable walking distance according to the sustainability checklist.

Medical services would be provided on site. Mere Court 'public' open space is deemed to be within a reasonable walking distance from the site and a shared open space is proposed on site.

As a result of the site not being deemed to be within a reasonable walking distance of shops in particular, in the event of approval, it is not deemed that the site would be within a reasonable walking distance to community facilities. This coupled with the uncertainty regarding the 'proven need' for the care home and close care element of the development and because the site does not fall within a settlement means that the development proposals are deemed contrary to Policy SC4 of the CELPS.

Saved Policy DC57 (C2 Residential Institutions) of the MBLP notes that proposals for residential institutions will be subject to the following (summarised) criteria.

- Site must be close to local facilities, local shops and other community facilities and normally sited in a residential area
- A balance of residential uses must be maintained in any neighbourhood, avoiding a concentration of specialist care facilities
- Development should not prejudice the amenity of neighbouring properties in terms of overshadowing, overlooking, loss of privacy and noise and disturbance
- Development must comprise of a reasonably sized private garden in the order to 10sqm per resident
- That the development satisfies the general requirements for all development including provision of on-site car park for residents, staff and visitors.
- Safe access should be provided.

In response, it has already been set out why it is considered that the site is locationally unsustainable. In addition, the site is not located within a residential area. The creation of a community care village of the size proposed would lead to a concentration of specialist care facilities in the neighbourhood. No notable neighbouring amenity issues would be created as set out later in this report. Private amenity space for individual apartments are proposed as is a larger, shared open space which cumulatively, would equate to more than 10sqm per resident. Car parking provision and highway safety is found to be acceptable as detailed later in the report.

However, due to the unsustainable location of the site within a countryside location and the creation of a concentration of specialist care facilities being created, resulting in an imbalance of residential uses in the area, the development is deemed contrary to saved Policy DC57 of the MBLP.

Rural Economy

Policy EG2 of the CELPS refers to the rural economy, more specifically commercial proposals outside of Principal Towns, Key Service Centres and Local Service Centres. The application site is considered to fall within what is defined as 'Other settlements and Rural Areas'.

Policy EG2 of the CELPS states that in such locations, developments which (amongst other exceptions) provide opportunities for local rural employment development that supports the vitality of rural settlements will be supported.

As part of the development proposals, the development provides a number of facilities that will form the 'village hub', including a GP satellite consultation room, pharmacy, bar/restaurant, café/deli, hairdressers, gym, lounge/IT/library room and Indoor swimming pool / sauna / steam and treatment

room with separate male and female changing facilities. All of these facilities will need to be managed/monitored and therefore would create job opportunities.

However, such proposals, as Policy EG2 of the CELPS goes on to state, must meet the sustainable objectives of CELPS policies MP1, SD1 and SD2. It has already been established that it is deemed that the location of the site is unsustainable for the older persons accommodation. The same conclusion applies to these associated proposed on-site facilities. Policy EG2 states that such development in these locations will be supported where they could not reasonably be expected to be located within a designated centre by reason of their products sold. In addition, the policy sets out that the development should be consistent in scale with its location, which given the rural location where the development is proposed. It is not deemed that the proposals would adhere to these requirements also. Furthermore, it would conflict with other listed development plan policies including: PG3 (Green Belt) and PG6 (Open Countryside) as already detailed. As such, the development proposals are also deemed contrary to Policy EG2 of the CELPS.

Landscape

Policy SD2 of the CELPS states that development will be expected to respect and, where possible, enhance the landscape character of the area.

Policy SE4 of the CELPS specifically relates to landscape considerations. It states that all development should conserve the landscape character and quality and where possible, enhance and effectively manage the historic, natural and man-made features that contribute to local distinctiveness.

The submission includes a Landscape and Visual Appraisal (LVIA) which indicates that it follows the methodology in accordance with the Guidelines for Landscape and Visual Impact assessment 3rd Edition (GLVIA 30 2013). The appraisal identifies the landscape baseline, namely that the application site is located within the area identified in the Cheshire East Landscape Character assessment 2018 as LCT7 Lower Wooded Farmland and specifically the LCA 7d Marthall Character Area, while the surrounding area is representative of this landscape character area the site itself forms part of a landscaped garden area.

The submitted appraisal indicates that the application site is physically well enclosed and separate from the surrounding landscape setting and indicates that the site has a low susceptibility to change, a medium/ high value at character level and low value at site level and that the anticipated magnitude of change will be low, with a negligible to slight magnitude of change. The visual appraisal identifies 7 viewpoints and indicates that the most significant visual effects would be moderate to moderate slight – without any mitigation, and that this would be experienced from walkers and drivers on pepper Street and by users of Footpath 15, to the immediate west and part of the north of the site. Photo montages have been produced for locations on Pepper Street and from Footpath 15 to the north of the site.

The Council's Landscape Officer advises that he broadly agrees with the submitted appraisal and the indicating that the existing perimeter vegetation will be retained and that there will be extensive additional planting across the application site, this combined with the extensive areas of woodland to the north, west and east mean that visual impacts will not be adverse and that the proposals will not have an adverse impact on the appearance or distinctiveness of the surrounding landscape.

On this basis, the Council's Landscape Officer offer's no objections to the proposals on landscape grounds.

As such, subject to a landscape implementation condition, the proposals are considered to adhere with the landscape element of Policy SD2 and Policy SE4 of the CELPS.

Trees

Policy SE5 of the CELPS states that development which will result in the loss of, or threat to, the continued health and life expectancy of trees, hedgerows or woodlands, that provide a significant contribution to the amenity, biodiversity, landscape character or historic character of the surrounding area, will not normally be permitted.

The site comprises of extensive landscaped grounds which are screened from Pepper Street by established trees and mature hedgerows. The site is bordered by Stokin Moss Wood LWS to the north west and north east which comprises of woodland recorded on the National Forest Inventory and as Priority Habitat. Further priority habitat woodland borders the south western boundary of the site. No trees within the site are afforded protection by a Tree Preservation Order and the site is not within a designate Conservation Area.

This application is supported by an updated Arboricultural Impact Assessment (AIA) produced by Tree Solutions (19/AIA/CHE(E)/162(Rev C) dated March 2021. The scheme was revised in an attempt to address a number of original concerns raised by the Council's Tree Officer with regards to the social proximity of some of the buildings to adjacent woodland which in turn would have resulted in pressure for trees to be pruned/removed.

92 individual trees, 30 groups and one woodland have been identified within the survey. Of the above surveyed trees, the report has identified that 12 individual, 3 groups and part of 1 other group which are surveyed as moderate quality B Category trees will be removed to accommodate the development. 11 individual C Category trees, and up to 10 C Category groups are also proposed for removal with 3 U Category trees to be removed due to condition.

The Council's Tree Officer advises that many of the removals comprise of semi-mature/early mature planting of groups of trees of lesser importance which are internal to the site which are not worthy of formal protection, and whose removal will not have a significant impact on the wider landscape character. Some mature, moderate B Category quality trees internal to the site are proposed for removal and these losses are required to accommodate the development layout. On balance, the Council's Tree Officer advises that the extent of new planting indicated on the Landscape Masterplan is considered to offer mitigation for losses of lower and moderate quality, semi-mature and early mature trees.

Shading patterns of trees have been illustrated on the updated Tree Protection Plan and Shading Diagram. The Council's Tree Officer advises that the shading diagram adequately demonstrates that the effects of shading will not be significant to structures located in close proximity to the off-site woodland adjacent to the northern boundary, and elsewhere within the site.

Amendments to the site layout have been made to remove car parking bays and hard standing where conflicts had been identified to arise with trees, and an allotment area has been relocated to a more suitable location in terms of tree impacts.

An indicative tree protection plan has been submitted which has identified tree protection for the duration of any construction period. The plan also identifies those locations where engineer designed hard standing will be required within the RPA's of trees.

The amended layout as indicated in the updated AIA has demonstrated the feasibility of the proposal in terms of trees and there are no objections to the principal of the development as set out within the latest plans from the Council's Tree Officer. In the event of approval, the Council's Tree Officer recommends a number of tree conditions relating to: Tree retention, tree protection, arboricultural method statement, service and drainage layouts and an engineered no-dig surface construction method within the root protection areas of retained trees.

Subject to these conditions, the proposal is deemed to adhere with the requirements of Policy SE5 of the CELPS.

Ecology

Policy SE3 of the CELPS (Biodiversity and Geodiversity), seeks to protect and enhance areas of high biodiversity and geodiversity value. Paragraph 4 sets out that development proposals that are likely to have a significant adverse impact on listed local or regional designations, habitats or species will not be permitted except where the reasons for benefits of the proposed development outweigh the impact of the development. Within the list of local and regional designations, habitats and species relevant to the application proposals are:

- Local Wildlife Sites (Stockin Moss)
- Habitats and species within the Cheshire Biodiversity Action Plan
- National priority species and habitats
- Legally protected species

Saved Policy NE11 of the MBLP is consistent in so far as it states that development which would not adversely affect nature conservation interests will not normally be permitted.

Paragraph 180 of the NPPF advises that if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

The application is supported by various ecology reports and correspondence. The acceptability of the various elements of the development in ecology terms is considered below:

Non-statutory Sites

The application is located adjacent to Stockin Moss Local Wildlife Site (LWS). The Cheshire Wildlife Trust object to the application proposals because they advise that the North-East of the development infringes upon the Stockin Moss Local Wildlife Site (LWS) for no real reason.

As the LWS occurs on peat it may be sensitive to changes in hydrology and the quality of any water entering it from the application site.

The submitted drainage strategy advises that the existing site drains into a water course in Stockin Moss and that it is intended that the proposed development would also drain into this same watercourse. The Council's Nature Conservation Officer advises that a reduction in the volume of water entering the Moss or a reduction in the quality of the water, resulting from contamination of surface water, has the potential to have an adverse impact on the LWS.

The revised ecology report states that the drainage engineer has advised that there would be no significant change in flow rates into the LWS as the drainage scheme for the site will maintain the existing green field rate. Information has been received from the applicant's drainage engineer which confirms that a SUDS scheme, incorporating permeable paving and a detention basin would be sufficient to remove contaminants from the roads and roofs of the proposed development. As such, in the event of approval, the Council's Nature Conservation Officer advises that a condition be imposed requiring the submission/approval of a detailed drainage scheme which safeguards to the Stockin Moss Local Wildlife Site.

The potential contamination of Stockin Moss LWS from the use of fertiliser and pesticides in the open space areas of the development remains a concern of the Council's Nature Conservation Officer. However, the risk associated with the development is likely to be no higher the existing use of the site. The Council's Nature Conservation Officer therefore recommends that if planning consent is granted the use of pesticides and fertilisers be controlled through a landscape and habitat management plan secured by means of a planning condition.

Bats

Evidence of what is likely to be a maternity colony of a widespread bat species and a minor roost of a second widespread bat species was recorded in the main house during the survey. The Council's Nature Conservation Officer advises that this roost is of nature conservation value.

In the absence of mitigation, the proposed development would pose the risk of killing or injuring any bats present and would result in the loss of the roost. The Council's Nature Conservation Officer advises that the loss of the roost would have a Moderate-High severity of impact on the local scale and a Moderate impact on the species concerned at the regional scale.

To mitigate for the risk of killing injuring bats during the construction phase, the submitted report recommends to the timing and supervision of the works. The provision of a number of bat lofts and bat boxes is also proposed to compensate for the loss of the existing roost.

EC Habitats Directive Conservation of Habitats and Species Regulations 2010 ODPM Circular 06/2005

The UK implemented the EC Directive in the Conservation (natural habitats etc) regulations 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.

The Habitat Regulations 2010 require local authorities to have regard to three tests when considering applications that affect a European Protected Species. In broad terms the tests are that:

- The proposed development is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
- There is no satisfactory alternative
- There is no detriment to the maintenance of the species population at favourable conservation status in its natural range

Current case law instructs that if it is considered clear or very likely that 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 be granted. 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.

In terms of the Habitat Regulations tests:

- The proposed development is in the interests of public health. However, for the reasons set out in the report, there is deemed to be no overriding reason for granting approval. As such, the development is deemed to fail this initial test.
- There is a satisfactory alternative and that would involve the retention of the main house and associated roost and be incorporated into the proposed development. The agent for the application has advised that this would not be feasible because it would compromise the delivery of state-of-the art care services. However, no specific evidence has been provided to demonstrate this. As such, the alternative is deemed conceivable, and the proposals are considered to fail this test also.
- In the event that the loss of the existing roost is considered unavoidable, the Council’s Nature Conservation Officer has advised that the proposed mitigation and compensation is acceptable to maintain the favourable conservation status of the species of bat concerned. As such, the proposals adhere with this test.

However, as the first and second test has not been met the application proposals are deemed to fail Habitat Regulations which in turn, means that it’s unlikely that Natural England would grant a protected species licence if and after Planning Permission has been granted.

As the development would have a significant adverse impact on habitats or species and because the benefits of the proposed development do not outweigh the impact of the development, the proposals are also deemed contrary to Policy SE3 of the CELPS and Policy NE11 of the Macclesfield Borough Local Plan.

Lighting and bats

To avoid any adverse impacts on bats resulting from any lighting associated with the development, the Council's Nature Conservation Officer recommended that a lighting scheme be submitted. The lighting bollards proposed along the footpath are of notable concern. However, the Council's Nature Conservation Officer concludes that a lighting scheme for the development proposals as a whole could be covered by a condition so the detail could be agreed.

Great Crested Newts (GCN)

The presence of GCN's has been confirmed at one pond during surveys undertaken to inform this planning application. In the absence of mitigation, the proposed development would result in the loss of an area of relatively low value terrestrial habitat and pose the risk of killing or injuring and newts present on site.

EC Habitats Directive Conservation of Habitats and Species Regulations 2010 ODPM Circular 06/2005

The UK implemented the EC Directive in the Conservation (natural habitats etc) regulations 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.

The Habitat Regulations 2010 require local authorities to have regard to three tests when considering applications that affect a European Protected Species. In broad terms the tests are that:

- The proposed development is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
- There is no satisfactory alternative
- There is no detriment to the maintenance of the species population at favourable conservation status in its natural range

Current case law instructs that if it is considered clear or very likely that 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 be granted. 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.

In terms of the Habitat Regulations tests:

- The proposed development is in the interests of public health. However, for the reasons set out in the report, there is deemed to be no overriding reason for granting approval. As such, the development is deemed to fail this initial test.

- There alternative scenario in this case is no development on site. The Council's Nature Conservation Officer has advised that the development would result in a loss of terrestrial habitat and pose the risk of killing or injuring and newts present on site during construction. As it has been determined that there is no overriding reason for granting approval, 'no development' is deemed to be a satisfactory alternative in this case. The proposal is therefore deemed to fail this test also.
- The submitted mitigation would be delivered through Natural England's District Level Licencing (DLL) scheme. The Council's Nature Conservation Officer advises that in the event that planning consent was granted entry into the DLL scheme would be sufficient to maintain the favourable conservation status of the species. As such, the proposals adhere with this test.

However, as the first and second test has not been met the application proposals are deemed to fail Habitat Regulations which in turn, means that it's unlikely that Natural England would grant a protected species licence if and after Planning Permission has been granted.

As the development would have a significant adverse impact on habitats or species and because the benefits of the proposed development do not outweigh the impact of the development, the proposals are also deemed contrary to Policy SE3 of the CELPS and Policy NE11 of the Macclesfield Borough Local Plan.

'Other Protected Species'

Evidence of 'Other Protected Species' activity was recorded on site. The Council's Nature Conservation Officer advises that based on the current status of the species on site, the proposed development would have a negligible impact upon this species. However, as the status of these 'Other Protected Species' can change within a short time scale, the Council's Nature Conservation Officer recommends that if planning consent is granted a condition be attached which requires the undertaking and submission of an updated 'Other protected Species' survey prior to the commencement of development.

Common Toad

This priority species, which is a material consideration, was recorded at a pond on site. The Council's Nature Conservation Officer advises that the proposed development would have a minor adverse impact upon this species as a result of the loss of low value terrestrial habitats. It must however be ensured that the western boundary of the site remains permeable to allow toads to move between the retained pond and the adjacent woodland habitats. The revised ecology report includes recommendations for the incorporation of features on the sites west boundary are designed to facilitate the movement of toads. As such, subject to a condition to ensure these features are installed, the proposals should not detrimentally impact upon Common Toads.

Hedgerows

Hedgerows are a priority habitat and hence a material consideration. Native hedgerows are present on the sites northern and southern boundaries. The submitted ecological assessment advises that these would be retained as part of the proposed development.

The submitted ecological assessment refers to the creation of 370m of new hedgerow on the proposed footpath. The location of this planting is included as a plan with the ecology report and further details of the location of this planting has been provided on the path showing the location of the footpath. The Council's Nature Conservation Officer concludes that the proposed development would lead to an increase in biodiversity associated with hedgerows if the proposed off-site planting was secured. This can be secured via planning condition in the event of approval.

Nesting Birds

If planning consent is granted a condition would be required to safeguard nesting birds.

Biodiversity Net Gain

In accordance with Policy SE3 of the CELPS, all development proposals must seek to lead to an overall enhancement for biodiversity. In order to assess the overall loss/gains of biodiversity an assessment undertaken in accordance with the Defra Biodiversity 'Metric' version 2 has been undertaken and the submitted with the application.

The Metric calculation as submitted, shows that the proposed development, which includes an off-site area of habitat creation, would deliver an overall gain for biodiversity amounting to 3.04%. This is in compliance with Policy SE3 of the CELPS.

In the event that planning consent was granted, the Council's Nature Conservation Officer advises that a detailed habitat creation method statement, 30-year habitat management plan and ecological monitoring strategy will be required by condition/legal obligation to ensure the long-term management of the off-site habitat creation area. The habitat creation method statement and ecological monitoring strategy must be informed by the proposals in section 5 and figure 5 of the submitted Ecology report dated 21st July 2021 prepared by Kingdom Ecology and the submitted Biodiversity Metric version rev 3 (21st July 2021).

Ecology summary

The development when considered against the Habitat Regulations is deemed to fail the tests in relation to bats and Great Crested Newts.

As the development would have a significant adverse impact on habitats or species and because the benefits of the proposed development do not outweigh the impact of the development, the proposals are also deemed contrary to Policy SE3 of the CELPS and Policy NE11 of the Macclesfield Borough Local Plan.

Design

Policy SE1 (Design) of the CELPS advises that proposals should achieve a high standard of design and wherever possible, enhance the built environment. It should also respect the pattern, character and form of the surroundings.

Policy SD2 of the CELPS states that development should contribute positively to an areas character and identity, creating or re-enforcing local distinctiveness in terms of; height, scale, form, grouping,

choice of materials, design features, massing and impact upon the streetscene. These policies are supplemented by the Cheshire East Design Guide SPD.

Policy 134 of the NPPF states that development that is not well designed should be refused.

Context

The site is located approximately 1km from the centre of the small village of Chelford down the country lane of Pepper Street. The immediate vicinity is characterised by 'open' countryside and woodland with a handful of large houses sitting in large gardens in a ribbon type development pattern which is focussed predominantly to the south of Pepper Street.

It is one of these large houses, located to the north of the lane, that is proposed for demolition and replacement with the application proposals.

Density and Urban Grain

There are many such similar large houses, sitting in substantial plots that are often found in and around larger settlements and where the principle of increasing density on the site is often supported. However, in this case, the site is located some distance from the centre of what is a small village, in an area of countryside with only a handful of large, detached houses close by.

The Council's Urban Design Consultant advises that the proposed concentration on the site and the density of development proposed would be out of keeping and would jar with the urban grain of the place. The Council's Urban Design Consultant suggests that the proposed scheme, for this reason, would irrevocably change the character of the area.

Site Layout

The Council's Urban Design Consultant advises that it is clear that the layout has much to commend it in urban design terms. The demolition of the existing house is accepted, the separation of the care home facility seems sensible and is well-handled and the creation of the central spinal route and the 'village green' is good.

Character

The Council's Urban Design Consultant advises that the architecture has much to commend it too, with a clean and contemporary design approach reinforced by some welcome reference to the local vernacular. Reference to the Cheshire East Borough Design Guide and the contextual advice contained therein are particularly welcomed.

Environmental benefits

Page 45 of the submitted Design and Access Statement sets out that the development has been designed using a number of environmental design principles including - passive design (e.g. inclusion of thermal insulation to minimise heat loss), site layout to capture light and solar energy, ventilation considerations and tree planting. Whilst these principles are welcomed, little specific detail on the environmental design benefits of the scheme has been provided.

Overall

The Council's Urban Design Consultant advises that whilst many of the design challenges have been met and this is a good scheme in many ways, the issue remains over the volume of development in this location and the subsequent effect on the integrity of the urban grain of the place. It is for this fundamental reason that a proposal of this size in this location cannot be supported. These assessments and conclusions are agreed with.

The application proposals are therefore deemed contrary to policies SE1, SD2 of the CELPS and the NPPF.

Amenity

Policy DC3 of the MBLP states that development should not significantly injure the amenities of adjoining or nearby residential property or sensitive uses due to (amongst other considerations): loss of privacy, sunlight and daylight, an overbearing impact and environmental considerations.

Saved Policy DC38 of MBLP refers to space guidelines as does Volume 2 of the Cheshire East Borough Design Guide SPD.

Policy SE1 of the CELPS states that development should ensure an appropriate level of privacy for new and existing residential properties.

Neighbouring amenity

The closest neighbouring dwellings to the application proposals would be the occupiers on the opposite side of Pepper St to the application site and the occupier/s of Mere Hills House to the north-east.

All of these neighbouring dwellings are over the minimum recommended separation standards quoted with the development plan, from any of the proposed built form. As such, none of these occupiers should be detrimentally impacted by the proposal with regards to loss of privacy, light or an overbearing impact.

Amenity of future occupiers

As per paragraph 130 of the NPPF, development should ensure a high standard of amenity for existing and future users. In consideration of this, an assessment of the relationship between the proposed buildings is proposed as well as consideration of private amenity space provision.

With regards to the relationships between the buildings themselves, there are various instances where these buildings oppose each other and their proximity to each other is lower than recommended policy separation standards. A further interrogation of these relationships subsequently considers what windows/openings are in the elevations that oppose each other and what rooms they serve.

There are instances where the inclusion of obscure glazing would overcome concerns. However, there are a few instances where obscure glazing is not a solution as it would involve the obscuring of sole windows to principal habitable rooms, which is deemed to result in a poor standard of amenity for the future occupiers. The most notable instances occur in the following locations.

- West elevation of building 06 and east elevation of building of 05 – Separation distance 9 metres
- West elevation of building 05 and east elevation of building of 04 – Separation distance 16.5 metres
- North elevation of building 04 and south elevation of building 08 – Separation distance 12 metres
- North elevation of building 03 and south elevation of building 08 – Separation distance 16.9 metres

It is recognised that there is strong emphasis on 'community' as part of the overall development and weight is placed on this. However, the relationship between the east of block 5 and the west of block 6 is of particular concern which cannot be overcome with the use of obscure glazing or privacy screens or the obscuring of sole windows to principal habitable rooms. As such, it is deemed that this relationship in particular, would have a detrimental impact upon the future occupier's apartments impacted in terms of loss of privacy, light or an overbearing impact.

In terms of private amenity space, the agent for the applicant has advised that each resident of the extra care element of the proposals, as well as having access to a wide range of communal areas, will have their own area of outdoor private space be that either in the form of a small patio area or a balcony.

Environmental Amenity

In consideration of environmental amenity (noise, air and land pollution), the Council's Environmental Protection Team have advised that they have no objections, subject to a number of conditions including; the submission/approval of an external lighting scheme, the provision of electric vehicle charging infrastructure, submission/approval of an updated Conceptual Model based on the findings of the Phase I Preliminary Risk Assessment, submission/approval of a contaminated land verification report, submission/approval of a soil verification report and that works should stop if contamination is identified. A number of informatives are also proposed.

To conclude, the development would not result in creating any neighbouring amenity issues external to the site. However, the development would result in instances where a substandard degree in privacy, light and an overbearing impact for the future occupiers of the development would occur where application buildings lie within close proximity to one another as specified above. As such, the development is deemed contrary to the amenity aspect of Policy SE1 of the CELPS and the NPPF.

Highways

The crux of Saved Policy DC6 of the MBLP is that development should provide safe and convenient access provision for vehicles, pedestrians, special needs groups, and service/emergency vehicles and to provide safe and convenient facilities for the servicing of businesses. Adequate parking provision should also be provided.

Access

The applicant has undertaken a new speed survey to determine the visibility requirements at the access. The 85%ile dry weather speeds are shown in a table for 2019 and 2021.

The earlier speed survey results have been used by the applicant to determine the visibility splays as these are higher than the recent measurements. Manual for Street guidance on SSD's has been used and results in 2.4m x 73m eastbound and 2.4m x 70m westbound.

Development Impact

The Council's Highway's Officer advises that given that the residential units will be associated with a care use, the use of lower trips rates than general open market houses can be accepted. The Council's Highway's Officer advises that the resultant number of trips that would be generated by the development in the peak hours is relatively low and not to a level that would result in any capacity problems on the local highway network.

The development is predicted to generate 33 two-way AM peak hour trips and 17 two-way trips in PM peak during the week.

Pedestrian/ Cycle Access

The applicant is proposing a 2 metre-wide footpath that links the site to Chelford Road. This will be provided partly within private land and the public highway. The path will not be gated and there will be lighting provided.

An uncontrolled pedestrian crossing facility is proposed on Chelford Road including the provision of a pedestrian refuge, this will provide a link to the existing footpath on the northern side of Chelford Road.

There is a substantial section of the A537 that does have a footway on the southern side, and whilst there is a footway on the northern side of Chelford Road the path is narrow in places between 1m and 1.2m wide.

There are no cycle paths that serve the development and there are no dedicated segregated cycle paths on the A537 through Chelford, any cycle journeys to and from the site would have to take place on carriageway.

Sustainable Transport

There is currently a bus service 88 which runs between Altrincham and Macclesfield that passes the site. It is proposed to provide two new bus stops on either side of Pepper Street close to main site access as part of the application.

The applicant is also providing a shuttle bus for the use of residents to be used to ferry passengers to various destinations such as Macclesfield, Knutsford or the railway station in Chelford. It is indicated that this service will be managed internally, and a timetable set as to the destinations of the bus.

The number of pool cars/car club has been increased from 8 to 16 and will be provided on the site, these will be for the use of staff/residents that can be booked for a set time. Having the provision of pool cars will aid reducing car ownership but may not be convenient for use as journeys would have to be booked in advance.

Car parking

The applicant has reduced the number of parking spaces from 165 to 128 which includes 22 mobility spaces, this level of parking accords with Cheshire East Council standards. As the development proposal is for a retirement care community use it is important that there is not an excess of parking on the site that encourages car ownership and traffic generation.

Highway's conclusions

The information provided regarding the proposed access and also the approach vehicle speeds has demonstrated that the access design is acceptable to serve the development. A concern of this development proposal is that the residential apartments would be open market units and not restricted to care use, this has been clarified by the applicant that all units will be occupied by residents needing care. The Council's Highway's Officer therefore advises that a condition will need to be applied to restrict occupancy to the over 60's that are in need of care.

The Council's Highway's Officer advises that a residential care and community use has a lower traffic generation than typical residential accommodation and as such, the trip generation from the site is relatively low and does not cause any capacity problems on the local road network.

The site will be connected to the existing pedestrian network by provision of a new footway along Pepper Street and also a pedestrian refuge crossing facility on Chelford Road. However, the Council's Highway's Officer states that the development is situated in an isolated rural location that is some distance away from many facilities such as supermarkets/ shops and public transport facilities.

The Highway's Officer states that whilst there are a number of facilities provided within the site to reduce travel such as shuttle buses and pool cars, the vast majority of trips will be vehicle based both from residents and vehicle deliveries to the site.

The Highway's Officer concludes that this development would be better placed in an urban environment and is not considered to be readily accessible and this matter should be included when making an assessment of the overall sustainability of the site by the planning officer.

The Council's Highways Officer states that matters of locational sustainability aside, there are no technical highways reasons to refuse the application.

As such, the proposal is deemed to adhere with Policy DC6 of the MBLP.

Flood Risk and Drainage

Policy SE13 of the CELPS relates to flood risk and water management. It states that all development must integrate measures for sustainable water management to reduce flood risk, avoid an adverse impact on water quality and quantity within the borough and provide opportunities to enhance biodiversity, health and recreation in line with national guidance.

According to the Environment Agency flood risk maps, the whole of the application site falls within a Flood Zone 1 (FZ1). FZ1 is the lowest of the flood risk categories and means that the land has less than a 1 in 1,000 annual probability of river flooding. It relates to all areas outside of Flood Zones 2 and 3, Flood Zones of a higher probability of flooding.

Given the scale of the application site, the application is accompanied by a Flood Risk Assessment (FRA).

The Environment Agency have reviewed the proposals and advised they have no comments to make as the development falls outside the scope of their remit.

The Council's Flood Risk Officer has reviewed the proposals and advised that they have no objections, subject to a condition requiring the submission/approval of a detailed drainage strategy/design, limiting surface water run-off. Informatives are also proposed.

In consideration of drainage, United Utilities have advised that they have no objections, subject to the following conditions: submission/approval of a surface water drainage scheme, foul and surface water should be drained on separate systems and the submission/approval of a sustainable drainage management and maintenance plan.

Subject to the above conditions, the proposal is not deemed to create any flood risk or drainage concerns and would adhere with the flood risk and drainage policies of the development plan.

Public Rights of Way (PROW)

The development, if granted consent, may affect Public Footpath Ollerton Numbers; 9, 26, 11 and 27 and Peover Superior No. 27, as recorded on the Definitive Map and Statement, the legal record of Public Rights of Way.

The proposed development would have an indirect effect on the Public Right of Way, which constitutes a material consideration.

The Council's PROW Officer has reviewed the proposed development and raises no objections to the proposed development subject to a condition requiring; the submission/approval of a Public Rights of Way Management Scheme; that the line of the PROW be marked out on the development site prior to commencement and during development; the pre-commencement and post-completion condition surveys are undertaken. Informatives are also proposed to remind the applicant of their responsibilities.

It is recommended these be included in the event of approval.

Manchester Airport

The Safeguarding Authority for Manchester Airport has assessed this proposal and its potential to conflict aerodrome Safeguarding criteria.

They have concluded that they have no objections, subject to a number of conditions including submission/approval of a bird hazard management plan (BHMP), submission/approval of a landscaping scheme that will dovetail with BHMP, Any solar panels shall not be installed until a Glint and Glare assessment has been submitted and approved and that all exterior lighting be capped at the horizontal.

Again, it is recommended these be included in the event of approval.

Archaeology

The application is supported by a desk-based archaeological assessment.

The Cheshire Archaeology Planning Advisory Service (APAS) has reviewed this document and advise that it outlines in a sufficient manner, the historical background of the proposed development area.

APAS records show little potential for significant archaeological remains within the proposed development area. As such, APAS advise that there would be no archaeological observations required for the proposed development.

Agricultural Land Quality

Policy SD1 of the CELPS states that development, wherever possible (and amongst other matters), protect the best and most versatile agricultural land.

Policy SD2 of the CELPS states that all development should avoid the permanent loss of areas of agricultural land quality 1, 2 or 3a, unless the strategic need overrides these issues.

Agricultural land falling within classes 1-3a are classed as 'Best and Most Versatile' BMV.

According to the 2010 Natural England Land Classification Map for the North West Region, the land where the proposed footpath that travels along the edge of a field, falls within land which is Grade 3 quality.

According to a more up-to-date (2017) map produced by Natural England, which considers the likelihood of parcels of land being Best and Most Versatile, the map shows that the land submit to the footpath has a 'High likelihood' of being BMV land.

However, no Agricultural Land Classification report has been submitted with the application. As such, it cannot be definitively concluded if the scheme would result in the loss of this best and most versatile land is a material consideration weighing against the proposal.

According the application, the reason for routing the proposed pedestrian footpath into and along the edge of an agricultural field was *'to provide safer pedestrian access away from the road, creating a less sub-urban pavement route and instead provide a more sympathetic and natural rural route.'*

Affordable Housing

Consideration has been given as to whether the application proposals, or part of the application proposals, should be subject to affordable housing requirements.

As a reminder of what is proposed:

- 60-bed care home
- X72 'extra care' apartments
- X14 'close care' apartments

A residential care home / nursing home, using the definition from national planning practice guidance is deemed not to trigger an affordable housing requirement given the nature of the services provided.

The recent decision of the High Court in Rectory Homes Limited v SSHCLG and South Oxfordshire District Council [2020] EWHC 2098 (Admin) highlights that 'extra care' developments within Use Class C2 are not exempt from providing affordable housing solely by virtue of falling within that use class.

Whether or not affordable housing is required will depend on the wording of the relevant development plan policy relating to a site. Policy SC5 of the CELPS states that in residential developments, affordable housing will be provided in line with the thresholds set out in the policy. As such, it is considered that affordable housing thresholds will apply to the 'extra care' elements of the scheme (x72 apartments).

In consideration of the 'close care' element, as these units have the necessary facilities including a multi - purpose kitchen / dining / living area and independent access to each suite then they too are deemed capable of forming a dwelling, it is therefore concluded that these 14 units should also be subject to affordable housing policy SC5 'affordable homes' in the CELPS.

As such, based on the requirements of Policy SC5 of the CELPS, 30% of 86 (25.8 units) are required to be affordable units. This is rounded up to 26 units.

The application proposals do not provide an affordable housing provision, or a contribution towards off-site provision. The applicant has provided a viability appraisal to demonstrate that this provision cannot be provided as part of the scheme for financial reasons. This appraisal has been checked by an external, independent consultant and been found to be correct.

Health

The Retirement Care Community is one of several applications in and around the area covered primarily by the Primary Care Network; CHAW. The GP Practices currently involved, are as follows:

- Alderley Edge Medical Centre
- Chelford Surgery
- Handforth Health Centre
- Kenmore Medical Centre
- Wilmslow Health Centre

Combined, there is a Practice Population of 47,477

The NHS CCG Officer advises that currently, there are over 21 care homes of mixed use (residential and nursing) within the Primary Care Network boundary that have an 852-bed capacity. In general, patients in nursing and residential homes are found to have more complicated health care requirements and require more time and care than patients with otherwise similar characteristics who are not in nursing and residential homes.

The NHS CCG Officer advises that it is felt that an additional care home in this area would have an unfair negative impact on primary care services availability to other residents living locally.

Furthermore, this has the potential to also impact Community Services and increase the high need population within the area. As directly commissioned by the CCG, Community Services and Acute services currently on a block contract; there is little opportunity to adjust this in order to meet increase demand developments such as this scheme would create, especially if there is no apparent demand.

The NHS CCG object to the application in the first instance as the Officer advises that it's felt there is sufficient provision of care home and/or beds within the area already not least the planning applications within the neighbouring localities that have recently been approved. The Officer advises that she also believes this is the stance of Public Health with 'generic' care home beds being less required than specialist beds such as EMI/LD. The Officer advises that the evidence provided doesn't highlight the need within the area adequately and would more likely bring additional need into the locality rather than cater to it.

However, the NHS CCG Officer advises that should this application be approved; Section 106 monies should be sought in order to provide infrastructure capital to sustain the existing GP Practices being able to provide Primary Care services and to mitigate the impact.

