

Application Number	10/2647C
Proposal	ERECTION OF 13 NO. AFFORDABLE HOUSES, ASSOCIATED PARKING AND LANDSCAPING AND NEW VEHICULAR ACCESS.
Location	LAND NORTH OF, TWEMLOW LANE, TWEMLOW GREEN
LDFC	24-Nov-2010
Expiry Date	13-Oct-2010
Constraints	Wind Turbine Dev Safeguarding Area Primary Surveillance Radar PSR 200m Agricultural Land GRADE 3 Contaminated land Located on Potential Contaminated Site - Contact Contaminated L Jodrell Bank outer zone High priority military low flying area likely to raise considerable and signific Congleton Local Plan Local Plan Area Congleton Local Plan Jodrell Bank Radio Telescope C Congleton Local Plan Open Countryside Congleton Local Plan Inset no.16

SUMMARY RECOMMENDATION: Approve with conditions.

MAIN ISSUES:

- Principle of the Development
- Housing Need
- Highways and Parking
- Amenity
- Design and Layout
- Landscaping and Trees
- Jodrell Bank Telescope
- Section 106 Agreement – Affordable Housing and Management of the Public Open Space and Trees Retained within the site

SUMMARY

This application is being re-assessed to address the issues raised in a Judicial Review, which led to the decision being quashed on 10th January 2012. The previous application was approved subject to the completion of a Section 106 Agreement, by the Southern Planning Committee on 2nd February 2011. (The Section 106 Agreement was completed on 29th September 2011 and the planning permission issued on 6th October 2011).

The report is presented to the Strategic Planning Board in order that the application can be assessed, with the errors identified by the Judicial Review in the previous report to the Southern Planning Committee, corrected and new information assessed.

The detailed grounds for Judicial Review were that the Council did not adequately have regard to a previous refusal in April 2008 (07/1227/FUL) and '*failure to take account of the material consideration whether the development comprised a small scheme.*' In addition to this there were material errors of fact contained within the report, which have been amended. The errors were as follows:

- The report wrongly stated that the Congleton Borough Rural Housing Survey 2005 concluded that in Twemlow there was a need for 18 new affordable homes
- The report also stated that of the 17 people who had moved out of the area, 15 would not have done so if there was cheaper housing available to them

DESCRIPTION AND SITE CONTEXT

The application site comprises part of a triangular parcel of land, bounded by Twemlow Lane on the south west side, Goostrey Lane on the eastern side and the former Ministry of Defence fuel storage site to the north. The eastern boundary with Goostrey Lane contains a variety of types of residential properties; to the southwest, on the opposite side of Twemlow Lane, are dwellings that were former Local Authority properties.

The site is 0.82 hectares in size and comprises bushes and trees (some of which are subject to protection orders), and rough grassland, which is mostly level with a slight fall from east to west across the site. The site is defined as being within the Open Countryside and is adjacent to the infill boundary line of Twemlow, as defined in the adopted local plan.

DETAILS OF PROPOSAL

The proposal is for the development of 13 affordable houses that would be constructed by McInerney Homes and then acquired and managed by the Plus Dane Group, which is a registered social housing company. The tenure is proposed to be a mix of rented and shared ownership, which would, should the application be approved, be secured by a Unilateral Undertaking submitted with the application. An Affordable Housing Statement and Local Housing Need Justification Statement has been submitted with the application and this is discussed in the main body of the report.

Originally the proposal comprised 14 dwellings, which has been reduced to 13 in order to achieve a more acceptable layout, and recognise concerns in relation to the Jodrell Bank Telescope. The layout of the site would comprise a vehicular access taken from Twemlow Lane, with an area of informal, public open space to the northwest of the access. Six of the dwellings would be sited on the south eastern side of the access road, which would then have a turning head and an entrance to a private parking courtyard. This would provide parking and vehicular access to the seven properties, facing on to Twemlow Lane. These seven dwellings would take the form of two semi-detached units at either end and a terrace of three in the centre, the terraced properties would be slightly set back from the semi-detached properties on either side. The properties would comprise eight 2 bed and five 3 bed houses.

RELEVANT HISTORY

The previous approval bearing this reference number (10/2647C) was quashed in the High Court of Justice Administrative Court on 10th January 2012. This was on the grounds of *'failure to take into account the April 2008 decision'* and *'failure to take into account the material consideration whether the development comprised a small scheme'*.

