

Planning Reference No:	10/4065C
Application Address:	Land south west of The Green, Middlewich
Proposal:	Outline Application for 68 Residential Dwellings over 2.25 Hectares. Access from The Green with some Matters Reserved
Applicant:	Muller Property Group
Application Type:	Outline
Grid Reference:	370486 364526
Ward:	Middlewich
Consultation Expiry Date:	24 th November 2010
Date for determination:	11 th January 2010

SUMMARY RECOMMENDATION

REFUSE

MAIN ISSUES

**Planning Policy And Housing Land Supply
Affordable Housing,
Amenity
Ecology,
Landscape and Tree Matters,
Drainage And Flooding,
Infrastructure,
Highway Safety And Traffic Generation.**

REFERRAL

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

1. SITE DESCRIPTION

The application relates to 2.25ha of land, situated to the south-west side of The Green. The site lies within the Open Countryside adjacent to the Middlewich Settlement Boundary and is bordered by residential properties to its northern, southern and eastern boundaries, with open fields to the west.

The site is relatively flat although it is set at a higher level than The Green. The site is currently used for the growing of crops with hedgerows and fencing forming the boundaries to the site. There are a number of trees along the boundaries of the site. The surrounding residential development consists of bungalows fronting onto The Green with two-storey detached and semi-detached properties to the north, east and south.

2. DETAILS OF PROPOSAL

Outline planning permission is sought for up to 68 homes together with associated public open space, and highway works. Access and siting are to be determined as part of this stage of the application.

Although in outline, the Design and Access Statement provides the parameters for the development. The proposed dwellings would be two-storey's in height with the street pattern reflecting based around two cul-de-sacs in a Y-shape. There will be a mix of affordable and open market housing within the site.

The site would have one vehicular access which would be taken from The Green. The proposed open space would be located on either side of the access road with properties fronting onto this public open space in a crescent shape.

2. RELEVANT PLANNING HISTORY

The site has no planning history

3. PLANNING POLICIES

National Policy

PPS 1 Delivering Sustainable Development
PPS 3 Housing
PPS 7 Sustainable Development in Rural Areas
PPS 9 Biodiversity and Geological Conservation
PPG 13 Transport
PPS 23 Planning and Pollution Control
PPS 25 Development and Flood risk.

Local Plan Policy

PS8 Open Countryside
GR21 Flood Prevention
NR4 Non-statutory sites
GR1 New Development
GR2 Design
GR3 Residential Development
GR5 Landscaping
GR9 Accessibility, servicing and provision of parking
GR14 Cycling Measures
GR15 Pedestrian Measures
GR17 Car parking
GR18 Traffic Generation
GR 22 Open Space Provision
NR1 Trees and Woodland
NR3 Habitats
NR5 Habitats
H2 Provision of New Housing Development
H6 Residential Development in the Open countryside
H13 Affordable Housing and Low Cost Housing

Regional Spatial Strategy

DP4 Make best use of resources and infrastructure
DP5 Managing travel demand
DP7 Promote environmental quality

DP9 Reduce emissions and adapt to climate change
RDF1 Spatial Priorities
L4 Regional Housing Provision
EM1 Integrated Enhancement and Protection of the Region's Environmental Assets
EM3 Green Infrastructure
EM18 Decentralised Energy Supply
MCR3 Southern Part of the Manchester City Region

4. OBSERVATIONS OF CONSULTEES

Housing

Welcome the provision of the policy requirement of 30% affordable housing on the site. The number of social rented units will need to be a minimum of 50%, which is in line with the guidance provided around SPD 6: Affordable Housing and Mixed Communities.

The Housing Section would also like to see the affordable units integrated with the open market units and tenure-blind as per the Interim Planning Statement: Affordable Housing. It is not considered that the affordable units are integrated with the open market units.

There is no provision of the 25% 'low cost market housing' required in SPD 6: Affordable Housing and Mixed Communities or in the Interim Planning Statement: Affordable Housing.

The proposed mix of units is acceptable and will meet established housing need in Middlesbrough.

Environmental Health

Do not object to the application and recommend the following conditions:

1. Approval of external lighting
2. The hours of construction (and associated deliveries to the site) of the development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 09:00 to 14:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.
3. Details of the method, timing and duration of any pile driving operations connected with the construction of the development shall be approved in writing by the Local Planning Authority prior to such works taking place
4. Prior to development, detailed plans showing the location, design and materials of proposed facilities for the disposal and storage of any refuse/recyclable materials, including details of any bin stores, shall be submitted to and approved in writing by the Local Planning Authority

Contaminated Land Comments:

This section has no objection to the above application subject to the following comments with regard to contaminated land:

- This site is within 250m of a known landfill site or area of infilled ground that has the potential to create gas
- The application is for new residential properties which are a sensitive end use and could be affected by any contamination present.

As such, and in accordance with PPS23, the Environmental Health section recommends the use of conditions and notes be attached should planning permission be granted.

Strategic Highways Manager

The site access off Green Lane is adequate for this development and subject to this access being constructed to CEC specification and forming part of a section 38 agreement, the highways authority has no objection. (A drawing must be provided for approval prior of the development).

The proposed internal layout gives more weight to vehicular movement than pedestrians and should be designed more in line with the guidance contained within 'Manual for Streets' (MfS). An amended layout will need to be agreed with the LPA/HA prior to development. The internal layout shall be subject to formal adoption by CEC under a section 38 agreement.

Education

The existing schools in the area should be able to accommodate the additional pupils from this development and therefore no Section 106 Developer contribution would be required.