Assumptions have been made in line with the 1.5 bed units described within the application for the purposes of the below application:

Size of Unit	Occupancy Assumptions Based on Size of Unit	Health Need/Sum Requested per Unit
1 bed unit	1.4 persons	£504 per 1 bed unit
2 bed unit	2.0 persons	£720 per 2 bed unit
3 bed unit	2.8 persons	£1,008 per 3 bed unit
4 bed unit	3.5 persons	£1,260 per 4 bed unit
5 bed unit	4.8 persons	£1,728 per 5 bed unit
1 bed unit x65 = £32,760		
2 bed unit x74 = £ 53,280		
3 bed unit x7= £ 7,056		
Total: £ 93,096		

The applicant has provided a viability appraisal which demonstrates that this contribution cannot be provided for financial reasons.

Public Open Space / Green Infrastructure

Policy SE6 of the CELPS requires all developments to protect and enhance existing open spaces and recreation facilities, encourage improvements in their quality and provide adequate open space (to name a few). In order to assess the adequacy of the open space, a table (13.1) is provided within the subtext of Policy SE6 which sets out open space standards.

The Council's ANSA Greenspace Officer has advised that the Council focus on the amenity element of POS provision when looking at such residential units and focus on activities and amenities that would be appropriate for the future residents.

The council's Open Space officer considers that given the proposed footpath improvements linking the site to the village of Chelford and the degree of independence the occupiers of the 'extra care' element of the proposal are likely to have in particular, that this element of the scheme should be subject to Open Space requirements.

Based on the 72 'extra care' apartments, that generates a commuted sum figure of £108,000. The commuted sum would be used to make additions, amendments, and improvements to the relevant amenity facilities in the village of Chelford. The Council's ANSA Greenspace Officer suggests that this includes some or all the following: The Mere Court open space, amenity open space on Dixon Drive, Chelford activity park adjacent to the Village Hall and Chalford bowling green. There are two live projects in Chelford currently, one at Mere Court Park and the other at the Activity Park. Both would benefit from additional funding for amenity improvements including seating, paths, landscaping, pond renovation, wildlife and habitat works etc.

As such, this contribution would be required in the event approval and would be secured by means of a S106 Agreement.

Levy (CIL) Regulations

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

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

The scheme, via planning policy triggers the requirement to provide 26 units affordable units on-site and a financial contribution towards NHS and public Open Space.

As these provisions do indeed relate to either policy provision or identified need, it is considered that these requirements are necessary, fair and reasonable in relation to the development. The S106 recommendation is compliant with the CIL Regulations 2010.

The applicant has submitted a viability report to advise that any required provision of contributions cannot be provided.

Viability

Paragraph 34 of the NPPF states that plans should set-out the contributions expected from development. This should include setting out of the levels and type of affordable housing provision required along with other infrastructure.

Paragraph 58 of the NPPF states that:

'Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision

maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.'

Paragraph 007 of the Viability NPPG states that instances where viability may be relevant could be *'where particular types of development are proposed which may significantly vary from the standard models of development for sale (for examples build to rent for housing for older people)...'*

In response to the requirement highlighted by the Council for affordable housing provision, the agent commissioned a viability appraisal to demonstrate that the required provision would not be viable. The requested contribution requirements from the NHS (£93,000) and the Council's Open Space Officer (£108,000) would also be impacted by this appraisal.

The submitted viability report, produced by Turley, sets out that based on revenues, costs and profits, the development would not have any money left to be spent on contributions. The Council have had this viability appraisal independently reviewed by Gerald Eve (at the applicant's expense). The independent review concluded that the conclusions within the viability appraisal are largely accepted and therefore the applicant indeed cannot not financially support the requirement to provide affordable housing provision or required contributions to either offset the harm of the development or address an identified need.

Accordingly, whilst the provision affordable housing and contributions towards health and public open space to mitigate for the impact of the development upon existing provision would normally be required, it is not fully achievable in this instance due to viability reasons. This reduces the contribution this scheme makes to the social arm of sustainable development.

This will need to be assessed within the planning balance.

Very Special Circumstances? (VSC's)

Paragraph 148 of the NPPF states:

'When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.'

It has already been established that the application proposals represent inappropriate development in the Green Belt. Furthermore, additional Green Belt harm would be deemed to be created with regards to a significant impact on openness and through encroachment. According to the NPPF above, this harm is to be afforded substantial weight.

Other harm arising from the application proposals identified include: harm to the intrinsic character and beauty of the Open Countryside (Policy PG6 of the CELPS), that the development is at odds with the strategic aims of the development plan which seeks to direct such development to urban locations which are naturally more locationally sustainable and as such generate less harm in such locations. This is particularly the case where the need for part of the proposals (the x60-bed Care

home) is questionable. Harm would be created in providing other uses such as a restaurant, café, hairdressers, gym etc, which would normally be directed to urban centres.

Ecology harm would be created as the development would result in the loss of a bat roost and pose the risk of killing or injuring Great Crested Newts present on site. Although mitigation is proposed, there are no overriding reasons in approving the application proposals and therefore the development is deemed contrary to the Habitat regulations.

Design harm (Policy SE1 and SD2) would be created as the development seeks to create a large volume of development in this rural location which impacts the integrity of the urban grain of the place.

Amenity harm (Policy SE1 and NPPF) would be created for the future occupiers of the site by reason of loss of privacy, light and an overbearing impact due to the proximity and relationship of some of the proposed development to one another.

The creation of a footpath through a portion of a field of Best and Most Versatile Agricultural Land results in a small degree of harm with regards to the loss of agricultural land.

Although a viability appraisal has been provided and found to be correct which justifies why the proposal cannot provide the policy required provision of affordable housing and contributions towards health and open space, the elements are non-the-less still not being provided to the detriment of the social sustainability of the application proposals.

As such, any considerations in favour of the proposed development would need to be, either individually or cumulatively, of sufficient magnitude to *clearly outweigh* all of this harm identified in order for Very Special Circumstances to exist.

The main aspect of the VSC case presented is the level of 'need' for the type of development proposed. In addition, the applicant has provided a sequential test detailing why the site is sequentially preferable over other sites. These VSC's are considered in greater detail below.

Development 'Need'

As set out earlier in this report, the Council accept that there is a proven need for 'extra care' facilities in Cheshire East and in particular, in the area of Cheshire East where the development is proposed. However, the Council's Adult Services Team and the NHS CCG question the level need for the proposed Care home and close care units. The Cheshire East Council's Adult Services Team set out that there are currently a large number of vacancies for care homes which are registered with the Council and have noted a drop-off in demand for places as a result of Covid-19. The NHS CCG Officer's findings appear to concur.

As such, whilst there is a need for older persons accommodation, the weight afforded to the degree of need is tempered by the findings of these consultees with regards to the care home element of the proposals in particular.

It is also noted that a Written Ministerial Statement from December 2015 stated that matters of 'unmet need' are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish Very Special Circumstances. It is recognised that this statement did not translate directly into policy in subsequent revisions of the NPPF and therefore carries limited weight, but it is an additional indication of the very high bar required to override inappropriate development in the Green Belt.

Availability of other sites

The specific site selection for the development proposal would appear to be driven initially by the applicant's position as landowner. The application is supported by a Sequential Test provided by the planning agent of the application. This can be a useful exercise but it should be highlighted that there is no provision in planning policy for a sequential test to be used for selecting sites for C2 uses.

This submitted document sets a 10km catchment area from the application site. It should be noted that this catchment is predominantly rural, but includes the towns of Wilmslow and Knutsford which are identified as 'Key Service Centres' in the CELPS which Policy PG7 of the CELPS identifies as towns that are expected to accommodate 950 new homes (Knutsford) and 900 new homes (Wilmslow) over the plan period. The catchment also includes a number of smaller settlements, referred to as 'Local Service Centres' by Policy PG2 of the CELPS including - Alderley Edge, Chelford, Goostrey, Holmes Chapel, Mobberley and Prestbury. These smaller settlements, according to Policy PG7 of the CELPS are expected to accommodate in the order of 3,500 new homes.

There are a number of parameters set by the applicant including: Size, logistical criteria (is the site available and is it suitable and viable).

Sites were considered under the following headings: Existing registered Care Home sites, existing sheltered housing sites, sites that are presently on the open market, sites that appear on the Cheshire East Council Brownfield Register, extant CELPS and emerging SADPD draft allocated sites and safeguarded sites.

The test concludes that no sites were identified within these categories that were available and suitable. With regards to extant CELPS strategic site allocations, 12 sites were identified for release from the Green Belt but whilst almost all appear suitable, it is advised that only 1 site is presently available, the Royal London allocation (LPS54) and this is discounted as the allocation is for housing, not C2 development.

The other sites are not available because it is advised that they are either 'tied up' with an existing residential development partner (housebuilder) who is at an advanced stage of delivering housing schemes or the owners are not in a position to consider a release through marketing the sites or realistically delivering or considering care uses on them.

The Handforth village scheme (LPS33) is discounted due to existing complexities and timeframes for delivery.

In consideration of the emerging SADPD, a number of safeguarded sites have been identified, but these are all discounted as they are not presently available until beyond 2030.

The conclusion of the report is that no sites have been found within the catchment presented that are any more sequentially preferable than the application site and that no available, suitable, or viable alternative sites were identified.

However, the use of the 10km catchment excludes the majority of Macclesfield, defined as a 'Principal Town' within Policy PG2 of the CELPS, where 'significant development' is encouraged. Whilst it maybe the case that a catchment parameter of 10km was discussed in pre-application submission, this approach is highly questionable. Common sense would suggest that the entirety of this settlement should have been included in the test given that Macclesfield is the main town in the

north of the borough where the Council seek to direct significant development, and that the 10km area selected touches the western fringe of Macclesfield. It is also notable that care/extra care uses have been recently granted permission in these more sustainable locations, such as the former Kings School site in Macclesfield which is referenced in the applicant's planning statement. Other examples include existing large residential properties in Handforth and Wilmslow seeking development to provide care home uses as well as such uses being sought as part of residential development on larger allocated residential sites within the CELPS.

In addition, the criteria of the assessment is based on the search for a single site, large enough to accommodate the 'care village' as a whole. Whilst the benefits of the 'village' model are recognised, it maybe the case that there are various, sequentially preferable sites small enough to provide the specific, targeted, care needs of the borough. Although the Sequential Test indeed does consider smaller sites in urban locations, this is for sites large enough for an entire care village, rather than targeted individual specialist accommodation types.

These factors are deemed to temper the weight afforded to the findings of the submitted sequential test.

Social benefits

The specialist accommodation proposed on site brings about social and wellbeing benefits. This is particularly the case given the facilities that would be provided on site and the variety of accommodation choices which will allow a progression through levels of care as needs change and would allow couples, for example, with differing levels of care to live on one site.

Economic benefits

The proposal is anticipated to generate 42.5 equivalent number of full-time jobs (25 full time and 35 part-time). There would also be the creation of temporary construction jobs and both direct and indirect expenditure and economic benefits. This would result in a positive contribution to the economy.

Conclusions / Planning balance

Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

The proposals would make a significant contribution towards specialist older persons housing provision in the area. However, the weight afforded to the need is tempered by the fact that the need for the care home element of the development proposals, is not considered 'proven' based on consultation responses and evidence provided by the Council's Adult Social Care Team and the NHS CCG. In addition, several flaws within the submitted 'Care Needs Assessment' submitted by the applicant have been highlighted by the NHS CCG. The weight therefore afforded to the 'need' for the accommodation proposed is categorised as moderate to significant.

Significant weight is given to the social benefits derived from the care village model. Having the various stages of care being provided at one site which includes a variety of services and amenities,

potentially allowing couples to live together on site who need differing levels of care, represents a notable health and well-being benefit.

Moderate weight is afforded economic benefits with regards to the full-time equivalent job creation, the short-term jobs that would be created during construction period and localised spends in the area. This is afforded moderate weight given that a number of services and amenities would be provided on site and as such, there would be less need for residents, staff and visitors to visit the local services and amenities nearby.

Moderate weight is attributed to the sequential test which sets out why no other sites are sequentially preferable for the development proposed. This is afforded moderate weight as the test has not included the Principal Town of Macclesfield within its search criteria. Macclesfield is the main town in the north of Cheshire East where the development plan seeks to direct 'significant development'. In addition, it has been highlighted that of the type of accommodation proposed, the need within Cheshire East is mostly 'extra care'. The test has not considered much smaller sites which maybe sequentially preferable that could accommodate development to meet the specific, specialist accommodation needed in Cheshire East.

With regards to harm, substantial weight should be given to the harm to the Green Belt. Furthermore, it is deemed that the development would result in a substantial harmful impact upon the openness of the Green Belt. There would also be significant adverse effects on the Green Belt purpose of safeguarding the countryside from encroachment.

Significant weight is attributed to the harm that would be caused to the intrinsic character and beauty of the Open Countryside and the design harm that would be created by introducing a large volume of development in this rural location which impacts the character and appearance of the area.

Significant weight is attributed to the ecology harm that would be created due to the loss of a bat roost and the risks posed in relation to killing or injuring Great Crested Newts present on site. Although mitigation is proposed, there are no overriding reasons in approving the application proposals and therefore the development is deemed contrary to the Habitat regulations.

Moderate weight is afforded to the lack of affordable housing provision and health and open space contributions to off-set the impacts of the development proposed. This is afforded moderate weight because a submitted viability appraisal, which has been externally examined and found to be largely correct, demonstrates that such provisions cannot be afforded.

Amenity harm for the future occupiers is also afforded moderate weight. Although the relationship between built form and principal windows would breach standards, these standards are only a guide and there would be a degree of buyer beware and knowledge that the occupiers would be buying into a community development.

Limited weight is attributed to the lack of information with regards to the loss of possible Best and Most Versatile Agricultural land given the minor scale of the land to be lost to the development.

It is also recognised that the location of the proposed development would be contrary to the strategic aims of the development plan which seeks to direct such development, including the proposed on-site commercial uses (albeit restricted to residents) to urban locations which are naturally more locationally sustainable and as such generate less harm in such rural locations.

No concerns are noted with regards to technical highway safety matters, landscape, trees, flood risk or drainage, public rights of way, Manchester Airport or subject to conditions where appropriate.

Overall, it is considered that the harm caused to the Green Belt by reason of inappropriateness, and the other harm identified, would not clearly be outweighed by the other considerations. As such, the very special circumstances necessary to justify the development do not exist.

The application is subsequently recommended for refusal.

RECOMMENDATIONS

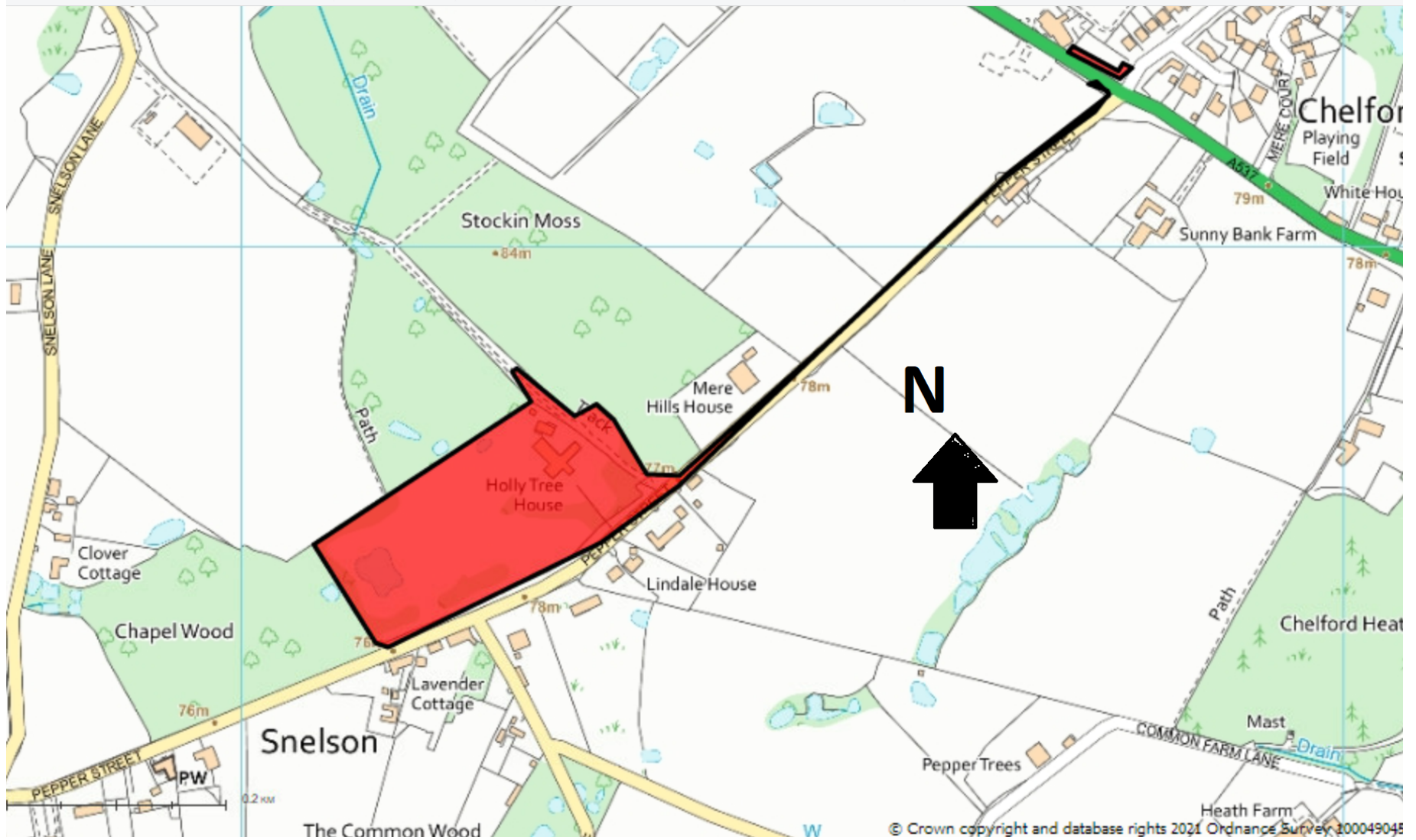
REFUSE for the following reasons:

- 1. The proposed development would represent inappropriate development within the Green Belt. Furthermore, additional harm would be created to the Green Belt by virtue of loss of openness and encroachment. It is not deemed that Very Special Circumstances exist that are sufficient to clearly outweigh the harm identified. The development would therefore be contrary to Policy PG3 (Green Belt) of the Cheshire East Local Plan Strategy, saved Policy GC1 (Green Belt (New Buildings)) of the Macclesfield Borough Local Plan and the National Planning Policy Framework.**
- 2. The development would result in the creation of older persons accommodation where there is not a clear 'proven need' for all types of the care proposed. Furthermore, it's considered that the accommodation proposed would be in an unsustainable location, would not be within a settlement, would not be within a reasonable walking distance to specific community facilities and would lead to a concentration of specialist care facilities resulting in an imbalance of residential uses in the area. In addition, the proposed on-site services and amenities would cumulatively be out of scale for their location, would not be well sited and would conflict with other relevant policies of the development plan. The development is therefore deemed contrary to Policies SC4 (Residential Mix), SD2 (Sustainable Development Principles), CO1 (Sustainable Travel and Transport), EG2 (Rural Economy) and the strategic aims of Policy PG2 (Settlement Hierarchy) of the Cheshire East Local Plan Strategy and saved Policy DC57 (Community Uses – Residential Institutions) of the Macclesfield Borough Local Plan.**
- 3. The proposed development, due to the amount of built form proposed in this rural location characterised either by 'open' countryside, woodland or large dwellings within large plots, would be out of keeping and would jar with the existing urban grain and character of the area. The development would therefore be contrary to policies SD2 (Sustainable Development Principles) and SE1 (Design) of the Cheshire East Local Plan Strategy and the National Planning Policy Framework**
- 4. The proposed development, due to the close proximity of some of the built form to each other, particularly blocks 5 and 6, would have a detrimental impact upon the amenity of future occupiers in relation to loss of privacy, light or an overbearing impact. The proposal is therefore deemed contrary to the amenity aspect of Policy**

SE1 (Design) of the Cheshire East Local Plan Strategy and paragraph 130 of the National Planning Policy Framework

- 5. The development would have a significant adverse impact upon roosting bats and Great Crested Newts, protected and priority species. The reasons for or benefits of the proposed development do not outweigh the adverse impacts of the proposed development upon these species and so the proposals are contrary to Policy SE3 (Biodiversity and Geodiversity) of the Cheshire East Local Plan Strategy and saved Policy NE11 (Nature Conservation) of the Macclesfield Borough Local Plan. As bats and Great Crested Newts receive protection under the Habitats Regulations, the Council must have due regard to the regulations during the determination of the application. In order to discharge its duties under the regulations the Council must consider whether Natural England would be likely to grant a protected species licence to allow the development to proceed. In this instance, the Council considers that the proposed development is not of overriding public interest and there are suitable alternatives to the current proposals with a reduced impact upon bats and Great Crested Newts. The application therefore fails to comply with the licensing tests in the habitat regulations. Natural England would consequently be unlikely to grant a protected species license in this instance**

In order to give proper effect to the Strategic Planning Board's intent and without changing the substance of its decision, authority is delegated to the Head of Planning in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice.



Application No: 21/2412C

Location: Land South Of, OLD MILL ROAD, SANDBACH

Proposal: Reserved Matters for approval of access, appearance, landscaping, layout and scale following outline approval 14/1193C for the erection of 170 dwellings, car parking, public open space and associated works

Applicant: Mr C R Muller, Muller Property Group

Expiry Date: 29-Jul-2021

Summary

The application site is within the Settlement Zone Line as identified by the Sandbach Neighbourhood Plan (SNP) and has outline planning permission for residential development.

The highways implications of the development are considered to be acceptable and a contribution for off-site highway works is secured as part of the outline consent.

The issues of noise, air quality and contaminated land are considered to be acceptable and would comply with GR6 and GR7 of the Congleton Local Plan (CLP) and SE 12 of the Cheshire East Local Plan Strategy (CELPS). However insufficient levels of information has been provided to demonstrate that the proposed development will not cause harm to the residential amenity of the adjoining dwellings.

The site is a prominent location Sandbach and the proposed development fails to create a high quality, beautiful and sustainable place and is contrary to Policies SE1, SD1 and SD2 of the CELPS, Policy H2 of the SNP and guidance contained within the NPPF.

The site has a challenging topography and the development would require large retaining structures and little landscape mitigation. The proposed development is therefore contrary to Policies SD2, SE1 and SE4 of the CELPS and PC2 of the SNP.

There is insufficient information in relation to the impact upon trees on the site. The development would not comply with Policy SE5 of the CELPS.

The drainage and flood risk implications of the proposed development are considered to be acceptable and the development complies with Policy CE 13 of the CELPS.

The proposed development would affect PROW 19. The development has not taken into account the existing footpath network, would not achieve a high-quality public realm that enhances conditions for pedestrians, would not be pleasant to access on foot. As a

result, there would be conflict with Policies SE1 and CO1 of the CELPS, Policy GR16 of the CLP, and Policy PC5 of the SNP.

Insufficient information has been submitted to establish whether roosting bats are present on this site. As a result, the proposed development would be contrary to Congleton Local Plan Policy NR2 of the CLP, Policy SE3 of the CELPS, Policy PC4 of the SNP and the NPPF.

The proposed development does not integrate the open space/play area into the development, it lacks natural surveillance and the area is likely to be the subject of anti-social behaviour. The proposed development is contrary to Policies SE6, SE1, SD1 and SD2 of the Cheshire East Local Plan Strategy, and Policy H2 of the Sandbach Neighbourhood Plan.

On the basis of the above the application is recommended for refusal.

RECOMMENDATION

REFUSE

PROPOSAL

This is a Reserved Matters application following the approval of application 14/1193C. The application seeks permission for the access, appearance, landscaping, layout and scale for the erection of 170 dwellings.

SITE DESCRIPTION

The application relates to 7.21 ha of land. The site is located within the open countryside as defined by the Congleton Borough Local Plan. However, the site is located within the Settlement Zone Line as identified within the Sandbach Neighbourhood Plan. Part of the site is also located within a wildlife corridor.

The site comprises agricultural land and the farm complex known as Fields Farm. This is located to the east of the A534 and to the west of residential properties that front onto Palmer Road, Condcliffe Close and Laurel Close. The site has uneven land levels which rise towards the residential properties to the east. The site includes a number of hedgerows and trees which cross the site. To the north of the site is a small brook and part of the site to the north is identified as an area of flood risk.

There are a number of Public Rights of Way (PROW) which cross the site.

RELEVANT HISTORY

19/5736C - The construction of 57 dwellings and erection of a petrol filling station (sui generis) and associated convenience store (class A1), drive-through restaurant (Class A3 / A5), drive through café (Class A1 / A3), offices, (Class B1(a)) along with the creation of associated access roads, parking spaces and landscaping – Refused 26th February 2020

19/3784C - Full planning application for erection of a care home (class C2), 85 new dwellings (class C3) and creation of associated access roads, public open space and landscaping – Refused 19th December 2019 – Appeal Allowed 12th October 2020

19/2539C - Hybrid Planning Application for development comprising: (1) Full application for erection of a discount foodstore (Class A1), petrol filling station (sui generis) and ancillary sales kiosk (class A1), drive-through restaurant (Class A3 / A5), drive-through coffee shop (class A1 / A3), offices (class A2 / B1) and 2 no. retail 'pod' units (class A1 / A3 / A5), along with creation of associated access roads, parking spaces and landscaping. (2) Outline application, including access for erection of a care home (class C2), up to 85 new dwellings (class C3), conversion of existing building to 2 dwellings (class C3) and refurbishment of two existing dwellings, along with creation of associated access roads, public open space and landscaping. (Resubmission of planning application ref. 18/4892C). – Refused 28th August 2019 – Appeal Dismissed 12th October 2020

18/4892C - Hybrid Planning Application for development comprising: (1) Full application for erection of a foodstore (Class A1), petrol filling station (sui generis) and ancillary kiosk/convenience store (class A1), drive-through restaurant (Class A3 / A5), drive-through coffee shop (class A1 / A3), farm shop (class A1) and 2 no. retail 'pod' units (class A1 / A3 / A5), along with creation of associated access roads, parking spaces and landscaping. (2) Outline application, including access for erection of a care home (class C2), 92 new dwellings (class C3), conversion of existing building to 2 dwellings (class C3) and refurbishment of two existing dwellings along with creation of associated access roads, public open space and landscaping – Refused 1st March 2019

18/2540S - EIA Screening Opinion – EIA Required 6th June 2018

14/1193C - Outline planning application for up to 200 residential dwellings, open space with all matters reserved – Approved 12th October 2017

13/2389C - Outline Planning Application for up to 200 Residential Dwellings, Open Space and New Access off the A534/A533 Roundabout at Land South of Old Mill Road – Appeal for non-determination – Strategic Planning Board 'Minded to Refuse' – Appeal Allowed 11th December 2014

13/2767S – EIA Scoping – Decision Letter issued 7th August 2013

13/1398S – EIA Screening – EIA Required

12/3329C - Mixed-Use Retail, Employment and Leisure Development – Refused 6th December 2012. Appeal Lodged. Appeal Withdrawn

POLICIES

Cheshire East Local Plan Strategy (CELPS)

MP1 – Presumption in Favour of Sustainable Development

PG1 – Overall Development Strategy

PG2 – Settlement Hierarchy

PG6 – Open Countryside
PG7 – Spatial Distribution of Development
SD1 - Sustainable Development in Cheshire East
SD2 - Sustainable Development Principles
SE 1 - Design
SE 2 - Efficient Use of Land
SE 3 - Biodiversity and Geodiversity
SE 4 – The Landscape
SE 5 – Trees, Hedgerows and Woodland
SE 6 – Green Infrastructure
SE 7 – The Historic Environment
SE 12 – Pollution, Land Contamination and Land Instability
SE 13 - Flood Risk and Water Management
IN1 – Infrastructure
SC4 – Residential Mix
SC5 – Affordable Homes
CO1 – Sustainable Travel and transport
CO2 – Enabling Growth Through Transport Infrastructure
CO4 – Travel Plans and Transport Assessments

Congleton Borough Local Plan

PS4 – Towns
PS8 – Open Countryside
GR6 – Amenity and Health
GR7 – Amenity and Health
GR9 - Accessibility, servicing and provision of parking
GR10 - Accessibility, servicing and provision of parking
GR13 – Public Transport Measures
GR14 - Cycling Measures
GR15 - Pedestrian Measures
GR16 - Footpaths Bridleway and Cycleway Networks
GR17 - Car parking
GR18 - Traffic Generation
NR3 – Habitats
NR4 - Non-statutory sites
NR5 – Non-statutory sites

Sandbach Neighbourhood Plan (SNP)

The Sandbach Neighbourhood Plan was made on 12th April 2016.

PC2 – Landscape Character
PC3 – Policy Boundary for Sandbach
PC4 – Biodiversity and Geodiversity
PC5 – Footpaths and Cycleways
HC1 – Historic Environment
H1 – Housing Growth
H2 – Housing Layout
H3 – Housing Mix and Type
H4 – Housing and an Ageing Population
H5 – Preferred Locations

IFT1 – Sustainable Transport, Safety and Accessibility
IFT2 – Parking
IFC1 – Community Infrastructure Levy
CW1 – Amenity, Play, Recreation and Outdoor Sports
CW3 – Health
CC1 – Adapting to Climate Change

National Policy:

National Planning Policy Framework
National Planning Policy Guidance

CONSULTATIONS

United Utilities: No objection subject to the imposition of a drainage condition. A public sewer crosses this site and UU may not permit building over it. UU will require an access strip width of six metres, three 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.

CEC Housing: Object to the application on the following grounds;

- The applicants have stated in their D&A Statement that 30% of the dwellings are to be affordable (51 units). 33 units should be provided as rented and 18 units should be provided as intermediate tenure.
- The applicant has not provided an Affordable Housing Scheme with this application to identify the choice of Social, Affordable or Intermediate Rent and the split is not known.
- A mix of 1, 2, 3 and 4 bedroom dwellings with older persons provision is required.
- The applicant has provided the correct mix and tenures as per the CELPS and S106, however there is no detailed Affordable Housing Statement.

CEC Environmental Health: No comments to make.

CEC PROW: Object to the application on the following grounds;

- FP17 is shown as being diverted along an estate road. This would represent an extinguishment of the public footpath and the corresponding legal order. If this draws an objection it would require the matter to be referred to the Planning Inspectorate and may require a Public Inquiry. A green corridor accommodating this route would provide a significant benefit to future and existing residents.
- FP19 is shown offset from the main spine road presumably within a green corridor and not part of the adopted highway. This alignment does not represent a satisfactory route for pedestrians as it is traversed by at least 11 private driveways.
- The south west FP19 is diverted into green space leading to the LEAP. The first section from the junction runs tight between the ends of facing gardens creating a potential privacy issue. Greater width needs to be allowed to provide a 6m green corridor. A section to the western boundary of the care home would require additional width as it is sandwiched between an existing hedge and the future boundary of the care home. The same width should be afforded as that along the southern boundary leading to the junction with the road.
- The accommodation of FP18 would require a small diversion due to the 90 degree angle shown midway along its length. The path also runs to the side and rear of all the adjacent properties

and may not be afforded natural surveillance. There is a very acute angle at the northern end of the path which would need addressing. The path appears to run within a green corridor but there is no detail of the width or surfacing.

- Each route requires a legal order under s.257 of TCPA to re-align. These processes are separate to the planning process and will require separate negotiation and agreement with the PROW team.
- Informatives are suggested.

Natural England: No objection.

Sustrans: No comments received.

Ramblers Association: No comments received.

Cheshire Wildlife Trust: No comments received.

CEC Head of Strategic Infrastructure: No objection.

CEC POS: Offer the following comments;

- The application is very similar to previous applications. The SUDS scheme is the predominant feature forming large parts of the north and south-west of the site. Only very small areas of Green Infrastructure are actual POS and therefore POS is not exceeded and it is questionable if the standards set out in SE6 are met.
- The green corridor to accommodate PRO1 FP18 includes a Local Area for Play (LAP). The LEAP (Local Equipped Area for Play) has been relocated adjacent to a large SUDS basin.
- The green corridor is referred to as a linear park. Whilst this scheme provides for healthy activities in a circular route, has benefits for urban cooling/flood alleviation and is a green visual amenity, the multifunctionality is restricted. In places, the PROW runs close to the rear of properties which residents may have cause for concern.
- The main western central area of POS includes a LEAP which is located above a water attenuation tank. This should be NEAP (Neighbourhood Equipped Area for Play) having a maximum area of 1,000sq.m. A minimum 30m buffer from the activity zone to the nearest dwelling should be provided.
- The NEAP should be predominately flat and enjoy amenity space surrounding it for informal play and recreation. The POS Officer requests that the wildflower areas shown on Planting Plan Sheet is removed as the maintenance of the two areas does not blend. Resin bound paths may need to be redirected to maximize the use of space. The POS Officer requests a revised landscaping scheme to allow for informal recreation, this may mean tree planting is reduced, a cross section levels plan through the NEAP, demonstration of required buffers along with the design and layout are submitted in detail should committee look favourably on this application. A condition is requested to secure the NEAP including the design, equipment, levels and layout.
- Contributions to enhance hub and key service centres within Sandbach are sought at £1000 per family dwelling or £500 per 2 bed space plus apartment.

CEC Flood Risk Manager: Make the following comments;

- Upon reviewing the submitted information we would have no objections in principle to the reserved matters application.

- It is worth noting that there is a significant increase in proposed ground levels on the western boundary of the site therefore can the applicant please clarify how surface water run-off will be managed safely and contained onsite in this area? Ideally in this instance we would expect to see the implementation of a cut-off drain with a positive outfall to prevent adverse flooding off-site. Has effective boundary treatment been included within the drainage strategy/overall design layout to date?
- Can the applicant please provide confirmation on the above prior to the LLFA's approval?

Environment Agency: Very little information has been provided regarding the access road crossing of Arclid Brook. The applicant has not yet provided details or drawings of the crossing design or has provided any evidence of options that have been explored.

The Environment Agency are generally opposed to the culverting of watercourses due to the negative impacts that they can have on habitats, wildlife corridors and river continuity. Culverting should not be considered until all other options, such as an open span bridge, have been explored. When culverts are unavoidable they should be kept as short as possible.

Conditions are suggested.

VIEWS OF THE TOWN COUNCIL

Sandbach Town Council: Sandbach Town Council objects to this application, further Council consideration is required to confirm the grounds for objection, which will follow in due course.

(The case officer has chased the grounds of objection but at the time of writing this report no comments had been received. An update will be provided in relation to this issue).