07/1227/FUL 2008 Refused application for 16 dwellings

- Failure to meet the criteria for affordable housing exception sites
- Inadequate private open space
- Impact on protected trees
- Detrimental to highway safety
- No provision for sustainable transport options

- Insufficient information related to protected species

07/0165/FUL 2007 Withdrawn application for 16 dwellings

06/0120/FUL 2006 Withdrawn application for 16 dwellings

POLICIES

National Guidance

PPS1 Delivering Sustainable Development

PPS3 Housing

PPS9 Biodiversity and Geological Conservation

PPG13 Transport

PPS23 Planning and Pollution Control

Regional Spatial Strategy

DP1 Spatial Principles

DP2 Promote Sustainable Communities

DP4 Making the Best Use of Existing Resources and Infrastructure

DP5 Manage Travel Demand: Reduce the Need to Travel, and Increase Accessibility

DP7 Promote Environmental Quality

DP8 Mainstreaming Rural Issues

DP9 Reduce Emissions and Adapt to Climate Change

RDF1 Spatial Priorities

RDF2 Rural Areas

RDF4 Green Belts

L2 Understanding Housing Markets

L4 Regional Housing Provision

L5 Affordable Housing

RT2 Managing Travel Demand

RT9 Walking and Cycling

EM1 Integrated Enhancement and Protection of the Region's Environmental Assets

Congleton Local Plan 2005

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

PS8 Open Countryside

H1 & H2 Provision of New Housing Development

H6 Residential Development in the Open Countryside and Green Belt

H13 Affordable and Low Cost Housing

H14 Rural Exception Sites

GR1 New Development

GR2 & GR3 Design

GR6 Amenity and Health

GR9 Parking and Access

GR18 Traffic Generation

NR1 Trees & Woodlands

GR22 Open Space Provision

SPG2 Provision of Private Open Space in New Residential Developments

SPD6 Affordable Housing and Mixed Communities

OTHER MATERIAL CONSIDERATIONS

Other Material Considerations

The Council has adopted an Interim Planning Statement on Affordable Housing. This document sets out the Council's definition of affordable housing, specific site requirements, as well as providing guidance on development considerations and means of securing their provision. It also sets out the Council's requirements for achieving mixed and balanced communities, including the housing needs of specific groups.

The statement has been produced within the framework of the three adopted Local Plans for the former District authorities of Crewe and Nantwich, Congleton and Macclesfield, the Council's Strategic Housing Market Assessment (SHMA) and government guidance as expressed in national planning guidance and policy statements. It is also consistent with the Council's Corporate Objectives and the Sustainable Community Strategy. The statement was adopted on 24th February 2011.

Draft National Planning Policy Framework

"The Government's key housing objective is to increase significantly the delivery of new homes. Everyone should have the opportunity to live in high quality, well designed homes, which they can afford, in a community where they want to live. This means:

- increasing the supply of housing*
- delivering a wide choice of high quality homes that people want and need*
- widening opportunities for home ownership; and*
- creating sustainable, inclusive and mixed communities, including through the regeneration and renewal of areas of poor housing*

Written Ministerial Statement: Planning for Growth (23rd March 2011)

The Minister of State for Decentralisation issued this statement on 23rd March 2011 and advice from the Chief Planner, Steve Quartermain states that it is capable of being regarded as a material consideration. Inter alia it includes the following:

*"When deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate **housing**, economic and other forms of sustainable development. Where relevant – and consistent with their statutory obligations – they should therefore:*

- (i) Consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after recent recession;*
- (ii) Take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;*
- (iii) Consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased customer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);*
- (iv) Be sensitive to the fact that local economies are subject to change and so take a positive approach to development where new economic data suggest that prior assessments of needs are no longer up-to-date;*
- (v) Ensure that they do not impose unnecessary burdens on development.*

The Government has also stated that there should be a presumption in favour of sustainable development.

This states inter alia that:

“There is a presumption in favour of sustainable development at the heart of the planning system, which should be central to the approach taken to both plan-making and decision-taking. Local planning authorities should plan positively for new development, and approve all individual proposals wherever possible.”

PPS3 states at Para 69 that in determining planning applications for housing, Local Planning Authorities should have regard to a number of criteria including achieving a good mix of housing reflecting the accommodation requirements of specific groups, using land effectively and efficiently and ‘ensuring the proposed development is in line with planning for housing objectives, reflecting the need and demand for housing in, the spatial vision for the area and does not undermine wider policy objectives.’

Para 71 goes on to state that where the Local Planning Authority can not demonstrate an up to date five years supply of housing. They should ‘consider favourably’ planning applications for housing having regard to the policy in PPS3 (Para 69) and the wider planning objectives for the area.

It is accepted that at present the Council can not demonstrate a 5 year supply and thus the Council should give favourable consideration to this proposal having regard to the criteria listed in Para 69 of PPS3.

OBSERVATIONS OF CONSULTEES

Environmental Health

No objection, subject to conditions relating to:

- the potential for land contamination
- limits on the hours of construction and deliveries
- limits on the hours of piling if it is necessary

United Utilities

16th August 2010

No objections, subject to the site being drained on a separate system, with only foul drainage being connected to the main sewer. Surface water should discharge directly into the soakaway/watercourse.

15th December 2011

Thank you for your planning consultation of 14/12/11 for application 10/2647C. We have responded previously to the application. I believe that the application details have not changed. Therefore the previous comments still stand.

Strategic Highways Manager

16th November 2011

The Traffic Statement shows that the traffic generation and impact from the site will have a negligible effect on Twemlow Lane, and once past the nearest junctions, the traffic will split and there would be no adverse impact on the local network.