Sustrans

Should this land use be approved by the Council's Planning Committee, we would like to make the following comments:

- For a development of this size we would expect more than one point of entry/access, in particular for pedestrians and cyclists
- The layout of the new estate should encourage speeds of less than 20mph
- For this scale of development we would expect the developer to contribute to wider improvements for walking and cycling in Middlewich either on highway or on the canal network such as the Trent and Mersey
- There should be adequate storage for bicycles, buggies in the new properties

Environment Agency

In order to ensure that the requirements of the submitted Flood Risk Assessment (FRA) dated October 2010/1854FRA1/A.R.J. Associates) are carried forward to the detailed design stages of the development, the following planning conditions should be attached to any planning permission;

- The development hereby permitted shall not be commenced until such time as a scheme for the provision of, and implementation of, a surface water regulation system has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be completed in accordance with the approved plans.
- The development hereby permitted shall not be commenced until such time as a scheme for the management of overland flow from surcharging of the site's surface water drainage system is submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of proposed ground levels and finished floor levels.

The Environment Agency also suggests a number of informatives that it wishes to be attached to any approval.

United Utilities

Has no objection to the proposal provided that the following conditions are met;

- This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge directly in to the adjacent watercourse and may require the consent of the Environment Agency. If surface water is allowed to be discharged to the public surface water sewerage system we may require the flow to be attenuated to a maximum discharge rate determined by United Utilities.

United Utilities have also stated that they;

- Recommend that any development of over 2 storey's in height should have a separate, pumped storage system installed.
- United Utilities encourages the use of water efficient designs and development
- Recommend utilising drought resistant varieties of trees, plants and grasses when landscaping.
- Install water efficient appliances such as dishwashers, washing machines.

Amenity Greenspace

It is acknowledged an area of Amenity Green Space is being provided on site. The area required on site arising from the development would be 2,450m². As this is an outline application with all matters reserved, no figures are available and therefore no calculations can be provided.

The location of the POS that has been proposed, is not ideal being adjacent to the main feeder and inlet road to the development. The Council's Supplementary Planning Guidance Note for provision of Public Open Space in New Residential Developments 5.2 states new provision should be 'preferably centrally located' and 'the open space should not adjoin a main road or estate distributor road, which is expected to carry a significant amount of traffic'. Consequently, Greenspace requests that the location of the POS is re considered. If the layout was to stay as shown on current plans, then a question would remain regarding the quality and suitability for informal play space. It is with this in mind, contributions could still be sort for enhancement of Amenity Green Space within an 800m radius of the development site.

The D & A refers to 'all the existing boundary hedges are intended to be retained and adapted and reinforced where necessary'. Clarification would be required as to the intended end ownership of these areas due to any maintenance implications that may arise as a result of it. It is with this in mind that consideration should be made for these areas of POS to be transferred to a management company.

Children and Young Persons Provision (amenity space)

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

To meet the needs of the development, an opportunity has been identified for the upgrading of an existing facility at Moss Drive, to increase its capacity. The existing facility is a Local Equipped Area for Play (LEAP), located off Chadwick Road/ Moss Drive. This facility is within 800m of the entrance of the proposed development, accessed via a footpath off Chadwick Road, close to the existing road called The Green.

The existing facilities at the identified site are substandard in quality (see Play Report 2009) and would benefit from improvements. This would take into account play area infrastructure, equipment including elements of DDA equipment), safer surfacing and safety inspection. We would request that the final layout and choice of play equipment be agreed with CEC, and obtained from a supplier on the Councils select list, the construction should be to the council's specification. Full plans must be submitted prior to the play area being installed and these must be approved, in writing prior to the commencement of any works.

Enhanced Provision:	<u>£22,434.65</u>
Maintenance:	<u>£73,132.50</u>

Green Spaces would request that any enhancement contributions should not be 'time limited' so ensure maximum benefit to the new and existing community, thus enabling the 'pooling' of funds

Cheshire Brine Board

No objection

Natural England

Natural England provides the following comments;

- Natural England are not aware of any nationally designated landscapes or any statutorily designated areas of nature conservation importance (including Sandbach flashes Site of Special Scientific Interest) that would be significantly affected by the proposed development
- The presence of Great Crested Newts in a nearby pond has been established; no further information concerning any potential impact from the development on Great Crested Newts has been submitted. Natural England therefore advises that to ensure that there is no detriment to the maintenance of the population of Great Crested Newts, further information should be provided (mitigation strategy). Any mitigation strategy should be proportionate to perceived impacts and must include clear site-specific prescriptions rather than vague, general or indicative possibilities and be feasible and deliverable
- Natural England notes that there are several mature trees on the boundaries of the site that have cavities suitable for bats. We also note from the arboricultural survey that several of these trees (T2, T10 T12 and T15) have been identified as trees to be removed. No specific survey for bats has been undertaken and the application therefore contains insufficient survey information to demonstrate whether or not the development would have an adverse effect on a legally protected species. Natural England advises that a survey (and if required suitable mitigation) for bats on those trees that have the potential to provide bat roosts is undertaken prior to the determination of the application
- If building works are undertaken within the bird breeding season, a check should be made for any active nest sites by a suitably qualified ecologist. Provision should be made for artificial nest sites at selected points
- Natural England notes that this development will use good (Grade 3) agricultural land, as identified under the ALC system. This land is classed as the best and most versatile agricultural land (defined as grades 1, 2 & 3a grade land)
- Government policy with regard to the use of agricultural land makes it clear that the decision to use agricultural land or not for development lies with the local planning

authority. However there are national policy guidelines set out in documents such as Planning Policy Statement 7 (PPS7) which highlights that the use of such land should be taken into account when determining planning applications alongside other sustainability considerations including biodiversity and the protection of natural resources. This guidance also advises local planning authorities that areas of poorer quality land should be used (grades 3b, 4 & 5) in preference to higher quality land.

- Natural England recommends that the Council considers Green Infrastructure, Sustainable Design, Geodiversity, Landscape Issues and Biodiversity when determining this planning application.