REPRESENTATIONS:

Letters of objection have been received from 5 local households which raise the following points;

- Increase in traffic at the roundabout to the A534/A533. The traffic levels are already higher than the roundabout can cope with
- The new development envisages an additional 372 vehicles which will increase traffic congestion and cause unacceptable access, noise pollution and air pollution.
- The Transport Assessment acknowledges that the existing infrastructure is operating beyond capacity by 2024. The redesign of the roundabout will not solve this problem.
- The Transport Plan is out of date and based on data and assumptions from 2014.
- Traffic regularly backs up at peak times and regularly uses the hatched area to avoid blocking the roundabout (an area where the current proposal would site a Toucan crossing).
- The application refers to comments made by a Planning Inspector on a different application (19/3784C). This application was for half the number of dwellings as the current application and the comments are not valid
- Loss of green space which surrounds Sandbach
- The proposed three-storey buildings along the central spine road are not in keeping with the design or aesthetic of Sandbach
- The drainage plan does not provide sufficient detail or guarantee through-life maintenance of the proposed flood storage facility. It is hard to envisage the solution being anything other than a stagnant pond.
- Sandbach has grown exponentially over the last 20 years

- The town is at gridlock if there are any problems on the M6
- Difficulty getting access to a dentist or Dr appointment
- Local schools are at capacity
- The site includes public footpaths which make a significant contribution to the area
- The approved local housing plan should be afforded high weight
- Continuous planning applications on this site
- Lack of infrastructure within Sandbach
- Sandbach does not need further housing development
- Sandbach is meeting its housing needs
- The roundabout is at capacity and cannot cope with an additional 372 vehicles
- Junction 17 is overwhelmed at peak times
- Lack of public transport
- Loss of wildlife habitat

APPRAISAL

Procedural Matters

It should be noted that outline application 14/1193C had been due to expire on 12th October 2020. However, The Business and Planning Act 2020 modified the Town and Country Planning Act to enable certain permissions in England which have lapsed or were due to lapse during 2020 to be extended. This is due to the effect of Coronavirus on the planning system and construction sector. Planning permissions that are affected by the new provisions were extended to 1st May 2021, by which time Reserved Matters had been validated on 29th April 2021.

Planning History

As can be seen within the planning history section the site has an extensive history. As well as the extant outline consent it is worth noting the two recent appeal decisions from last year following the refusal of applications 19/3784C and 19/2539C

The appeal following the refusal of application 19/3784C relates to the enlarged roundabout, spine road and the development of the far southern part of the site (a care home and 85 dwellings). This appeal was allowed.

The appeal following the refusal of application 19/2539C relates to the entire site and included a retail/commercial led development to the north with a residential part to the south. This appeal was dismissed as the Inspector found that *'substantial harm would arise from the layout and design of the commercial development and moderate harm from the way it deals with the routing of footpaths 18 and 19. No other significant harm would arise'*. Of particular concern were the treatment of the levels on the site and the provision of extensive retaining features. The inspector found as follows;

- A paragraph 18 the proposed development would *'involve a major remodelling of the existing landform, with obliteration of a significant proportion of the valley slopes which run through the site from north-east to south-west and loss of the gentler sloping field up towards Fields Farm. The edges of the platform, above the deep narrowed valley to the west and close to the eastern boundary, would be formed by retaining structures with a height of up to about 7m on the western side and rising to around 5m on the eastern side'*

- At paragraph 20 *'notwithstanding these mitigating factors and the explanation for the approach in the Technical Notes, the extent of the reforming of the landscape and the size of the development platform and the retaining structures that result would, to my mind, be excessive. The commercial development would not work with the flow and grain of the landscape. This approach runs counter to the need to work with topography and landscape as described by the National Design Guide, Building for Life and the Cheshire East Borough Design Guide'*
- At paragraph 21 the Inspector states that *'Some remodelling and retaining structures would be likely as a result of a housing development on the northern part of the site. However, as the floorplates of houses would be smaller scale and more adaptable to landform, a development platform of such a size would not be needed. Nor would the engineering structures need to be so large and extensive. That is not to say that a commercial development could not be successfully integrated into the landscape. But a finer grain layered approach would be required, rather than one which appears to have the objective of imposing a particular range of buildings with set floorspace all at a similar level on the site'*

In terms of the impact upon the PROW network the Inspector found as follows;

- At paragraph 46 the inspector states that *'Appeal A shows Footpaths 18 and 19 being routed close to buildings or along the spine road as it passes through the commercial development. It is likely that this would result in a more urban environment for these routes, overall, than if the site was developed solely for housing where they could be integrated into a more spacious public realm'*
- In terms of Footpath 18 the Inspector found at paragraph 48 that *'despite the width of the corridor and height of the footpath, users would have a feeling of being hemmed in when behind the coffee shop and foodstore as fencing and high hedging to the neighbouring residential properties would be retained. The steep drop to the level of the foodstore, the need for safety railings and the proximity of the bulky foodstore building would exacerbate the perception of an uncomfortable over-engineered environment'*
- At paragraph 55 the Inspector states that *'Overall, the proposals would result in a significant change in character for the footpaths. The value of the footpaths as recreational routes would be diminished. The new routes would be heavily influenced by the urban character of the development, particularly where running along the spine road and by the eastern boundary. A significant change in character would occur with a solely residential development. But it is likely that the change would be less drastic'*
- At paragraph 57 the Inspector states that *'there would be conflict with Policies SE1 and CO1 of the CELPS, Policy GR16 of the CLP, and Policy PC5 of the SNP as the commercial development has not taken into account the existing footpath network, would not achieve a high quality public realm that enhances conditions for pedestrians, would not be pleasant to access on foot, and parts of Footpaths 18 and 19 would be degraded'*

Principle of Development

The Principle of development for up to 200 dwellings has been accepted as part of application 14/1193C. Therefore the principle of residential development on this site is considered to be acceptable.

This application relates to the Reserved Matters of access, appearance, landscaping, layout and scale.

Highways Implications

As noted above the outline consent was in outline with all matters reserved. As a result the proposed access is to be determined as part of this current application.

A previous planning consent 13/2389C (now expired) for 200 residential dwellings has been approved on this site. The permission was in outline form with access being determined, the existing roundabout at the A533/A534 was to be significantly enlarged and a fifth arm providing access to this site.

It is also noted that the appeal decision following the refusal of application 19/3784C also gave approval for an access off an enlarged five-arm roundabout to the north.

The S106 Agreement to outline application 14/1193C secures a contribution of £120,000 towards the improvement of the junction at The Hill/Old Mill Road and the widening of the A534 between the site access roundabout and the Old Mill Road/The Hill junction.

The main access would have shared pedestrian/cycle paths and a new toucan crossing is to be provided across the A533 located just north of the roundabout that will link the site for both pedestrians and cyclists.

Given that the access has been approved as part of two recent applications (although one has now expired), it is considered that this current scheme which is the same as that proposed as part of the appeal applications in 2019 is an acceptable highways solution in terms of traffic generation and access safety.

The enlarged roundabout access would be delivered via a S278 agreement.

Internal Layout

The main spine road is a 6.7m wide carriageway with a 3m ped/cycle footway on one side and 2m footpath on the other. This has been designed to accommodate the proposed 170 units. The secondary roads are either 5.5m wide with footways or 4.8m shared surface carriageways.

The internal road design is consistent with CEC road design standards for adoption and the submitted design is considered acceptable. Swept paths have been submitted to indicate that a refuse vehicle is able to manoeuvre within the turning heads provided.

Car Parking

The level of car parking has been provided in accordance with CEC standards. The parking for each of the units is either on driveway or garage spaces.

Cycle Provision

The proposed development could have cycle storage provision for each dwelling. This could be controlled via the imposition of a planning condition.

The provision of pedestrian/cycle links from the application site onto Houndings Lane/Laurel Close could be secured via a planning condition should the application be approved.

Summary

The proposed internal road layout is acceptable with regards to the submitted design and no objections are raised to the application. It should be noted that the development is reliant upon the new enlarged roundabout access being provided as there is no alternative means of access to the site.

Amenity

The Congleton Borough SPG requires the following separation distances;

- 21.3 metres between principal elevations
- 13.8 metres between a non-principal and principal elevations

It should also be noted that the recently adopted Cheshire East Design Guide SPD also includes reference to separation distances and states that separation distances should be seen as a guide rather than a hard and fast rule. Figure 11:13 of the Design Guide identifies the following separation distances;

- 21 metres for typical rear separation distance
- 18 metres for typical frontage separation distance
- 12 metres for reduced frontage separation distance (minimum)

The main properties affected by this development are those to the east of the site fronting onto Laurel Close, Condliffe Close and Palmer Road.

No 8 Laurel Close is located to the east of the application site. This dwelling has been extended to the side and includes a ground floor kitchen window facing towards the application site. The proposed dwelling on plot 75 have a side elevation facing No 8 Laurel Close and have a separation distance varying from 12-13m. Although the separation distance falls below the standard required it is considered that the proposed development would result in an improvement in residential amenity. Currently there is an agricultural building at a similar distance and the proposed development would result in the removal of potential amenity impacts from the use of the farm yard at Fields Farm. This would outweigh the limited harm caused by the shortfall in separation distances.

The dwelling at No 15 Laurel Close has a blank side elevation facing the application site. There would be a separation distance of 25m to the front elevation of the dwelling on plot 77. This relationship is considered to be acceptable.

The proposed dwellings on plots 29 and 30 are two-storey units with front elevations facing the rear elevations of the dwellings at 74 and 76 Palmer Road with a separation distance of 30m at the nearest point. This relationship is considered to be acceptable.

The proposed dwelling on Plot 28 would have a front elevation facing the rear boundaries of the dwelling at 74 Palmer Road. There would be a separation distance of just 6.5m to the shared

boundary at the nearest point with 15.5m to the nearest point of the dwelling (which is set at an angle). No cross-sections have been provided and it is not possible to determine how this relationship would work.

The dwelling at plot 25 (two-storey unit) has a blank side elevation facing the rear elevation of 70 Palmer Road and separation distance of 26m. This relationship is considered to be acceptable.

The apartments at plots 8-13 are two-stories in height and would be positioned with their rear elevation just 6m from the rear boundary of the dwellings at 7-11 Condliffe Close. There would be a separation distance of 15m to the rear elevations of these properties at the nearest point. Again, no cross-sections or levels information for the adjacent properties has been provided and it is not possible to determine if this development would have an acceptable impact upon residential amenity.

The dwellings on plots 1 and 2 are three-storey units with secondary windows to the side elevations. There would be a separation distance of 27m between the nearest corner of 15 Condliffe Close. Due to the off-set relationship the impact is considered to be acceptable.

Air Quality

The impact upon air quality was considered as part of the outline application and conditions have been imposed relating to a Travel Plan (condition 19) and electric vehicle infrastructure (condition 21).

Contaminated Land

The issue of contaminated land was considered at the outline stage and is dealt with as part of condition 11 which requires the submission and approval of a Phase II Contaminated Land Report before development commences.

Construction Impacts

The issue of disruption caused by the construction of the development was considered as part of the outline consent and an Environmental Management Plan is secured as part of condition 12.

Impact from Houndings Lane Farm

As part of the previous appeal decision on the site the Inspector expressed concern over the impact from the working farm at Houndings Lane Farm to the south on the proposed housing development. Condition 13 of the outline approval requires the submission and approval of a noise and odour assessment before development commences.

Design

The importance of securing high quality design is specified within the NPPF and paragraph 126 states that:

'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of

sustainable development, creates better places in which to live and work and helps make development acceptable to communities'

Integrating into the Neighbourhood (1 Connections - Amber, 2 Facilities and Services - Amber, 3 Public Transport - Amber, 4 Meeting Local Housing Requirements – Green)

It should be noted that criterion 1, 2 and 3 are permissible ambers under Building for Life (BfL), where that is as a consequence of matters outside the control of the applicant.

The site has outline permission and therefore the principle of residential is established. However, it's location on the southern side of Old Mill Way, does potentially create a barrier to movement and connectivity on foot/by cycle. Provision is made for ease of movement within the site with the primary street incorporating a combined footpath and cycleway.

Within the site, the main issue re: connectivity is how the three PROW are being accommodated within the scheme. Diversion of Public rights of way FP 17 and 19 is proposed, whilst 18 follows the eastern edge of the site. The PROW team have objected to the proposal, primarily because of the diversion entailing the PROW being on the alignment of proposed streets for much of their length through the site. Although FP19 is being maintained on its present alignment, there are certain sections where it would be less well surveyed.

The scheme generally overlooks the rural edge except the western boundary which backs onto the valley bottom and the A534.

Creating a place (5 Character - Amber, 6 Working with the Site and its Context - Red, 7 Creating Well Defined Streets and Spaces - Amber, 8 Easy to Find Your Way Around – Green)

5 Character (Amber)

Character areas have been identified but these feel arbitrary, and it isn't clear from the Design and Access Statement (DAS) how these are informing the design of units and associated spaces/landscape. A stronger DAS would have inspired more confidence re: this approach. The house type range is not particularly well detailed, and it is unclear how local context has informed the design of individual buildings, groupings and associated spaces. Furthermore, the components for the layering of townscape are not sufficiently well explained within the DAS.

The sense of arrival into the scheme off Old Mill Road is a concern given the proposed retaining structures and severity of those structures. The retention features result in a very severe urbanisation of the site at the main point of entry.

6 Working with the site and its context (Red)

In terms of the relationship to Fields Farm, care is needed regarding the setting, although the layout is positive in certain respects. The Council's Urban Design Officer has stated that less development to the west would enable a better association with the main street through the site and enable a better approach to play/open space provision and give a communal function to space in front of the farmhouse. The fact the farmhouse is not part of the detail is unfortunate, as this small and distinct character area could have been designed in its entirety, rather than

piecemeal. Which, in all likelihood, would have created a stronger and more distinctive heart for the development.

The relationship of the western edge of the development to the valley bottom is a serious concern. Retaining structures circa 6 m at the highest point, with an average in excess of 4 m, with boundary acoustic fence above, will define this narrow corridor with a swale situated at the base of this structure. This is not a positive design solution to this corridor and, as mentioned previously at the site entrance, with potential to create a very poor sense of arrival into the development from the entrance off Old Mill Road. There are also further retaining structures on the eastern side of the main access street in front of the northernmost group of housing, which again could lead to weakening of the entrance if poorly resolved.

The scheme seeks to retain most of the trees and hedges within the central area of the site, south of Fields Farm but most of the hedges would be private boundary between properties or in areas of private management, which is not the preferred approach, as often, over time this can lead to poor management practices, weakening and potentially, eventual loss of those features.

Given the concerns about the treatment of levels on the western and northern part of the site and the lack of sectional and design information for the finished levels and structures involved, it is considered a red rating is appropriate, especially as this is a residential scheme, and therefore particularly sensitive to the potential adverse effects imposed by such engineering.

7 Well defined streets and spaces (Amber)

For the most part there are positive frontages and there is a clearly defined street hierarchy, although the verges for the avenue fall below the minimum set out in the design guide. However, in certain areas there are anomalous situations, where properties will have a potentially poor relationship to streets or space, or the unusual back land relationship with fronts of properties addressing space and rear gardens (plots 151-154). In certain communal areas there could also be ambiguity of space, leading to poor management and misuse. Along the FP18 corridor, there should defensible measures designed in for end plots to create a clear distinction between public and private. The LAP located at the back of plot 78 and immediately to the side of plot 77 is something that would usually be discouraged, creating a poorly defined play opportunity and the potential for antisocial activity. The realigned FP19 route, to the north of the LEAP continues up to the Avenue between the rear garden of properties. This is a poor solution that should be discouraged in terms of community safety.

8 Easy to Find Your Way Around (Green)

Internally the access is dominated by the tree lines spine road with a number of cul-de-sacs and PROW linkages off the spine road. The linear nature of the site and design would mean that the development would be easy to find your way around.

Street and Home (9 Streets for All – Amber, 10 Parking - Amber, 11 Public and Private Open Space – Amber, 12 External Storage and Amenity Space - Amber)

9 Streets for all (Amber)

There is a clear hierarchy and the avenue is a strong primary street in that hierarchy. However, the design guide states that avenues both principal and secondary should be no more than 6.5 metres wide, if it is to accommodate a bus service. There is the potential for this to be narrowed to 5.5. if there is to be no bus provision or in localised areas. Therefore, there is scope to narrow and perhaps increase the verge width and create transitional elements along the route. Elsewhere secondary streets are 5.5 metres, where some variation down to 4.8m is possible and still comply with the design guide, whilst shared surface lanes are 4.8m (but theoretically could reduce to 4.5 m in localised situations). Auditing street widths particularly, the Avenue and the streets could help create more human scale streets and more effectively achieve the new NPPF requirement for streets to be tree lined.

10 Parking (Amber)

Whilst in some areas the parking is well handled with on plot solutions, there are some areas where the parking could be overly dominant, resulting in larger areas of hard surface with very limited scope for landscape planting to help soften those areas.

11 Public and private spaces (Amber)

It is not clear how the site levels impact on the effectiveness of the main area of POS but in this part of the site the levels information indicates a 4-metre cross fall for this area of space. This could impact upon its usability and accessibility and, it is also the location of an underground SuDS storage tank. Notwithstanding, the fundamental question of whether this is the appropriate location for formal play also needs to be considered (this is discussed below within the Public Open Space section).

The LAP sited to the rear of plot 76 is also a very poor solution to providing local play. Consequently, the open space/play strategy requires some re-consideration.

There is not a strong landscape strategy driving the design and more could be made of the space at the site entrance to define the gateway (continuing the wetland character of river valley north of Old Mill Road, and in front of Fields Farm, but this is not being designed into the scheme comprehensively).

12 External storage and amenity space (Amber borderline red)

There is little information about the ability of properties to accommodate external storage, although the larger properties have sufficiently sized gardens to adequately provide private amenity and storage. This may be more difficult to achieve on smaller properties and also there needs to be a clear strategy for bin storage and collection.

In terms of private amenity space, the apartments do not have clearly defined communal space or the provision of terraces or balconies to provide modest private space

More information is required in relation bin storage, external and secure bike storage and the design needs to ensure communal and preferably private amenity space for apartments.

Other Issues

The phasing plan shows the farm to be developed last. This could lead to its dereliction and ultimately to its loss when retention could help to better characterise part of the site. The space associated with the farmhouse could also contribute to achieving a stronger sense of place for the scheme if designed with the surrounding development.

Design Conclusion

There are a number of areas/issues within this scheme that need to be resolved. However, the most significant area of concern is in relation to the western and northern edge of the development: both how the development addresses these edges and announces arrival into the site from the north off Old Mill Road, and with particular focus upon the impact of the engineered solutions proposed in these areas of the site.

The proposed development is contrary to Policy SE1, SD1 and SD2 of the CELPS, Policy H2 of the SNP and guidance contained within the NPPF.

Archaeology

The impact upon archaeology was considered at the outline stage. Condition 14 attached to the outline consent requires a scheme of investigation to be approved in writing.

Public Rights of Way

The proposed development would affect PROW Nos 17, 18, 19 & 50.

Within the recent appeal decision for the hybrid mixed use development (19/2539C), the Inspector expressed concern over the impact upon FP18. At paragraph 48 the Inspector found that

‘despite the width of the corridor and height of the footpath, users would have a feeling of being hemmed in when behind the coffee shop and foodstore as fencing and high hedging to the neighbouring residential properties would be retained. The steep drop to the level of the foodstore, the need for safety railings and the proximity of the bulky foodstore building would exacerbate the perception of an uncomfortable over-engineered environment’

At paragraph 49 the Inspector stated in relation to FP18 that;

‘Natural surveillance would be limited over the stretch behind the foodstore and coffee shop. However, the existing route lacks surveillance at this point. Although the function of the path would change, I do not consider that surveillance and any risk of anti-social behaviour or crime are matters that have a significant bearing on my consideration of the footpaths issue. Surveillance elsewhere within the development would be acceptable’

FP18 would be retained along its current route within a 5m wide corridor which would gradually widen out to the south of Laurel Close. The level plans show that FP18 would be at a similar level to the nearest dwellings. It is considered that this application addresses the Inspectors concerns in relation to the ‘perception of an uncomfortable over-engineered environment’.

In terms of FP19 this runs through the centre of the site and Circular 1/09 indicates that revisions to routes ‘should avoid the use of estate roads wherever possible and preference should be given

to the use of made up estate paths through landscaped or open space areas away from vehicular traffic’.

At paragraph 53 of the Appeal Decision the Inspector found that;

‘Circular 1/09 does not preclude the use of estate roads. However, in this case the formation of the large platform surrounded by engineering structures close to the western boundary has resulted in the need for Footpath 19 to be diverted through the development rather than for it to form a green link close to the valley bottom as part of the development’s public realm’

The same statement applies to this current application.

At paragraph 55 the Inspector concludes that

‘Overall, the proposals would result in a significant change in character for the footpaths. The value of the footpaths as recreational routes would be diminished. The new routes would be heavily influenced by the urban character of the development, particularly where running along the spine road and by the eastern boundary. A significant change in character would occur with a solely residential development. But it is likely that the change would be less drastic’

Although the concerns relating to FP18 appear to have been addressed. It is not considered that those relating to FP19 have been. Furthermore, as discussed within the POS section below the southern end of FP19 where it runs through the proposed open space would be set at a lower level and there is no indication as to how the levels in this area would be treated as no section drawings have been provided.

As a result, there would be conflict with Policies SE1 and CO1 of the CELPS, Policy GR16 of the CLP, and Policy PC5 of the SNP as the development has not taken into account the existing footpath network, would not achieve a high-quality public realm that enhances conditions for pedestrians, would not be pleasant to access on foot, and parts of Footpath 19 would be degraded. The Action Plan contained within Appendix 3 of the SNP indicates that footpaths should not just be pavements alongside roads. Whilst this part of the SNP does not comprise development plan policy, it is a material consideration.

Landscape

Application 14/1193C established that the site has a capacity for up to 200 dwellings and as the Design and Access Statement indicates, part of the site has detailed approval for 85 residential dwellings and a care home, via an appeal based on application 19/3784C.

The submitted drawings indicate the challenges that topography plays on the site and illustrate a number of retaining features required to overcome this issue, noting the proposed height differences along the routes of these retaining structures, notably 1.8m along the structure located to the east of the main access route towards the northern part of the site, a 2.1 – 2.9m retaining structure along the central part of the proposed development, adjacent to Plots 5 – 17, a 0.75m retaining structure to the west of Plot 38 and a more extensive retaining structure along the western boundary ranging from 3.3m to 6.3m in height over a total length of approximately 210m.

There are serious concerns regarding the way in which topography has been dealt with, and while appeal 19/3784C provided detailed approval for 85 dwellings, the dwellings were located in the part of the site in which the shorter retaining structures were/are now proposed. There are serious concerns regarding the extended retaining structure along the western boundary which formed part of appeal 19/2539C. The Inspector's comments regarding this structure are very relevant and remain pertinent;

'The commercial development would be formed on a large (3 ha), gently sloping platform spanning across most of the site's width and depth. This would involve a major remodelling of the existing landform, with obliteration of a significant proportion of the valley slopes which run through the site from north-east to south-west and loss of the gentler sloping field up towards Fields Farm. The edges of the platform, above the deep narrowed valley to the west and close to the eastern boundary, would be formed by retaining structures with a height of up to about 7m on the western side and rising to around 5m on the eastern side. To the north of the petrol filling station (PFS) there would be a combination of a steep slope and a retaining wall. The length of the retaining structures would also be significant. For example, although ranging in height from 1m to about 5m, the eastern retaining structure would be some 300m long'

The submission provides no details regarding the proposed construction of these walls or how their starkness and scale could be mitigated. In addition, any mitigation that would have been provided by the proposed commercial development and scale of the development would not necessarily be as effective in a more residential development, nor is it clear how the swale indicated to the west of this retaining structure would allow the retention of existing roadside vegetation or the ability to provide any further mitigation along this boundary.

The submission identifies a number of character areas. These appear to be largely based on the built form and design features of the dwellings, with little evidence that the character areas extends or relates to soft landscape design. Overall soft landscape proposals are disappointing. While there is a tree lined avenue along the main access route through the site, this is in a 2m wide strip, considerably less than the dimensions identified in the Cheshire East Design Guide which requires 3-5m. The remaining character areas have minimal tree planting and very limited green infrastructure generally and are often dominated by car parking areas, resulting in a hard and urban street scene that does little to reinforce the character areas intended. Considerably more thought needs to be given to green infrastructure across the whole site, including mitigation along the western and eastern boundaries, the dearth of trees and of a landscape hierarchy and green infrastructure generally.

While the principle of residential development has been established the proposals do not attempt to work with the topography of the site and the resulting retaining structures may well appear stark and out of scale along the western boundary. While the remaining structures may be less discernible, some are of significant scale and may well appear incongruous and alien in a more residential environment. While the main access route tree avenue is a positive feature the Landscape Architect does have concerns at the restrictive size of the planting corridor which is significantly less than would normally be required for trees of this species. Overall, the lack of a tree planting hierarchy is worrying and note the extensive areas with no tree planting across the application site.

It is not considered that development would result in a design that either conserves, enhances or contributes to local distinctiveness. The proposed development would be contrary to policies SE 1 and SE4 of the CELPS.

Trees

The application is supported by an Arboricultural Impact Assessment. This identifies 1 Grade A tree (High Quality and Value), 4 Grade B trees (Moderate Quality and Value), 16 Grade C trees (Low Quality and Value) and 4 Category U trees (Trees which cannot be realistically retained as they have a life span of no longer than 5 years). The site also includes 1 Grade B group of trees and 7 hedgerows (4 Grade B and 3 Grade C).

At para 7.10, the supporting Arboricultural Assessment has identified a section of a moderate (B) category group, one low (C) category group, one low (C) category tree and three hedges (part) that will require removal to accommodate the proposed development. A further four trees have been identified as unsuitable for retention (U) category and require removal irrespective of the development proposal.

It is agreed that the partial removal of the group of trees (shown as G2) comprise of a mixed group of species which form the landscape buffer to A534; the extent of removal will be approximately 30 metres in length in order to achieve the necessary access into the site. The removal will have a slight to moderate adverse impact locally at the northern end of the site, however it is accepted that the loss can be adequately compensated within the site.

With regard to the loss of low (C) category trees it is accepted that having regard to the design parameters of BS5837:2012 the loss of these trees should not be considered a significant constraint on development. However, the mitigation for the loss of these trees should be considered as part of the detailed landscape scheme to ensure a net increase in canopy cover and meet climate change national and local policy. Any tree planting that is included as part of any landscape scheme for the development should use native large species rather than short lived ornamental species.

At Para 6.4 the Assessment refers to the impact of development on the Root Protection Area (RPA) of retained trees (BS5837:2012 para 4.6 and 5.3.1 refers). Para 7.10 of the Assessment provides a table of impacts identifying proposed removals and impact on RPA of trees and a table showing there are no impacts on the RPA of trees. This is not the case however, as the site layout at Appendix A shows internal road 6 within the RPA of a mature (B) category Lime (T19) and road 10 within the RPA of a mature (B) category Oak (T26). Whilst it is noted in the Survey Schedule of the Assessment that T26 is to be removed, this and other trees proposed for removal are not clearly identified on the site layout.

The use of broken circles for RPA's, particularly the use of red is also not helpful as this is normally used to identify trees for removal. The Oak (T26) is also wrongly colour coded on the site layout as category C.

The Assessment makes reference to the successful retention of trees and the avoidance of damage to tree roots at para 6.4 and refers to T19 (which is located within the adjacent farmyard) as significant.

Given the existing topography of the site and the likely level changes required to accommodate the internal road infrastructure, a more detailed assessment is required on the impact of Road 6 on the mature Lime (T19).

The assessment at para 9.1 refers to an interim Arboricultural Method Statement but does not include any reference to the proposed excavation that would be needed for the road or details of any special measures/engineering solution required to avoid damage to the rooting environment of tree T19. Reference is made to a Tree Protection Plan (TPP) but this has not been provided either.

In light of the above, the applicant needs to alter the design of the access road to avoid the RPA of the Lime (T19) or show that the proposed access as shown can be achieved without detriment to the tree to be retained. The applicant should provide a detailed arboricultural method statement that details specific measures required within the RPA of retained trees and Tree Protection Plan that clearly shows without any ambiguity which trees are to be removed and which trees are to be retained and protected.

Ecology

Condition 4 -The landscaping reserved matter shall make provision for replacement hedge planting for any hedgerows to be removed as part of the development.

The updated Ecological Mitigation Statement advises that 171m of existing hedgerow would be lost as a result of the proposed development. As part of this application 892m of new hedgerow planting is proposed as part of the submitted landscaping scheme. This is sufficient to compensate for that lost.

Condition 10 - Provision and management of an 8-metre-wide undeveloped buffer zone alongside the Arclid Brook.

The applicant has now provided a plan to confirm that the SUDS pond and swale are beyond the 8m buffer. Pipework associated with the outfall to Arcid brook will however necessarily occur within the buffer.

Condition 17 - No development shall commence on any phase of development, until an ecological mitigation strategy for the area of development in that phase has been submitted.

The applicant has not applied to discharge this condition however a mitigation strategy has been submitted with this application. The submitted strategy reiterates the off-site habitat creation proposals secured under the outline consent at this site. One of the key ecological mitigation measures required as part of the development of this site would be the design of the culvert to ensure that it does not pose a hazard to Otters. Whilst outline proposals have been submitted for this the submitted ecological mitigation strategy requests that the detailed design be deferred by means of a planning condition.

Details of the design of the culvert and associated fencing could be secured by means of a suitable worded planning condition.

Condition 23 - All future reserved matters application shall be supported by an updated protected species survey.

An updated protected species surveys has been submitted. The previous phase one survey highlighted the presence of trees with potential to support roosting bats. A survey/assessment of the trees on site in respect of roosting bats is therefore required.

The applicant has indicated that further bat surveys are in hand and will be completed in September. As these details have not been provided this issue will form a reason for refusal.

Lighting

To avoid any adverse impacts on bats resulting from any lighting associated with the development a planning condition could be attached relating to external lighting details.

Landscape Management Plan

A landscape management plan has been submitted in support of this reserved matters application. Additional information is required in relation to the hedgerow heights, hedgerow maintenance and wildflower maintenance.

In order to ensure the viability of the landscape and habitat creation works to be provided on site it is advised that the management plan must be for a period of 25 years. The submitted plan must be amended to reflect this and include a work schedule to cover this timeframe.

The applicant has indicted that the revised Landscape Management Plan is in hand, but this is still outstanding at the time of writing.

Flood Risk/Drainage

The application site is located largely within Flood Zone 1 (low probability of flooding) although the far north of the site around the existing watercourse is identified as Flood Zone 2 (medium probability of flooding) and 3 (high probability of flooding). The proposed buildings would all be located within Flood Zone 1, but part of the access is within Flood Zones 2 & 3 and the watercourse would be culverted under the proposed access.

In this case the Environment Agency and United Utilities have been consulted as part of this application and have raised no objection to the proposed development in relation to flood risk/drainage subject to the imposition on planning conditions.

The Councils Flood Risk Officer has stated that she has no objection in principle to this application. However, the Flood Risk Officer has noted the significant increase in land levels on the site and has requested clarification how surface water run-off will be managed. These matters are subject to the pre-commencement condition attached to the outline consent (condition 7).

As a result, the development is considered to be acceptable in terms of its drainage and flood risk implications.

Affordable Housing

The Cheshire Homechoice waiting list shows a need with Sandbach as their first choice of 604 homes. This can be broken down to 290 x one bedroom, 168 x two bedroom, 94 x three bedroom, 29 x four bedroom and 23 x four+ bedroom dwellings.

This is a proposed development of 170 dwellings in a Key Service Centre therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 51 dwellings to be provided as affordable homes (33 units should be rented and 18 units should be intermediate tenure).

The applicant in their Design and Access statement advises that 30% (51) dwellings are to be affordable. This is in keeping with the CELPS and S106 dated 12th October 2017. The submitted plans show that the split would 33 units as rented and 18 units as intermediate tenure. The Housing Officer has confirmed that he is happy with the mix of the proposed housing in terms of the size of the units as well as the location of the units.

The only issue is the lack of a detailed Affordable Housing Scheme. This could be secured as part of a planning condition if the application is approved.

Public Open Space

On Site Provision

Policy SE6 of the Cheshire East Local Plan Strategy provide a clear policy basis to require new developments to provide or contribute to Children's Play Space, Amenity Green Space, Green Infrastructure Connectivity and Allotments.

In terms of Green Infrastructure (GI), the application is very similar to that of previous applications. Much of the GI being provided is buffer planting and landscaping needed to retain existing trees and hedgerows as part of the design and to accommodate the Public Right of Way. The SUDs scheme is the predominate feature forming large parts of the north and south west of the site. In terms of POS (amenity open space, active recreation and play), only very small areas of GI are actual POS and play.

Policy SE6, Table 13.1 denotes the level of green infrastructure required for major developments. This shows that the development should provide 40m² children's play and amenity green space per family dwelling. In addition to this 20m² should be allocated to G.I. Connectivity (Green Infrastructure Connectivity). In line with CELPS Policy CO1, Design Guide and BFL12 "Connections" this should be an integral part of the development connecting and integrating the site into the existing landscape in a sustainable way for both walking and cycling.

Excluding the 1 bed units the proposed development would provide 146 family homes. The proposed development would require the provision of 5,860m² of children's play and amenity green space and 2,920m² of GI. The proposed plans state that the development would provide 24,550m² of public open space.

The green corridor to accommodate the Public Right of Way 18 has the addition of 100sqm Local Area for Play (LAP) adjacent to properties with a landscaped area (1,780sqm) to the South

however much of the soft boundary appears to sit at approximately 5m wide. The Local Equipped Area for Play (LEAP) has been relocated adjacent to the large SUDs retention basin.

The green corridor is referred to as a 'Linear Park'. Where possible, linear parks will have a multifunctional role, providing places for all types of activity including active pursuits, relaxation, community events, incidental recreation, playgrounds and dog off-leash areas. Whilst this scheme provides for healthy activities in a circular route, has benefits for urban cooling/flood alleviation and is a green visual amenity, the multifunctionality is restricted. In places, the PROW runs close to the rear of properties which residents may have cause for concern.

With specific reference to the main western central area of POS in which a LEAP play area is located above the water attenuation tank. This should be a NEAP for all ages, having a minimum area requirement of 1,000m² activity zone (this is identified within the S106 Agreement completed as part of the outline consent). The NEAP should include consideration to accessibility and inclusivity embracing the Equality Act and to Fields in Trust standards, a minimum 30m buffer from the activity zone to the nearest dwelling should be provided (this is 13m at the nearest point of plots 133-134 to the east and 20m to plots 143 and 144 to the north).

The NEAP should be predominately flat (no sections have been provided) and enjoy amenity space surrounding it for informal play and recreation. The POS Officer has requested that the wildflower areas shown on the planting plans are removed as the maintenance of the two areas does not blend.

The play area and open space should be centrally located and include natural surveillance from the surrounding dwellings. In this case it is noted that the proposed dwelling on plots 143 to the north faces the play area and the dwelling on plot 144 has a side elevation with secondary glazing facing the play area. Both of these dwelling would be sited at a higher level with a 4.7m retaining wall to the boundary with the open space. To the east plot 139 would have a blank elevation (apart from a secondary ground floor opening facing the play area). The apartments at plots 131-134 would back onto the open space, as would the dwellings at plots 125-128 and 170, and plot 129 would have a blank side elevation facing the open space (excluding a first floor en-suite window).

In terms of the dwellings to the east of the open space and play area, the levels plan shows that plot 139 would be 1.6m higher than the adjoining PROW and plots 131-134 would be between 3.04-2.79m higher than the adjoining PROW. However, the plans do not indicate any retaining structures and it is unclear how these level changes could be achieved. Plot 126 includes a retaining wall of 1.5m to the boundary with the open space.