The analysis of sustainable modal choice for the site shows the requisite information on: walking, cycling, bus and rail travel, and shows site has options for all of those choices. In addition the proposal offers 200% parking ratio against dwelling numbers and states that this is designed to mitigate against displacement parking onto the public highway.

The visibility available for the proposed junction is in accordance with standards set against the measured approach speeds and the SHM is satisfied that visibility to the nearside kerb is available in both directions.

The SHM considers that the Transport Statement appropriately addresses the traffic issues associated with the site and whilst sustainable modal choice is available, the SHM considers that this aspect of the analysis clearly shows these choices to be rural in nature with the limitations that can bring. Walking options have limited footways, cycling is a real option, bus services have a rural timetable and the rail link is a reasonable option from Goostrey and Holmes Chapel. The SHM also acknowledges the realistic parking provisional ratio and considers this to be robust.

The SHM recognises the constraints of this site, but feels that the parking court is a necessity given the proposed layout. However it does not comfortably align with the quality design Manual for Streets advocates. The parking arrangements are secure because of passive surveillance.

The SHM does consider that the site should provide a roadside 2 metre footpath for the frontage of the site between the new junction and the eastern boundary. It is acknowledged that there is a secondary footpath on this frontage which serves plots 1 – 6. However, the additional footpath would serve the rest of the site and provide the significant refuge for pedestrians which this site demands because of its rural nature. This is considered to be an essential link and will prevent the need for pedestrian use of the verge.

In principle, the Strategic Highways Manager has no objection to the development and recommends conditions relating to the provision of a frontage footpath, the provision of tactile paving and dropped kerbs and the submission of a suite of drawings for the proposed junction.

University of Manchester – Jodrell Bank Observatory

24th August 2010

The University of Manchester opposes this application, as it would harm the efficient operation of the telescopes at Jodrell Bank Observatory. The potential electrical interference generated from the proposed development is of considerable concern, particularly because they lie to the south west of the observatory and are also less than 3 miles from the site.

As an example, an interfering signal from this location would be 4 times greater than if it came from a unit in Holmes Chapel.

The telescope can only make many of its most important observations by pointing in this direction when it is very vulnerable to stray radiation from electrical devices on the ground.

10th January 2012

We have objected to the proposed development at Twemlow Green on the grounds of the detrimental impact of radio frequency emissions on the radio astronomy observations at Jodrell Bank Observatory. We were concerned that it was approved. We would therefore like to take this opportunity to provide some of the basis of our objection along with some comments on the impact of radio interference on the research undertaken at Jodrell Bank.

Jodrell Bank Observatory conducts world-leading research using the 76-m Lovell Telescope. In addition, it operates e-MERLIN as a UK national facility, an array of telescopes in which signals from other radio telescopes across the UK are combined, together with those at Jodrell Bank, to produce images at radio wavelengths with similar detail to those produced by

the Hubble Space Telescope. (The team studying pulsars use the Lovell Telescope for much of their work and is recognised as one of the leaders in this field, using detailed timing observations to make the tests of Einstein's theories of relativity and probe the physics of objects so compact that a teaspoonful would weigh a billion tons.

The University of Manchester, Regional Development Agencies, and national research funding bodies have invested millions of pounds over the last few years in the development and operation of the telescopes and equipment as well as the development of a new Discovery Centre to communicate this research with the public.

The astronomical signals studied by radio astronomers are extremely weak: that is such large dishes equipped with the most sensitive receivers, cooled to less than -250 C are used. Many radio observatories are located in remote regions away from sources of terrestrial radio interference, in some cases with legal protection against interference and residential/commercial development. The observatory at Jodrell Bank relies on consultation within the local planning procedure.

The threshold for harmful interference to radio astronomy observations is set out in the recommendation of the International Telecommunications Union (document ITU-R 769). This quantifies the average flux density from a harmful interfering source, as received at the by a telescope, (assuming that the telescope is not pointed towards the interfering source (0dBi gain).) This threshold is used both nationally and internationally to protect radio astronomy observatories. This threshold is also used as the basis of shared access to parts of the radio spectrum administered by Ofcom in the UK. In particular, there is a 50km protection zone for recognised spectrum access (RSA) centred on Jodrell Bank Observatory and other radio telescopes in the UK, which is taken into account by Ofcom for the planning of radio links and the licensing of other radio transmission equipment. The basis of the protection is that emission from a planned link or equipment should not exceed the ITU-R 769 threshold at that frequency.