5. VIEWS OF MIDDLEWICH TOWN COUNCIL

Object to the application for the following reasons;

- The location of the site is outside of the Settlement Zone Line
- The Transport Assessment has been carried out solely on The Green. However the development would have a greater impact upon the hierarchy of roads i.e. Chadwick Road, Warmingham Lane and Booth Lane.
- The development would increase the already high demand on the local social infrastructure i.e. Primary School and GP Facilities.
- The applicant, in S2.16 and S2.17 of the Supplementary Planning Information, refers to the Congleton Area Strategic Housing Land Availability Assessment and the Cheshire East Strategic Housing Land Availability Assessment. Neither of these documents has been adopted and therefore, they are not in the public domain for reference to be made.
- The application is considered to be overdevelopment for the size of the site.
- The development does not provide for any public open space.

6. OTHER REPRESENTATIONS

59 letters of objection and a petition signed by 60 local residents have been received which raise the following points:

Principle of development

- Contrary to Local Plan Policy
- Loss of viable agricultural land
- The council 5 year housing plan is satisfied by nearby towns of Crewe, Sandbach and Northwich all of which have new developments.(Brownfield)
- Loss of green field land
- The councils own draft policy of releasing land for houses has set out to direct the majority of new developments towards Crewe
- Any release of Greenfield site of this nature would prejudice the overall spacial strategy for the borough and would damage the ability to develop Brownfield sites in the area with extant planning permission
- There is plenty of brownfield land in Middlewich

Flooding / Drainage

- The application site is above Broxton Avenue and Beeston Close and would raise drainage issues
- The Natural drainage that the field supplies is important to the surrounding area.
- Problems with foul drainage

Amenity

- Loss of privacy
- Increased noise
- Increased light pollution
- Air pollution

Ecology

- Loss of habitat to protected species
- Impact upon the trees on the site
- Damage to trees
- Loss of trees
- Loss of foraging area for protected species

Infrastructure

- Lack of open space
- Overcrowding of schools
- Impact upon local doctors surgeries

Highways

- The area of proposal and surrounding area already struggles to cope at peak times with current traffic levels.
- Highway safety
- The Green is too narrow for additional traffic
- The Green is not gritted in winter
- Pedestrian safety
- Traffic congestion
- A large number of pensioners live in the area and increased traffic would be dangerous

Other matters

- Loss of property value
- Loss of view
- Large number of empty homes in Middlewich
- The position of the proposed mews style houses and garaging at the eastern corner would be out of character with existing properties on Beeston Close etc
- Increased crime
- The building site will attract anti-social behavior
- Subsidence
- There are alternative sites in the area which are more suitable for residential development

A personal objection has been received from Fiona Bruce MP. The objection relates to the following points;

- Residents are very concerned about the potential increased traffic and the maintenance of roads which are not gritted in wintery conditions
- The proposed site is elevated approximately 1.5 metres above Broxton Avenue and Beeston Close street level which already causes drainage issues in wet weather. Any loss of natural drainage would cause flooding
- Infrastructure already struggles to cope at peak times and would undoubtedly get worse
- Furthermore the Local Plan 2005 noted that 'Middlewich has experienced significant growth in recent years which it is unlikely to be able to sustain without considerable investment in infrastructure and facilities

- Similar brownfield developments in the vicinity remain unsold
- Driving along The Green is already very difficult at peak times, and even with the proposed road alterations, residents are concerned that such issues will deteriorate
- The development will greatly impact on the natural light of properties and increase the amount of noise in the area
- There is already a lack of space at local schools with children being educated out of the area. Such a development would only make this situation worse

7. APPLICANT'S SUPPORTING INFORMATION:

Design and Access Statement (Produced by Barrie Newcombe Associates)

This Design and Access Statement includes the following summary;

- The proposed development makes effective use of a currently promoted site which is immediately available for development
- Quality of the site layout, privacy distances, mass and scale are appropriate to the setting
- The housing mix (including affordable housing units) will create an environment suitable for encouraging 'mixed communities'

Transport Assessment (Produced by Singleton Clamp & Partners and dated October 2010)

This report makes the following conclusions;

- The investigations lead Singleton Clamp & Partners to consider that the site is reasonably located and offers a reasonable choice of mode of transport other than the private motor car
- The traffic associated with the proposals can be safely accommodated on to the local highway network
- The access on to The Green has been considered by the highways officer and is considered to be appropriate to accommodate the site generated traffic
- It is therefore concluded that there can be no overriding highways objection to the proposals

Arboricultural Appraisal (Produced by Shields Arboricultural Consultants and dated August 2010)

- Four trees are considered to be Category A trees (high quality and value)
- Four trees are considered to be Category B trees (Moderate quality and value)
- Four trees are considered to be Category C trees (low quality and value)
- Three trees are identified for Removal
- To facilitate this development one category C tree is identified for removal

Ecological Report (Produced by Curious Ecologists and dated April 2010)

This ecological report gives the following results and recommendations;

- All trees and hedgerows were surveyed for signs of nesting birds. The hedgerows, mature standards and adjacent broad-leaved plantation are all potential bird nesting sites
- There were no buildings on the site to provide suitable habitat for roosting bats. However some of the mature trees on, or just outside, the boundaries had cavities present which could provide roost sites
- There were no ponds and no suitable refuges for Great Crested Newts on the site. The public open space to the north of the site did have suitable habitat (a pond and terrestrial refuges) and a search carried out in the pond revealed the presence of GCN eggs

- Badgers appear to use the site for commuting but there was little evidence of foraging activity
- No evidence of any other protected species has been found
- Any work should be carried out outside the bird breeding season
- The presence of GCN in a nearby pond triggers the need for further surveys to establish population levels. These should be carried out by a suitably licensed ecologist in accordance with Natural England guidelines
- If any of the mature trees surrounding the site are to be felled or pruned they should first be checked for the presence of bats by a suitably licensed ecologist

Great Crested Newt Survey (Produced by Andy Harmer Ecology Services)