The plans show that the open space and play area would be poorly sited, at a lower level than the proposed dwellings which largely back onto the open space/play area. The proposed development does not integrate the open space/play area into the development and the area is likely to be the subject of anti-social behaviour.

The submitted details are contrary to SE6, SE1, SD1 and SD2 of the CELPS, and Policy H2 of the SNP.

Outdoor Sport

The request for a contribution for Outdoor Sport from the POS Officer is noted. No contribution was secured as part of the outline application and this cannot be revisited at this stage.

Education

The impact upon education infrastructure was considered as part of the outline application and the following contributions were secured as part of the S106 Agreement;

- Primary education - £390,466.00
- Secondary education - £424,909.00

The impact upon education cannot be reconsidered at the Reserved Matters stage.

Health Infrastructure

The concerns over the impact upon health infrastructure within Sandbach are noted. No contribution was secured as part of the outline application and this cannot be revisited at this stage.

CONCLUSION

The application site is within the Settlement Zone Line as identified by the SNP and has outline planning permission for residential development.

The highways implications of the development are considered to be acceptable and a contribution for off-site highway works is secured as part of the outline consent.

The issues of noise, air quality and contaminated land are considered to be acceptable and would comply with GR6 and GR7 of the CLP and SE 12 of the CELPS. However insufficient levels information has been provided to demonstrate that the proposed development will not cause harm to the residential amenity of the adjoining dwellings.

The site is a prominent location Sandbach and the proposed development fails to create a high quality, beautiful and sustainable place and is contrary to Policies SE1, SD1 and SD2 of the CELPS, Policy H2 of the SNP and guidance contained within the NPPF.

The site has a challenging topography and the development would require large retaining structures and little landscape mitigation. The proposed development is therefore contrary to Policies SD2, SE1 and SE4 of the CELPS and PC2 of the SNP.

There is insufficient information in relation to the impact upon trees on the site. The development would not comply with Policy SE 5 of the CELPS.

The drainage and flood risk implications of the proposed development are considered to be acceptable and the development complies with Policy CE 13 of the CELPS.

The proposed development would affect PROW 19. The development has not taken into account the existing footpath network, would not achieve a high-quality public realm that enhances conditions for pedestrians, would not be pleasant to access on foot. As a result, there would be

conflict with Policies SE1 and CO1 of the CELPS, Policy GR16 of the CLP, and Policy PC5 of the SNP.

Insufficient information has been submitted to establish whether roosting bats are present on this site. As a result, the proposed development would be contrary to Congleton Local Plan Policy NR2 of the CLP, Policy SE3 of the CELPS, Policy PC4 of the SNP and the NPPF.

The proposed development does not integrate the open space/play area into the development, it lacks natural surveillance, and the area is likely to be the subject of anti-social behaviour. The proposed development is contrary to Policies SE6, SE1, SD1 and SD2 of the Cheshire East Local Plan Strategy, and Policy H2 of the Sandbach Neighbourhood Plan.

On the basis of the above the application is recommended for refusal.

RECOMMENDATION:

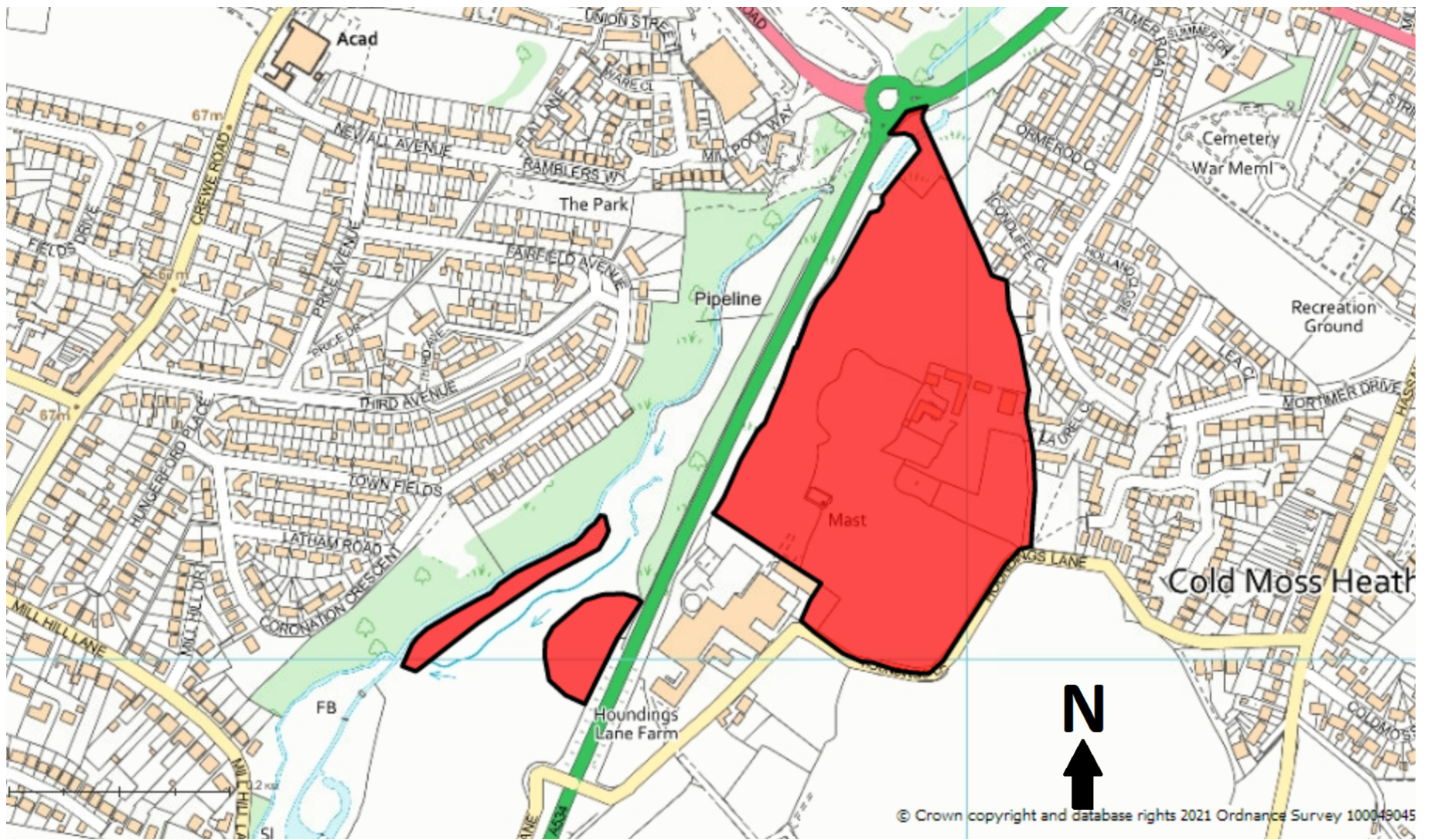
REFUSE for the following reasons;

- 1. This is a prominent site in Sandbach. The Council has undertaken a Building for Life Assessment which finds that the proposed development does not result in the creation of a high quality, beautiful and sustainable place and on this basis the development should be refused. The proposed development is contrary to Policy SE1, SD1 and SD2 of the Cheshire East Local Plan Strategy, Policy H2 of the Sandbach Neighbourhood Plan and guidance contained within the NPPF.**
- 2. The application site is of a very challenging topography in a prominent location. The application includes an engineered retaining wall and minimal landscape mitigation. Furthermore, the application does not include sections information in relation to the proposed development and further retaining structures may be required. The development would not work with the flow and grain of the landscape and cause harm to the character and appearance of the area. This approach runs counter to the need to work with topography and landscape as described by the National Design Guide, Building for Life, the Cheshire East Borough Design Guide and Policies SD2, SE1 and SE4 of the Cheshire East Local Plan Strategy, PC2 of the Sandbach Neighbourhood Plan and guidance contained within the NPPF.**
- 3. The proposed Public Open Space is located adjacent to the A534 and is sited at a lower level to the proposed dwellings which generally back onto the open space. The application does not provide the required NEAP, the relevant separation distances to the NEAP and no section drawings have been provided. The proposed development does not integrate the open space/play area into the development and the area is likely to be the subject of anti-social behaviour. The proposed development is contrary to Policies SE6, SE1, SD1 and SD2 of the Cheshire East Local Plan Strategy, and Policy H2 of the Sandbach Neighbourhood Plan.**
- 4. The proposed dwellings on plot 28 and plots 8-13 have the potential to cause a loss of amenity to the dwellings at 74 Palmer Road and 7-11 Condliffe Close due to the short separation distances to the site boundary. As no cross-section drawings have been provided it is not possible to determine the level of impact. Insufficient information has**

been provided to demonstrate that the proposed development would not have an unduly detrimental effect on their amenity. As a result, the proposed development is contrary to Policy GR6 of the Congleton Local Plan.

5. The previous phase one survey highlighted the presence of trees with potential to support roosting bats. A survey/assessment of the trees on site in respect of roosting bats is therefore required and has not been provided. The presence of bats needs to be resolved as this is a material planning consideration. As a result, the proposed development would be contrary to Congleton Local Plan Policy NR2, Cheshire East Local Plan Strategy Policy SE3, Sandbach Neighbourhood Plan Policy PC4 and the NPPF.
6. The proposed development will result in a significant change to the character of footpath FP19 which would be heavily influenced by the urban character of the development, particularly where it runs along the spine road and through the open space. As a result, there would be conflict with Policies SE1 and CO1 of the Cheshire East Local Plan Strategy, Policy GR16 of the Congleton Local Plan, and Policy PC5 of the Sandbach Neighbourhood Plan as the development has not taken into account the existing footpath network, would not achieve a high-quality public realm that enhances conditions for pedestrians, would not be pleasant to access on foot.
7. Insufficient information has been provided to demonstrate that the proposed access can be achieved without detriment to tree T19. The applicant should provide a detailed arboricultural method statement that details specific measures required within the RPA of retained trees and Tree Protection Plan that clearly shows without any ambiguity which trees are to be removed and which trees are to be retained and protected. The proposed development is contrary to Policy SE5 of the Cheshire East Local Plan Strategy and guidance contained within the NPPF.

In order to give proper effect to the Board's intent and without changing the substance of its decision, authority is delegated to the Head of Planning in consultation with the Chair (or in their absence the Vice Chair) to correct any technical slip or omission in the resolution, before issue of the decision notice.



This page is intentionally left blank



Working for a brighter future together

Strategic Planning Board Report

Date of Meeting:	13 October 2021
Report Title:	Draft Recovery of Forward Funded Infrastructure Costs Supplementary Planning Document
Report of:	Paul Bayley, Director of Environment and Neighbourhood Services
Ward(s) Affected:	All

1. Executive Summary

- 1.1.** This report is to brief the Strategic Planning Board (SPB) on the current public consultation on the draft Draft Recovery of Forward Funded Infrastructure Supplementary Planning Document (RoFFIC SPD).
- 1.2.** On 9th September 2021 a decision was taken by the Environment and Communities Committee to consult on the Draft RoFFIC SPD. Therefore, no decision is required by SPB, however the committee is asked to note the consultation period and requested to provide feedback on the draft RoFFIC SPD within this timeframe, should the Board feel it appropriate to do so.
- 1.3.** The preparation of a SPD involves two stages of public consultation. This first consultation stage runs for six weeks from 11th October to 22nd November.
- 1.4.** Cheshire East Council's Corporate Plan sets out three aims. These are to be an open and enabling organisation, a Council that empowers and cares about people, and to create thriving and sustainable places. In striving to create thriving and sustainable places, a key objective is to improve the strategic infrastructure that supports sustainable and inclusive growth across the borough. As such, this SPD sets out guidance on policies contained in the Local Plan Strategy and SADPD that will support funding and delivery of strategic infrastructure.
- 1.5.** Forward Funded Infrastructure (FFI) is infrastructure that development relies upon, but has not yet contributed to funding. It is infrastructure that is

built and funded, or part funded, by public money and where there is an expectation (and requirement) that future development, reliant on the infrastructure, will contribute to its funding through retrospective financial contributions.

2. Recommendations

- 2.1.** To note the draft RoFFIC SPD (Appendix A) and its consultation period, and to provide commentary and feedback on the document where the Board wishes to do so.

3. Reasons for Recommendations

- 3.1.** An SPD is not part of the statutory development plan. It is a recognised way of putting in place additional planning guidance and a material consideration in determining planning applications in the borough.
- 3.2.** Providing clear guidance up front about policy expectations should enable applicants to better understand policy requirements. The SPD should assist applicants when making relevant planning applications, and the Council in determining them.
- 3.3.** Further, Policy GEN4 of the SADPD commits the Council to provide further guidance on this issue, through the preparation of an SPD.

4. Other Options Considered

- 4.1.** The Council could choose not to prepare an SPD on forward funded infrastructure. Any relevant planning application would continue to be assessed against existing planning policies. However, this would not allow the Council to provide additional practical guidance on this matter or give clarity to the approach that should be employed by all parties in a consistent way that gives certainty to applicants and decision makers.

5. Background

- 5.1.** The preparation of an SPD involves two stages of public consultation. This first consultation stage will be followed by another opportunity to comment on a final draft version of the SPD. The final draft of the SPD will be accompanied by a consultation statement setting out the feedback from stage one, and how the document has been altered in response to that feedback. Having also considered comments made at stage two, the SPD may then be considered for adoption by the Council.
- 5.2.** Once adopted, the SPD will provide additional planning policy guidance on the implementation of Local Plan Strategy policies IN1 'Infrastructure', IN2 'Developer Contributions' and the Site Allocations and Development Policies Document (SADPD) Policy GEN4 'Forward Funded Infrastructure'.

The SPD, once adopted, will be a material consideration in decision making and support the delivery of key policies in the Development Plan.

- 5.3.** One of the key objectives of the Cheshire East Local Plan Strategy (CELPS) is for the Plan to support and ensure the provision of sufficient appropriate infrastructure to support and enable economic development and underpin a jobs-led growth strategy.
- 5.4.** Policy IN1 'Infrastructure', of the CELPS sets out the approach the Council will take to infrastructure delivery in the borough and IN2 'Developer Contributions' provides guidance on the mechanisms that will be used to secure funding contributions from development.
- 5.5.** SADPD Policy GEN4 'Forward Funded Infrastructure' establishes the approach that the Council will take to 'claw back' public funding that it has invested up-front in infrastructure delivery, and upon which future development is reliant. For example, the Congleton Link Road has been funded through a variety of public and private investment, including the Council's own capital budget and will enable future residential and commercial development to take place. Given that future development will be reliant on the existence of the link road, contributions, through s106 agreements, will be required to make retrospective contributions to the infrastructure already in place and paid for through public funds.
- 5.6.** Policy GEN4 of the SADPD sets out the circumstances when the Council will seek to recover costs associated with forward funded infrastructure and this SPD provides further detailed guidance on:
 - 5.6.1.** The overall amount to be recovered
 - 5.6.2.** The individual sites, areas or types of development that will be required to contribute; and
 - 5.6.3.** The mechanism to be used for proportionately calculating the cost of contributions.
- 5.7.** This SPD provides greater clarity to developers, landowners, communities and decision makers on the approach the Council will take to securing contributions toward Forward Funded Infrastructure and provides additional guidance to applicants on how they should respond to the policy requirements in the LPS and SADPD. It also 'signposts' sources of information, including relevant documentation and Council services.
- 5.8.** The SPD identifies existing schemes that the council has already forward funded and is actively recovering costs for and sets out how the Medium Term Financial Strategy will be used to identify future schemes that will be subject to policy GEN4 and the recovery of investment.

- 5.9.** The draft SPD has been prepared by the Strategic Planning Team with key input from the Strategic Infrastructure Team.
- 5.10.** Subject to the approval of the recommendations in this report, the SPD will be consulted on in accordance with the Council's Statement of Community Involvement for a period of four weeks.
- 5.11.** The process for preparing an SPD is similar in many respects to that of a local plan document. However, they are not subject to independent examination by the Planning Inspectorate. There are several stages in their production:
 - 5.11.1.** Publish the initial draft SPD for four weeks public consultation;
 - 5.11.2.** Consider feedback received and make any changes necessary;
 - 5.11.3.** Publish the final draft SPD, along with a consultation statement setting out who has been consulted in its preparation, the main issues raised in feedback and how those issues been addressed in the final draft SPD;
 - 5.11.4.** Having considered representations, the SPD may then be adopted;
- 5.12.** Following adoption, the SPD must be published and made available along with an adoption statement in line with the 2012 Regulations. The adoption of the SPD may be challenged in the High Court by way of judicial review within three months of its adoption.
- 5.13.** Once adopted, the effectiveness of this SPD will be monitored as part of the Authority Monitoring Report, using information from planning applications and decisions. The outcome of this ongoing monitoring work will help inform future decisions about the SPD.

6. Consultation and Engagement

- 6.1.** It is proposed that the draft SPD will be subject to four weeks consultation. Following this, all comments will be considered, and changes made to the SPD, as appropriate, before a final version of the SPD is prepared for approval and further consultation.

7. Implications

7.1. Legal

- 6.1.1** The Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012 provide the statutory Framework governing the preparation and adoption of SPDs. These include the requirements in Section 19 of the 2004 Act and various requirements in the 2012

Regulations including in Regulations 11 to 16 that apply exclusively to producing SPDs.

- 6.1.2** Amongst other things, the 2012 regulations require that an SPD contain a reasoned justification of the policies within it and for it not to conflict with adopted development plan policies.
- 6.1.3** The National Planning Policy Framework and the associated Planning Practice Guidance also set out national policy about the circumstances in which SPDs should be prepared.
- 6.1.4** SPDs provide more detailed guidance on how adopted local plan policies should be applied. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan.

Strategic Environmental Assessment

- 6.1.5** Strategic Environmental Assessment (SEA) involves evaluation of the environmental impacts of a plan or programme. The requirement for SEA is set out in the European Directive 2001/42/EC adopted into UK law as the “Environmental Assessment of Plans or Programmes Regulations 2004”.
- 6.1.6** The SEA Directive sets out a legal assessment process that must be followed. Often within the planning context, the SEA requirements are met by incorporating it within a Sustainability Appraisal (“SA”), which is a requirement for development plan documents.
- 6.1.7** There is no legal requirement for SPDs to be accompanied by SA, and this is reinforced in Planning Practice Guidance (PPG ref: 11-008- 20140306). However, “in exceptional circumstances” there may be a requirement for SPDs to undertake Strategic Environmental Assessment where it is felt they may have a likely significant effect on the environment that has not been assessed within the SEA/SA of the local plan.
- 6.1.8** A screening assessment has been undertaken (in Appendix B) which has determined that a SEA (or an appropriate assessment under the Habitats Regulations) is not required for the SPD.

7.2. Finance

- 7.2.1.** There are no significant direct financial costs arising from consultation on the SPD. The costs of printing and the staff time in

developing the SPD are covered from existing budgets of the planning service.

- 7.2.2. The SPD will help to improve the process through which financial contributions are secured and recovered towards infrastructure investment. If not secured appropriately there could be a risk that monies do not come forward and infrastructure may get delayed.

7.3. Policy

- 7.3.1. The SPD will expand and amplify existing development plan policies related to the provision of funding for infrastructure. An SPD will give additional advice to applicants on how they can demonstrate they have complied with relevant policies of the development plan related to this matter.

7.4. Equality

- 7.4.1. The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to: eliminate discrimination; advance equality of opportunity between persons who share a “relevant protected characteristic” and persons who do not share it; foster good relations between persons who share a “relevant protected characteristic” and persons who do not share it.
- 7.4.2. The draft Forward Funded Infrastructure SPD provides further guidance on the approach that is expected from developers on this matter. The SPD is consistent with the LPS which was itself the subject of an Equalities Impact Assessment (EqIA) as part of an integrated Sustainability Appraisal. A draft EqIA on the draft Forward Funded Infrastructure SPD has been prepared (appendix C) and will be published alongside the draft SPD for comment.

7.5. Human Resources

- 7.5.1. There are no direct implications for human resources.

7.6. Risk Management

- 7.6.1. The subject matter of the report does not give rise for any particular risk management measures because the process for the preparation of an SPD is governed by legislative provisions (as set out in the legal section of the report).

7.7. Rural Communities

- 7.7.1. The draft Forward Funded Infrastructure SPD seeks to provide further guidance on the financial mechanisms to secure infrastructure funding. Infrastructure has a wide definition and includes provision of assets and services that will benefit many rural communities, whether directly or indirectly.

7.8. Children and Young People/Cared for Children

- 7.8.1.** The draft SPD does not have a direct implication for children and young people or cared for children, but will assist in securing growth that is properly serviced and inclusive for all.

7.9. Public Health

- 7.9.1.** The draft SPD does not have any public health implications but may assist in securing contributions to other essential services that indirectly improve public health (the delivery of walking and cycling measures in a new road scheme for example).

7.10. Climate Change

- 7.10.1.** The draft SPD does not have any direct climate change implications but may also indirectly help reduce the impacts of climate change through providing more sustainable travel options (for example).

Access to Information	
Contact Officer:	Tom Evans, Neighbourhood Planning Manager Tom.Evans@cheshireeast.gov.uk 01625 650023 / 07772629846
Appendices:	Appendix A: Draft Recovery of Forward Funded Infrastructure Costs Supplementary Planning Document Appendix B: SEA / HRA Screening Report Appendix C: Draft Equalities Impact Assessment Screening Report
Background Papers:	N/A

This page is intentionally left blank

Cheshire East Local Plan

Recovery of Forward Funded Infrastructure Costs Supplementary Planning Document

October 2021



Contents

1. Introduction	2
Status of the SPD	3
2. Draft SPD Consultation	4
Submitting your views	4
What happens after the consultation?	5
3. Planning Policy Framework	6
Legislation Context	6
National Policy Context	6
Local planning policy	7
Cheshire East Local Plan Strategy	8
Saved Policies	8
Cheshire East Council Site Allocations and Development Policies Document	8
Local Transport Plan (2015 – 2031)	9
Neighbourhood Plans	9
4. Planning Obligations	10
What are Planning Obligations?	10
What is a Community Infrastructure Levy?	10
Relationship between CIL and Planning Obligations	10
Section 278 Agreements	11
Planning Conditions	11
5. The Overall Amount to be Recovered	12
6. Sites, Areas and Types of Development Required to Contribute	14
7. Calculating the Cost of Contributions	18
8. Implementation	23
9. Procedures	24
Pre-Application Discussions	24
Cross Boundary Applications	24
Security and Timing of Payment	24
Index Linking	25
Legal Fees	25
Monitoring and Enforcement	25
10. Glossary	26

1. Introduction

- 1.1 Infrastructure is essential to the sustainable and integrated delivery of growth and development. Toward delivering the aims of the Local Plan, Cheshire East Council has one of the largest infrastructure investment programmes outside of any metropolitan area. As well as securing investment in a range of physical, green and social infrastructure through existing budgets and contributions levied through the development process, the council has directly invested in over £400million in highways infrastructure across the borough to address existing needs and enable plan led development to come forward.
- 1.2 Some of this infrastructure has been invested in upfront by the council and brought forward ahead of the development that will ultimately rely on and pay for it. Some £70million has been invested in this way, which the council will seek to recover from developers. It is essential that this funding is recovered in order for the council to continue to invest in the future infrastructure needs of the borough. This Supplementary Planning Document (“SPD”) provides guidance on how the council will seek to recover this funding.
- 1.3 Whilst the current forward funding of infrastructure relates entirely to highways projects, this SPD provides guidance on the principles that the council will use to recover costs related to other forms of infrastructure, should the need for this arise. Where infrastructure projects are forward funded by the Council, they will be identified in the Medium-Term Financial Strategy. The Council will seek to recover investment in such projects, on a proportional basis, from develop that relies on the forward funded infrastructure.
- 1.4 SPDs add further detail to policies contained within the development plan and are used to provide guidance on specific sites or particular issues. SPDs do not form part of the adopted development plan but they are a material planning consideration in decision taking.
- 1.5 This SPD is designed to assist prospective developers and applicants by providing guidance on policy GEN4 of the Site Allocations and Development Policies Document (SADPD). By providing this information upfront Cheshire East Council aims to minimise uncertainty in the development process and ensure negotiating obligations is based on a clear and consistent approach.
- 1.6 Policy GEN4 of the SADPD sets out the circumstances when the Council will seek to recover costs associated with forward funded infrastructure and this SPD provides further detailed guidance on:
 - i) The overall amount to be recovered
 - ii) The individual sites, areas or types of development that will be required to contribute; and
 - iii) The mechanism to be used for proportionately calculating the cost of contributions.

Current Schemes

- 1.7 The current schemes that will be subject to Policy GEN4 and this guidance, are detailed in this SPD. The schemes listed are identified in the [Infrastructure Delivery Plan](#) and listed within the Local Plan Strategy (LPS). The LPS identifies the sites that are reliant on the specified infrastructure, and it is these sites that are will be subject to the requirements of Policy GEN4.
- 1.8 Currently these projects are all highways schemes however the application of policy GEN4 is not limited to highways schemes and may be applied to any infrastructure that is forward funded by the Council, or it's partners.

Future Schemes

- 1.9 Over time the council will introduce new forwarded funded infrastructure, fully recover its investment in some schemes, and at any given point may have part recovered its investment in some. The status of each scheme will be reported annually via the councils [Medium Term Financial Strategy](#) which will also be the mechanism to identify future schemes that will be subject to policy GEN4 and this SPD.
- 1.10 The MTFS is an annual budget report and therefore affords the opportunity to provide a status update on existing schemes and introduce new schemes that may be subject to forward funding. Where schemes are subject to forward funding they will be specified as such in the MTFS. Therefore, the MTFS will be used to identify when future schemes are subject to policy GEN4 and the guidance set out in this SPD.
- 1.11 The requirements of policy GEN4 are additional to the Community Infrastructure Levy ("CIL") payments towards the broader infrastructure payments of the area. CIL is a charge that, subject to viability considerations, can be applied to most types of development to fund additional infrastructure to support the development of an area. However, only two types of development in Cheshire East are liable to pay a CIL charge. These are housing (excluding affordable housing and apartments) and retail development at two specific locations (the Crewe Grand Junction and Handforth Dean retail parks). All other development has a zero CIL charge for economic viability reasons. Further details on CIL are available on the Councils [website here](#).

Status of the SPD

- 1.12 The SPD has been prepared in accordance with the Planning Act 2004 and the associated Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).
- 1.13 Once finalised and published, this document should be read alongside requirements set out in the Macclesfield Borough Council Supplementary Planning Guidance on s106 (Planning) Agreements (2004); and Congleton Borough Local Development Framework Interim Policy Note - Public Open Space Provision for New Residential Development (2008).

2. Draft SPD Consultation

- 2.1 Consultation on the draft SPD will take place between 18th October 2021 and 29th November 2021. Comments must be received by the Council **no later than 12 midnight on 29th November 2021**.
- 2.2 The consultation documents can be viewed online at:
<https://cheshireeast-consult.objective.co.uk/portal/planning/spd/>
and at:
public libraries in Cheshire East during opening hours (for information about opening hours see www.cheshireeast.gov.uk/libraries or telephone 0300 123 7739).
- 2.3 There is no legal requirement for Supplementary Planning Documents to be accompanied by Sustainability Appraisal, and this is reinforced in national planning guidance. However, “in exceptional circumstances” there may be a requirement for SPDs to be subject to Strategic Environmental Assessment (SEA) where it is considered likely that they may have a significant effect on the environment that has not already been assessed within the SEA of the Local Plan. A screening assessment has been undertaken and concludes that further such assessment is not necessary.
- 2.4 A screening exercise has been carried out to determine whether the document gives rise to the need for Appropriate Assessment (under the Habitats Regulations). This similarly concludes that further such assessment is not necessary. These screening assessments have been published (Appendix 1) and you can give your views on their findings too.

Submitting your views

- 2.5 The council's online consultation portal is our preferred method for submitted responses, but you can also respond by e-mail or in writing using a comment form available online and at the locations listed above. You can respond:
- **Online:** Via the consultation portal at: <https://cheshireeast-consult.objective.co.uk/portal/planning/spd/>
 - **By e-mail:** To planningpolicy@cheshireeast.gov.uk
 - **By post:** Strategic Planning (Westfields), C/O Municipal Buildings, Earle Street, Crewe CW1 2BJ
- 2.6 Please make sure that your comments reach us by **12 midnight on the 29th November 2021**. We are not able to accept anonymous comments and you must provide us with your name and contact details. Your personal data will be processed in line with our Spatial Planning Privacy Notice, which is available on the council's website (www.cheshireeast.gov.uk). Your name and comments

will be published and made available to view on the council's online consultation portal.

What happens after the consultation?

- 2.7 Following consultation, the council will carefully consider all representations received before deciding whether any amendments to the draft SPD are needed. The final version of the SPD alongside a Consultation Statement summarising the feedback and changes to the SPD will then be published for further comment before the SPD is proposed for adoption by the Council.
- 2.8 Once adopted the SPD will be formal planning guidance and will be considered as a material consideration when assessing planning applications in Cheshire East.

3. Planning Policy Framework

Legislation Context

- 3.1 The statutory framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990, as amended. Regulation 122 and 123 of the Community Infrastructure Levy (“CIL”) Regulations 2010 (as amended) and paragraph 54 to 57 of the National Planning Policy Framework (February 2019) set out the Government’s policy on planning obligations.
- 3.2 Section 106 of the Town and Country Planning Act 1990 provides the mechanism for planning obligations to be secured from development. Section 106 allows anyone interested in land in the area of the planning authority to enter into planning obligations. Section 106 (1) allows a planning obligation to:
 - Restrict development or use of land in a specified way.
 - Require specified operations or activities to be carried on, in or over the land.
 - Require the land to be used in any specified date or dates periodically.
 - Require a sum or sums of money to be paid to the local planning authority on a specified date or dates.
- 3.3 Regulation 122 of the CIL Regulations defines that for a planning obligation to be taken into consideration in granting planning permission, it must meet the following three tests:
 - a) Necessary to make the development acceptable in planning terms;
 - b) Directly related to the development; and
 - c) Fairly and reasonably related in scale and kind to the development.
- 3.4 Regulation 123 of the CIL Regulations previously placed limitations on the pooling of planning obligations. However, it was deleted by amendment regulations that came into force on 1 September 2019, and there are now no limits on pooling planning obligations.

National Policy Context

- 3.5 The national planning policy framework (“NPPF”) identifies that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. It highlights that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition (paragraph 54). The NPPF also restates the previous three statutory tests for planning obligations which are defined in CIL Regulations (paragraph 56).
- 3.6 The NPPF sets a presumption that up-to-date policies on planning obligations should apply and says that it is up to the applicant to demonstrate whether specific circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision-maker, and such assessments should reflect the approach in national guidance and be made publicly available (paragraph 57).

- 3.7 The national planning practice guidance (“PPG”) provides further advice on planning obligations and viability¹. It sets out a clear expectation that viability assessments should be made publicly available other than in exceptional circumstances. It also states that an “existing use value plus” (“EUVP”) approach should be taken to land value assumptions in viability assessments, which is based in the existing use value of the land plus a suitable premium for the landowner.
- 3.8 The National Planning Policy Framework (NPPF) sets out the government’s economic, environmental and social planning policies for England and how these should be applied. The policies set out in the NPPF apply to the preparation of local and neighbourhood plans and it is a material consideration in planning decisions.
- 3.9 Paragraph 56 states that planning obligations must only be sought where they meet all of the tests as set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. These tests are whether the obligation can be found to be:
- i) Necessary to make the development acceptable in planning terms;
 - ii) Directly related to the development; and
 - iii) Fairly and reasonably related in scale and kind to the development.
- 3.10 The requirement on a development site to make a financial contribution will need to meet the CIL tests and this remains a question of planning judgement that will be taken at the time of planning application and the negotiations into planning obligations.
- 3.11 Seeking a planning obligation to provide funding that has already been invested, is directly related to the scheme for which funds are being recovered against, although it is acknowledged that these funds will be used to replace funding diverted from other sources and therefore may be used to support delivery of other infrastructure and elsewhere in the borough (through the council’s capital programme as set out by the Medium Term Financial Strategy).
- 3.12 If the use of planning obligations is taken forward, the planning obligations sought must be fair and reasonable in scale and kind to the development. This RFFIC strategy enables the Council to apply a reasonable approach consistently and fairly by setting out relevant mechanisms to justify the contribution being sought in these specific circumstances.

Local planning policy

- 3.13 Relevant local planning policies are set out in the development plan for the area. The development plan for Cheshire East currently comprises of the Cheshire East Local Plan Strategy and ‘saved’ policies within previous local plans which remain

¹ Planning Practice Guidance, available at:
<https://www.gov.uk/government/collections/planning-practice-guidance>

in effect until such time as they are replaced by the emerging Site Allocations and Development Policies Document (“SADPD”). Neighbourhood Development Plans that have been successful at referendum and have subsequently been ‘made’ also form part of the statutory development plan.

- 3.14 Development plan policies of relevance to planning contributions are summarised below. Consideration will also be given to other relevant planning policies within each plan, where appropriate to the planning application proposals.

Cheshire East Local Plan Strategy

- 3.15 The Cheshire East Local Plan Strategy (CELPS), adopted in July 2017, is part one of the local plan sets out a strategic framework for the borough including, housing and employment requirements, core site allocations and key infrastructure. Within the CELPS there are two policies that support the application of a recovery strategy.

- 3.16 **Policy IN 1: Infrastructure:**

- 3.17 IN1 sets out that broad approach to provision of infrastructure in the borough and the mechanisms that may be used to fund and deliver infrastructure.

- 3.18 **Policy IN2: Developer Contributions**

- 3.19 IN2 states that developer contributions will be sought to make the necessary physical, social, public realm, economic and green infrastructure in place to deliver development.

Saved Policies

- 3.8 The following Local Plans contain ‘saved policies’ that remain part of the development plan. These policies will continue to be used in determining planning applications until they are replaced by the adoption of the SADPD. Therefore, this SPD does not relate to saved policies of the local plan.

Cheshire East Council Site Allocations and Development Policies Document

- 3.9 The SADPD will form the second part of the Local Plan. It will set non-strategic and detailed planning policies to guide planning decisions and allocate additional sites for development to assist in meeting the overall development requirements set out in the LPS.
- 3.10 A revised publication draft version of the SADPD was published for a period of public representations between the 26th October and the 23rd December 2020 and Cheshire East Council voted to submit the plan to the Secretary of State for examination in public on April 19th 2021.
- 3.11 Although the submission version of the SADPD is not yet adopted and must proceed through public examination and adoption, this draft Recovery of Infrastructure Funding SPD has been prepared to be consistent with emerging planning policies in the SADPD. Whilst this is not a legal or national planning

policy requirement, this approach provides opportunity for this SPD to complement and support the implementation of future development plan policies however to ensure the SPD may be implemented, its adoption will not be completed until the after the SADPD has been adopted.

- 3.12 The SADPD sets out further detail on matters related to provision of infrastructure, building on policy IN1 and IN2 of the CELPS to establish the approach that will be taken to recovering infrastructure funding for projects that have been publicly funded and without which development would not have been acceptable in planning terms and/or could not have been achieved. This SPD relates to SADPD policies:

- 3.13 **GEN 4: Recovery of forward-funded infrastructure costs.** This policy seeks to recover costs associated with forward funded infrastructure from applicants that rely on this infrastructure to mitigate the effects of their development and make it acceptable in planning terms.