Many domestic devices and appliances produce radio emissions, whether intentionally or otherwise, across a wide range of frequencies. Consequently unintentional emissions occur at frequencies used at Jodrell Bank and internationally for radio astronomy. Current EMC requirements for domestic appliances not to interfere with each other are set out by the Comité International Spécial des Perturbations Radioélectriques (Special Committee for Radio Interference or CISPR). As an indication, we may consider a typical dwelling to have a number of such devices whose emission is at the CISPR level. Given the distance from the observatory, and an allowance for propagation loss, the interference from the dwelling may be compared with the ITU-R 769 threshold. Three devices, operating at the CISPR 14-1 limit (30 dBµV at 10m), indoors (assuming 10dB building shielding) at a distance of 2.5km, assuming 10dB propagation loss due to low level clutter, would just exceed the ITU 769 threshold at 1.4 GHz. We stress, however, that the CISPR levels are designed to prevent interference to other devices (such as radio and TV) which are much less sensitive than the cooled receivers used at Jodrell Bank and other radio telescopes. Furthermore, even typical battery powered devices and toys have been measured to exceed these CISPR limits by more than a factor of 30 (eg a cordless drill measured by RTCG Project 712, Ofcom 2002).

This approximate calculation indicates why observations are already affected to some degree by radio interference from many sources. The fact that we can still make world-class observations is because in most cases, strong, short-lived interference can be recognised and removed from the data. Lower-level continuous interference can increase the general noise level and means that in general observations need to be made for longer and hence at greater cost to achieve a given sensitivity.

These calculations are indicative and approximate: In practice, the strength and nature of interference varies greatly, as does the ability to mitigate the effects of interference using sophisticated signal processing techniques and careful editing of data. Clearly, astronomers at JBO are able to operate at present, and carry out experiments, but they often rely on a wide range of techniques to reduce the impact of interference. This takes considerable effort and every increase in interference requires more effort and further developments in signal processing and analysis. Moreover, each increase in interference has the potential to make certain observations impossible, depending on the characteristics of the new source of interference. This is already starting to happen in some cases.

The potential for interference increases with the number of dwellings and its distance from Jodrell Bank and the above approximate calculations show why we are concerned about a development of this size (13 dwellings) at such a distance.

VIEWS OF TOWN/PARISH COUNCIL

11th August 2010

There were concerns regarding the current speed of traffic on Twemlow Lane and the dangers when pulling out of properties. Residents were already fighting to reduce the speed limit as it was viewed to be too high. This application was intending to add even more pressure (on traffic congestion) and in the public's view, a dangerous B road. (One access is intending to serve another, with possible twenty eight cars at peak times).

It needs to be pointed out that the speeds submitted in the application were not top speeds, just a mean average which could be a distorted figure to move towards the passing of the application.

The pavement on Twemlow Lane is narrow, not serviceable to walk on and the street lighting is limited. This creates a danger when people need to travel by foot on winter mornings / evenings when it will be dark, especially over the station bridge heading towards Goostrey. The local primary school is in Goostrey and there will be the need to transport children to and from the school presumably by foot or bus. It is viewed to be unsafe when walking to and from the station or bus stop.

Many residents from Twemlow Lane have issues with the utilities, especially the water supply. The water pressure is not great enough in the morning to let one lady have a shower until 10.00am.

The surface water generally floods gardens after a large rainfall as the gullies can't cope with the volume of water.

The sewage system apparently is only designed to accommodate the current houses. Even though the application states that these things have been Considered, when 14 more properties have been built they are very worried that their situation will deteriorate further.

The cascading ruling put forward in the application still gives the builders, after only two criteria, the chance to bring people to reside from outside Twemlow. After Twemlow there may be the need to move towards Goostrey for residents.

The application would mean an increase of 20% of homes in the hamlet of Twemlow and, if the need is greater in Goostrey then 14 houses would have a lot smaller impact in Goostrey, as the village is a lot bigger. Residents are very worried that people in Twemlow don't need these houses and then outsiders from other areas would be offered the properties.

The concluding view is that Twemlow is not a sustainable location for 14 affordable houses.

24th November 2010

The amendment to the initial application has made no difference. The change of style of houses (two semis and one group of three houses) is not in keeping with a rural area at all.

4th January 2012

At the Parish Council meeting this morning, Twemlow Parish Council affirmed its opposition to this proposal as outlined in e-mails of 11th August and 24th November 2010.

OTHER REPRESENTATIONS

48 representations have been received relating to this proposal, between 9th August 2010 and 3rd January 2012. 46 in opposition and 2 in support. The objectors express concern over the following issues:

Land Use

- Overdevelopment of the area
- Disproportionate increase in the housing stock in Twemlow parish
- Lack of proven housing need in Twemlow
- Local infrastructure could not sustain additional housing
- Lack of amenities in the area
- Lack of available spaces in the local primary school
- Inadequate utilities in the local area – electricity, water drainage
- Encroachment on Greenfield land
- Land is neglected but could be returned to agricultural use
- Precedent would be set for further development to the rear of the site and on the Ministry of Defence site
- More suitable sites available in Holmes Chapel
- Local residents would not want affordable housing to be built in Twemlow
- Affordable housing need should be addressed by other sites in the Borough that have been granted consent
- Insufficient capacity for electrical supply

Design

- The development would alter the character of Twemlow and is not in keeping with the existing development

Amenity

- Noise and light pollution
- Proximity to the former Ministry of Defence site

Highways

- Infrequent bus services, leading to an increase in traffic
- Local primary school is not safely accessible on foot
- Risk of accident for secondary school children walking to the bus stop
- Lack of footpaths on existing roads
- Inadequate access to local services
- Adverse impact on highway safety due to an increase in traffic on Twemlow Lane and over the narrow railway bridge
- Unsafe vehicular access opposite existing properties

Other

- Interference to the Jodrell Bank telescopes
- Underhand tactics by the developers
- To approve the application would ignore the requirements of the Localism Act

The 2 letters in support came from the same source and expressed the need for affordable housing in Twemlow. They state that 60% of housing in Twemlow was affordable 20 years ago, now there are only 2 affordable houses left.