- Great Crested Newt (GCN) presence and breeding evidence was discovered in a pond to the north of the site
- As the peak count of GCN's reached a single female only, the population is regarded as small. The eggs located could be the result of a single female

Great Crested Newt Mitigation Strategy (Produced by Tyler Grange and dated January 2011)

- A small population of GCNs is known to occur in a pond situated some 65m to the north of the Site.
- The main body of the site comprises recently sown grassland that is considered to be inhospitable habitat for GCNs. However, some small areas of hedge / rough grass headland present on the peripheries of the Site will be affected and these may provide suitable terrestrial habitat for GCNs.
- Details of proposed ecological mitigation for GCNs have been provided to ensure that the development proposals do not result in any adverse impacts to GCNs. These include: the provision of replacement terrestrial habitat within a landscape / ecological mitigation buffer strip; and prior to construction, relocation of GCNs from habitats potentially affected by the development to suitable habitats within the buffer strip.
- Due to the risks posed to GCNs by the proposed development it is recommended that the capture and relocation works and subsequent destruction of approximately 974m² of intermediate terrestrial habitat is undertaken under an EPS development licence from NE and that the recommendations provided within this Strategy are used as the basis for the application.
- Provided that the recommendations of this Strategy can be successfully implemented, it is considered that the development proposed would not be detrimental to the favourable conservation status of GCNs within their natural range and would, help to maintain population of the species within the locality. Thus taking this into account the mitigation proposed the development would be conformity with relevant legislation and national and local planning policies relating to protected species.

Phase 1 Site Investigation Report (Produced by ARJ Associates and dated August 2010)

A Phase 1 contamination desk study assessment for the proposed residential development at the site has been provided. The report is based on environmental setting and features of the site as well as previous usage.

Flood Risk Assessment (Produced by AJR Associates and dated October 2010)

This report makes the following conclusions and recommendations;

- The site is located within Environment Agency Flood Zone 1 and has a low annual probability of being flooded from fluvial and tidal sources

- Surface water from the proposed development can be managed by a drainage system. There are 3 options described in the report to discharge surface water to the ground or to the nearby watercourse. The drainage system can be designed to meet SUDS, EA and UU requirements to limit flow from the site to Greenfield rates and to allow for future climate change
- The implementation of the following mitigation measures will ensure that flood risks to and from the proposed development are addressed;
 - Finished ground floor levels in residential dwellings to be 150mm above ground floor level
 - Flood risk to north, south and east can be addressed by ensuring all hardstanding areas are drained away from neighbouring land
 - Land drainage should be provided along east and south-east where the site is higher than the neighbouring garden. In these areas proposed development levels should not be higher than the existing ground level
 - Surface water drainage of the proposed development should and can be managed to mitigate any risk of flooding from the site. The drainage should be designed prior to construction stage.

Planning Statement (Produced by HOW Planning and dated October 2010)

This report makes the following conclusions;

- The application seeks to deliver residential development on a site located immediately adjacent to the settlement boundary of Middlewich relating very well to existing residential units. The development will not result in the loss of any trees or hedges of importance. The site is in a sustainable location within walking distance of the centre of Middlewich which provides a strong range of local services and facilities. Good public transport links exist via buses to the wider area
- Cheshire East Borough Council can not currently demonstrate a five year supply of housing and therefore the delivery of up to 68 dwellings will assist the Borough in meeting their housing delivery targets. Furthermore the proposals include the provision of 30% affordable housing which is much needed within the Borough to address a recognized shortfall
- Furthermore Local Plan Policy H2 requires 25% of residential development in the former of Borough of Congleton should come forward in Middlewich, however forward supply of residential development currently accounts for less than half this target. This proposal will help to address the imbalance
- The site is identified in the 2009 Draft Congleton SHLAA as being suitable to accommodate up to 75 residential units as an urban extension to Middlewich, and is also identified in the 2010 Draft Cheshire East SHLAA. An Inspector's Report following the 2002 Local Plan Inquiry, has previously identified that the site was the best Greenfield site for a housing allocation, and it was not allocated only as a result of the availability of brownfield land and the Council will require the release of some sustainable Greenfield sites if housing targets are to be satisfied
- A range of technical studies have been undertaken in the preparation of the application to demonstrate the suitability of the site for the proposed development. It is clear that the site is deliverable in PPS3 terms, in that it is available, suitable and achievable. There is every prospect that the site can deliver housing within the next 18 months
- Whilst the application is not capable of complying with the Policies of the Local Plan that aim to restrict development outside settlement boundaries, it is clear that considerable weight can be afforded to other policy considerations, such as housing supply and delivery where a presumption in favor applies in accordance with PPS3, as well as the inclusion of affordable housing. It is considered that the development is

entirely appropriate and the Council is invited to support the residential proposal and grant outline planning permission.

Supporting letter from HOW Planning dated 25th November 2010

This letter concludes that;

- The application has been prepared and submitted following discussions with senior officers at the Council. The Draft Interim Policy on the Release of Housing Land was published after submission of the application and does not carry significant weight.
- Furthermore the actual housing supply which can truly be considered deliverable is substantially less than the 4.58 years referenced by the Council. The Interim Policy is not sufficient to provide a 5 year supply and as such it is clear that the presumption in favour as set out in PPS3 applies.
- In addition it is extremely clear and correct that the Council should attach significant weight to Local Plan Policy H2, and this application will go some way to addressing the severe shortfall of deliverable housing sites in Middleswich. It is clear that there are sufficient material considerations in place which the development satisfies to clearly outweigh Policies H6 and PS8.