Local Transport Plan (2015 – 2031)

- 3.14 [The Local Transport Plan \(LTP\)](#) for Cheshire East is divided into two parts. The first part, the Local Transport Plan, sets out the long-term transport strategy for Cheshire East with a focus on the period 2019-24. The second part of the plan is comprised of a series of [Town Delivery Plans](#) (TDP).
- 3.15 The LTP and the TDPs support delivery of adopted council-based strategy and plans, as well as maximising the opportunity and ability of CEC to successfully negotiate with developers to secure infrastructure associated with emerging development, and infrastructure that is specific to each community in Cheshire East.
- 3.16 Where infrastructure set out in the LTP or TDPs is forward funded, the guidance and approach set out in this SPD will apply.

Neighbourhood Plans

- 3.17 There 36 made neighbourhood plans in Cheshire East. Many plans include locally specific requirements in regard to the natural environment and Biodiversity, including detailed habit map that identify biodiversity assets and wildlife corridors. These should be consulted and, where relevant, worked with in establishing an approach.
- 3.18 Relevant neighbourhood plan policies are mapped and available to view on the Councils GIS network. All neighbourhood plans can be [accessed here](#).

4. Planning Obligations

What are Planning Obligations?

- 4.1 The recovery of forward funded infrastructure will be secured through the application of planning obligations.
- 4.2 Planning obligations, also known as Section 106 Agreements (“s106 agreements”), are legally binding agreements entered into between a local authority and a developer. They provide the mechanism by which measures are secured to mitigate the impact of development on the local area.
- 4.3 Unless it is stated otherwise, planning obligations run with the land in perpetuity and may be enforced against the owners, mortgagees and their successors. Planning obligations form part of the title deeds of the property and only be secured through the following type of Deed:
 - Section 106 agreements with mutual obligations between the Council and owners with interest in the application site;
 - Unilateral planning obligations, sometimes called unilateral undertakings signed solely by owners with interests in the application site which can impose no obligations on the local planning authority.
- 4.4 A planning obligation will be sought where a development would otherwise be unacceptable and the objections cannot be overcome by conditions. They will be negotiated on a site by site basis. They will typically address, but are not limited to, issues such as:
 - Affordable housing
 - Public Open Space
 - Transport
 - Social infrastructure, including education and healthcare.

What is a Community Infrastructure Levy?

- 4.5 The Community Infrastructure Levy (“CIL”) is a charge which is levied by local authorities on new development in their area. Cheshire East Council adopted a CIL charging schedule in February 2019. It is an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area.
- 4.6 Further details can be seen on the Councils website: https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/community-infrastructure-levy.aspx

Relationship between CIL and Planning Obligations

- 4.7 On 1st September 2019, changes came into effect in relation to the preparation of the Community Infrastructure Charging Schedule as well as relating to the process of securing developer contributions as part of the planning application process

- 4.8 Prior to the CIL Regulation changes coming in on the 1st September 2019, s106 Obligations requiring payments were limited to site specific development impacts and not related to projects or types of infrastructure that will be funded by CIL. The CIL regulations required Councils to avoid “double dipping” and produce clear guidance of infrastructure needs and projects funded through s106 Obligations and CIL Regulation 123 List. From December 2020, local authorities have been required to publish an Infrastructure Funding Statement, which should identify infrastructure needs, the total cost of this infrastructure, anticipated funding from developer contributions, and the choices the authority has made about how these contributions will be used.
- 4.9 The [Council's Infrastructure Funding Statement](#) is an important report that helps inform investment decisions set out in the Council's Medium Term Financial Strategy (MTFS).

Section 278 Agreements

- 4.10 A Section 278 agreement allows developers to enter into a legal agreement with the Highway Authority to fund alterations or improvements to the public adopted highway network, having regard to the needs of the development. Examples of such works could include the construction of a new access; junction improvements on the highway; or safety related works such as traffic calming or improved facilities for pedestrians or cyclists.
- 4.11 Requirements for s278 agreements will be negotiated separately, although an obligation will be imposed as part of the s106 agreement to enter into a s278 agreement.

Planning Conditions

- 4.12 Planning conditions are the most commonly used and simplest mechanism for securing the provision of on-site infrastructure e.g. roads, sewers, play areas. They can also be used to secure the delivery of on-site affordable housing.
- 4.13 Planning conditions are imposed by the Council when granting planning permission to ensure that certain actions or elements related to the development proposal are carried out. Paragraph 55 of the National Planning Policy Framework states that planning conditions should only be imposed where they are:
- Necessary;
 - Relevant to planning and
 - To the development to be permitted;
 - Enforceable;
 - Precise; and
 - Reasonable in all other aspects.
- 4.14 No payment of money or other consideration can be positively required by a condition when granting planning permission. However, where the 6 tests are met, it may be possible to use a negatively worded condition to prohibit development or occupation until a specified action has been taken.

5. The Overall Amount to be Recovered

- 5.1 The overall amount of infrastructure investment that the council will seek to recover is based on its upfront investment. The council will seek to recover the full extent of its investment, proportionate to a development's reliance on that infrastructure. The method to establish a proportionate contribution is set out at section 6.
- 5.2 The overall amount to be recovered for each scheme will be updated annually through the MTFS and a report produced. This will be the source from which contributions toward forward funded infrastructure are calculated.
- 5.3 The council may invest in and forward fund a range of infrastructure that is potentially subject to the requirements of policy GEN4. Whilst the application of the policy is not related to highways matters alone, much of the council's current investment is in regard to a capital programme that supports delivery of highways infrastructure. Therefore, when determining whether a development proposal is subject to the requirements of GEN4, and the guidance in this SPD, it is necessary to consult the MTFS to identify which schemes have been identified as forward funded infrastructure.
- 5.4 Whilst highways infrastructure is a significant investment related to the LPS, any infrastructure scheme may be eligible for the policy to apply to.
- 5.5 The table below is a summary of infrastructure that has been forward funded by the Council or its partners and the allocated development sites that are reliant on the infrastructure identified. The recovery of Forward Funded Infrastructure Costs is not limited to sites in this table and may be levied on other sites that come forward where a reliance on the infrastructure can be demonstrated.

Forward Funded Infrastructure	Associated LPS Sites	CEC Forward Funded Contribution 21/22
Congleton Link Road	LPS26 Back Lane / Radnor Park; LPS27 Congleton Business Park; LPS28 Gianstwood Lane South; LPS29 Gianstwood Lane to Manchester Road; LPS30 Manchester Road to Macclesfield Road; LPS31 Tall Ash Farm	£18,998,126
Poynton Relief Road	LPS48 Land Adjacent to Hazelbadge Road; LPS49 Land at Spink Farm; LPS50 Land south of Chester Road; LPS51 Adlington Business Park Extension; Handforth Garden Village	£6,200,000
A500 Dualling	LPS2 Basford East; LPS3 Basford West; LPS7 Sydney Road; LPS8 South Cheshire Growth Village;	£5,100,000

Flowerpot Junction	LPS does not specify sites related to Flowerpot Junction but cites a future transport study that will identify such sites.	£1,200,000
Crewe Green Roundabout	LPS6 Crewe Green; LPS7 Sydney Road;	£2,132,494
Sydney Road Bridge	LPS7 Sydney Road	£4,472,505
North West Crewe Package	LPS4 Leighton West; LPS5 Leighton	£10,330,001
Middlewich Eastern Bypass	LPS42 Glebe Farm; LPS43 Brooks Lane; LPS44 Midpoint 18; LPS45 Land off Warmingham Lane	£14,243,000

6. Sites, Areas and Types of Development Required to Contribute

Future Schemes

- 6.1 Future schemes that are not identified as forward funded infrastructure in this SPD but come forward through the MTFS will be funded by sites that are directly and demonstrably reliant on the infrastructure provided.
- 6.2 For example, if a new road is invested in, all schemes that use this road to access their sites, or who benefit significantly from traffic relief on other local developments to make their access arrangements acceptable, will be required to make retrospective contributions on a proportional basis. Sites that are reliant on forward funded infrastructure will be identified in the MTFS and / or set out through the plan making process.

Existing Schemes

- 6.3 Existing Infrastructure schemes, and the sites that are reliant on them, are identified in the Local Plan Strategy.
- 6.4 All sites, as identified in the LPS, that are reliant on specifically forward funded infrastructure will be required to contribute, proportionately, to the recovery of these costs.
- 6.5 There are currently no broad areas that are identified as being eligible to the recovery of forwarded funded infrastructure costs, currently the development sites that are eligible are specifically identified in the LPS. However where wider areas are identified in future Local Plans, they will be subject to the policy.
- 6.6 All types of development will be required to contribute. Further information on this is set out in section 7 regarding the recovery methodology.

6.7 Congleton Link Road

- 6.8 The Congleton Link Road runs to the north of the town connecting the A534 Sandbach Road to the A536 Macclesfield Road. It directly unlocks significant development opportunities for employment and residential development and was necessary to enable the allocation of development land here. The scheme was subject to planning approval in June 2016 (under application reference 15/4480C) and has been funded from multiple sources including the council's own forwarded funded investment. The scheme enables delivery of five local plan sites providing a total of 2,502 homes and 20.1 hectares of employment land.

6.9 Anticipated Total Cost: £90,000,000

6.10 Forward funded contribution: £18,998,126

6.11 Poynton Relief Road

- 6.12 The Poynton Relief Road is a 3.5km long two-way single carriage road which forms a component of the South East Manchester Multi Modal Strategy to relieve

traffic and improve connectivity between Macclesfield, Stockport, Manchester Airport and the surrounding area. The Poynton Relief Road supports and enables the delivery of LPS 50 and LPS51 pending 150 new homes and 10ha of employment land respectively.

6.13 Anticipated Total cost: £51,000,000

6.14 Forward funded contribution: £6,200,000

6.15 **A500 Dualling**

6.16 The proposals are to widen the A500 immediately to the south of the existing carriageway to create a dual carriageway. Meremoor Moss roundabout will be enlarged to create additional capacity. Where local roads cross the A500, at Barthomley Road and Radway Green Road, the bridges will be replaced and lengthened to accommodate the wider road beneath.

6.17 The [planning application \(reference 20/1709N\)](#) was approved on 26 August 2020 with conditions. The current programme (subject to final funding approvals) is for the main works to start in 2022, with an estimated 24 to 27 month construction period.

6.18 Anticipated Total cost: £69,000,000

6.19 Forward funded contribution: £5,100,000

6.20 **Flowerpot Junction**

6.21 The improvements will increase capacity at the junction to ease existing levels of congestion and in anticipation of planned developments around the town.

6.22 The proposed improvements will introduce:

- i) A new dedicated right turn lane for vehicles turning out of Ivy Lane into Congleton Road.
- ii) A new dedicated left turn lane for vehicles turning out of Park Lane into Congleton Road.
- iii) A new dedicated left turn lane for vehicles turning out of Oxford Road into Park Lane.

6.23 The new dedicated lanes will separate vehicles making these manoeuvres from those heading straight across the junction or making the opposite turn, which will provide the opportunity for more vehicles to travel through the junction during each cycle of the lights. The new lanes will also provide additional queuing space on the approach to the junction.

6.24 It is proposed to reconfigure the layout of the existing pedestrian and cycle crossing facilities at the junction, install Toucan crossings on the Ivy Lane and Congleton Road arms of the junction and widen the footpath along the south side of Park Lane leading onto Congleton Road. The crossing facilities on Oxford Road and Park Lane are proposed as Puffin crossings, with a new island on the corner of Oxford Road and Park Lane.

6.25 Anticipated Total cost: £5,500,000

6.26 Forward funded contribution: £1,200,000

6.27 Crewe Green Roundabout

6.28 The project was completed in 2018 and established a new road layout, removal of traffic lights and created wider junctions created so that traffic can merge from different directions. Shared cycleways/footways, with crossing points for cyclists and pedestrians, are also included in the scheme. Additional street lighting, kerbs and more than 470m of drainage, as well as new pedestrian crossings and footpaths and asphalt surfacing have been installed.

6.29 The roundabout has improved network capacity enabling development of strategic sites allocated in the LPS.

6.30 Anticipated Total cost: £8,000,000

~~6.31~~ Forward funded contribution: £2,132,494

6.32 Sydney Road Bridge

6.33 The bridge was improved to alleviate a major traffic ‘pinch point’ on a route serving Leighton Hospital and the Bentley factory. The project includes a shared cycleway and footway over the bridge, a signal-controlled pedestrian crossing and improved cycle provision along Sydney Road. The improved bridge was opened in 2019.

6.34 Anticipated Total cost: £11,000,000

6.35 Forward funded contribution: £4,472,505

6.36 North West Crewe Package

6.37 The North West Crewe scheme aims to improve transport links in Crewe – easing congestion and improve access to Leighton Hospital, bringing opportunities for local businesses to expand and improving the access to new and existing housing developments.

6.38 The project involves a series of highways and junction improvements around Leighton including the construction of a new road linking Smithy Lane, Minshull New Road and Middlewich Road (A530). The programme includes the realignment of Smithy Lane, Flowers Lane and improvement to other road junctions associated with the scheme. It is also proposed to close a section of Minshull New Road located outside of Leighton Academy to traffic.

6.39 A planning application for the North West Crewe scheme was submitted to the Local Planning Authority in December 2018 and went before the Planning Committee in March 2019. A decision notice approving the scheme was received in July 2019, [planning application details](#).

6.40 The Local Planning Authority resolved to approve outline applications from the housing developers at the Council’s Strategic Planning Board in November 2020.

6.41 [Development application for land off Minshull New Road and Flowers Lane](#)

6.42 [Development application for land off Minshull New Road](#)

6.43 Anticipated Total cost: £37,000,000

6.44 Forward funded contribution: £10,330,001

6.45 **Middlewich Eastern Bypass**

6.46 Middlewich town centre currently suffers from severe traffic congestion due to its location at the junction of two major roads; the A54 which links to the M6, Winsford and Chester, and the A533 to Sandbach and Northwich. Cheshire East Council has been working since 2015 to develop options for a bypass which will reduce traffic congestion in the town centre whilst supporting employment and housing growth in the area as a whole.

6.47 The current programme (subject to planning and final funding approvals) is for the main works to start late 2022, with an estimated 22 month construction period.

6.48 The scheme has full planning consent with conditions. Planning Permission [20/2064C](#) amended the original permission [18/5833C](#), and [20/2162C](#) formed a new permission extending the boundaries of the scheme for revised ecological mitigations and other minor changes to the design.

6.49 Two applications for minor material amendments to the permissions are currently awaiting determination. These are [21/2044C](#) and [21/2073C](#).

6.50 Anticipated Total cost: £71,000,000

6.51 Forward funded contribution: £14,243,000

7. Calculating the Cost of Contributions

- 7.1 The Recovery of Forward Funded Infrastructure Costs will seek to maximise the recovery of funds from sites that benefit from publicly funded infrastructure as set out in the MTFS. The MTFS is updated on an annual basis and will identify the level of investment the council has made toward any given scheme and the amount of funding that will be recovered through the application of proportionate obligations.

The Role of the Medium-Term Financial Strategy

- 7.2 This SPD identifies the current schemes that will be subject to policy GEN4 and the guidance set out here, but the council may invest in additional infrastructure in the future. Future schemes will be identified through the plan making process and /or through the [Medium Term Financial Strategy](#) (MTFS) and applicants will be required to consider whether their proposals rely on such infrastructure in planning terms.
- 7.3 Whilst the MTFS is not a planning policy matter in itself, the Councils budget setting cycle will be used as the mechanism to make decisions on investment in infrastructure. SADPD Policy GEN4 may be applied to infrastructure identified in the MTFS.
- 7.4 Through the application of SADPD Policy GEN4, the council (and on behalf of partner organisations) will seek to recover infrastructure costs where it has approved investment in infrastructure through the MTFS process. The Council will seek to recover investment where schemes have been enabled through borrowing; use of reserves; or diversion of funding from other budgets in the short term to help bring forward development on the understanding that it will be repaid.
- 7.5 These decisions will be set out in the MTFS and identify the infrastructure to be invested in, and the costs expected to be recovered from development that relies upon the infrastructure identified.
- 7.6 The schemes set out at section 6 have been included in the MTFS, alongside the forward funding that the council has invested. Development that is reliant on these schemes in planning terms will be expected to make contributions, on a proportionate basis as set out at 7.11 – 7.28, toward the recovery of this investment.
- 7.7 The recoverable contribution will be sought via planning obligations made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended), or other agreed methods during the planning process.
- 7.8 The Recovery of Forward Funded Infrastructure Costs will be applicable to housing and non-residential use classes as specified in the Town and Country Planning (Use Classes) Order 1987 (as amended) and implemented on a site-by-site basis.
- 7.9 Recovered monies will be retained in perpetuity by CEC. Recovered funding will be used repay finances borrowed or diverted from reserves or other budgets and may be recycled to enable the delivery of infrastructure elsewhere in the borough.

- 7.10 Where a site is reliant on forward funded infrastructure to demonstrate it is acceptable in planning terms a recovery fund cap calculation (necessary to apportion benefit) and financial viability assessment (to ascertain surplus or loss) will be undertaken through engagement between CEC and applicants and/or other relevant third parties, during the site-specific planning application stage.

7.11 Recovering Fund Cap

- 7.12 The level of funds to be recovered on any individual development site will be capped by taking a proportionate approach that requires developers to pay for the share of infrastructure investment they are reliant on. For example, if the council were to forward fund a new spine road that would enable delivery of three equally sized residential sites, with equal levels of viability, then the Council would seek one third of its forward funding investment from each development.

- 7.13 The recovery fund will be capped in this way and calculated by undertaking a dependent development analysis of an individual development site(s) to calculate the number of dwellings and level of non-residential use class land that is dependent on the publicly funded infrastructure.

- 7.14 When applications are received, an evidence base will be compiled to calculate the level of demand for the infrastructure scheme that can be linked to the dependent development. This will allow the calculation of recovery estimates that comply with state aid rules from the development site. This evidence base will utilise a variety of tools including council traffic model(s) and identify a suitable forecast year to be tested.

- 7.15 For highways schemes, the proportion of trips travelling to/from the development site using the improvement scheme will be calculated. The proportion will then be applied to the total cost of publicly funded infrastructure with the 'cap' being the monies to be recovered.

7.16 Financial viability

- 7.17 The council will seek to secure a fair and reasonable developer contribution without adversely affecting the ability for new developments to take place. The NPPF (paragraph 57) states that it is up to the applicant to demonstrate whether circumstances justify the need for a viability assessment at the application stage. The weight given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.

- 7.18 As outlined in the Publication Draft SADPD Policy GEN7, the Council will recover contributions where, since consent was originally granted, market circumstances change and render a scheme viable at a later point in time.

- 7.19 Unless the developer accepts the recovery sum sought by CEC as part of the s106 contributions an assessment of the financial viability of the proposed development will need to be undertaken, at the planning application stage, by the developer for review by the Local Planning Authority to assess whether a scheme generates a sufficient surplus to make the contributions sought.

- 7.20 Government issued [National Planning Guidance on Viability](#) sets out the methodology of testing the financial viability of the site, taking into account, but not limited to, site specific costs, s106/CIL, grant funding etc. This guidance is supported by publications from the Royal Institution of Chartered Surveyors (RICS) which guide Chartered Surveyors on what must be included in a Financial Viability Assessment and how the process must be conducted. Planning applications will be assessed by reference to the relevant published guidance.
- 7.21 The Recovery of Forward Funded Infrastructure Costs (RFFIC) methodology will therefore follow these steps (the steps are not exhaustive):
- 7.22 Step 1: The publicly funded infrastructure benefit for each infrastructure scheme is calculated (See Recovery Fund cap section above)
- 7.23 Step 2: Financial Viability Assessment will by default assess the following:
- i) Value of the Completed Development (GDV) Less the:
 - ii) Benchmark Land Value (the minimum price a landowner would be willing to see their land for)
 - iii) Development costs (including Policy costs)
 - iv) Developer Profit (residual viability).
- 7.24 **Financial Viability Result:**
- 7.25 If the calculation results in a surplus then viability is proven and the development is capable of paying the funds sought (up to the level of the surplus) through the RFFIC. However, should the surplus exceed the value of the recovery cap, only the value of the cap will be sought. If the calculation results in a loss, no recovery will be sought.
- 7.26 The RFFIC is a standalone document and is closely aligned to existing adopted CEC documents and policies, primarily Policy GEN4 of the SADPD.
- 7.27 **RFFIC Process**
- 7.28 The approach set out in this section identifies the broad approach and key principles that must be considered when establishing a proportionate financial contribution towards forward funded infrastructure. A flexible approach will be taken when establishing the required level of contributions, responding to the particular viability issues and circumstances relevant to each case.
- 7.29 It is important to stress that all developers will be treated equitably and fairly. Irrespective of the mechanism used for capturing funding (which may vary), no development is expected to contribute, proportionally, more than another, towards infrastructure it relies on, once in-kind contributions have been factored in.
- 7.30 The following is therefore an indicative example of how the approach could be applied but is not prescriptive:
- 7.31 Stage 1: Establish total cost of forward funded infrastructure to be recovered

- 7.32 Stage 2: Identify sites reliant on forward funded infrastructure
- 7.33 Stage 3: Establish viability of sites (viability appraisal, see 7.23)
- 7.34 Stage 4: Establish residual viability of sites (including assessment of other S.106 contributions)
- 7.35 Stage 5: Establish proportional reliance on forward funded infrastructure for all sites. This becomes the percentage of Gross Development Value to be levied across all sites (GDV levy)
- 7.36 Stage 6: Adjust GDV Levy in response to individual site-specific issues (which may include site viability considerations or site reliance on the identified forward funded infrastructure, defined, for example, by mix of use)
- 7.37 Stage 7: Establish RFFIC site levy

Worked Example

- 7.38 The following is a simplistic example, assuming high viability and based on seeking recover £10,000,000 of forward funded infrastructure costs.
- 7.39 The example assumes development of five, premium, greenfield sites, each consisting of 300 homes at a density of 30 dwellings per hectare (each site is therefore 10 hectares).
- 7.40 Example calculation:
- i) Gross development value is assumed to be £5,000,000 per hectare.
 - ii) Benchmark Land Value is assumed to be £1,000,000 per hectare.
 - iii) Development costs (land, construction, policy requirements) are assumed to be £3,000,000 per hectare.
 - iv) Developer profit is assumed to be £1,000,000 per hectare.
 - v) Residual viability (GDV – (BLV +costs + profit)) is assumed to be £1,000,000 per hectare.

Establish total cost of forward funded infrastructure to be recovered	£10,000,000
Identify sites reliant on forward funded infrastructure	5 sites, 10 hectares each, 300 homes each
Establish residual viability of sites (viability appraisal, see 7.23)	£1,000,000 per hectare / £10,000,000 per site
Establish proportional reliance on forward funded infrastructure for all sites. This becomes the percentage of Gross Development Value to be levied across all sites (GDV levy)	Proportional reliance = £2,000,000 per site GDV Levy = 20%

Adjust GDV Levy in response to individual site-specific issues (which may include site viability considerations or site reliance on the identified forward funded infrastructure, defined, for example, by mix of use)	No site-specific viability problems, therefore no adjustment
Establish RFFIC site levy	£2,000,000 per site

8. Implementation

- 8.1 Planning and Highways Development Management officers will raise awareness of the RFFIC SPD during development pre-application discussions and the planning application viability appraisal.
- 8.2 The RFFIC is a mechanism to be used by CEC officers and appropriately chosen partners to seek appropriate contributions from developers of sites that benefit from infrastructure improvements forward funded by the Council, and from promoters of development that would be likely to have an impact on travel patterns in the vicinity of the infrastructure, whether or not such proposals are already identified in the Local Plan and linked specifically to the relevant infrastructure. CEC officers will work with developers through the planning application process to secure recovery monies in a timely manner, proportionate to their impact and reliance on the identified infrastructure.
- 8.3 The RFFIC sets out the methodology to follow when calculating a recoverable figure. The means of achieving the figure and any associated trigger points will be negotiated during the application stage but will be based upon the methodology set out in the adopted RFFIC.
- 8.4 Each planning application will agree a payment profile based upon the cash-flow specific to that planning application. Recovery fund trigger points could be agreed by house sales, occupations, and prior to occupation or post occupation or any other agreed trigger. However, these are to be negotiated during the planning application process for a particular development site.
- 8.5 The RFFIC will be monitored by relevant CEC officers and recovered funds will be held by CEC in perpetuity and used to support further infrastructure which will unlock or accelerate additional growth.
- 8.6 CEC have sought legal advice into the use of planning obligations as a means of securing funds from development sites which benefit from public forward funding. In order to use planning obligations to secure funds the planning obligation will need to meet the test set out in Regulation 122 of the CIL Regulations 2010.
- 8.7 The use of planning obligations to secure funding from developments is preferable to CEC because of the enforcement powers and security afforded by a planning obligation agreement. Planning obligations run with the land and therefore offer CEC greater security as the obligation to pay a financial contribution would be enforceable against future occupiers of the land bound by the agreement.
- 8.8 However, CEC is aware that there are limitations on what constitutes a planning obligation and that to enforce the planning obligation, it will need to meet the CIL tests set out above. In the event that it is determined that the proposed obligation does not meet the CIL tests, CEC intends to use other general powers available to it to secure funds from development sites for this purpose. Those obligations would be contractual obligations, contained within a planning agreement but not themselves planning obligations, and would be enforceable by CEC against the person giving the covenant as a contractual obligation.

9. Procedures

Pre-Application Discussions

- 9.1 The Council recommends that pre-application advice is sought before making a planning application. This provides an opportunity to enter discussions regarding planning obligation requirements with Council officers so that the nature of planning obligations that are likely to be required for a particular development are made known to the developer as early as possible in the decision-making process. Pre-application discussions can help to resolve potential problems and issues which may otherwise delay the determination of a planning application once validated.
- 9.2 Where pre-application discussions have identified that developer contributions will be required, applicants should submit draft heads of terms with their planning application. It will be essential that this be submitted as part of the application, and as part of the validation process. Please be aware that failure to submit this will result in a delay in the planning application, as the application will not be validated.
- 9.3 Details of the process for engaging with the Local Planning Authority at pre-application stage can be found on the council's web page or by contacting the Development Management service.
- 9.4 Standard templates for the legal agreements and Unilateral Undertakings can be found on the Council's webpage at:

https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/s106_agreements_planning.aspx

Cross Boundary Applications

- 9.5 In the case of development applications close to the borough boundary which may have implications for service delivery in adjoining authority areas, these authorities will be consulted and requests for contributions to services provided by those authorities will be duly considered. Similarly, if adjoining authorities receive applications which will have an impact on the delivery of services in Cheshire East, the council will seek contributions.

Security and Timing of Payment

- 9.6 Where a financial obligation is necessary, payment would normally be required on commencement or on first occupation of a development. However, in the case of a large-scale development, it may be that the payments would be phased to meet the proportional impact of each phase. Trigger points for payments will be included in the legal agreement, as will the period in which any contribution will have to be spent.

Index Linking

- 9.7 All financial contributions will be subject to indexation from the date of adoption of this SPD. The indexation period will therefore start with the date of adoption and end with the date when each payment becomes due.

Legal Fees

- 9.8 Applicants will be required to pay the Council's legal costs as well as their own for drafting and checking legal agreements and will need to provide a solicitor's undertaking to do so. Applicants should also be aware that a solicitor's undertaking and proof of title will be required by Cheshire East Council where applicable.

Monitoring and Enforcement

- 9.1 Monitoring of obligations will be undertaken by the Council's Planning Contributions Officer to ensure that all obligations entered into are complied with by both the developer and the Council.
- 9.2 The amended Community Infrastructure Levy Regulations 2019 permit Local Planning Authorities to charge fees in respect of the cost of monitoring (including reporting under the CIL Regulations) in relation to the delivery of planning obligations.
- 9.3 All monitoring fees will be subject to indexation and payable on commencement of the development.

10. Glossary

Community Infrastructure Levy	A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area.
Development	Defined by the Town and Country Planning Act 1990 as “the carrying out of building, engineering, mining or other operation in, on, over or under land, or the making of any material change of use of any building or other land.” Most forms of development require planning permission, unless expressly granted planning permission via a development order.
Development Plan	This includes adopted Local Plans and Neighbourhood Plans and is defined in Section 38 of the Planning and Compulsory Planning Act 2004
Local Plan	<p>The plan for the development of the local area, drawn up by the local planning authority in consultation with the community.</p> <p>In law this is described as the Development Plan Documents adopted under the Planning and Compulsory Purchase Act 2004.</p> <p>Current core strategies or other planning policies, which under the regulations would be considered to be Development Plan Documents, form part of the Local Plan. This term includes old policies which have been saved under the 2004 Act.</p>
Local Plan Strategy	Development Plan Document setting out the spatial vision and strategic objectives of the planning framework for an area, having regard to the Community Strategy.
Local Planning Authority	The local authority or council that is empowered by law to exercise planning functions. In the case of this SPD, the Local Planning Authority is Cheshire East Council.
Neighbourhood Plan	A plan prepared by a parish council or neighbourhood forum for a particular neighbourhood area (made under the Planning & Compulsory Purchase Act 2004).
Site Allocations and Development Policies Document	Part of the Local Plan which will contain land allocations and detailed policies and proposals to deliver and guide the future use of that land.

Supplementary Planning Document	A Local Development Document that may cover a range of issues, thematic or site specific, and provides further detail of policies and proposals in a 'parent' Development Plan Documents.
Sustainability Appraisal	An appraisal of the economic, environmental and social effects of a plan from the outset of the preparation process to allow decisions to be made that accord with sustainable development.
Strategic Environmental Appraisal	SEA is a process and a tool for evaluating the effects of proposed policies, plans and programmes on natural resources, social, cultural and economic conditions and the institutional environment in which decisions are made.
Viability Study	A report, including a financial appraisal, to establish the profit or loss arising from a proposed development. It will usually provide an analysis of both the figures inputted and output results together with other matters of relevance. An assessment will normally provide a judgement as to the profitability, or loss, of a development.



Cheshire East Council

Email: planningpolicy@cheshireeast.gov.uk

www.cheshireeast.gov.uk/localplan

Tel: 01270 685893

This page is intentionally left blank



Working for a brighter future together

Strategic Planning Board Report

Date of Meeting:	13 October 2021
Report Title:	Draft Environmental Protection Supplementary Planning Document
Report of:	Paul Bayley, Director of Environment and Neighbourhood Services
Ward(s) Affected:	All

1. Executive Summary

- 1.1.** This report is to brief the Strategic Planning Board (SPB) on the current public consultation on the draft Environmental Protection Supplementary Planning Document (EP SPD).
- 1.2.** On 9th September 2021 a decision was taken by the Environment and Communities Committee to consult on the Draft EP SPD. Therefore, no decision is required by SPB, however the committee is asked to note the consultation period and requested to provide feedback on the draft EP SPD within this timeframe, should the Board feel it appropriate to do so.
- 1.3.** The preparation of a SPD involves two stages of public consultation. This first consultation stage runs for six weeks from 18th October to 29nd November.
- 1.4.** The Environmental Protection SPD adds detailed guidance on how the policies of the Local Plan Strategy (LPS) and the Site Allocations and Development Policies Document (SADPD) should be applied to manage and mitigate the environmental impacts of new development. The SPD addresses matters including air quality, contaminated land, noise, light pollution and odour pollution.
- 1.5.** Cheshire East Council's Corporate Plan sets out three aims. These are to be an open and enabling organisation, a Council that empowers and cares about people, and to create thriving and sustainable places. In striving to

create thriving and sustainable places, a key objective is to reduce impact on the environment and appropriately control development to protect and support our borough. As such, this SPD sets out guidance on how planning decisions can contribute to these aims.

2. Recommendations

- 2.1.** To note the draft EP SPD (Appendix A) and its consultation period, and to provide commentary and feedback on the document where the Board wishes to do so.

3. Reasons for Recommendations

- 3.1.** An SPD is not part of the statutory development plan. It is a recognised way of putting in place additional planning guidance and a material consideration in determining planning applications in the borough.
- 3.2.** Providing clear guidance on policy expectations should enable applicants to better understand policy requirements. The SPD should assist applicants when making relevant planning applications, and the Council in determining them.

4. Other Options Considered

- 4.1.** The Council could choose not to prepare an SPD on Environmental Protection. Any relevant planning application would continue to be assessed against existing planning policies. However, this would not allow the Council to provide additional practical guidance on this matter or give clarity to the approach that should be employed by all parties in a consistent way that gives certainty to applicants and decision makers.

5. Background

- 5.1.** The preparation of an SPD involves two stages of public consultation. This first consultation stage will be followed by another opportunity to comment on a final draft version of the SPD. The final draft of the SPD will be accompanied by a consultation statement setting out the feedback from stage one, and how the document has been altered in response to that feedback. Having also considered comments made at stage two, the SPD may then be considered for adoption by the Council.
- 5.2.** Once adopted, the SPD will provide additional planning policy guidance, primarily related to the implementation of Local Plan Strategy policy SE12 'Pollution, Land Contamination, and Land Instability' and a range of more detailed emerging policies set out in the SADPD, including policy ENV12 'Air Quality', policy ENV13 'Aircraft Noise', and policy ENV14 'Light Pollution'. The SPD, once adopted, will be a material consideration in

decision making and support the delivery of key policies in the Development Plan.

- 5.3.** One of the key objectives of the LPS is to protect and enhance environmental quality and ensure that development addresses the local causes of water, air, light, noise and other forms of pollution and contaminated land.
- 5.4.** LPS Policy SE12 ‘Pollution, Land Contamination and Land Instability’ sets out the approach the Council will take to these matters and how they should be addressed in planning proposals and decision making.
- 5.5.** A suite of additional policies set out in the emerging SADPD also provide detailed requirements that applicants must satisfy in order to gain planning consent.
- 5.6.** This SPD provides greater clarity to developers, landowners, communities and decision makers on the approach the Council will take to environmental protection and provides additional guidance to applicants on how they should respond to the policy requirements in the LPS and SADPD. It also ‘signposts’ sources of information, including relevant documentation and Council services.
- 5.7.** The draft SPD has been prepared jointly by the Strategic Planning Team and the Environmental Protection Team.
- 5.8.** Subject to the approval of the recommendations in this report, the SPD will be consulted on in accordance with the Council’s Statement of Community Involvement for a period of at least four weeks.
- 5.9.** The process for preparing an SPD is similar in many respects to that of a local plan document. However, they are not subject to independent examination by the Planning Inspectorate. There are several stages in their production:
 - 5.9.1.** Publish the initial draft SPD for at least four weeks public consultation;
 - 5.9.2.** Consider feedback received and make any necessary changes;
 - 5.9.3.** Publish the final draft SPD, along with a consultation statement setting out who has been consulted in its preparation, the main issues raised in feedback and how those issues been addressed in the final draft SPD;
 - 5.9.4.** Having considered representations, the SPD may then be adopted;
- 5.10.** Following adoption, the SPD must be published and made available along with an adoption statement in line with the 2012 Regulations. The adoption

of the SPD may be challenged in the High Court by way of judicial review within three months of its adoption.

- 5.11.** Once adopted, the effectiveness of this SPD will be monitored as part of the Authority Monitoring Report, using information from planning applications and decisions. The outcome of this ongoing monitoring work will help inform future decisions about the SPD.