OFFICER APPRAISAL

Principle of Development

National policy PPS3 states:

“In providing for affordable housing in rural communities, where opportunities for delivering affordable housing tend to be more limited, the aim should be to deliver high quality housing that contributes to the creation and maintenance of sustainable rural communities in market towns or villages. This requires planning at a local and regional level adopting a positive and pro-active approach which is informed by evidence, with clear targets for the delivery of rural affordable housing. Where viable and practical, Local Planning Authorities should consider allocating and releasing sites solely for affordable housing, including using a Rural Exception Site Policy. This enables small sites to be used specifically for affordable housing in small rural communities that would not normally be used for housing because, for example, they are subject to policies of restraint. Rural exception sites should only be used for affordable housing in perpetuity. A Rural Exception Site Policy should seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection, whilst also ensuring that rural areas continue to develop as sustainable, mixed, inclusive communities.”

The site is designated as being within the Open Countryside where Policy PS8 states that development will only be permitted if it meets one of several criteria. The relevant criterion is that it is for affordable housing in compliance with Policy H14. Policy H14 relates to rural exception sites and requires that development is:

- close to existing or proposed services and facilities
- comprise a small scheme appropriate to the locality
- consists in its entirety of housing to be retained as low cost in perpetuity
- is supported by a survey identifying local housing need
- subject to a legal agreement ensuring properties are occupied by local people in housing need, cannot be disposed of on the open market and has a mechanism in place for management of the scheme.

Having regard to this, the nearest services and facilities are in Goostrey but within 2km of the site. The scheme is considered to be small and appropriate to the locality. The housing would be retained as low cost in perpetuity. A housing needs assessment has been provided and is considered to be acceptable. A Unilateral Undertaking has been submitted which would prevent sale of the properties on the open market and has a mechanism for management of the scheme. The proposal is therefore considered to be compliant with Policy H14.

An assessment of housing need has been submitted with the application and is discussed below.

Housing Need

Cheshire East Strategic Housing Market Assessment (SHMA)

The SHMA for Cheshire East was completed in 2010. The proposed development lies in the geographical area of 'Holmes Chapel Rural'. The result for Holmes Chapel Rural shows that the net housing need for this area is for 8 homes per annum for the next 5 years.

Congleton Borough Rural Housing Needs Survey – 2005

The survey covers the Parishes of Cranage, Goostrey and Twemlow. Response rate was 31% for Twemlow. It showed that 9 households contained at least 1 hidden household and in total there were 15 hidden households. However two of these stated that they had sufficient income to qualify for a mortgage. The remainder would qualify for an affordable home in terms of their levels of income demonstrating a need for 13 affordable homes in Twemlow. The survey also found that 4 people had moved out of either the parish or the borough within the last 5 years because they could not afford to buy/rent a home in the area and of these 1 would like to return and 2 of the 4 were unsure. Therefore after discounting those that were unsure, a need of 14 affordable homes remains in Twemlow.

Twemlow Parish Council Survey April 2010

In April 2010, Twemlow Parish Council conducted its own Housing Needs Survey for the parish. A questionnaire was sent to all the households in the parish and there was a 52% response rate. The survey showed that there were 9 hidden households. Of these 7 would consider affordable housing. In addition, there were 17 households where at least one member had moved out of the area. Of these 7 would return if cheaper housing were available. This survey demonstrates a housing need of 14 affordable homes.

Housing Waiting List/Cheshire Homechoice

There are 32 people registered within the parishes of Twemlow, Lower Withington, Goostrey, Swettenham and Cranage as their first choice.

Current Delivery of Affordable Housing and Planning Permissions for Holmes Chapel Rural

Since 2010 there has been one development of 10 units for shared ownership in Cranage. There is also a site in Cranage which has planning permission for a further 10 units.

The affordable housing need in Twemlow is for 14 homes. The mix in terms of homes required would be for a 60/40 split between 2 and 3 bedroom homes. The Council's Interim Policy on Affordable Housing expects a ratio of 65% Social or Affordable rent and 35% properties as intermediate tenure.

Twemlow is a very rural parish but the Transport Statement submitted with the application concludes that the site is accessible by non-car modes and the nearby parish of Goostrey would provide access to public transport, shops, community facilities and schools. It is therefore considered that this parcel of land would provide a relatively sustainable site for this rural exception housing scheme.