Supporting letter from HOW planning dated 16th December 2010

- The interim policy is still at an early stage, we and no doubt many others have raised objections to it
- The extent to which the policy is subject to objection clearly influences the weight which the Council can properly attach weight to it
- HOW Planning do not consider that the Council should now apply the emerging draft policy to applications which were already submitted prior to its publication and that, in any event very limited weight is capable of being attached to it because of the early stage which the policy has reached, coupled with the fact that it is subject to objections which the Council will carefully need to consider
- The local plan inspector acknowledged that this site is a sustainable and appropriate location for housing development
- In terms of GCN, HOW Planning do not consider that there is any potential for impact upon habitat which could affect GCN and mitigation is unnecessary
- In terms of bats HOW Planning are happy to undertake the surveys prior to the commencement of development as the applicant is not intending to remove any of the trees
- The highways comments conflict with advice given at the pre-application stage

8. OFFICER APPRAISAL

Main Issues

Given that the application is submitted in outline, with siting and access to be determined at this stage, the main issues in the consideration of this application are the suitability of the site, in principle, for residential development having regard to matters of planning policy, housing land supply, affordable housing, amenity, ecology, landscape, layout drainage and flooding, infrastructure, highway safety and traffic generation.

Planning Policy and Housing Land Supply

The site lies in the Open Countryside as designated in the Congleton Borough Local Plan First Review, where policies H.6 and PS.8 states that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by

public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result it constitutes a “departure” from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act 2004 which states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

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

The applicant’s case is that the new Government has stated that it will maintain the need for local planning authorities to provide a rolling 5 year supply of deliverable land for housing. What is evident at the present time, though, is that there is uncertainty over what the actual housing requirement should be. At the same time the DCLG advice ‘Demonstrating a 5 Year Supply of Deliverable Sites’ has been withdrawn and the Government are not committing themselves to producing any new advice beyond the current PPS3 or its replacement.

PPS3 states that, in determining housing provision, local planning authorities should take account of various factors including housing need and demand, latest published household projections, evidence of the availability of suitable housing land, and the Government’s overall ambitions for affordability. PPS3 advises that where a LPA cannot demonstrate a five year supply of available and deliverable housing land, it should consider favourably suitable planning applications for housing

Government Guidance, published following the attempted revocation of the RSS, notes that LPA’s will still need to justify their housing supply policies in line with PPS3 and that evidence which informed the preparation of the revoked Regional Strategies may also be a material consideration.

The Council intends to use the figures contained within the NW Regional Spatial Strategy (2008) until such time as the LDF Core Strategy has been adopted. The RSS proposes a dwelling requirement of 20,700 dwellings for Cheshire East for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum. The Council’s Cabinet has recently decided that the Council will continue to use the RSS housing requirement figure for a minimum of 1,150 net additional dwellings to be delivered annually, pending the adoption of the LDF Core Strategy.

National policy guidance (PPS3) states that Local Authorities should manage their housing provision to provide a five year supply. This suggests that Cheshire East Council should be providing its 5-year housing supply information for Cheshire East as a whole rather than the former districts or any housing market areas. Correspondence from Government Office for the North West confirms that in order to establish the appropriate housing requirement for Cheshire East, the district figures included in the published Regional Spatial Strategy (RSS) should to be added together to give the new unitary authority requirement.

The above mentioned Cabinet report notes that following a review, the Council has 4.58 years housing land supply. Consequently the report recommends that in order to address the lack of a 5 year housing land supply, it requests an Interim Planning Policy on the Release of Housing Land be approved for consultation purposes and that it be used in the

determination of planning applications pending its adoption. This policy will allow the release of appropriate Greenfield sites for new housing development on the edge of the principal town of Crewe and encourages the redevelopment for mixed uses, including housing, of PDL within settlements. This policy has been approved for consultation by the Council's Cabinet but until finally adopted must carry relatively little weight in the determination of planning applications.

Members will recall that at the meeting of the Strategic Planning Board on 6th October 2010 a report was considered relating to Issues and Options for the Local Development Framework Core Strategy, which outlined 3 options for apportioning growth across Cheshire East. Although each of the options is different, the common theme between them is an emphasis on growth in Crewe. Therefore, whilst the options are under consideration, and there is uncertainty as to which option will be taken forward, it is appropriate that any Greenfield development required to make up a shortfall in housing land supply should be directed to Crewe. PPS1 2005 in *The Planning System: General Principles* at para. 14, states that *"Emerging policies in the form of draft policy statements and guidance can be regarded as material considerations, depending on the context. Their existence may indicate that a relevant policy is under review, and the circumstances which led to that review may be need to be taken into account."*

Furthermore, Paragraph 69 of PPS 3 states that in determining planning applications, local planning authorities should have regard to a number of criteria, including, inter alia, *"ensuring the proposed development is in line with planning for housing objectives reflecting the need and demand for housing in, and the spatial vision for, the area an does not undermine wider policy objectives e.g. addressing housing market renewal issues."*

Paragraph 72 of PPS.3, states that LPA's should not refuse applications solely on the grounds of prematurity. However, PPS1 also deals with the question of prematurity to an emergent plan, and advises that in some circumstances, it may be justifiable to refuse planning permission on grounds of prematurity where a Development Plan Document (DPD) is being prepared or is under review, but it has not yet been adopted. *This may be appropriate where a proposed development is so substantial, or where the cumulative effect is so significant, that granting permission could prejudice the DPD by predetermining decisions about the scale, location or phasing of new development which are being addressed in the policy in the DPD.*

The Cheshire East Sustainable Community Strategy 'Ambition for All' was approved on 22nd July 2010. It therefore contributes to the overall spatial vision for Cheshire East. One of the key priorities of the Sustainable Community Strategy is to unlock the potential of Cheshire East towns focusing particularly on Crewe and Macclesfield. Crewe is recognised as an important gateway between the North West and the West Midlands and is seen as a significant growth opportunity for the Cheshire Warrington sub region. The aim is to 'ensure that the town develops as a distinctive, successful location for new businesses and homes and becomes a location of choice for both public and private investment.'

The proposal does not reflect the spatial vision for the area both in terms of the adopted Local Plan which prohibits development on sites within the Open Countryside and the emerging Core Strategy. In addition, the proposal undermines wider policy objectives, such as achieving sustainable development, in close proximity to the more major town centres and sources of employment and supporting urban regeneration, in the parts of the Borough where it is most needed.