6. Consultation and Engagement

- 6.1.** It is proposed that the draft SPD will be subject to a minimum of four weeks consultation. Following this, all comments will be considered, and changes made to the SPD, as appropriate, before a final version of the SPD is prepared for approval and further consultation.

7. Implications

7.1. Legal

- 6.1.1** The Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012 provide the statutory Framework governing the preparation and adoption of SPDs. These include the requirements in Section 19 of the 2004 Act and various requirements in the 2012 Regulations including in Regulations 11 to 16 that apply exclusively to producing SPDs.
- 6.1.2** Amongst other things, the 2012 regulations require that an SPD contain a reasoned justification of the policies within it and for it not to conflict with adopted development plan policies.
- 6.1.3** The National Planning Policy Framework and the associated Planning Practice Guidance also set out national policy about the circumstances in which SPDs should be prepared.
- 6.1.4** SPDs provide more detailed guidance on how adopted local plan policies should be applied. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan.

7.1.1. Strategic Environmental Assessment

- 6.1.5** Strategic Environmental Assessment involves evaluation of the environmental impacts of a plan or programme. The requirement for SEA is set out in the European Directive 2001/42/EC adopted into UK law as the “Environmental Assessment of Plans or Programmes Regulations 2004”.

- 6.1.6 The SEA Directive sets out a legal assessment process that must be followed. Often within the planning context, the SEA requirements are met by incorporating it within a Sustainability Appraisal (“SA”), which is a requirement for development plan documents.
- 6.1.7 There is no legal requirement for SPDs to be accompanied by SA, and this is reinforced in Planning Practice Guidance (PPG ref: 11-008-20140306). However, “in exceptional circumstances” there may be a requirement for SPDs to undertake Strategic Environmental Assessment where it is felt they may have a likely significant effect on the environment that has not been assessed within the SEA/SA of the local plan.
- 6.1.8 A screening assessment has been undertaken (in Appendix B) which has determined that a SEA (or an appropriate assessment under the Habitats Regulations) is not required for the SPD.

7.2. Finance

- 7.2.1. There are no significant direct financial costs arising from consultation on the SPD. The costs of printing and the staff time in developing the SPD are covered from existing budgets of the planning service.

7.3. Policy

- 7.3.1. The SPD will expand on how existing development plan policies related to the environmental protection may be applied. An SPD will give additional advice to applicants on how they can demonstrate they have complied with relevant policies of the development plan related to this matter.

7.4. Equality

- 7.4.1. The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to: eliminate discrimination; advance equality of opportunity between persons who share a “relevant protected characteristic” and persons who do not share it; foster good relations between persons who share a “relevant protected characteristic” and persons who do not share it.
- 7.4.2. The draft Environmental Protection SPD provides further guidance on the approach that is expected from developers on this matter. The SPD is consistent with the LPS which was itself the subject of an Equalities Impact Assessment (EQiA) as part of an integrated Sustainability Appraisal. A draft EQiA on the draft Environmental Protection SPD has been prepared (appendix B) and will be published alongside the draft SPD for comment.

7.5. Human Resources

- 7.5.1.** There are no direct implications for human resources. The work associated with the SPD will be carried out by existing staff in the Strategic Planning Team and Environmental Protection Team.

7.6. Risk Management

- 7.6.1.** The subject matter of the report does not give rise for any particular risk management measures because the process for the preparation of an SPD is governed by legislative provisions (as set out in the legal section of this report).

7.7. Rural Communities

- 7.7.1.** The draft Environmental Protection SPD seeks to provide further guidance on reducing, managing and mitigating impact on the environment, including development that may take place in rural areas.

7.8. Children and Young People/Cared for Children

- 7.8.1.** The draft SPD does not have a direct implication for children and young people or cared for children but will assist in securing growth that reduces harm to the environment and support healthy communities for all residents.

7.9. Public Health

- 7.9.1.** The draft SPD supports the improvement of public health by setting out clear requirements that protect the environment and therefore the wellbeing and public health of communities across the borough.

7.10. Climate Change

- 7.10.1.** Whilst the draft SPD does not have any direct climate change implications it may assist in promoting more active and sustainable travel options through the management of air quality pollution related to travel.

Access to Information	
Contact Officer:	Tom Evans, Neighbourhood Planning Manager Tom.Evans@cheshireeast.gov.uk 01625 650023 / 07772629846
Appendices:	Appendix A: Draft Environmental Protection Supplementary Planning Document Appendix B: Draft Equalities Impact Assessment Screening Report (contained within Appendix A)

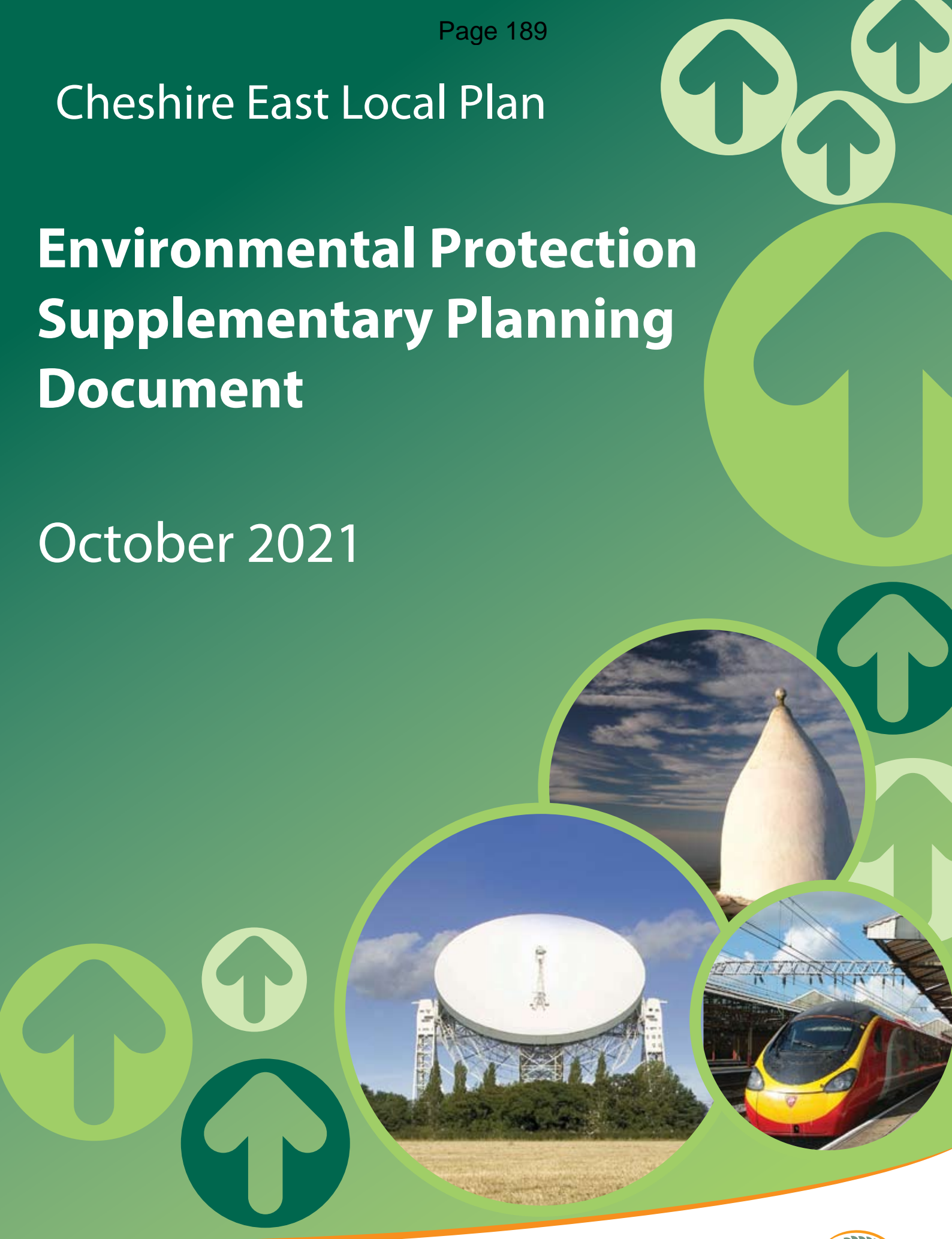
	Appendix C: SEA / HRA Screening Report
Background Papers:	N/A

This page is intentionally left blank

Cheshire East Local Plan

Environmental Protection Supplementary Planning Document

October 2021





1	Introduction	3
	Consultation	3
	Next steps	4
2	Planning policy framework	5
	National policy	5
	Local policy	8
3	Making an application	15
	Pre-application advice	15
	Environmental Impact Assessments	15
4	Air quality	16
	Local air quality management	16
	Air quality assessments	17
	Planning conditions and mitigation	20
	Air quality during the construction phase	21
	Heating appliances	21
5	Contaminated land	23
	Contaminated land and planning	25
	Site investigations and risk assessments	28
6	Noise	32
	Acceptable noise levels	32
	Noise sensitive developments	34
	Noise generative developments	35
	Noise impact assessments	36
	Mitigation measures	37
	Noise during the construction phase	37
7	Light	39
	Lighting assessments	40
	Mitigation measures	40
	Planning conditions	41
	Light during the construction phase	41
8	Odour	42



Requirements for hot food premises	42
Odour impact assessments	42

Appendices

A Glossary	43
B Resources and contacts	45
C Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report	48
Strategic Environmental Assessment screening	49
Habitats Regulations Assessment statement	52



1 Introduction

1.1 Supplementary Planning Documents (SPDs) add further detail to the policies in the development plan and are used to provide guidance for development on specific sites, or on particular issues. SPDs may be a material planning consideration in planning decisions but are not part of the development plan.

1.2 This draft Environmental Protection SPD adds detail to existing development plan policies from the Cheshire East Local Plan Strategy (LPS) (adopted July 2017) and ‘saved’ policies from previous local plans, including the Borough of Crewe and Nantwich Local Plan; the Congleton Borough Local Plan; the Macclesfield Borough Local Plan, the Cheshire Minerals Local Plan and the Cheshire Waste Local Plan. The draft SPD also identifies emerging policies that are currently in draft form in the Revised Publication Draft Site Allocations and Development Policies Document (SADPD).

1.3 The draft SPD provides guidance on the council’s approach to Environmental Protection issues when considering planning applications. The specific areas covered in the draft SPD are:

- Air quality (including dust pollution);
- Contaminated land;
- Noise;
- Light pollution; and
- Odour pollution.

1.4 All these issues have the potential to impact on the health and wellbeing of Cheshire East’s residents, businesses and visitors. This draft SPD sets out the relevant technical advice aimed at preventing or reducing the impact of proposed developments and protecting public health, wellbeing and amenity across the borough.

1.5 The guidance and technical advice set out in this draft SPD will enable applicants to make sure that their proposed development meets policy requirements and is designed to minimise the impacts on public health, wellbeing and amenity.

Consultation

1.6 Consultation on the draft Environmental Protection SPD will take place between **[START DATE]** and **[END DATE]**. Comments must be received by the council no later than 5:00pm on **[END DATE]**.

1.7 The consultation documents can be viewed online using the council’s consultation portal⁽¹⁾ and at public libraries in Cheshire East. You are advised to check the current libraries opening times on the council’s website⁽²⁾ or telephone the libraries information service on 0300 123 7739.

1.8 There is no requirement for SPDs to be accompanied by a sustainability appraisal but in “exceptional circumstances”, there may be a requirement for SPDs to be subject to Strategic Environmental Assessment (SEA) where it is considered likely that they may have a significant

¹ **[INSERT CONSULTATION PORTAL URL]**

² https://www.cheshireeast.gov.uk/libraries/libraries_opening_hours.aspx



effect on the environment that has not already been assessed within the SEA of the Local Plan. A screening assessment has been carried out, which concludes that further such assessment is not necessary.

1.9 A screening exercise has also been carried out to determine whether the document requires appropriate assessment (under the Habitats Regulations). This also concludes that further such assessment is not necessary. These screening assessments are included in the draft SPD at Appendix A and you can give your views on their findings too.

Submit your views

1.10 The consultation portal is our preferred method for submitting responses, but you can also respond by email or in writing.

- Online: using the consultation portal at [\[inset portal URL\]](#)
- Email: to localplan@cheshireeast.gov.uk
- Post: to Strategic Planning (Westfields) C/O Municipal Buildings, Earle Street, Crewe CW1 2BJ.

Please make sure that your comments reach us by 5:00pm on [\[END DATE\]](#). We are not able to accept anonymous responses and you must provide us with your name and contact details. Your personal information will be processed in accordance with our Strategic Planning Privacy Notice⁽³⁾ and your name and comments will be published for viewing on the consultation portal.

Next steps

1.11 Following the consultation, the council will consider all responses before deciding whether any amendments to the draft SPD are needed. A consultation statement will be produced, summarising the responses and any changes to the draft SPD. The consultation statement and final draft SPD will then be published for further comments before the SPD is adopted.

1.12 Once adopted, the SPD will constitute formal planning guidance and will be taken into account as a material consideration when determining relevant planning applications.

3 https://www.cheshireeast.gov.uk/council_and_democracy/council_information/website_information/privacy-notices/spatial-planning-including-neighbourhood-planning-team-privacy-notice.aspx



2 Planning policy framework

2.1 Planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise⁽⁴⁾. Material considerations can include national planning policy and adopted SPDs, where relevant.

National policy

The National Planning Policy Framework

2.2 The National Planning Policy Framework (NPPF)⁽⁵⁾ sets out the government's planning policies for England and how these should be applied.

2.3 Paragraph 8 sets out three overarching objectives for the planning system. As part of the environmental objective, the NPPF seeks to minimise pollution.

2.4 Paragraph 174 requires planning policies and decisions to contribute to and enhance the natural and local environment by: *"...(e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and (f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate."*

2.5 Paragraphs 183-187 consider ground conditions and pollution:

"183. Planning policies and decisions should ensure that:

- a. a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b. after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c. adequate site investigation information, prepared by a competent person, is available to inform these assessments.*

184. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

185. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

⁴ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990

⁵ <https://www.gov.uk/guidance/national-planning-policy-framework>



- a. *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life [See Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010).];*
- b. *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c. *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*

186. Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

187. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

188. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities."

2.6 With specific reference to minerals, paragraph 210 requires planning policies to "set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable impacts on the natural and historic environment or human health, taking into account the cumulative effects of individual sites and/or a number of sites in a locality" and "when developing noise limits, recognise that some noisy short term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction". Paragraph 211 requires minerals planning authorities to "ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source [National planning guidance on minerals sites sets out how these policies should be implemented.], and establish appropriate noise limits for extraction in proximity to noise sensitive properties".



National Planning Policy for Waste

2.7 The National Planning Policy for Waste (NPPW)⁽⁶⁾ sets out detailed waste planning policies.

2.8 When determining waste planning applications, paragraph 7 requires waste planning authorities to consider the likely impact on the local environment and on amenity against a number of criteria, including protection of water quality, land instability, air emissions (including dust), odours, noise, light, vibration and litter.

Noise Policy Statement for England

2.9 Paragraph 185 of the NPPF highlights the need to avoid giving rise to significant adverse impacts on health and the quality of life; and refers to the Explanatory Note to the Noise Policy Statement for England (NPSE)⁽⁷⁾.

2.10 The Explanatory Note sets out various parameters from established toxicology concepts that are currently applied to noise impacts, which are:

- **NOEL** (No Observed Effect Level), which is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise.
- **LOAEL** (Lowest Observed Adverse Effect Level), which is the level above which adverse effects on health and quality of life can be detected.

2.11 These concepts were extended by the NPSE to include:

- **SOAEL** (Significant Observed Adverse Effect Level), which is the level above which significant adverse effects on health and quality of life occur.

2.12 The NPSE goes on to set out three aims, which are:

- *"To 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.*
- *Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development."*

National Planning Practice Guidance

2.13 The government's National Planning Practice Guidance⁽⁸⁾ also gives detailed guidance on several topics, including:

6 <https://www.gov.uk/government/publications/national-planning-policy-for-waste>
 7 <https://www.gov.uk/government/publications/noise-policy-statement-for-england>
 8 <https://www.gov.uk/government/collections/planning-practice-guidance>



- Guidance on how planning can take account of the impact of new development on air quality.
- Guiding principles on how planning can deal with land affected by contamination.
- Advice on how to ensure that development is suitable to its ground conditions and how to avoid risks caused by unstable land or subsidence.
- Advice on light pollution and how to consider light within the planning system.
- Guidance on how planning can manage potential noise impacts in new development.

Local policy

2.14 Local planning policies are set out in the development plan for the area. The development plan for Cheshire East currently comprises:

- The Cheshire East Local Plan Strategy adopted July 2017;
- Saved policies from the: Borough of Crewe and Nantwich Local Plan 2005; Cheshire Replacement Minerals Local Plan 1999; Cheshire Replacement Waste Local Plan 2007; Congleton Borough Local Plan 2005; and Macclesfield Borough Local Plan 2004; and
- Completed neighbourhood plans.

2.15 The draft Site Allocations and Development Policies Document was submitted to the Secretary of State on 29 April 2021 under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. It will now be subject to examination by an independent planning inspector.

2.16 It is anticipated that the SADPD will be adopted and become part of the development plan during 2022. On adoption, its policies will supersede those saved policies from the Borough of Crewe and Nantwich Local Plan 2005, Congleton Borough Local Plan 2005, and Macclesfield Borough Local Plan 2004.

2.17 A Minerals and Waste Development Plan Document is also being prepared, which will set out planning policies on minerals and waste. Once adopted, these will replace the saved policies from the Cheshire Minerals Local Plan 1999 and the Cheshire Waste Local Plan 2007.

Local Plan Strategy

2.18 Within the LPS⁽⁹⁾, one of the four Strategic Priorities relates to 'Protecting and enhancing environmental quality'. This will be delivered by a range of measures, including addressing the local causes of water, air, light, noise and all other forms of pollution and the contamination of land.

2.19 The key strategic policy relevant to Environmental Protection is **Policy SE 12 'Pollution, land contamination and land instability'**. This states:

⁹ <https://www.cheshireeast.gov.uk/localplanstrategy>



Policy SE 12

Pollution, Land Contamination and Land Instability

1. The council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality, surface water and groundwater, noise, smell, dust, vibration, soil contamination, light pollution or any other pollution which would unacceptably affect the natural and built environment, or detrimentally affect amenity or cause harm. Developers will be expected to minimise, and mitigate the effects of possible pollution arising from the development itself, or as a result of the development (including additional traffic) during both the construction and the life of the development. Where adequate mitigation cannot be provided, development will not normally be permitted.
2. Development for new housing or other environmentally sensitive development will not normally be permitted where existing air pollution, soil contamination, noise, smell, dust, vibration, light or other pollution levels are unacceptable and there is no reasonable prospect that these can be mitigated against.
3. Development should support improvements to air quality, not contradict the Air Quality Strategy or Air Quality Action Plan and seek to promote sustainable transport policies.
4. Where a proposal may affect or be affected by contamination or land instability (including natural dissolution and/or brine pumping related subsidence), at the planning application stage, developers will be required to provide a report which investigates the extent of the contamination or stability issues and the possible affect it may have on the development and its future users, the natural and built environment. This report should be written in line with best practice guidance.
5. In most cases, development will only be deemed acceptable where it can be demonstrated that any contamination or land instability issues can be appropriately mitigated against and remediated, if necessary.

2.20 Other strategic policies relevant to Environmental Protection include:

- **Policy SD 1 ‘Sustainable Development in Cheshire East’**, which requires that, where possible, development supports the health, safety, social and cultural well-being of the residents of Cheshire East.
- **Policy SD 2 ‘Sustainable Development Principles’**, which states that all development will be expected to use appropriate design, construction, insulation, layout and orientation to create developments that... minimise waste and pollution.
- **Policy SC 3 ‘Health and well-being’**, which requires screening assessments for all major development proposals, including a review of the possible health impacts.

Saved policies

2.21 There are several saved policies relevant to Environmental Protection.



Borough of Crewe and Nantwich Local Plan 2005

2.22 Relevant policies in the Borough of Crewe and Nantwich Local Plan⁽¹⁰⁾ include:

- **Policy NE.15 ‘Re-use and adaptation of a rural building for a commercial, industrial or recreational use’** only allows for such proposals where they will not harm the local environment through the creation of noise, dust, smoke, fumes, grit, vibration or any form of water, soil or air pollution.
- **Policy NE.17 ‘Pollution control’**, which requires measures to prevent, reduce or minimise pollution. Development proposals will not be permitted where they are likely to increase water or air pollution; increase risks to life or health; permanently increase noise levels unacceptably; or result in an unacceptable noise impact on any proposed noise-sensitive development.
- **Policy NE.21 ‘New development and landfill sites’**, seeks to restrict new development in close proximity to existing or former landfill sites to protect the environment and public health.
- **Policy BE.1 ‘Amenity’**, which protects the amenity of occupiers including through noise, disturbance and odour; and requires proposals not to lead to an increase in air, noise or water pollution that might have an adverse effect of the other use of land.
- **Policy BE.6 ‘Development on potentially contaminated land’** requires potential contamination to be investigated and treated, contained or controlled so as not to expose occupiers to unacceptable risk; lead to contamination of water resources; or contaminate adjoining land. Contamination should usually be treated on site.
- **Policy RT.16 ‘Noise generating sports’** requires proposals for noisy and intrusive recreational activities to be located where the impact on the amenity of the adjacent area and nearby residents can be minimised.

Congleton Borough Local Plan 2005

2.23 Relevant policies in the Congleton Borough Local Plan⁽¹¹⁾ include:

- **Policy GR6 ‘Amenity and health’** requires development near sensitive uses not to have an unduly detrimental effect on amenity due to environmental disturbance or pollution.
- **Policy GR7 ‘Amenity and health’** does not allow development that is likely to: contribute to significantly increased air, land, water, light or noise pollution to unacceptable levels; involve significantly greater risk to people’s lives and health; expose people to unacceptable risk; or be a significant source of statutory nuisance, apprehension, danger, or loss of amenity.
- **Policy GR8 ‘Amenity and health’** does not allow for sensitive uses in areas around potential or existing sources of air, land, water or noise pollution if unacceptable damage or nuisance to the new use is likely.
- **Policy GR11 ‘Development involving new roads and other transportation projects’** requires highways and transportation schemes to reduce noise, congestion and atmospheric pollution in residential areas and areas of high pedestrian activity; and to include noise attenuation measures in the vicinity of new road schemes.

10 https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/crewe_and_nantwich_local_plan/crewe_and_nantwich_local_plan.aspx

11 https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/congleton_local_plan/congleton_local_plan.aspx



- **Policy NR6 'Reclamation of land'** is supportive of proposals for the reclamation of contaminated land, subject to other relevant policies of the plan.
- **Policy RC3 'Nuisance sports'** requires proposals for recreational and sporting activities that may adversely affect the amenity of nearby residents to include appropriate noise attenuation measures; and cause minimum detriment to nearby residents.
- **Policy RC13 'Day nurseries'** requires facilities not to be of significant detriment to amenity by virtue of noise and general disturbance; and measures must be taken to minimise noise disturbance.

Macclesfield Borough Local Plan 2004

2.24 Relevant policies in the Macclesfield Borough Local Plan⁽¹²⁾ include:

- **Policy T18 'Restriction on development within NNI zones'** seeks to restrict noise sensitive development in the areas most affected by aircraft noise and requires mitigation measures in other areas affected by aircraft noise.
- **Policy DC3 'Amenity'** requires that development should not significantly injure the amenity of nearby residential properties or sensitive uses due to noise, vibration, smells, fumes, smoke, soot, ash, dust, grit, environmental pollution, hazardous substances and industrial processes.
- **Policy DC13 'Noise'** does not allow noise generating development, which cumulatively would increase the ambient noise level to an unacceptable level.
- **Policy DC14 'Noise'** allows for development where the effects of noise can be mitigated by soundproofing measures.
- **Policy DC33 'Outdoor commercial recreation'** requires that proposals do not result in significant adverse impact upon existing residential amenity; and necessary lighting does not cause undue intrusion or significant adverse impact.
- **Policy DC54 'Restaurants, cafés and hot food takeaways'** requires that these uses do not materially harm the amenities of occupiers of residential property by virtue of noise, disturbance, cooking smells and fumes.
- **Policy DC63 'Contaminated land including landfill gas'** only allows development unless contamination (including landfill gas) is treated, contained or controlled so as not to expose occupiers to unacceptable risk; threaten the structural integrity of buildings; lead to the contamination of water resources; or cause the contamination of adjoining land or allow such contamination to continue.
- **Policy DC64 'Floodlighting'** requires proposals for floodlighting of sporting facilities not to: have a significant adverse impact on the landscape character in terms of the sensitivity of a given area to the introduction of exterior lighting (night time); or have a significant impact on the amenity of residents.

Cheshire Minerals Local Plan 1999

2.25 Relevant policies in the Cheshire Minerals Local Plan⁽¹³⁾ include:

- **Policy 9 'Planning applications'** requires applications to evaluate the direct and indirect effects of a proposal and propose mitigation measures addressing noise levels, dust levels, illumination levels, air-over pressure and peak particle velocity levels.

¹² https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/macclesfield_local_plan/macclesfield_local_plan.aspx
¹³ https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_minerals_local_plan/cheshire_minerals_local_plan.aspx



- **Policy 12 'Conditions'** highlights that conditions will be attached to planning consents to control noise, dust, illumination and vibration levels; and to ensure pollution control measures.
- **Policy 26 'Noise'** does not permit development where it would give rise to unacceptable levels of noise pollution.
- **Policy 27 'Noise'** seeks to control noise emissions by limited the length of time for engineering works, controlling hours of operation, requiring best practice vehicle and plant silencing and maintenance, requiring noise mitigation measures and setting noise limits.
- **Policy 28 'Dust'** allows development, only where it would minimise dust emission levels by phasing working and restoration, surface and maintain internal haul roads, sheet all mineral bearing lorries, seed screen mounds, use a water bowser or similar to damp down, use wheel cleaning facilities, regular sweep and spray of hard surfaces, limit the area of mineral stripped of soil/overburden ant any time, and monitor dust emissions where appropriate.
- **Policy 38 'Blasting'** only permits blasting where ground vibration is minimised, air over pressure is minimised, blasts are monitored, no secondary blasting occurs and blasting is limited to between 0900 and 1800 hours Mondays to Fridays.

Cheshire Waste Local Plan 2007

2.26 Relevant policies in the Cheshire Waste Local Plan⁽¹⁴⁾ include:

- **Policy 1 'Sustainable waste management'** expects applications to demonstrate how the development would protect environmental assets.
- **Policy 12 'Impact of development proposals'** requires applications to evaluate the likely direct, indirect and cumulative impacts and set out mitigation measures for issues including air quality, noise levels, odour, dust levels, human health, litter and fly tipping, and illumination levels.
- **Policy 23 'Noise'** does not permit proposals that would give rise to unacceptable noise. Setting noise limits, controlling the hours of operation, requiring noise mitigation measures, use of best practice vehicle and plant silencing and maintenance, and limiting the length of time for engineering works will be used to control noise emissions where appropriate.
- **Policy 24 'Air pollution: Air emissions including dust'** does not permit proposals where the impact of dust would have an unacceptable impact on amenity. Surfacing and maintenance of internal haul roads, regular sweeping and spraying of hard surfaced areas, use of a water bowser or similar to damp down areas, use of wheel cleaning facilities, sheeting of waste-carrying vehicles, seeding of screen mounds, and monitoring of air and dust emissions will be used to control dust emissions where appropriate.
- **Policy 25 'Litter'** does not permit proposals where litter would have an unacceptable impact on amenity. Applications should assess the potential for litter generation and propose mitigation measures.
- **Policy 26: 'Air pollution: Odour'** does not permit proposals where odour would have an unacceptable impact on amenity.

¹⁴ https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_waste_local_plan/cheshire_waste_local_plan.aspx



Neighbourhood plans

2.27 There are 36 completed neighbourhood plans⁽¹⁵⁾ in Cheshire East and some of these contain locally-specific requirements in relation to environmental protection. These form part of the development plan and will be used alongside other Local Plan policies to determine planning applications.

Draft Site Allocations and Development Policies Document

2.28 The draft SADPD⁽¹⁶⁾ also includes a number of policies that, once adopted, will be of relevance to Environmental Protection.

- Draft **Policy ENV 9 'Wind energy'** expects sufficient distance to be maintained between the proposal and sensitive receptors to protect amenity, particularly with respect to noise and visual impacts.
- Draft **Policy ENV 12 'Air quality'** requires an air quality assessment where proposals are likely to have an impact on local air quality. Permission will not be granted where the construction or operational characteristics of the development must not cause harm to air quality (including cumulatively) unless suitable measures are adopted to mitigate the impact.
- Draft **Policy ENV 13 'Aircraft noise'** restricts sensitive developments in the areas subject to the highest levels of aircraft noise; and requires mitigation to achieve satisfactory internal ambient noise levels in other areas subject to aircraft noise. The policy also sets detailed criteria to consider in relation to a range of different development types.
- Draft **Policy ENV 14 'Light pollution'** requires light spillage and glare to be minimised to an acceptable level; and there to be no significant adverse effect individually or cumulatively on residential amenity; pedestrians, cyclists, and other road users; specialist facilities; and individuals and groups.
- Draft **Policy ENV 15 'New development and existing uses'** restricts new development in locations where it could be significantly adversely affected by the operation of an existing business or facility unless such impacts can be avoided through mitigation.
- Draft policies **RUR 1 'New buildings for agriculture and forestry'**, **RUR 2 'Farm diversification'**, **RUR 7 'Equestrian development outside of settlement boundaries'**, **RUR 8 'Visitor accommodation outside of settlement boundaries'**, **RUR 9 'Caravan and camping sites'**, and **RUR 10 'Employment development in the open countryside'** require that proposals do not unacceptably affect the amenity and character of the surrounding area or landscape (including visual impacts, noise, odour, design and appearance), either their own or cumulatively with other developments.
- Draft policies **RUR 6 'Outdoor sport, leisure and recreation outside of settlement boundaries'** and **RUR 7 'Equestrian development outside of settlement boundaries'** allow for artificial lighting only where strictly necessary, and highlight that its design and operation may be limited by condition to minimise light pollution in the open countryside.
- Draft **Policy HOU 10 'Amenity'** does not allow development proposals that would unacceptably harm the amenities of residential properties or sensitive uses due to environmental disturbance or pollution.

¹⁵ <https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/completed-neighbourhood-plans.aspx>

¹⁶ <https://www.cheshireeast.gov.uk/sadpd>



- Draft **Policy RET 5 'Restaurants, cafés, pubs and hot food takeaways'** requires such uses to have no adverse effect, either individually or cumulatively on the amenities of residential occupiers. Conditions will be imposed relating to noise, odour and fumes.
- Draft **Policy RET 9 'Environmental improvements, public realm and design in town centres'** seeks to promote the creative use of lighting to add drama to the night time townscape (such as by illuminating landmark buildings) whilst avoiding excessive light glow.
- Draft **Policy REC 4 'Day nurseries'** requires such uses not to unacceptably harm the amenity of local residents by virtue of noise.



3 Making an application

3.1 This SPD adds further detail to the policies in the development plan and provides guidance on Environmental Protection matters. Whilst it does not form part of the development plan, its guidance will be a material consideration in the determination of planning applications, where relevant.

Pre-application advice

3.2 The council offers a pre-application advice service⁽¹⁷⁾ and encourages potential applicants to discuss their scheme with planning officers prior to submission of an application. This is particularly important for large scale developments that will have a major impact on the surrounding area. This service is designed to assist applicants' understanding of planning issues and requirements to speed up the development process. This can help minimise subsequent planning application costs and avoid abortive applications.

3.3 In addition, the council's Environmental Protection Team⁽¹⁸⁾ will also provide advice regarding the methodology for undertaking relevant Environmental Impact Assessments. However, it should be noted that there will be a charge for reviewing any draft reports prior to submission as part of a planning application.

Environmental Impact Assessments

3.4 In accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017⁽¹⁹⁾ it is a requirement that certain planning applications must include an Environmental Impact Assessment (EIA). An EIA is a procedure which serves to provide information about the likely effects of a proposed project on the environment, so as to inform the decision making process as to whether the development should be allowed and if so, on what terms. Where an EIA is required, it should assess each relevant aspect relating to Environmental Protection in a comprehensive manner, as set out in this SPD.

3.5 All reporting requirements set out in this SPD should be submitted with the planning application, as the council will not be using pre-commencement conditions, in line with national policy.

¹⁷ https://www.cheshireeast.gov.uk/planning/view_a_planning_application/pre-application_advice/pre-application_advice.aspx

¹⁸ Email environmentalprotection2@cheshireeast.gov.uk

¹⁹ <https://www.legislation.gov.uk/uksi/2017/571/contents/made>



4 Air quality

4.1 Air quality is important to public health and wellbeing and, more recently, has been linked to a range of health impacts. This has led to wide ranging research being undertaken in the health impacts of pollutants, resulting in both national and international guidance and advice being issued to protect public health.

4.2 In 1997, the government adopted the first UK Air Quality Strategy (AQS), which set out how the government aimed to deal with local air quality and the impact of this on health and wellbeing. Further revision of the AQS brought about the process of Local Air Quality Management (LAQM), which is a process requiring all local authorities to regularly review and assess air quality within their area against the air quality objectives set out the Air Quality Standards Regulations 2010⁽²⁰⁾. The pollutants of concern and relevant objectives are set out in Table 4.1 'Air quality objectives'.

Local air quality management

4.3 The purpose of reviewing air quality against the air quality objectives is to determine if any areas within the borough are either exceeding or likely to exceed any of the air quality objectives. If any such areas are identified, an Air Quality Management Area (AQMA) must be declared and an action plan drawn up, setting out how the local authority proposes to improve the air quality within that area.

4.4 In Cheshire East, there are currently a number of small areas which have been declared as AQMAs⁽²¹⁾. The primary source of pollution in these areas is due to vehicle emissions, as a result of either standing/slow moving traffic or high volumes of traffic where there are sensitive receptors (such as houses) fronting directly on to the road. The council must make sure that development in and around any of the AQMAs will not have an adverse impact upon the air quality within those areas.

Air quality objectives

4.5 The Air Quality Standards Regulations 2010⁽²⁰⁾ set out the air quality objectives for seven pollutants. These objectives are based on protecting public health and wellbeing.

4.6 The objectives of concern within Cheshire East are those that relate to nitrogen dioxide and particulate matter. All of the AQMAs declared to date relate to concentrations of nitrogen dioxide.