Highways and Parking

Several of the objectors have expressed concerns about highway safety and parking in relation to this application. It is considered that the Transport Statement that was submitted with the application appropriately addresses the traffic issues associated with the site. In principle there are no objections to the development subject to conditions relating to tactile paving and dropped kerbs, detailed drawings of the junction and the provision of a frontage

footpath. The first two are considered to be acceptable. However, the latter as discussed in the landscaping and trees section below, would have an adverse impact on the trees on the boundary of the site. Given that a footpath is to be provided within the site, linking the properties to the access road and Twemlow Lane, it is considered that this would not be necessary; moreover subsequent discussion with the SHM has concluded that a satisfactory alternative could be achieved within the site and that this issue can be dealt with by condition.

Concern has been expressed regarding infrequent bus services leading to an increase in traffic, lack of footpaths, risk of accident to children walking to school, inadequate access to local services, unsafe access opposite existing properties and adverse impact on highway safety due to an increase in traffic. It is considered that the Transport Assessment submitted with the application has addressed these issues and this has been scrutinised by the Strategic Highways Manager. Whilst the development would give rise to additional traffic in the area it is not considered that this will cause an unacceptable impact on highway safety. The access is also considered to be acceptable and would not have any significant adverse impact on highway safety.

As the proposal is considered to be acceptable in terms of highway safety and parking provision, a refusal on highway safety grounds could not be justified.

Ecology - Protected Species & Nature Conservation

The Nature Conservation Officer originally had concerns that the Ecological Assessment originally submitted, did not include the results of a protected species records search. This was subsequently submitted and showed that roosting bats, badgers and Great Crested Newts do not present a constraint to the site.

Conditions are recommended to ensure the protection of breeding birds and that the hedgerow on the eastern boundary of the site should be retained and it is considered that these would meet the necessary tests in Circular 11/95.

Due to the length of time that has elapsed between the original submission and the re-assessment of the application, updated survey work was undertaken. The survey confirmed that there was no evidence of Badgers on the site and that this species is unlikely to be affected by the proposed development. Conditions relating to the hedgerow and breeding birds will still be imposed.

Amenity

Policy GR6 requires that new development should not have an unduly detrimental effect on the amenity of nearby residential properties from loss of privacy, loss of sunlight or daylight, visual intrusion, environmental disturbance or pollution and traffic generation access and parking.

Supplementary Planning Document 2 (Private Open Space), sets out the separation distances that should be maintained between dwellings and the amount of usable residential amenity space that should be provided for new dwellings. Having regard to this proposal, the required separation distances would be fully complied with and the residential amenity space provided for the new dwellings would be satisfactory.

It is considered that permitted development rights for extensions should be removed in order to protect the amenity of residents in the future. In addition at the western end of the site, an area of informal open space is to be provided.

Having regard to the residential amenities of neighbouring properties, it is important that conditions are imposed to limit the hours of construction and any piling that may be required. Subject to these conditions, the proposal is considered to be acceptable in terms of residential amenity, as it does not result in any impact identified in Policy GR6.

Design and Layout

The revised proposal, comprising 13 dwellings would be accessed from Twemlow Lane, with a road that would sweep round to a parking court at the rear, with 6 of the dwellings, all semi-detached facing onto this access road. The remaining 7 properties would face onto Twemlow Lane, with a central terrace of 3 dwellings and semi-detached properties to either side. These properties would be largely screened from Twemlow Lane by the existing trees and bushes on the boundary. It is considered that the layout would make good use of the available land and would not be out of character with the varied pattern of development in the area.

The dwellings would be of a simple design, constructed of brick with tiled roofs. The surrounding development consists of a mix of house types and sizes, including large detached dwellings and cottages to the west and former Local Authority, semi-detached properties to the southeast. It is considered that the development would be in keeping with the character and appearance of the area and would not have any significant adverse impact on the street scene.

Landscaping and Trees

Trees on the northern boundary and many of the several trees on the Twemlow Lane frontage are protected by the Twemlow Lane TPO 2007. The trees on and adjoining the site provide a wildlife corridor, a screen and a prominent landscape feature in this section of Twemlow Lane and it is considered important that they be retained. The central area of the site appears unmanaged and supports grassland and ruderal vegetation.

Overall, the proposed internal site layout is sympathetic to trees. The proposed new access would be taken at a point where the tree cover is minimal and with the exception of a small number of stems to be removed in this area (not subject to TPO protection), subject to appropriate management, it should be possible to retain the majority of healthy specimens. The principle of retaining the trees outside the curtilage of individual properties and in the area of public open space would provide greater opportunities for their long term retention and maintenance. The applicants have indicated that future management would be undertaken by the Plus Dane Group. It is considered desirable to secure some additional planting and a management plan for retained trees. In addition, several of the trees would benefit from remedial works. These issues are covered by conditions and the Unilateral Undertaking submitted with the application.

Whilst not indicated on the plans, it is noted that the Transport Statement makes reference to a proposed new footway on the northern side of Twemlow Lane, between the proposed new access and the south east corner of the site. In pre-application discussions, it was requested that consideration be given to avoiding provision of a footway in this location to ensure that the root protection areas of the trees could be protected. The suggestion was made that an internal footpath could be provided with a link to a suitable crossing point on Twemlow Lane. It is noted that an internal path and link are indicated on the site plan and therefore the need for the external path is not justified.