In addition, it is considered that priority to be given to the redevelopment of previously developed with planning permission. A key objective is that Local Planning Authorities should continue to make effective use of land by re-using land that has been previously developed. At September 2010, there were over 175 dwellings with planning permission or under construction in Middlewich (this figure excludes 7 which would be lost through demolition/change of use).

According to Policy H2 of the Local Plan, approximately 25% of housing land supply for the former Borough of Congleton area should be apportioned to Middlewich. Currently approximately 11% of the housing land supply for the former Borough area is located within Middlewich. It should also be noted that the justification to this policy states that these figures are '*rounded to provide a degree of flexibility*'. Although the Council has not met its target for development as set out in Policy H2 it is not considered that the proposed development would still be contrary to the general thrust of the Core Strategy Issues and Options which directs the majority of new development towards Crewe, as well as the Council's Draft Interim Planning Policy on the Release of Housing Land and Policies RDF1 and MCR3 of the North West of England Plan Regional Spatial Strategy to 2021 and advice contained within PPS1 and PPS3.

Therefore, in summary, it is acknowledged that the Council does not currently have a five year housing land supply and that, accordingly, in the light of the advice contained in PPS3 it should consider favourably suitable planning applications for housing. However, the current proposal is not considered to be "suitable" as it is located on the periphery of Middlewich within the Open Countryside. The development would be contrary to the Council's agreed position to manage the supply of housing land as set out in the Council's draft Interim Policy on the Release of Housing Land which directs the majority of new development towards Crewe. According to PPS1 these emerging policies are material considerations.

For these reasons the Housing Land Supply arguments advanced by the applicants are considered to be insufficient to outweigh the general presumption against new residential development within the Open Countryside as set out in the adopted development plan.

Affordable Housing

The applicants point out that the lack of a deliverable five year housing land supply also impacts on the supply of affordable housing.

The proposed development would provide 30% affordable housing in the form of 2 and 3 bedroom properties. The applicant states that the provision of 20 affordable homes should be viewed in the context that only 123 affordable properties were built across the entire former Borough of Congleton in 2008/09 and that the 20 units equates to approximately one-sixth of the entire total for this period.

It is acknowledged that the site will provide 30% affordable housing. However, it should be noted that this is the minimum policy requirement within Local Plan Policy H13 and is expected of all new developments, including those within the Settlement Boundary and on Brownfield sites where there is a presumption in favour of new development. It is acknowledged that viability arguments have been accepted in respect of some Brownfield sites, where the immediate regeneration of those sites has been seen to outweigh the need for affordable housing. However, it is not considered that by default this renders a scheme which provides the minimum amount of affordable housing in order to be Policy H13

compliant, so exceptional as to warrant a departure from the Local Plan in respect of development within the open countryside.

The Draft Interim Statement on Affordable Housing and the SPD on Affordable Housing require that *'in addition to the requirement for affordable housing, the Council will look for a minimum of 25% of the total housing units on such sites to be unsubsidized low-cost market housing, although the nature of the site, economic considerations, the level of affordable housing provision, its location and nearby provision will be taken into consideration in determining the exact level of provision'*.

In this case the applicant's agent is arguing that the availability of existing low-cost provision in the area should be considered which would make the provision of further low cost units unnecessary. This argument is based on the fact that there are 63 properties available for sale in Middlewich that fall within the lower quartile of house prices for the area over the last 12 months (£122,500). The applicant's agent has also undertaken a review of property sales within Middlewich over the last 12 months which calculates a lower quartile price for Middlewich of £100,225.

The assessment made by the applicant's agent is not accepted as the number of homes for sale does not indicate whether there is a shortage of low cost provision in the area. As this application relates to a Greenfield site which if approved would be a departure to the local plan full compliance with the Interim Statement on Affordable Housing and the SPD on Affordable Housing would be required, this issue would form a reason for refusal.

Amenity

The site is bounded to the south by open countryside. Existing residential development bounds the site on all other sides with residential properties fronting Eardswick Road to the north, Broxton Avenue to the east and Beeston Close and Bunbury Close to the south. The final design of the dwellings is a reserved matter but the siting is to be determined at this stage. The proposed layout demonstrates that the site can be developed, whilst maintaining the separation distances between existing and proposed dwellings is considered to be acceptable. It should also be noted that the site would be developed at density of 30 dwellings per hectare and it is considered that this density would allow the development to be brought forward without impacting upon residential amenity.

Concerns have been raised in relation of noise pollution, air pollution and light pollution caused by the development. The Environmental Health Department has been consulted and raised no objection to the development on these grounds. As a result, it is not considered that these issues would warrant the refusal of this application.

Ecology

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

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

and provided that there is

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

The UK implemented the Directive by introducing The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection

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

Local Plan Policy NR2 (Statutory Sites) states that proposals for development that would result in the loss or damage of any site or habitat which supports protected species will not be permitted. Furthermore the developers will be required to submit a comprehensive assessment of a proposals impact on nature conservation as part of an application to develop the site.

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

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

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

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

Great Crested Newts

Great Crested Newts have been recorded breeding at a pond a short distance from the proposed development. A Great Crested Newt Mitigation Strategy has been submitted and this document assesses the impacts of the proposed development upon this protected species together with mitigation/compensation proposals.

The application site supports only limited terrestrial newt habitat. In the absence of mitigation the proposed development will have a relatively low impact upon Great Crested Newts through the loss of limited terrestrial habitat; the works however pose the risk of killing or injuring any animals present on site when the works are undertaken.

In order to compensate for the loss of great crested newt habitat the applicant has proposed the management/enhancement of the landscape/ecological buffer on the western boundary of the site. In order to mitigate the risk of newts being killed/injured during the works the applicant's ecologist has proposed the capture and exclusion of newts from the site using standard 'best practice' methodologies.