²⁰ <https://www.legislation.gov.uk/uksi/2010/1001/contents/made>

²¹ https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/aqma_area_maps.aspx



Table 4.1 Air quality objectives

Substance	Air quality objective levels	Date to be achieved before
Nitrogen dioxide (NO ₂)	200µm ⁻³ hourly mean, not to be exceeded more than 18 times per year	2006
	40µm ⁻³ as an annual average	2006
Particulate matter (PM ₁₀)	50µm ⁻³ as a 24-hour mean, not to be exceeded more than 35 times per year	2005
	40µm ⁻³ as an annual mean	2005
Particulate matter (PM _{2.5})	25µm ⁻³ as an annual mean	2020
Benzene	16.25µm ⁻³ as a running annual mean	2004
1,3 - Butadiene	2.25µm ⁻³ as a running annual mean	2004
Carbon monoxide (CO)	11.6µm ⁻³ as a running 8-hour mean	2004
Lead	0.5µm ⁻³ as an annual average	2005
	0.25µm ⁻³ as an annual average	2009
Sulphur dioxide (SO ₂)	266µm ⁻³ as a 15-minute mean, not to be exceeded more than 35 times per year	2006
	350µm ⁻³ as an hourly mean, not to be exceeded more than 24 times per year	2005
	125µm ⁻³ as a 24-hour mean, not to be exceeded more than 3 times per year	2005

Air quality assessments

4.7 An air quality assessment should predict any potential impacts on local air quality from a proposed development. The assessment should consider any potential impacts on existing AQMAs and those areas that are close to the air quality objective in order to prevent the declaration of further AQMAs. The assessment must take into account all emission sources and compare the current air quality with future levels both with and without the proposed development.

When is an air quality assessment required?

4.8 An air quality assessment will be required where a proposed development has the potential to adversely impact air quality. This is particularly important when the development is either within or adjacent to an existing AQMA, or within an area where the impact on air quality may result in the declaration of a new AQMA. The criteria for determining if there will be an impact on air quality will be based on both the direct impact of the proposed development and the effect this will have on surrounding traffic flows and volumes.



4.9 Where relevant, a dust impact assessment should also be submitted as part of, or in addition to the air quality assessment. In certain instances, the council may also ask for an assessment of bioaerosols where this is a relevant consideration.

The assessment process

4.10 This SPD does not set out a prescribed method or form for undertaking an assessment, which will be required if the proposed development is likely to adversely impact on local air quality. Therefore, it is important that the methodology and data sets are agreed in advance with the council's Air Quality Team. However, there is general guidance regarding estimating emissions and modelling in the Local Air Quality Management: Technical Guidance (TG16)⁽²²⁾.

4.11 The purpose of the assessment is to determine the likely changes to air quality as a result of the proposed development. The aim of the assessment will be to compare the existing situation without the proposed development, and the situation with the proposed development. This can be split in to 3 basics steps:

1. Assess the current air quality within the area (baseline).
2. Predict the future air quality without the proposed development (future baseline).
3. Predict the future air quality with the proposed development in place (future with development).

4.12 The assessment should also take account of potential new sensitive receptors, including those with planning permission or allocated sites.

4.13 Current air quality data within Cheshire East is available on the council's website⁽²³⁾ and the national background maps⁽²⁴⁾ will also be able to assist with this part of the process. However, it is important that prior to undertaking an assessment, an agreement is sought from the council's Air Quality Team⁽²⁵⁾ regarding the scope, data and methodology of the assessment to be undertaken.

Sensitive receptors

4.14 All assessments should consider air quality concentrations. Paragraph 1.51 of TG16 states that exceedances of the objectives should be assessed in relation to "the quality of the air at locations which are situated outside of buildings or other natural or man-made structures, above or below ground, and where members of public are regularly present". Further examples of where the air quality objectives should apply can be found in TG16.

Assessing significance

4.15 The primary requirement of the air quality assessment is to determine the significance in terms of change to the air quality, when the proposed development is completed. Environmental Protection UK provides guidance regarding assessing significance⁽²⁶⁾, and

22 <https://laqm.defra.gov.uk/documents/LAQM-TG16-April-21-v1.pdf>

23 https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/what_is_pollution_like_near_me/air-pollution-monitoring.aspx

24 <https://uk-air.defra.gov.uk/data/laqm-background-home>

25 Email airquality@cheshireeast.gov.uk

26 https://www.environmental-protection.org.uk/wp-content/uploads/2013/07/air-quality-planning-guidance_Jan17.pdf



the framework used for assessing significance has been adopted by the council. A copy of the framework is set out in Table 4.2 'Environment Protection UK impact descriptors for individual receptors'.

Table 4.2 Environment Protection UK impact descriptors for individual receptors

Long term average concentration at receptor in assessment year	% change in concentration relative to Air Quality Assessment Level (AQAL)			
	1	2-5	6-10	>10
75% or less of AQAL	Negligible	Negligible	Slight	Moderate
76-94% of AQAL	Negligible	Slight	Moderate	Moderate
95-102% of AQAL	Slight	Moderate	Moderate	Substantial
103-109% of AQAL	Moderate	Moderate	Substantial	Substantial
110% or more of AQAL	Moderate	Substantial	Substantial	Substantial

Explanation

1. AQAL = Air Quality Assessment Level, which may be an air quality objective, EU limit or target value, or an Environment Agency 'Environment Assessment Level (EAL)'.
2. The Table is intended to be used by rounding the change in percentage pollutant concentration to whole numbers, which then makes it clearer which cell the impact falls within. The use is encouraged to treat the numbers with recognition of their likely accuracy and not assume a false level of precision. Changes of 0%, i.e. less than 0.5%, will be described as Negligible.
3. The Table is only designed to be used with annual mean concentrations.
4. Descriptors for individual receptors only; the overall significance is determined using professional judgement. For example, a 'moderate' adverse impact at one receptor may not mean that the overall impact has a significant effect. Other factors need to be considered.
5. When defining the concentration as a percentage of the AQAL, use the 'without scheme' concentration where there is a decrease in pollutant concentration and the 'with scheme' concentration for an increase.
6. The total concentration categories reflect the degree of potential harm by reference to the AQAL value. At exposure less than 75% of this value, i.e. well below, the degree of harm is likely to be small. As the exposure approaches and exceeds the AQAL, the degree of harm increases. This change naturally becomes more important when the result is an exposure that is approximately equal to, or greater than the AQAL.
7. It is unwise to ascribe too much accuracy to incremental changes or background concentrations, and this is especially important when total concentrations are close to the AQAL. For a given year in the future, it is impossible to define the new total concentration without recognising the inherent uncertainty, which is why there is a category that has a range around the AQAL, rather than being exactly equal to it.



Cumulative impacts

4.16 The cumulative impact of a number of small developments in an area could lead to a gradual deterioration of air quality. This could comprise several impacts that are individually described as slight, but when added together could have a significant impact on air quality. Therefore, all assessments must take into account the cumulative impact of all proposed applications within the local area and propose suitable mitigation to offset the impact.

4.17 An example would be if a number of small developments contribute to a significant increase in traffic levels, in an area that already has an air quality problem. Proposed mitigation could be that each development is required to provide a financial contribution to implement highway improvements or to assist with other actions within the council's Air Quality Action Plan. The study of the cumulative impact of additional development must be agreed as part of the scoping report.

Planning conditions and mitigation

4.18 Based on the results and conclusions of the air quality assessment, mitigation measures may be recommended to offset any predicted impacts of the proposed development. As far as possible, mitigation measures should be embedded into the design of the scheme and the air quality assessment should inform the scheme design, rather than being completed afterwards. Some mitigation measures (such as mechanical ventilation) can be large, noisy and visually imposing, so should be included in the scheme design from the outset so that all impacts can be assessed.

4.19 There are a range of mitigation measures that can be used and whilst the list below provides a number of examples, this is not exhaustive.

- The design of the development can help to mitigate against exposure to existing air quality levels. This could include the location of mechanical ventilation, habitable rooms and openable windows to reduce exposure to vehicle emissions.
- The installation of electric vehicle charging points to encourage the uptake and use of ultra-low emissions vehicles instead of combustion engine models.
- Developers to prepare a travel plan or travel information packs to highlight alternative means of transport, such as public transport, location of electric vehicle charging points and car sharing incentives.
- The provision of cycling and walking facilities.
- Traffic management or contributions to highway infrastructure, both new and amended.
- Green infrastructure; plants and trees may provide an aesthetically pleasing aspect to a scheme and may also be used to provide a barrier from a pollutant source such as a trafficked road.
- Ultra-low NO_x (nitrogen oxides) emission boilers. On developments in built up areas, these boilers help to prevent new "hotspots" of high NO_x emissions.
- Section 106 Agreements (Town and Country Planning Act 1990) to secure mitigation, where appropriate, to make the scheme environmentally acceptable.
- The application of damage costs as set out in Air quality appraisal: damage cost guidance⁽²⁷⁾. Damage costs are the costs to society (mainly health) per tonne of

27 <https://www.gov.uk/government/publications/assess-the-impact-of-air-quality>



pollutant emitted. They provide an easy reckoning of the monetised value of changes in pollution.

- Dust management plans and monitoring regimes.

Air quality during the construction phase

4.20 The impact of the construction phase of any development can have a significant impact on local air quality via dust, access roads, roads works and closures. Developers and contractors should follow the guidance set out by the Institute of Air Quality Management when drafting construction plans and mitigation measures to minimise air pollution. Therefore, as part of the management of all developments, best practicable means must be used at all times and for specific emissions this could include but not be limited to the following.

- During dry weather all access roads and piles of waste material, which are likely to give rise to emissions of dust, shall be damped down and/or covered to prevent wind whipping.
- Any mobile crushing or screening plant used on site shall be subject to a Permit under the Environmental Permitting (England and Wales) Regulations 2016⁽²⁸⁾ and shall operate in accordance with all conditions imposed by the issuing authority. This shall include the requirement for the use of water sprays to be in operation at all times during crushing and screening operations.
- The re-routing of traffic should be done so as not to impact on any AQMAs.
- All diesel or oil fired plant must be located away from any sensitive receptors.
- Burning of material is not an appropriate method of disposal of waste material and any such material should be removed from the site along with other waste.
- Any additional actions required to mitigate dust emissions identified during ongoing development activities.
- For non-road mobile machinery, renewable, mains or battery powered plant items should be used where possible.

4.21 All sites that are at medium or high risk of particulate emissions should carry out monitoring and guidance on the assessment of dust from sites is contained in the Institute of Air Quality Management's Guidance on the Assessment of Dust from Demolition and Construction⁽²⁹⁾.

Heating appliances

Biomass boilers

4.22 Biomass boilers are seen as a method to reduce emissions of greenhouse gas and are regarded as generally more environmentally friendly. However, biomass burning systems still emit a number of pollutants including nitrogen dioxide and particulate matter and whilst the level of emissions maybe less than coal or oil, they do produce more pollutants than gas fired systems. This was confirmed in the governments Clean Air Strategy 2019⁽³⁰⁾, which states that:

'This increase in burning solid fuels in our homes is having an impact on our air quality and now makes up the single largest contributor to our national PM emissions at 38%.'

28 <https://www.legislation.gov.uk/uksi/2016/1154/contents/made>

29 <https://iaqm.co.uk/text/guidance/construction-dust-2014.pdf>

30 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770715/clean-air-strategy-2019.pdf



4.23 Therefore, where a proposed development includes either any large biomass heating system or includes domestic wood burners or open fires, the council will require an air quality assessment to determine the impact on air quality when compared to similar gas fired systems. In addition, the council may require that the only systems to be permitted will be those that are proved to be cleaner and have reduced emissions.

4.24 Further information relating to biomass and air quality can be found on the Environmental Protection UK website⁽³¹⁾.

Combined Heat and Power Systems

4.25 Emissions from Combined Heat and Power (CHP) systems must be managed to ensure potential air quality impacts are controlled. Management of CHP systems will include system and fuel standards, abatement equipment, regulatory controls and planning controls to restrict where appliances can be installed and the effect they have on the local environment.

4.26 As is the case with all combustion plant, the air quality assessment of planning applications containing CHP systems should follow a risk based approach based upon factors such as:

- The location of a CHP system, i.e. is it in or close to an area of poor air quality;
- The type of CHP system proposed and the fuel it will use;
- The likely emission standard of the CHP system; and
- Whether the CHP system is substituting for a conventional boiler, and what the difference in emissions between the old boiler and new CHP system is likely to be.

4.27 Further guidance is available for Institute of Air Quality Management's Combined Heat and Power Guidance for Local Authorities⁽³²⁾.

³¹ <https://www.environmental-protection.org.uk/wp-content/uploads/2016/03/Biomass-and-Air-Quality-Information-for-Developers-2017.pdf>
³² http://www.iaqm.co.uk/text/guidance/epuk/chp_guidance.pdf



5 Contaminated land

5.1 All land has the potential to be contaminated. Much of today's land contamination originates from polluting industrial processes from the 19th and 20th centuries. It can also arise from uncontrolled filling or raising of land, as well as more innocuous activities such as agricultural use, disposing of hearth ash in gardens or fuel/oil spillages. Contamination can also be caused by naturally occurring sources such as radon gas from underlying rock or ground gases from peat deposits.

5.2 In the UK, contaminated land is identified and managed by two different regulatory frameworks, these being Part 2A of the Environmental Protection Act 1990⁽³³⁾ and the planning regime. It is widely acknowledged that remediation via the planning regime is the government's preferred option.

5.3 Part 2A of the Environmental Protection Act 1990 was intended to identify land which is so contaminated that in its current condition it poses a significant possibility of significant harm to the health of persons living in or using the land or any other environmental receptors. In this situation the local authority has to ensure that the land condition is addressed to control any unacceptable risk. Cheshire East Council's approach to Part 2A is outlined in the Cheshire East Council Contaminated Land Strategy⁽³⁴⁾.

5.4 The second regulatory regime is the planning system. In this case the developer, as part of the planning and redevelopment process, must address any land condition matters through investigation, risk assessment and remediation where required. In practice, the vast majority of contaminated sites are cleaned up routinely via this route, with the local planning authority ensuring that developers produce safe new development. Cheshire East Council has a Developers' Guide⁽³⁵⁾ to provide advice on this process.

What is Contaminated Land?

5.5 The statutory definition of contaminated land⁽³⁶⁾ is as follows:

*'...any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that:
Significant harm is being caused or there is a significant possibility of such harm being caused;
or
Significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused'*

5.6 Where a local authority is satisfied that one or both of the circumstances detailed above is being met then it must act in accordance with guidance issued by the Secretary of State. How Cheshire East Council carries out its statutory contaminated land duties is set out in its Contaminated Land Strategy.

5.7 Part 2A of the Environmental Protection Act 1990 was introduced specifically to address the historical legacy of land contamination, whereas the planning system aims to control development and land use in the future. Therefore, assessing risks in relation to the future

33 <https://www.legislation.gov.uk/ukpga/1990/43/contents>

34 https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/contaminated_land.aspx

35 https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx

36 Environmental Protection Act 1990, Part 2A, Section 78(2)



use of any land is primarily a task for the planning system. However, applicants/developers should always take into account Part 2A, because a change in use may cause the land to fall within the statutory definition of contaminated land by creating a contaminant linkage.

5.8 Whether being considered under the planning regime or Part 2A of the Environmental Protection Act 1990, the principle of contaminated land risk assessment underpins all assessment. This is based upon the Contaminant (source) - Pathway - Receptor model. All three parts of the chain must be present to create what is known as a contaminant linkage. If a linkage is identified it indicates that there is a potential for a contaminated land risk to be present at the site and this must be assessed.

Figure 5.1 Contaminant linkage



Historical Land Use

5.9 The history of a site or area is often the best guide to whether a site may be at risk of contamination. The borough of Cheshire East is a mix of urban settlements and rural areas, both with historical industrial heritage. As such there is always the potential for contaminated land to be present. The council's Contaminated Land Strategy provides an overview of the industrial history of Cheshire East.

Roles and Responsibilities

5.10 Planning legislation and guidance places the responsibility on developers and/or landowners to secure a safe development with respect to contamination. The council's duty is to ensure that owners and developers carry out the necessary investigations and formulate proposals for dealing with any contamination in a responsible and effective manner. According to the NPPF the standard of remediation to be achieved, as a minimum, should be enough to ensure that the land is not capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990. This is the removal of unacceptable risk, making the site suitable for its new use.

5.11 Where a development is proposed, it is the responsibility of the developer to ensure that issues of land contamination are appropriately considered, that remediation takes place (where necessary) and that the land is safe and 'suitable for use' i.e. the site is cleaned up to a level which is appropriate for the proposed end use. Furthermore, it is the developer's responsibility to ensure that the investigation and remediation of land contamination is carried out by a competent person with a recognised relevant qualification and sufficient experience in contaminated land i.e. an environmental consultant.

5.12 The local planning authority has a duty to take account of all material planning considerations, including potential contamination, when considering an application. Within the planning regime, contaminated land is often referred to as "land affected by contamination". When considering development on land affected by contamination, the principal objective of the local planning authority is to ensure that any unacceptable risks to human health, property



and/or the wider environment are identified so that appropriate action can be considered and then taken to address those risks. In achieving this objective, the local planning authority should assist in providing the necessary confidence to owners and occupiers of the land after development, regarding the condition and the ranking of the land in relation to relevant environmental protection regimes, such as Part 2A of the Environmental Protection Act 1990.

5.13 The Environment Agency is a statutory consultee for many planning applications where development is proposed on land affected by contamination. The Environment Agency will consider the impacts on groundwater and surface waters, legally termed controlled waters, and the developer will need to ensure that any concerns of the Environment Agency are satisfied prior to development when these receptors are at risk.

Contaminated land and planning

5.14 It is the role of the local planning authority to plan for land uses that are appropriate in the light of all the relevant circumstances, including known or suspected contamination, and to determine applications, including applying and enforcing any necessary conditions. Such conditions may require that land is remediated in the course of development to an appropriate standard, taking account of its intended use, and that, if necessary, it is properly maintained thereafter.

Pre application discussions

5.15 Where practicable and applicable, proposers of development on land affected by contamination should arrange pre-application discussions with the local planning authority and other regulators, including the council's Environmental Protection and Building Control departments, any other relevant council specialists and the Environment Agency (where pollution of controlled waters and the waste management implications of land contamination are likely to be issues).

5.16 This is particularly pertinent as the local planning authority must seek written agreement from the applicants before imposing pre-commencement conditions on a planning permission. In addition, the local planning authority must notify the applicant in writing of its intention to impose a pre-commencement condition⁽³⁷⁾.

Completing the "Existing Use" section of the planning application form

5.17 In applying for planning permission applicants have to answer questions regarding contaminated land. Typically there is a lack of understanding as to what type of development is vulnerable to contamination, if present. The following can be considered to be vulnerable end uses: all residential developments, allotments, schools, children's nurseries, playing areas and parks. If the development proposed is any of these uses then the answer to the question: "a proposed use that would be particularly vulnerable to the presence of contamination" is always Yes.

37 Town and Country Planning Act 1990 s100ZA



Figure 5.2 Good example of the "existing use" section from a residential planning application

6. Existing Use

Vacant factory building

Is the site currently vacant? ☒ Yes ☐ No

If Yes, please describe the last use of the site

Metal Fabrication

When did this use end (if known)? DD/MM/YYYY

Does the proposal involve any of the following? If Yes, you will need to submit an appropriate contamination assessment with your application.

Land which is known to be contaminated ☒ Yes ☐ No

Land where contamination is suspected for all or part of the site ☒ Yes ☐ No

A proposed use that would be particularly vulnerable to the presence of contamination ☒ Yes ☐ No

Determining planning applications including pre-commencement

5.18 If the information submitted with an application is such that the council cannot be satisfied that the necessary works are viable or practicable through a conditional planning permission, then the application may be refused to avoid the applicant being issued with an untenable planning permission. The amount of information we would expect to see submitted in support of any planning application is outlined in more detail within our Developers' Guide⁽³⁵⁾.

5.19 With regards to the agreement of pre-commencement conditions, if there is no agreement to such conditions and insufficient information is provided to support the application, then the application may be refused.

Planning conditions

5.20 The local planning authority will generally use a series of staged conditions that aim to:

- Provide for preliminary risk assessment and conceptual model investigation and characterisation of the site to confirm the nature and extent of contamination and validate the conceptual model to allow more refined risk assessment and appraisal of remedial options (see 'Site investigations and risk assessments').
- Propose and receive approval for a remediation scheme that ensures the removal of unacceptable risks to make the site suitable for use.
- Submit and receive approval for a validation report that demonstrates the effectiveness of the remediation carried out.

5.21 It is important to emphasise that the lack of a condition requiring investigation into contamination does not imply that a site is not contaminated. The Contaminated Land Team will assess the likelihood of risk based upon the known history of a site. It remains the responsibility of a developer or landowner to satisfy themselves over whether a site may or may not have been contaminated in the past. Despite this, applicants are reminded that they

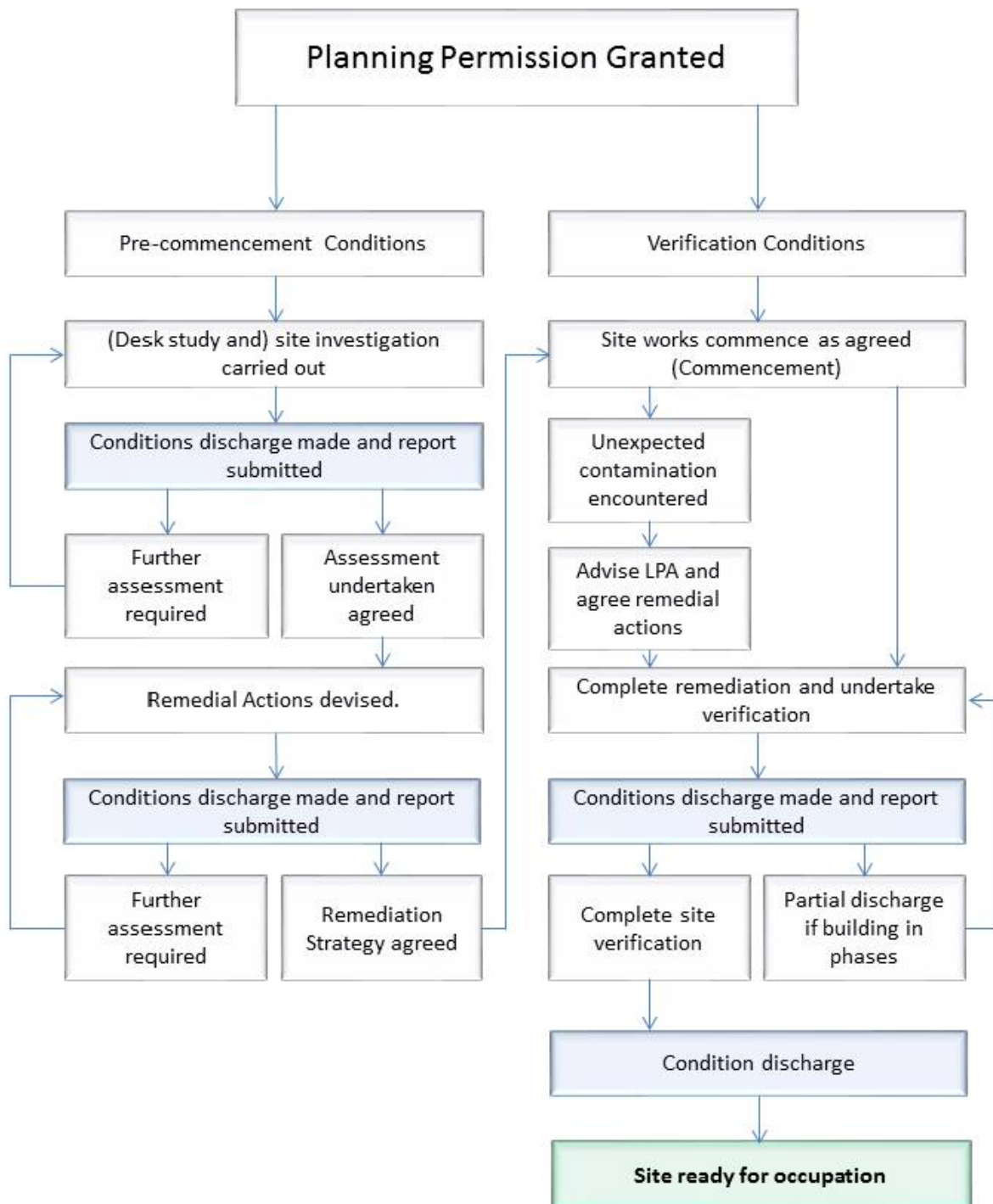


have a duty in accordance Part 2A of the Environmental Protection Act 1990, to immediately inform the local planning authority if any unforeseen contamination is encountered at any point during the development.

Discharge of conditions

5.22 Having secured planning permission, the developer must adhere to the conditions on that permission and a guide to doing this is provided in Figure 5.3 'Process of complying with a contaminated land condition'.

Figure 5.3 Process of complying with a contaminated land condition





5.23 If there are pre-commencement conditions then these must be satisfied before any commencement of work on site. If works have started on site without satisfying the contaminated land assessment aspect (i.e. pre-commencement) and agreeing any necessary remedial works then the development will be breaching planning conditions and it may be very difficult or impossible to investigate or remediate contamination as a result.

5.24 Furthermore, the prior to occupation aspect of the condition, usually the verification of any remedial methods, should be satisfied prior to occupation of the development. Again this would be a breach of planning condition and would potentially leave the site for consideration under Part 2A. Besides the potential risks, including financial, to any purchasers this could be a reputational matter for the developer.

5.25 Guidance on how to apply to discharge planning conditions can be viewed on the council's website⁽³⁸⁾. As contaminated land planning conditions are typically divided into sections, there may be more than one discharge application required to achieve final planning discharge.

Site investigations and risk assessments

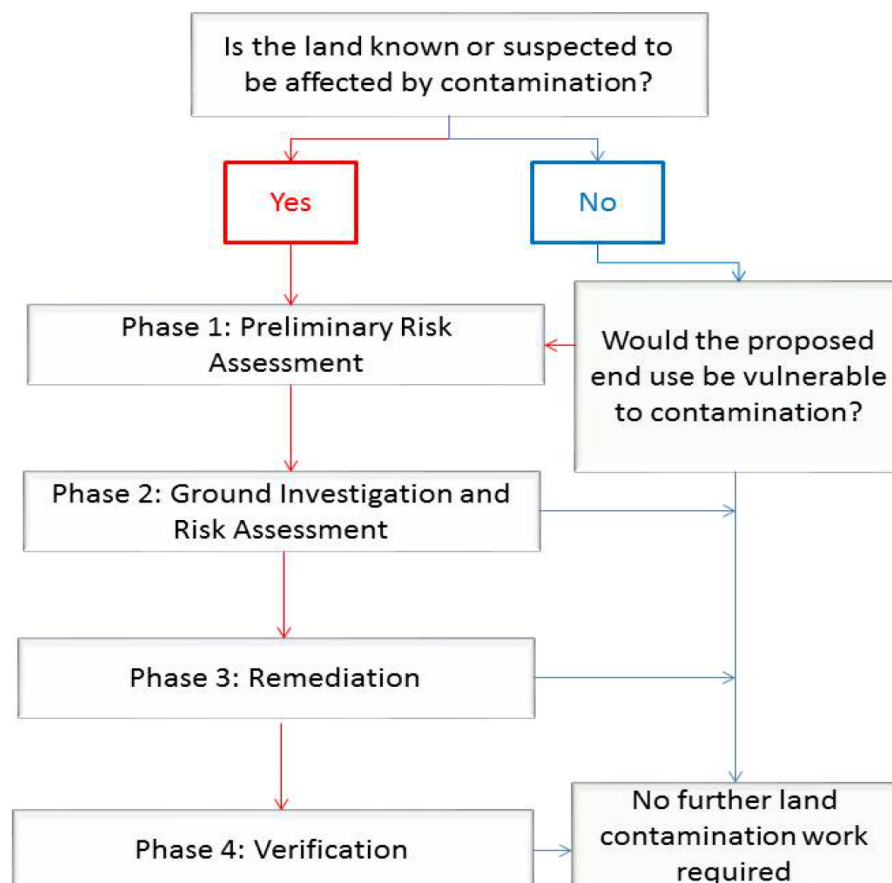
5.26 The council's Developers' Guide⁽³⁵⁾ provides more detail on the requirements of contaminated land information and what to submit to support a planning application. Reference to appropriate technical guidance is also included within the guide.

5.27 Figure 5.4 'Phased approach to assess contaminated land' summarises the phased approach required to assess contaminated land in the planning regime. The following sections provide more detail on each phase.

38 https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/conditions_of_planning_consent.aspx



Figure 5.4 Phased approach to assess contaminated land



Phase 1: Preliminary risk assessment

5.28 The Phase 1 preliminary risk assessment (also known as a desk study) is the collection of information, including site history, to support the development of the conceptual model in order that the conceptual model can be established. A conceptual model is a simple representation of the site and considers all potential contaminant sources, pathways and receptors and any potential contaminant linkages. It should also include a walkover survey which means assessing the site and identifying any visual evidence of sources of contamination (such as ash/made ground or fuel tanks).

5.29 The conclusions of the report should contain recommendations as to whether the site is, or can be made suitable for its proposed use, and if further works and thus progression to Phase 2 are required.

5.30 Please note that reports written for conveyancing purposes are not accepted as they do not fulfil the requirements of a Phase 1 assessment. For lower risk developments, such as a change of use, the council may accept a questionnaire⁽³⁹⁾, depending on the former use of the site. This may negate the requirement for a Phase 1 Preliminary Risk Assessment to be undertaken.

39 https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx



Phase 2: Site investigation and risk assessment

5.31 A Phase 2 site investigation is an intrusive on site survey of the actual ground conditions at the site. The aim of this is to prove (or disprove) the presence of possible contaminant linkages identified in the Phase 1 report. This is achieved through the sampling of soil and groundwater and ground gas monitoring where necessary, depending on the conceptual site model for the site.

5.32 The results of these investigations should determine whether any contamination is present and if so, whether it poses a potential risk to health, controlled waters or the environment. The investigation should be designed so that it takes into account the former, current and proposed land uses.

5.33 On sites which may be particularly contaminated or have significant risks or management issues it may be prudent to discuss your site investigation proposals with the Contaminated Land team.

5.34 The results of the sampling and monitoring should be considered within a risk assessment. As part of this, contaminants will be assessed against recognised generic assessment criteria for human health, controlled waters and vapours as appropriate. If the site has contaminants present, which do not have generic assessment criteria, then it may be necessary to derive site specific assessment criteria. Furthermore, if the end use is not applicable to current generic assessment criteria then again derivation of site specific assessment criteria may be required. Further information on risk assessment can be found in the council's Developers' Guide⁽³⁵⁾.

5.35 After completing the site investigation works, including all required rounds of gas monitoring (as appropriate), the preliminary conceptual site model developed in Phase 1 should be reviewed and updated on the basis of the findings of the investigation. This updated conceptual model will then identify if further works are required or whether the assessment is complete.

Phase 3: Remediation

5.36 Remedial works, if required should be compiled into a Remediation Strategy. For some lower risk sites, it may be sufficient to include this as a section in the Phase 2 report. The remediation strategy must be agreed with the local planning authority and Environment Agency, if applicable, and the relevant conditions discharged ahead of any remedial works commencing.

5.37 For larger development sites, there is an opportunity to consider a sustainable approach to land contamination risk management. Where appropriate, a sustainability assessment should be carried out as part of the Remediation Options Appraisal in line with industry standards. SuRF-UK sets out a framework⁽⁴⁰⁾ for undertaking such an assessment. A Remediation Options Appraisal precedes the Remediation Strategy, considering the possible remedial actions for the site.

40 <https://www.claire.co.uk/projects-and-initiatives/surf-uk>



Phase 4: Verification

5.38 How verification (also referred to as validation) of remedial works is to be undertaken would have been set out within the agreed remediation strategy. It is important that this process is carefully and appropriately documented to demonstrate that the development is suitable for use.

5.39 Verification information must be provided to the local planning authority as part of a discharge of conditions submission for the Contaminated Land Team to assess in good time ahead of the development, or phase of development, being occupied. Without this, the site would be considered to be breaching its planning conditions and may be considered under Part 2A of the Environmental Protection Act 1990. Final discharge would be achieved at the end of the development.

Using consultants and laboratories

5.40 Depending on the type, level or extent of contamination, it is likely that a specialist consultant or service (e.g. analytical laboratory) will be required during the process of investigating, assessing and remediating land contamination. Care should be taken in appointing an environmental consultant, opting for a well experienced, sufficiently competent and qualified person or company that carries appropriate levels of professional indemnity insurance. It is critical that the consultant undertaking the works has experience of undertaking contaminated land assessments.

5.41 All reports should be prepared by appropriately qualified professionals and comply with current good practice and guidance. Accredited drillers and laboratories should be employed for all investigation and analysis. Copies of the full laboratory results, as received from the laboratory with no subsequent amendments should be appended. Sampling methodologies, chain of custody information, all borehole logs and risk assessment calculations should also be included.



6 Noise

6.1 Noise pollution is defined as unwanted sound, which usually occurs as an intrusive or offensive sound. The difference between the two is:

- Intrusive sound may be louder than or significantly different to background noise and is considered likely to disturb or interfere with an individual's daily life.
- Offensive sound is often dependant on the time of day i.e. night time, characteristics or the duration of the noise.

6.2 Proposed developments involving residential dwellings are often the most noise sensitive and will require protection from noise in the surrounding area, for example noise from transport, commercial, industrial or leisure sources.

6.3 Industrial or commercial developments are generally the least sensitive to noise, but they can become the source of noise disturbance and as such the noise assessment must include the impact the proposed development will have on surrounding noise sensitive receptors.

6.4 Paragraph 185 of the NPPF refers to noise, and the explanatory note to the NPSE sets out the concepts that are applied to noise impacts, including NOEL, LOAEL and SOAEL (see paragraphs 2.10 and 2.11 in the 'National policy' section)

6.5 The agent of change principle was included in the NPPF in 2018 and now places a duty on any potentially noise sensitive development proposed near to existing businesses or community facilities to incorporate suitable mitigation to prevent the noise, from such premises, causing disamenity to future occupants. Therefore, as part of any planning application submitted this must be taken into account and where necessary, a noise impact assessment must have been undertaken and all proposed mitigation measures incorporated into the proposed development. The noise impact assessment should also take account of new developments under construction or with planning permission.

Acceptable noise levels

6.6 The NPSE does not set any numerical values to any of the noise impact levels described, but it does state that the SOAEL is likely to vary depending on factors such as the noise source, time of day and the type/sensitivity of the receptor. However, the National Planning Practice Guidance advises how potential noise impacts can be managed through the planning process and provides further advice and guidance on the following matters:

- When noise is relevant to planning
- Whether noise can override other planning concerns
- How to determine noise impacts
- The observed effect levels
- How to establish whether noise is likely to be a concern
- The factors that influence whether noise could be a concern
- Guidance on noise standards in planning policies
- Relevant factors in identifying areas of tranquillity
- Addressing risk of conflict between new development and existing businesses or facilities



- Addressing the adverse effects of noise sources, including where the 'agent of change' needs to put mitigation in place
- Further considerations on mitigating noise impacts on residential developments
- Addressing the potential impact of aviation activities on new development

6.7 A summary of the effects of noise exposure and the effects on health and quality of life is set out in the National Planning Practice Guidance and replicated in Table 6.1 'Noise exposure hierarchy'.