The Council's Strategic Highways Manager has indicated in his initial consultation response that a footway should be provided. However, given that a footpath is to be provided within the site, linking the properties to the access road and Twemlow Lane, it is considered that this

would not be necessary. The SHM has subsequently agreed that an alternative solution could be found, which would not have an adverse impact on the trees on the site. Therefore, a condition should be imposed requiring details of an alternative footpath within the site, to be submitted for approval by the LPA.

In addition, it is recommended that conditions be imposed requiring tree protection measures, submission of a landscaping scheme for approval by the LPA and a long term management scheme for the public open space and the tree belt be included in the Unilateral Undertaking.

Jodrell Bank Telescope

The University of Manchester has objected to this proposal as it considers that it would harm the efficient operation of the telescopes at the Jodrell Bank Observatory. They state that the potential for electrical interference caused by the proposed development is of considerable concern given that it is less than 3 miles to the southwest of the observatory.

Jodrell Bank Observatory is a major local asset to the Borough and the Council would not wish to cause harm to its efficient operation. However, this has to be balanced against the nature of the site, size of the development and the recognised need for affordable housing in the area.

The site is triangular and already bounded on two sides with residential properties and the development has been reduced in size to just 13 dwellings. It is therefore considered, that given these factors and the recognised need for affordable housing in the area, that this issue could be satisfactorily mitigated against, by the use of measures recommended by the Observatory on other developments. These involve installing targeted screening on the roof and those walls that face towards Jodrell Bank and to have no screening on walls that face away from the telescope. This can be achieved by using plasterboard with aluminium foil backing, Pilkington 'K glass' for the windows, reflective insulating material for use in the walls and loft and doors that are either metallic or incorporate an aluminium foil barrier. The use of these materials can be secured by condition should the application be approved by Members.

Other Matters

Concerns have been expressed about the existing water pressure in the area. However, this is an issue that should be addressed by the water supplier and not through the planning process. It is therefore not a valid planning reason for refusal.

The Parish Council has expressed concerns about the ability of the local drainage system to cope with the new development. However, United Utilities were consulted on the application and had no objections. In addition, a condition will be imposed requiring the submission of detailed drainage plans for approval prior to the development commencing.

Additional concerns have been expressed relating to the electricity supply in the area. Should the dwellings be granted approval, this issue will be addressed by the electricity supplier.

Unilateral Undertaking

Should the Council be minded to approve the application, the applicants have submitted a Unilateral Undertaking to address the following:

- The dwellings will be retained as affordable housing in perpetuity and that occupation is restricted to those in genuine need who are employed locally or have local connections to the parish of Twemlow and then cascaded initially to adjoining parishes

before being offered to residents of other areas of the Borough (it is likely that this would initially be the parish of Goostrey, then the former Congleton Borough, then the wider Cheshire East Borough).

- A management plan for the area of public open space and the trees retained within the site.

This undertaking has been checked by the Legal Department and meets all the necessary requirements.

Major Development

Whilst the development does comprise a small scale major development, as defined in the scheme of delegation for Cheshire East Council, this does not mean that it cannot be considered as a 'small scheme' as laid down in Policy H14. In comparison to other developments, a development of 13 dwellings is considered to be small scale in terms of its significance and overall impact on the local area.

Previous Refusal (07/1227/FUL)

Ground one of the Judicial Review stated that the Council failed to take into account the April 2008 decision on this site. The proposal was for a development of 16 two-storey dwellings, and the application was refused for following 6 reasons.

- 1. The site lies in an area of open countryside where there is strict control over new development. The application fails to meet the criteria for affordable housing exception sites and furthermore the location, scale layout and design will not be appropriate to the locality, all contrary to Policy H14 of the Congleton Borough Local Plan.*
- 2. The proposed development would not afford future users with appropriate levels of private open garden space, contrary to Supplementary Planning Guidance Note 2 for Provision of Private Open Space in new Residential Developments and GR1 of the Congleton Borough Local Plan.*
- 3. The proposed development could not be accommodated without threat to trees subject of a Tree Preservation Order, the loss of which would be detrimental to the visual amenity of the area. The proposed development is therefore contrary to the provisions of Policies NR1 and GR1 of the Congleton Borough Local Plan and Supplementary Planning Guidance for Trees and Development, adopted 2006.*
- 4. The proposed development as submitted fails to satisfy adopted highway standards specifically:*

Internal layout – dimensions and geometry

Internal layout – insufficient detail/reference to Manual for Streets

Insufficient detail in Design & Access Statement regarding highways access

Junction design detail lacks accuracy

Service strip provision is inadequate

Footway provision

As such the development is detrimental to highway safety for vehicle and pedestrian users and is therefore contrary to Policies GR17 and GR18 of the Congleton Borough Council Local Plan and T7 of the Cheshire Structure Plan.