It is considered that the proposed mitigation/compensation is acceptable and is likely to maintain the favourable conservation status of Great Crested Newts.

Bats

A number of trees on site have been identified as having potential to support roosting bats and it is not clear whether these trees would be removed as part of the proposed development. Consequently, a detailed bat survey undertaken by a suitable qualified and experienced ecologist must be undertaken and the results submitted to the LPA prior to the determination of the application. If any evidence of roosting bats is recorded mitigation/compensation proposals will also be required. Without this information this will form a reason for refusal.

Breeding Birds

The use of conditions in relation to the timing of the works and details of mitigation measures could be used to ensure that the development would not have a detrimental impact upon breeding birds.

Hedgerows

Hedgerows are a Biodiversity Action Plan priority habitat and hence a material consideration. It appears likely that there will be some loss of hedgerow to facilitate the proposed access. If planning consent is granted the remaining hedgerows should be enhanced by 'gapping up' as part of the landscaping scheme for the site.

Landscape

The site is approximately 2.25 Hectares and is located to the south-west of The Green in Middlewich. The site is set at a higher level than The Green and is relatively flat. At the time of the case officers site visit, the site was in agricultural (arable) use. It is bounded by residential development to the north, south and east. To the west lies agricultural land and the site is bounded by trees and hedgerow.

The principle immediate views of the site are from the surrounding residential properties immediately adjacent to the boundaries; with the main public viewpoints being taken from The Green (glimpsed views are available from the residential areas to the north, south and east).

The site has no national protective landscape designation. Notwithstanding existing development to the north, south and east, it has an open character of managed agricultural land. The development proposed would inevitably alter the landscape character of the area although the harm this would cause could not be considered as a reason for refusal for the proposed development.

Trees

The submitted tree survey assesses the tree on and overhanging the site and gives the trees the following ratings;

- Four trees are considered to be Category A trees (high quality and value)
- Four trees are considered to be Category B trees (Moderate quality and value)
- Four trees are considered to be Category C trees (low quality and value)
- Three trees are identified for Removal

It may be possible to construct the development with adequate root and crown spread protection for most of the retained trees in accordance with BS 5837. The arboricultural implications statement indicates root protection areas would be breached for at least 3 specimens. (T1, plot 67, T4 plot 64, T6 plot 59). In addition, as proposed, the rear gardens of several plots to the south of the site would be shaded by mature trees on the southern boundary and several of the plots on the northern boundary would have tree canopy over a substantial proportion of the gardens (plots 13, 14, 20, 21, 22, 59, 63, 64 & 67). In several cases to the south of the site, trees are in poor condition but are located off site so are outside the applicant's control (plots 9, 20, 21 and 22). It is also considered that as the tree belt to the west matures and increases in height, its influence on properties to the west of the site will increase. In such circumstances the future retention of trees could be compromised.

Although concerns have been raised in relation to trees, on balance, it is considered that the impact upon these trees would not warrant the refusal of this application.

Drainage and Flooding

As part of this application United Utilities have raised no objection to the proposed development.

In terms of flooding a Flood Risk Assessment has been provided by the applicants and this has been forwarded to the Environment Agency. The Environment Agency have assessed the FRA and raised no objection to the development subject to the imposition of planning conditions. It is therefore considered that the development would not raise any significant flooding/drainage implications that would warrant the refusal of this application.

Design

The surrounding development comprises a mixture of ages and architectural styles, ranging from single-storey properties to two-storey properties. Notwithstanding this, there is consistency in terms of materials with most walls being finished in simple red brick; some properties incorporate render and cladding. The predominant roof forms are gables although some are hipped and most are finished in grey concrete tiles.

Although external appearance and design are reserved matters, siting is to be determined at this stage and plans have been provided to show how the site would be laid out.

The main public views would be when viewing the site from both ways along The Green. The front of the site has been set back from the junction of the application site with two areas of public open space located to either side of the access. Nine dwellings would be sited to the front of the site and these would overlook the areas of public open space. It is

considered that this entrance to the site would be appropriate and would provide an attractive open setting to the entrance of the site.

Internally the site would be arranged around 2 cul-de-sacs which would include turning heads at each end. It is considered that the internal layout appears over-engineered and would not comply with the guidance contained within Manual for Streets. This issue is also discussed within the highways section below and the issue has been raised with the applicant's agent. An update will be provided in relation to this issue.

Loss of Agricultural Land

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved, however there are national policy guidelines set out in Planning Policy Statement 7 (PPS7) which highlights that the use of such land should be taken into account when determining planning applications alongside other sustainability considerations including biodiversity and the protection of natural resources. This guidance also advises local planning authorities that areas of poorer quality land should be used (grades 3b, 4 & 5) in preference to higher quality land.

In this instance Natural England have confirmed that the land is Grade 3 but have no information as to whether the land is Grade 3A or 3B. As a result it is not possible to reach a conclusion as to whether the development would result in the loss of the best and most versatile agricultural land. The case officer has requested that the applicant's agent provides an assessment of the quality of the agricultural land and an update will be provided.

Open space

The layout plan shows the provision of public open space to the front of the site which would be divided into two parcels of land by the proposed access into the site. The public open space provision would have an area of 1264sq.m.

There is a deficiency of existing provision of amenity greenspace accessible to the proposed development but it is acknowledged an area of Amenity Green Space is being provided on site. It has been calculated that the area required on site arising from the development would be 2,450sq.m. The development would not provide this quantity of public open space and this deficiency would form a reason for refusal.