Table 6.1 Noise exposure hierarchy

Response	Examples of outcomes	Increasing effect level	Action
No Observed Effect Level (NOEL)			
Not present	No effect	No observed effect	No specific measures required
No Observed Adverse Effect Level (NOAEL)			
Present and not intrusive	Noise can be heard, but does not cause any change in behaviour, attitude or other physiological response. Can slightly affect the acoustic character of the area but not such that there is a change in the quality of life	No observed adverse effect	No specific measures required
Lowest Observed Adverse Effect Level (LOAEL)			
Present and intrusive	Noise can be heard and causes small changes in behaviour, attitude or other physiological response, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a small actual or perceived change in the quality of life.	Observed adverse effect	Mitigate and reduce to a minimum
Significant Observed Adverse Effect Level (SOAEL)			
Present and disruptive	The noise causes a material change in behaviour, attitude or other physiological response, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant observed adverse effect	Avoid
Present and very disruptive	Extensive and regular changes in behaviour, attitude or other physiological response and/or an inability to mitigate effect of noise leading to psychological stress, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non auditory	Unacceptable adverse effect	Prevent



6.8 BS 8233:2014 provides guideline internal ambient noise levels for rooms within specific types of buildings. For dwelling houses, flats and rooms in residential use it recommends that the internal noise levels do not exceed the following guideline levels set out in Table 6.2 'Indoor ambient noise levels for dwellings'.

Table 6.2 Indoor ambient noise levels for dwellings

Activity	Location	07:00 to 23:00	23:00 to 07:00
Resting	Living room	35 dB $L_{Aeq,16hour}$	-
Dining	Dining room/area	40 dB $L_{Aeq,16hour}$	-
Sleeping (daytime resting)	Bedroom	35 dB $L_{Aeq,16hour}$	30 dB $L_{Aeq,8hour}$

Noise sensitive developments

6.9 The government has issued planning practice guidance for noise. The document indicates that noise is an important consideration in planning terms. It gives an indication of when noise is an issue and guidance on planning responses for noise levels between the Lowest Observed Adverse Effect Level (LOAEL) and the Significant Observed Adverse Effect Level (SOAEL). The guidance states that local plans can include specific standards to apply to various forms of proposed development and locations in their area.

6.10 In the context of government policy, Cheshire East Council requires that developments aim for:

1. A noise level between the **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) and the **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). Conditions may be attached to achieve this level.

If point 1 cannot be achieved then:

2. If the assessment results in a level between the **Lowest Observed Adverse Effect Level** and the **Significant Observed Adverse Effect Level** (this is the level of noise exposure above which significant adverse effects on health and quality of life occur), mitigation will be necessary to reduce the level and thus conditions will be attached to achieve this reduced level.

If points 1 & 2 cannot be achieved then:

3. If the assessment results in a **Significant Observed Adverse Effect Level** after mitigation, the application will be recommended for refusal.

6.11 Cheshire East Council has adopted the following internal noise limits for residential properties, which are established in standards and guidance such as BS8233 and noise guidelines issued by the World Health Organisation.

- Bedrooms (night time; 23:00 - 07:00) 30 dB $L_{Aeq,8hour}$ (individual noise events should not normally exceed 45 dB $L_{Amax,F}$ more than 15 times)



- Living Rooms (daytime; 07:00 - 23:00) 35 dB $L_{Aeq,16hour}$
- Gardens and terraces (daytime, 07:00-23:00) 55 dB $L_{Aeq,16hour}$

Aircraft

6.12 Saved Policy T18 'Restriction on Development within NNI Zones' in the Macclesfield Borough Local Plan provides detailed policy advice regarding noise sensitive developments within areas affected by aircraft noise. Once adopted, this policy will be replaced by Policy ENV 13 'Aircraft noise' in the SADPD.

Noise generative developments

6.13 Potentially noisy development may cover a large range of different activities and planning use classes. Typically, the following use classes would be considered to have the potential for greater impact on noise sensitive land uses at or around the proposed development:

- B2/B8 General industrial and storage/distribution.
- E(b) Sale of food and drink for consumption (mostly) on the premises (e.g. restaurants and cafés).
- E(d) Indoor sport, recreation or fitness.
- E(e) Provision of medical or health services.
- E(f) Creche, day nursery or day centre.
- F1 Learning and non-residential institutions
- F2(c) Areas or places for outdoor sport or recreation
- F2(d) Indoor or outdoor swimming pools or skating rinks
- Sui Generis uses are by their nature often more varied and specific consideration of any proposal within this category is required to ensure that potential noise impacts are minimised. This includes (but is not limited to) developments such as theatres, amusement arcades/funfairs, taxi businesses, hostels, waste disposal installations, nightclubs, casinos, drinking establishments, hot food takeaways, live music venues, cinemas, concert halls, bingo halls and dance halls.

6.14 Prior to submitting a planning application the applicant must review all of the noise sensitive areas that can potentially be affected by the noise from the proposed development. This will form the basis of the required Noise Impact Assessment (NIA) and the 'Noise impact assessments' section below provides more details regarding the assessment. If the applicant is unsure whether a NIA is required they should contact the council's Environmental Protection Team⁽⁴¹⁾ who will be able to offer more advice.

6.15 If the applicant is proposing any pre-application discussions with the council's Development Management Team, Then further advice can be requested and provided through this process. However, the aim will be for all such development to ensure that the noise levels for sensitive receptors do not exceed those set out in the 'Acceptable noise levels' section above.

41 Email environmentalprotection2@cheshireeast.gov.uk



Noise impact assessments

6.16 Noise control by its very nature is complex, therefore it may be necessary to engage an acoustic consultant to undertake a NIA and, if required, recommend appropriate noise mitigation measures. Advice regarding the methodology for undertaking a NIA can be obtained from the council's Environmental Protection Team⁽⁴²⁾.

6.17 There are various different standards and guidance available covering a range of situations to help determine the type of noise assessment required. The main standards used are:

- **BS4142:2014+A1:2019** - Methods for rating and assessing industrial and commercial sound
- **BS8233:2014** - Guidance on sound insulation and noise reduction for buildings
- **Department of Transport technical memorandum: Calculation of Road Traffic Noise (1998)** - Describes the procedures for calculating noise from road traffic. These procedures are necessary to assess entitlement under the Noise Insulation Regulations, but they also provide guidance appropriate to the calculation of traffic noise for more general applications.
- **Department of Transport technical memorandum: Calculation of Railway Noise (1995)** - Primarily concerned with the procedures for calculating noise from moving railway vehicles as defined in the Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1995.

6.18 With regards to NIAs for noise sensitive sites, the assessment must include the following:

- The reason for and scope of the report
- The sources of noise in the area
- Location plan of proposed development and likely receptors
- Methodology used including location of noise monitoring, equipment used, weather conditions
- Reasons for deviations from standard methods (if appropriate)
- Full table of results
- Comparison of survey results with noise standards
- Recommendations for noise control measures
- Full calculations of the noise reduction expected to support any suggested noise control measures

6.19 In addition, to the list above all noise generative sites must also include an assessment of potential noise sources including ancillary equipment and noise from deliveries to and from the site.

42 Email environmentalprotection2@cheshireeast.gov.uk



Mitigation measures

6.20 Based on the results and conclusion of a noise impact assessment, mitigation measures may be recommended to either protect sensitive premises or to reduce noise arising from noise generative premises. There are a range of noise mitigation measures which can be used. The examples given below are not an exhaustive list.

- **Building orientation and layout:** The design of buildings should be that noise sensitive rooms such as bedrooms, be orientated away from noise sources such as local roads and commercial developments. In addition, potentially noise generative sites should ensure that plant and equipment and other noisy activities (such as delivery routes) are located as far as possible from noise sensitive properties.
- **Screening:** There is a range of specialist acoustic screening, which can be used to reduce noise from a range of noise sources, but this can also include non-specialist equipment such as suitable close-boarded fencing to protect gardens and habitable rooms.
- **Windows and doors:** The selection of the correct windows and doors can have a significant effect on reducing noise levels within rooms. Therefore, suitable acoustic or double glazing should be included as part of any mitigation.
- **Acoustic ventilation:** There are situations where noise sensitive premises are in noisy environments such as town centres. In these situations there can be dramatic change in the noise experienced when a window is opened for ventilation purposes. Therefore, suitable acoustic ventilation should be considered to help residents maintain a reasonable level of noise.
- **Permanent plant and equipment:** The location and suitable screening of plant or equipment is critical to reducing noise levels and should be addressed during the design phase to ensure that the noise levels are minimised.

6.21 Wherever possible, mitigation measures should be embedded into the scheme design and included in the submitted proposals rather than being secured later as a condition of permission. Acoustic mitigation measures may well be large, noisy or visually intrusive and would need to be properly assessed as part of the proposal.

Noise during the construction phase

6.22 Noise from construction or demolition work can be intrusive and disruptive to local business and noise sensitive land uses. For this reason construction/demolition activity should be restricted to daytime periods and have clearly defined start and finish times. It is usually recommended that all noisy works (audible beyond the site boundary) are restricted to the following:

- **08.00 to 18.00 Monday - Friday**
- **09.00 to 14.00 on Saturday**
- **No work to be undertaken on Sunday or Bank Holidays**

6.23 By using set working hours for noise generating activity on site, as well as deliveries, respite is provided for local residents, businesses and workers close to the development. The council is aware that noise and disruption to local residents is inevitable due to the very nature of the work and hence communication with local residents is critical to overcoming any issues and will allow the development to progress.



6.24 For larger developments or those likely to be taking place over a longer period of time, it may be worth considering joining the national Considerate Contractors Scheme⁽⁴³⁾. These types of schemes suggest guidelines, which minimise disruption to local residents/businesses and provide a code of conduct for employees on site so that their work does not unduly upset local residents/businesses. These types of schemes include noise and usually other elements that may cause disruption such as dust, deliveries, working hours, behaviour on site, delivery routes and non-construction noise such as radios.

43 <https://www.ccscheme.org.uk/>



7 Light

7.1 Artificial light provides valuable benefits to society, including through extending opportunities for sport and recreation and can be essential to new development. However, artificial light is not always required and hence has the potential to become what is termed 'light pollution' or 'obtrusive light', especially when it is not in a suitable location and affects surrounding residents and causes annoyance to people. For maximum benefit, the best use of artificial light is about getting the right light, in the right place and providing light at the right time.

What is Light Pollution?

7.2 Light pollution is described as unwanted light from any artificial source and can occur as:

- Sky Glow: the orange glow visible around urban areas resulting from the scattering of artificial light by dust particles and water droplets in the sky;
- Glare: the uncomfortable brightness of a light source when viewed against a dark sky;
- Light trespass: light spillage beyond the boundary of the property on which a light is located.

Light and planning

7.3 Artificial light alone is not classed as development, but the structures and installation may be classed as such and require planning permission. Planning permission is normally required for the following types of installations:

- Lights mounted on poles or other similar structures.
- External lighting proposed as part of an industrial or commercial scheme.
- New lighting structures or works, which are integral to other development requiring planning permission.
- Illuminated advertisements, although there are some exceptions such as those indicating medical services and some commercial advertisements on the frontage of business premises.
- Large scale installations such as that required for sports facilities.

7.4 Further advice regarding whether planning permission is required for a lighting scheme can be obtained from the council's Permitted Development Enquiries Service⁽⁴⁴⁾. Developers are required to submit, as part of a planning application, details of lighting schemes, which should include light scatter/contour diagrams. The aim will be to minimise light pollution encroaching on to neighbouring properties caused by light spillage.

Sources of light pollution

7.5 Light pollution can arise from many different sources:

- All night (and sometimes daytime) floodlighting of buildings; illuminated shop windows and advertising signs which remain switched on overnight.

⁴⁴ https://www.cheshireeast.gov.uk/planning/view_a_planning_application/do_i_need_planning_permission/permitted_development_enquiry/permitted_development_enquiry.aspx



- Domestic security lighting which is inappropriately positioned and intrudes on neighbouring properties.
- Temporary lighting associated with construction and engineering projects.
- Flood lighting of sports facilities, such as golf driving ranges, football pitches etc.

Lighting assessments

7.6 A lighting assessment will be required if there is the potential for any proposed lighting to have an impact on the surrounding area. The assessment must provide full details of the lighting scheme, together with the appropriate light scatter/contour diagrams to demonstrate that the scheme will not affect the amenity of the surrounding area.

7.7 Any proposal for artificial lighting should be accompanied by that information normally required for any other planning proposal and additionally the information set out below:

- A statement setting out why a lighting scheme is required, the proposed users and the frequency and length of use in terms of hours of illumination.
- A site survey showing the area to be lit relative to the surrounding area, the existing landscape features together with proposed landscaping features to mitigate the impacts of the proposed lighting.
- A technical report prepared by a suitably qualified Lighting Engineer setting out the type of lights, performance, height and spacing of lighting columns. The light levels to be achieved over the intended area, the site boundaries and the range/intensity of lighting beyond the site boundary.

Mitigation measures

7.8 Effective lighting should be well directed and almost invisible from a distance. The lighting scheme should not exceed the minimum required for the use and the design of any scheme should include the following:

7.9 Proper design and planning: Lighting shall only be used where and when necessary; using appropriate strength of light; and by adjusting light fittings to direct the light to where it is required. Luminance should be appropriate to the surroundings and character of the area as a whole. 'Over lighting' should be avoided and shields, reflectors or baffles used to prevent overspill of light to sensitive areas.

7.10 Direction of light: Light should be directed downwards wherever possible to illuminate its target and not upwards. Consideration should be given to providing lighting that does not glare on approach and which places light onto the ground and not into the sky where it is wasted.

7.11 Sensor switches: All security lighting schemes should use one of the following options:

- The use of Passive Infrared (PIR) sensors; or
- All-night lighting at a level of low brightness.

7.12 If correctly aligned and installed, a PIR sensor that switches on lighting when an intruder is detected, often acts as a greater deterrent than permanently floodlit areas, which allow the potential intruder to look for weaknesses in security.



Planning conditions

7.13 Where an assessment has been reviewed and approved, conditions may be attached to any planning approval to control the lighting scheme. These may include the following, which is not an exhaustive list:

- Limiting the time the lighting is used.
- Limiting the use of lighting schemes to identified uses.
- Specifying lamps, luminaires and columns.
- The design, height, position and angle of the lighting.
- The use of planting and bunding to contain lighting effects.
- Maintenance of the lighting scheme and post installation checks in accordance with the approved scheme.

7.14 These conditions will be applied as necessary by the council to help reduce obtrusive light from glare and spillage to protect residential amenity.

Light during the construction phase

7.15 Light from construction or demolition work can be extremely intrusive to neighbouring properties. As part of the Construction Management Plan details of the lighting scheme for the site should be submitted, in order to demonstrate that the proposed scheme is appropriate in terms of its purpose and setting.



8 Odour

8.1 The planning system should ensure that all new developments are appropriate for the location and whilst ideally odour generating and odour sensitive uses should be separated, this is not always possible. In the situations when it is not possible to separate the different types of premises it may be necessary to employ odour abatement and mitigation measures.

8.2 New proposals for odour generating developments will require an odour impact risk assessment to be submitted with the planning application, either as a stand-alone assessment or as part of an Environmental Impact Assessment for the development.

8.3 Typical examples of potentially odorous activities are:

- hot food premises
- food production and manufacturing sector
- landfill, waste disposal and recycling sites
- intensive livestock and animal rearing / farming
- sewage / wastewater and sludge treatment works
- processing / rendering of animals / animal by-products
- solid waste management, handling and treatment plants (for example compost windrows turning)
- biofuels and anaerobic digestion facilities
- pet food processing
- foundry emissions

Requirements for hot food premises

8.4 A scheme detailing the kitchen extraction system must be submitted with the planning application. This must also detail the nature of the food to be cooked, type and location of any relevant filters, location of external duct work including the discharge point/termination height and any cowl etc. together with any mitigation required. Mitigation measures may include, but not restricted to, filtration, odour abatement and regular maintenance of the system to control the discharge of odours and fumes arising from food handling; preparation and cooking.

Odour impact assessments

8.5 An assessment of the impact of an odour source, process, activity or use on surrounding users of the land should usually seek to identify and contain the following key elements:

- A description of existing baseline odour conditions (including complaints history) where relevant.
- A description of the location of receptors (either existing or proposed) and their relative sensitivities to odour effects.
- Details of potential odour sources
- A description of control/mitigation and design measures
- Where odour modelling has been used the report should contain full details of the input data and modelling options used to allow a third party to reproduce the results.



Appendix A Glossary

Air Quality Assessment Level (AQAL)	When carrying out an air quality assessment, an AQAL may be an air quality objective (set out in the Air Quality Standards (England) Regulations 2007), EU limit or target value, or an Environment Agency 'Environment Assessment Level'.
Air Quality Management Area (AQMA)	If any areas are either exceeding or likely to exceed any of the air quality objectives (set out in the Air Quality Standards (England) Regulations 2007), an AQMA must be declared and an action plan drawn up, setting out how the local authority proposes to improve the air quality within that area.
Air Quality Strategy (AQS)	The UK AQS sets out how the government aims to deal with local air quality and the impact of this on health and wellbeing.
Combined Heat and Power (CHP)	Combined Heat and Power (CHP) is the co-production of electricity and heat for a building (or an industrial process). CHP is generally a more energy efficient technology than the on-site boilers and electricity from the National Grid that is used to heat and power most buildings. This is due to the low efficiency of large scale electricity generation and supply.
Environmental Impact Assessment (EIA)	An EIA is a procedure which serves to provide information about the likely effects of a proposed project on the environment, so as to inform the decision making process as to whether the development should be allowed to proceed, and if so, on what terms. It is required under the Town and Country Planning (Environmental Impact Assessment) Regulations for certain planning applications.
Local Air Quality Management (LAQM)	LAQM is a process requiring all local authorities to regularly review and assess air quality within their area against the air quality objectives set out the Air Quality Standards (England) Regulations 2007.
Local Air Quality Management: Technical Guidance (TG16)	TG16 is designed to support local authorities in carrying out their duties in relation to Local Air Quality Management (LAQM)
Local Plan Strategy (LPS)	The LPS is part of the development plan and sets out the vision and overall planning strategy for the borough over the period to 2030. It includes strategic planning policies and allocates strategic sites for development.
Lowest Observed Adverse Effect Level (LOAEL)	The level of noise exposure above which adverse effects on health and quality of life can be detected.
National Planning Policy Framework (NPPF)	The NPPF for sets out the government's planning policies for England and how these should be applied.



Noise Impact Assessment (NIA)	An assessment of noise issues using measurements of existing noise and prediction, calculation and modelling of proposed noise sources; and consideration of the impact on noise-sensitive sites.
No Observed Adverse Effect Level (NOAEL)	The level of noise exposure at which noise can be heard but does not cause any change on behaviour, attitude or other physiological response.
No Observed Effect Level (NOEL)	The level of noise exposure below which no effect at all on health or quality of life can be detected.
Passive Infrared (PIR) sensor	A PIR sensor switches lighting on when a person is detected.
Significant Observed Adverse Effect Level (SOAEL)	The level of noise exposure above which significant adverse effects on health and quality of life occur.
Site Allocations and Development Policies Document (SADPD)	The SADPD is currently a draft document but once adopted, it will be part of the development plan. It will support the policies and proposals of the LPS by providing additional policy detail through non-strategic and detailed planning policies and site allocations.
Strategic Environmental Assessment (SEA)	SEA is a requirement of European Directive 2001/42/EC for plans and programmes that have significant environmental effects. The objective is to provide for a high level of protection of the environment with a view to promoting the achievement of sustainable development.
Supplementary Planning Document (SPD)	SPDs add further detail to the policies in the development plan and are used to provide guidance for development on specific sites, or on particular issues. SPDs may be a material planning consideration in planning decisions but are not part of the development plan.



Appendix B Resources and contacts

Resources

- Air pollution monitoring data for Cheshire East:
https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/what_is_pollution_like_near_me/air-pollution-monitoring.aspx
- Air quality appraisal damage cost guidance:
<https://www.gov.uk/government/publications/assess-the-impact-of-air-quality>
- Air quality background mapping data:
<https://uk-air.defra.gov.uk/data/laqm-background-home>
- Air Quality Management Area maps for Cheshire East:
https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/aqma_area_maps.aspx
- Air Quality Standards (England) Regulations 2007:
<https://www.legislation.gov.uk/uksi/2007/64/regulation/23/made>
- Biomass and Air Quality Information:
<https://www.environmental-protection.org.uk/wp-content/uploads/2016/03/Biomass-and-Air-Quality-Information-for-Developers-2017.pdf>
- Change of Use Contaminated Land Questionnaire:
https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx
- Cheshire East Contaminated Land Strategy:
https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/contaminated_land.aspx
- Cheshire Minerals Local Plan 1999:
https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_minerals_local_plan/cheshire_minerals_local_plan.aspx
- Cheshire Waste Local Plan 2007:
https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_waste_local_plan/cheshire_waste_local_plan.aspx
- Clean Air Strategy 2019:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770715/clean-air-strategy-2019.pdf
- Combined Heat and Power Air Quality Guidance for Local Authorities:
http://www.iaqm.co.uk/text/guidance/epuk/chp_guidance.pdf
- Congleton Borough Local Plan 2005:



https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/congleton_local_plan/congleton_local_plan.aspx

- Crewe and Nantwich Borough Local Plan 2005:
https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/crewe_and_nantwich_local_plan/crewe_and_nantwich_local_plan.aspx
- Developing Land Within Cheshire East Council, a guide to submitting planning applications - land contamination:
https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx
- Environmental Permitting (England and Wales) Regulations 2016:
<https://www.legislation.gov.uk/ukxi/2016/1154/contents/made>
- Environmental Protection Act 1990:
<https://www.legislation.gov.uk/ukpga/1990/43/contents>
- Guidance on applying for the discharge of planning conditions:
https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/conditions_of_planning_consent.aspx
- Guidance on the assessment of dust from demolition and construction:
<https://iaqm.co.uk/text/guidance/construction-dust-2014.pdf>
- Land-Use Planning & Development Control: Planning For Air Quality:
https://www.environmental-protection.org.uk/wp-content/uploads/2013/07/air-quality-planning-guidance_Jan17.pdf
- Local Air Quality Management Technical Guidance (TG16):
<https://laqm.defra.gov.uk/documents/LAQM-TG16-April-21-v1.pdf>
- Local Plan Strategy (LPS):
<https://www.cheshireeast.gov.uk/localplanstrategy>
- Macclesfield Borough Local Plan 2004:
https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/macclesfield_local_plan/macclesfield_local_plan.aspx
- National Planning Policy for Waste (NPPW):
<https://www.gov.uk/government/publications/national-planning-policy-for-waste>
- National Planning Policy Framework (NPPF):
<https://www.gov.uk/guidance/national-planning-policy-framework>
- National Planning Practice Guidance (NPPG):
<https://www.gov.uk/government/collections/planning-practice-guidance>
- Neighbourhood Plans:
<https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/completed-neighbourhood-plans.aspx>



- Noise Policy Statement for England (NPSE):
<https://www.gov.uk/government/publications/noise-policy-statement-for-england>
- Pre-application advice service:
https://www.cheshireeast.gov.uk/planning/view_a_planning_application/pre-application_advice/pre-application_advice.aspx
- Site Allocations and Development Policies Document:
<https://www.cheshireeast.gov.uk/sadpd>
- Town and Country Planning (Environmental Impact Assessment) Regulations 2017:
<https://www.legislation.gov.uk/uksi/2017/571/contents/made>

Contacts

- Cheshire East Council Air Quality Team:
Email airquality@cheshireeast.gov.uk
- Cheshire East Council Environmental Protection Team (regarding Environmental Impact Assessments):
Email environmentalprotection2@cheshireeast.gov.uk



Appendix C Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report

C.1 Cheshire East Council has produced a draft Environmental Protection SPD. The purpose of the SPD is to provide guidance on the council's approach to Environmental Protection issues when considering planning applications. It adds further detail to policies contained within the Development Plan and sets out relevant technical advice aimed at preventing or reducing the impact of proposed developments and protecting public health, wellbeing and amenity.

C.2 The Development Plan for Cheshire East consists of:

- The Cheshire East Local Plan Strategy adopted July 2017;
- Saved policies from the Borough of Crewe and Nantwich Local Plan 2005; Cheshire Replacement Minerals Local Plan 1999; Cheshire Replacement Waste Local Plan 2007; Congleton Borough Local Plan 2005; and and Macclesfield Borough Local Plan 2004; and
- Completed neighbourhood plans.

C.3 The policy framework for the SPD is contained mostly in the LPS, with a particular focus on Policy SE 12 'Pollution, land contamination and land instability'. LPS policies SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being' also contribute to the policy framework for the SPD.

C.4 The council is also in the process of preparing the second part of its Local Plan, called the Site Allocations and Development Policies Document. The draft SADPD was submitted to the Secretary of State on 29 April 2021 under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. It will now be subject to examination by an independent planning inspector.

C.5 The emerging SADPD policies are non-strategic in nature and have been drafted to be in accordance with the strategic policies of the LPS. The draft Environmental Protection SPD has been prepared in conformity with the policies contained in the adopted LPS and emerging SADPD.

C.6 This screening report is designed to determine whether or not the contents of the draft Environmental Protection SPD require a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004. The report also addresses whether the draft Environmental Protection SPD has a significant adverse effect upon any internationally designated site(s) of nature conservation importance and thereby subject to the requirements of the Habitats Regulations. The report contains separate sections that set out the findings of the screening assessment for these two issues.

C.7 This appendix will be the subject of consultation alongside the draft Environmental Protection SPD, in accordance with the relevant regulations and the council's Statement of Community Involvement between [START DATE] and [END DATE]. This will include consultation with the relevant statutory bodies (Natural England, Environment Agency and Historic England). Comments received during the consultation on the draft Environmental Protection SPD and this appendix will be reflected in future updates to the document.



Strategic Environmental Assessment screening

C.8 The objective of SEA is to provide for a high level of protection of the environment with a view to promoting the achievement of sustainable development. It is a requirement of European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (also known as the SEA Directive). The Directive was transposed in UK law by the Environmental Assessment of Plans and Programmes Regulations 2004, often known as the SEA Regulations.

C.9 Article 3(3) and 3(4) of the Regulations make clear that SEA is only required for plans and programmes when they have significant environmental effects. The 2008 Planning Act removed the requirement to undertake a full Sustainability Appraisal for a SPD although consideration remains as to whether the SPD requires SEA, in exceptional circumstances, when likely to have a significant environmental effect(s) that has not already been assessed during the preparation of a Local Plan.

Overview of the draft Environmental Protection SPD

C.10 The purpose of the draft Environmental Protection SPD is to provide further guidance on the implementation of LPS policies SE 12 'Pollution, land contamination and land instability', SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being'.

C.11 It is important to note that policies in the LPS were the subject of Sustainability Appraisal, which incorporated the requirements of the SEA regulations (as part of an Integrated Sustainability Appraisal). The likely significant environmental effects have already been identified and addressed – the SPD merely provides guidance on existing policies. The LPS Integrated Sustainability Appraisal has informed this SPD screening assessment.

C.12 SEA has been undertaken for policies SE 12 'Pollution, land contamination and land instability', SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being' as part of the Integrated Sustainability Appraisal that supported the LPS. For the purposes of compliance with the UK SEA Regulations and the EU SEA directive, the following reports comprised the SA “Environmental Report”:

- SD 003 – LPS Submission Sustainability (Integrated) Appraisal (May 2014);
- PS E042 – LPS Sustainability (Integrated) Appraisal of Planning for Growth Suggested Revisions (August 2015);
- RE B006 – LPS Sustainability (Integrated) Appraisal Suggested Revisions to LPS Chapters 9-14 (September 2015);
- RE F004 – Sustainability (Integrated) Appraisal – Proposed Changes (March 2016);
- PC B029 – Sustainability (Integrated) Appraisal - Proposed Changes to Strategic and Development Management Policies (July 2016);
- PC B030 – Sustainability (Integrated) Appraisal - Proposed Changes to Sites and Strategic Locations (July 2016);
- MM 002 - Sustainability (Integrated) Appraisal - Main Modifications Further Addendum Report.



C.13 In addition, an SA adoption statement was prepared in July 2017 to support the adoption of the LPS. It should also be noted that the emerging SADPD and the policies contained in it have also been supported by a Sustainability Appraisal (incorporating the requirements for the SEA directive).

SEA Screening Process

C.14 The council is required to undertake a SEA screening to assess whether the draft Environmental Protection SPD is likely to have significant environmental effects. If the draft Environmental Protection SPD is considered unlikely to have significant environmental effects through the screening process, then the conclusion will be that SEA is not necessary.

C.15 Table C.1 'Assessment of likely significant effects on the environment' assesses whether the draft SPD will have any significant environmental effects using the criteria set out in Annex II of SEA Directive 2001/42/EC⁽⁴⁵⁾ and Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations 2004⁽⁴⁶⁾.

Table C.1 Assessment of likely significant effects on the environment

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the plan likely to have a significant environmental effect (yes/no)
1. Characteristics of the SPD having particular regard to:		
(a) The degree to which the SPD sets out a framework for projects and other activities, either with regard to the location, nature, size or operating conditions or by allocating resources.	<p>Guidance is supplementary to policies contained in the LPS and emerging SADPD, both of which have been the subject of SA / SEA. The policies provide an overarching framework for development in Cheshire East.</p> <p>The draft Environmental Protection SPD provides further clarity and certainty to form the basis for the submission and determination of planning applications, consistent with policies in the LPS.</p> <p>Final decisions will be determined through the development management process. No resources are allocated.</p>	No
(b) The degree to which the SPD influences other plans and programmes including those in a hierarchy.	The draft SPD is in general conformity with the LPS, which has been subject to a full Sustainability Appraisal (incorporating SEA). It is adding more detail to the adopted LPS and other policies in the Development Plan including the emerging SADPD, which has itself been the	No

⁴⁵ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0042&from=EN>

⁴⁶ https://www.legislation.gov.uk/uksi/2004/1633/pdfs/uksi_20041633_en.pdf



SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the plan likely to have a significant environmental effect (yes/no)
	subject of Sustainability Appraisal. Therefore, it is not considered to have an influence on any other plans and programmes.	
(c) The relevance of the SPD for the integration of environmental considerations in particular with a view to promoting sustainable development.	The draft SPD promotes sustainable development, in accordance with the NPPF (2021) and LPS policies. The LPS has been the subject of a full Sustainability Appraisal (incorporating SEA). The draft SPD has relevance for the integration of environmental considerations and promotes sustainable development by providing guidance to make sure that proposed developments meet policy requirements and is designed to minimise the impacts on public health, wellbeing and amenity.	No
(d) Environmental problems relevant to the SPD.	The SPD provides guidance to make sure that developments comply with existing policies related to environmental problems including air pollution and contaminated land remediation.	No
(e) The relevance of the SPD for the implementation of Community legislation on the environment (for example plans and programmes related to waste management or water protection).	The draft SPD will not impact on the implementation of community legislation on the environment.	No
2. Characteristics of the effects and area likely to be affected having particular regard to:		
(a) The probability, duration, frequency and reversibility of the effects.	The draft SPD adds detail to adopted LPS policy; itself the subject of SA.	No
(b) The cumulative nature of the effects of the SPD.	The draft SPD adds detail to adopted LPS policy, itself the subject of SA. The SA associated with the LPS and emerging SADPD have considered relevant plans and programmes. No other plans or programmes have emerged that alter this position.	No
(c) The trans-boundary nature of the effects of the SPD.	Trans-boundary effects will not be significant. The draft SPD will not lead to any transboundary effects as it just providing additional detail regarding the implementation of LPS policies SE 12, SD 1, SD 2 & SC 3 and does not, in itself, influence the location of development.	No

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the plan likely to have a significant environmental effect (yes/no)
(d) The risks to human health or the environment (e.g. due to accident).	The draft SPD will not cause risks to human health or the environment as it is adding detail to environmental policies in the Local Plan.	No
(e) The magnitude and spatial extent of the effects (geographic area and size of the population likely to be affected) by the SPD.	The draft SPD covers the Cheshire East administrative area (excluding the part falling within the Peak District National Park). The draft SPD will assist those making planning applications in the borough.	No
(f) The value and vulnerability of the area likely to be affected by the SPD due to: <ul style="list-style-type: none"> • Special natural characteristics or cultural heritage • Exceeded environmental quality standards or limit values • Intensive land use. 	The draft SPD will not lead to significant effects on the value or vulnerability of the area. It is adding detail regarding the implementation of LPS policies SE 12, SD 1, SD 2 & SC 3 and does not, in itself, influence the location of development.	No
(g) The effects of the SPD on areas or landscapes which have recognised national Community or international protected status.	The SPD does not influence the location of development, so will not cause effects on protected landscape sites.	No

Conclusion and SEA screening outcome

C.16 The SPD does not set new policy, but supplements and provides further guidance on existing LPS policy. It is not considered to have a significant effect on the environment and therefore SEA is not required on the draft Environmental Protection SPD. This conclusion will be revisited following consideration of the views of the three statutory consultees (the Environment Agency, Historic England and Natural England) and if there are significant changes to the SPD following public consultation.

Habitats Regulations Assessment statement

C.17 The council has considered whether its planning documents would have a significant adverse effect upon the integrity of internationally designated sites of nature conservation importance. European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) provides legal protection to habitats and species of





European importance. The principal aim of this directive is to maintain at, and where necessary restore to, favourable conservation status of flora, fauna and habitats found at these designated sites.

C.18 The Directive is transposed into English legislation through the Conservation of Habitats and Species Regulations 2017 (a consolidation of the amended Conservation of Habitats and Species Regulations, 2010) published in November 2017.

C.19 European sites provide important habitats for rare, endangered or vulnerable natural habitats and species of exceptional importance in the European Union. These sites consist of Special Areas of Conservation (SACs, designated under the EU Directive 92/43/EEC on the conservation of natural habitats and of fauna and flora (Habitats Directive)), and Special Protection Areas (SPAs, designated under EU Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)). Government policy requires that Ramsar sites (designated under the International Wetlands Convention, UNESCO, 1971) are treated as if they are fully designated European sites for the purposes of considering development proposals that may affect them.

C.20 Spatial planning documents may be required to undergo Habitats Regulations Screening if they are not directly connected with or necessary to the management of a European site. As the draft Environmental Protection SPD is not connected with, or necessary to, the management of European sites, the HRA implications of the SPD have been considered.

C.21 A judgment, published on 13 April 2018 (People Over Wind and Sweetman v Coillte Teoranta (C-323/17)) clarified that measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be taken into account by competent authorities at the Habitat Regulations Assessment “screening stage” when judging whether a proposed plan or project is likely to have a significant effect on the integrity of a European designated site.

C.22 Both the LPS and emerging SADPD have been subject to HRA.

C.23 The draft Environmental Protection SPD does not introduce new policy; it provides further detail to those policies contained within the LPS. The HRA concluded that policies SE 12 ‘Pollution, land contamination and land instability’, SD 1 ‘Sustainable development in Cheshire East’, SD 2 ‘Sustainable development principles’ and SC 3 ‘Health and well-being’ could not have a likely significant effect on a European Site. The same applies to the draft Environmental Protection SPD.

C.24 The draft Environmental Protection SPD in itself, does not allocate sites and is a material consideration in decision making, once adopted.

C.25 The draft Environmental Protection SPD either alone or in combination with other plans and programmes, is not likely to have a significant effect on any European site. Therefore, a full Appropriate Assessment under the requirements of the Habitats Regulations is not required.



Conclusion and HRA screening outcome

C.26 Subject to views of the three statutory consultees (the Environment Agency, Historic England and Natural England), this screening report indicates that an Appropriate Assessment under the Habitats Regulations is not required



Cheshire East Council

Email: localplan@cheshireeast.gov.uk

www.cheshireeast.gov.uk/localplan

Tel: 01270 685893