- 5. The proposed development fails to make provision for promoting sustainable transport options. The site is outside a reasonable walking distance to local services and as this scheme proposes to contribute towards meeting local affordable housing needs, car ownership by prospective households cannot be assumed. As such the enhancement and provision of sustainable modes of transport in the locality is required to satisfy sustainable principles in the requirements of Policy T7 of the Cheshire Structure Plan.*

6. *The ecological survey indicates that there is evidence of protected species at the site. The proposed development could result in the disturbance or harm of these species. In the absence of appropriate assessments and consequent indication of mitigation measures the Local Planning Authority is unable to accept that no harm would arise. The proposal is therefore considered to be contrary to Policy NR3 of the Congleton Borough Local Plan.*

How the Reasons for Refusal Have been Addressed

Having regard to the first reason for refusal, the updated housing needs information has addressed this and the scheme now meets the tests set out in Policy H14.

The second reason for refusal related to inappropriate levels of private open garden space. This is now not the case with this proposal.

The third reason relates to adverse impact on protected trees. This is now not the case with this proposal.

The fourth reason relates to highway safety and similarly this would now not apply to this proposal.

The fifth reason relates to the lack of sustainable transport options. Having regard to this reason, it is considered that the Traffic Statement submitted with the application has given adequate justification as to why the site is accessible via non-car modes. As such, it meets the requirements and purpose of Policy GR9.

The sixth reason for refusal related to ecological issues which have been addressed by the submission of reports which satisfy the Councils' Nature Conservation Officer, because there is no evidence of harm to protected species.

Dunkirk Farm Brereton (10/3320C)

Several of the objections and the letter from Stripes Solicitors refer an application at Dunkirk Farm in Brereton (10/3320C). This application was refused by the Southern Committee on the grounds that other brownfield sites would negate the need to use land within the open countryside. This application has now been determined at appeal and although the appeal was dismissed, it was on the grounds that the Unilateral Undertaking was inadequate. The appeal confirmed that it was a suitable location and proposal for a rural exception site.

Poolwood Cottages Somerford (09/1663C)

This application for affordable housing that was dismissed at appeal has been cited as a material consideration in the determination of this application. However, the site has different characteristics to the application site as it does not relate well to existing built development and has poor transport links. Moreover, it has to be remembered that each case should be treated on its own merits, not on the merits of others.

The Town and Country Planning (Jodrell Bank Telescope) Direction 1973.

Jodrell Bank have been given the requisite 21 days notice that the Authority may be disposed to approve the application. Their response is summarised in the report. As previously stated, Jodrell Bank Observatory is a major local asset to the Borough and the Council would not wish to cause harm to its efficient operation. However, this has to be balanced against the nature of the site, size of the development and the recognised need for affordable housing in the area.

CONCLUSION

In conclusion, it is considered that the principle of rural affordable housing in this location is acceptable and supported by local and national policies. The specific proposal for 13 dwellings in Twemlow is acceptable and it is considered that there is sufficient evidence to demonstrate that a need exists in this location for 13 affordable dwellings.

The siting, layout and design of the scheme is considered to be acceptable as are the access and parking arrangements.

It is not considered that the proposal would result in any significant adverse impact on the amenity of nearby residents, on existing trees on the site or on protected species.

The objections of the University of Manchester have been given careful consideration. However, it is considered that, on balance, the importance attached to the provision of affordable housing should be given prominent weight. In taking this decision, appropriate mitigation measures are considered to alleviate some of the harm to Jodrell Bank.

There are no other material planning considerations that would warrant the refusal of the application. As such the scheme is considered to be acceptable, subject to the following conditions and compliance with the Unilateral Undertaking.

RECOMMENDATION:

Approve subject the following conditions and implementation of the following Unilateral Undertaking within 3 months of the date of the Strategic Planning Board of 8th February 2012, or any date as agreed by the Chairman of the Strategic Planning Board and Development Management and Building Control Manager subsequently:

- 1. Commence development within 3 years**
- 2. Development in accordance with agreed drawings**
- 3. Submission of details/samples of external materials**
- 4. Electromagnetic protection measures**
- 5. Submission and implementation of detailed access and junction plans**
- 6. The dwellings shall not be occupied until the access and junction are completed in accordance with the approved details**
- 7. Provision of tactile paving and dropped kerbs**
- 8. Submission and implementation of details of a footpath within the south western boundary of the site**
- 9. Submission and implementation of surveys and mitigation methods for the protection of breeding birds**
- 10. Submission of a scheme of landscaping of the site including the retention of the hedgerow on the eastern boundary of the site**
- 11. Implementation of approved landscaping scheme**
- 12. Submission and implementation of details of boundary treatments**
- 13. Submission and implementation of a tree protection scheme**
- 14. Submission and implementation of an arboricultural method statement**
- 15. Submission of a detailed drainage scheme**
- 16. Submission of a Phase 1 land contamination survey**
- 17. Limits on hours of construction**
- 18. Limits on hours of piling**
- 19. Removal of permitted development rights for extensions**