Notwithstanding the above the location of the POS that has been proposed, is not ideal being adjacent to the main feeder and inlet road to the development. The Council's Supplementary Planning Guidance Note for provision of Public Open Space in New Residential Developments 5.2 states new provision should be '*preferably centrally located*' and '*the open space should not adjoin a main road or estate distributor road, which is expected to carry a significant amount of traffic*'. As a result Amenity Greenspace has requested that '*the location of the POS is re considered. If the layout was to stay as shown on current plans, then a question would remain regarding the quality and suitability for informal play. It is with this in mind contributions could still be sort for enhancement of Amenity Green Space within 800m radius of the development site*'. In this instance, the location of open space to the front of the site would enhance the setting of the proposed dwellings and in design terms however it would have limited use as public open space.

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

To meet the needs of the development, an opportunity has been identified for the upgrading of an existing facility at Moss Drive, to increase its capacity. The existing facility is a Local Equipped Area for Play (LEAP), located off Chadwick Road/ Moss Drive. This facility is within 800m of the entrance of the proposed development accessed via a footpath off Chadwick Road, close to the existing road called The Green.

The existing facilities at the identified site are substandard in quality and amenity greenspace have requested a commuted payment of £95,567 to upgrade this site.

Highway Safety and Traffic Generation

The application is outline only with access to be determined at this stage and a Transport Statement has been produced in support of this application.

The proposed access to the site would be located on the southern side of The Green. As the access would be located on the outside bend of the road, visibility at the site entrance is good. This view is accepted by the Strategic Highways Manager who has not raised any objection to the proposed development in terms of the safety of the proposed access.

The submitted Transport Statement identifies that the proposed development would add between 47 vehicles per hour and 57 vehicles per hour to The Green at peak times. The supporting statement then goes on to state that this equates to around 1 vehicle per minute during peak hours on The Green which is considered to be insignificant. In terms of Chadwick Road the statement states that the proposed development would equate to 1 vehicle every two minutes on average at peak times and that this would be insignificant. These results are accepted by the Strategic Highways Manager who raises no objection in terms of increased vehicular movements at the site.

The Strategic Highways Manager has raised a number of concerns in relation to the proposed internal layout of the site. These comments have been forwarded to the applicant's agent and an update on these matters will be provided as part of the Strategic Planning Board Meeting.

Infrastructure

Local residents have expressed concerns in respect of the impact of the development upon local infrastructure including schools, health and leisure facilities.

The Council's Education Department have been consulted as part of this application and have stated that the existing schools in the area should be able to accommodate the additional pupils from this development and therefore no Section 106 Developer contribution would be required.

Ground Conditions

A consultation response has been received from the Cheshire Brine Board this recommends which raises no objection to the proposed development.

9. CONCLUSIONS

Therefore, in summary, it is acknowledged that the Council does not currently have a five year housing land supply and that, accordingly, in the light of the advice contained in PPS3 it should consider favourably suitable planning applications for housing. However, the current proposal is not considered to be “suitable” as it is located on the periphery of Middlewich and would be contrary to the Council’s agreed position to manage the supply of housing land as set out in the Council’s draft Interim Policy on the Release of Housing Land, which directs the majority of new development towards Crewe. According to PPS1 these emerging policies are material considerations. To permit the proposed development would pre-determine decisions about the location of the remainder of the Borough’s requirement for new development which is are being addressed through the Core Strategy.

There is a lack of information in relation to the potential impact upon Bats and each of this issues will form a reason for refusal.

The proposed development would not provide adequate public open space and this issue will form a reason for refusal.

The proposal is considered to be acceptable in terms of its impact upon residential amenity, highway safety/parking implications and drainage/flooding.

10. RECOMMENDATION

REFUSE for the following reasons:-

- 1. The proposed residential development within the open countryside would be contrary to the provisions of Policies PS8 and H6 of the adopted Congleton Borough Local Plan First Review. Whilst it is acknowledged that the Council does not currently have a five year housing land supply and that, accordingly, in the light of the advice contained in PPS3 it should consider favourably suitable planning applications for housing, the current proposal is not considered to be “suitable” as it is located on the periphery of Middlewich, rather than Crewe. It would undermine the spatial vision for the area and wider policy objectives as it would be contrary to the general thrust of the Core Strategy Issues and Options which directs the majority of new development towards Crewe, as well as the Council’s Draft Interim Planning Policy on the Release of Housing Land and Policies RDF1 and MCR3 of the North West of England Plan Regional Spatial Strategy to 2021, which articulate the same spatial vision. This would be contrary to advice in PPS3 and PPS1, which states these emerging policies are material considerations. For these reasons the Housing Land Supply arguments advanced by the applicants are considered to be insufficient to outweigh the general presumption against new residential development within the Open Countryside as set out in the adopted development plan.**
- 2. The submitted phase 1 habitat and protected species survey identifies that some mature trees on, or just outside, the boundaries had cavities present which could provide roost sites. No Protected Species Survey has been submitted as part of this application to identify whether or not Bats are present within these trees**

together with any mitigation measures to protect this species during the construction works. In the absence of this information, to allow this development would be contrary to Policy NR.2 (Statutory Sites) of the adopted Congleton Borough Local Plan First Review, Circular 6/2005, PPS9 and Policies EM1 and DP7 of the North West of England Plan Regional Spatial Strategy to 2021 which seek to protect protected species and their habitats.

3. The Local Planning Authority considers that the proposed development is unacceptable due to the lack of public open space that would be made available on the site. The proposed layout would include an area of 1264sq.m and the development would require a public open space with an area of 2540sq.m. The proposed development would therefore be contrary to Policies GR1 (General Requirements – New Development), GR3 (Design) and GR2 (Open Space Provision) of the adopted Congleton Borough Local Plan First Review and the Councils SPD on Public Open Space Provision for New Residential Development.
4. The proposed development does not include a minimum of 25% of the total housing units on sites as unsubsidized low-cost market housing. The application site is a Greenfield site and the applicant's case that there is sufficient affordable housing in the area is not accepted. The proposed development is therefore contrary to Policy H13 (Affordable and Low-cost Housing) of the adopted Congleton Borough Local Plan First Review and the Councils SPD on Affordable Housing and Mixed Communities