

Application No: 11/4002C

Location: LAND OFF, JERSEY WAY, MIDDLEWICH, CHESHIRE

Proposal: Construction of 77 No. Private Residential Dwellings together with Associated Works

Applicant: c/o David Major (Stewart Milne Homes NW), Russell Homes & Stewart Milne Homes

Expiry Date: 27-Jan-2012

**SUMMARY RECOMMENDATION:**

Approve subject to the signing of a S.106 Agreement and conditions

**MAIN ISSUES:**

- Principle of development;
- Design;
- Amenity;
- Affordable Housing;
- Noise;
- Ecology;
- Archaeology;
- Landscape;
- Drainage and Flooding;
- Open Space;
- Highway Safety;
- Education
- Other Issues; and
- CIL Regulations

**REFERRAL**

This application is referred to the Southern Planning Committee as it involves a residential development of more than 10 dwellings.

**DESCRIPTION OF SITE AND CONTEXT**

The site lies wholly within the Settlement Zone Line for Middlewich and is not allocated in the Local Plan. The site is approximately 500m to the northeast of Middlewich town centre and bounded by Northwich rail freight line to the west, the rear boundaries of residential properties fronting Holmes Chapel Road to the south, Jersey Way and its wider environs to the east and King Street Industrial Park to the north.

The site measures approximately 2.4ha and is linear in shape running parallel with the railway line in a northwest to southeast direction with relatively even ground levels. A watercourse runs from the southwestern corner of the site along the western boundary into adjacent land which then cuts sharply back across the centre of the site to its eastern boundary and beyond.

## **DETAILS OF PROPOSAL**

This is a full application for the construction of 77no. dwellinghouses and associated works at land adjacent to Jersey Way, Middlewich.

## **RELEVANT HISTORY**

|                 |  |
|-----------------|--|
| 37596/3         | Erection of 61 residential units, including 20 apartments, together with 16 office units totalling 1115sq.m B1 floorspace. Refused.  |
| 07/1452/FUL     | Approved subject to conditions and S106 Agreement. 24 <sup>th</sup> February 2009.   |
| 08/1933/08/1934 | Co-joined outline applications for residential development (up to 93 dwellings) proposing access from the A54 Holmes Chapel Road. Withdrawn 3 <sup>rd</sup> March 2009.  |
| 08/1430/OUT     | Outline application for residential development up to 88 dwellings with associated public open space, highway and landscaping works. Withdrawn.  |
| 09/0809C        | Outline application for the demolition of a dwelling house (numbers 3 & 5) and redevelopment of the site. Together with the adjoining haulage yard for up to 93 dwellings and the provision of public open space together with associated highway and landscaping works. The application seeks specific approval of the site access from Holmes Chapel Road, all other matters being reserved. Permission Granted at Appeal 19 <sup>th</sup> April 2010. |
| 10/0924C        | Planning application to extend the time limit for implementation of planning approval 07/1452/FUL (Development of 82 Dwellings, Public Open Space and Means of Access) – Approved – 30 <sup>th</sup> November 2011   |

## **POLICIES**

### **National Policy**

PPS1 'Delivering Sustainable Development'  
PPS3 'Housing'  
PPS9 'Planning and Biodiversity'  
PPG13 'Transport'  
PPG16 'Archaeology and Planning'  
PPS23 'Planning and Pollution Control'  
PPG24 'Planning and Noise'  
PPS25 'Development and Flood Risk'

Design Manual for Roads and Bridges  
Manual for Streets

**Local Policy**

E10 'Re-Use or Redevelopment of Existing Employment Sites'

GR1 'New Development'

GR2 'Design'

GR3 'New Residential Development'

GR4 & 5 'Landscaping'

GR6 & 7 'Amenity and Health'

GR9 & 10 'Accessibility, Servicing and Parking Provision'

GR21 'Flood Prevention'

GR22 'Open Space Provision'

PS4 Towns

H1 & H2 'Provision of New Housing Development'

H4 'Residential Development in Towns'

H9 'Additional Dwellings and Sub-divisions'

H13 'Affordable and Low Cost Housing'

NR1 'Trees and Woodlands'

NR2 'Statutory Sites'

RC1 'Recreation and Community Facilities – General'

SPG1 'Provision of Public Open Space in New Residential Developments'

SPG2 'Provision of Private Open Space in New Residential Developments'

SPD6 'Affordable Housing and Mixed Communities'

**CONSIDERATIONS (External to Planning)**

**Sustrans:**

No objections subject to the following:

- For a site of this size, we would like to see the council secure a contribution toward improving the local pedestrian/cycle network in the town including the canal network.;
- The pedestrian connection to Holmes Chapel Road is important for convenience; and
- The design of the smaller properties should include storage space for buggies/bikes.

**Environmental Health:**

Has the following comments to make:

- The hours of construction of the development (and associated deliveries to the site) shall be restricted to:

|                             |                    |
|-----------------------------|--------------------|
| Monday – Friday             | 08:00 to 18:00 hrs |
| Saturday                    | 09:00 to 14:00 hrs |
| Sundays and Public Holidays | Nil                |

- Should there be a requirement to undertake foundation or other piling on site it is recommended that these operations are restricted to:

|                            |                   |
|----------------------------|-------------------|
| Monday – Friday            | 08:30 – 17:30 hrs |
| Saturday                   | 08:30 – 13:00 hrs |
| Sunday and Public Holidays | Nil               |

- A scheme of noise mitigation is required to be submitted to this Division in conjunction with the World Health Organisation guidelines.
- Contaminated land condition required.

### **Archaeology:**

No objections subject to the following condition:

No development shall take place within the area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work (to consist of excavation, recording, reporting, and publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.

### **United Utilities:**

No response received at the time of writing this report.

### **Network Rail:**

No objection in principle subject to the development. However, due to its close proximity to the operational railway, Network Rail has requested a number of issues be taken into consideration, and a number of conditions attached, if the application is recommended for approval.

### **Environment Agency:**

No objection subject to a number of conditions relating to the proposal being carried out in accordance with the FRA and any contamination not previously identified then no further development unless agreed with the Local Planning Authority.

### **Highways:**

No objections subject to the following:

- Prior to first development the developer will enter into and sign a Section 38 Agreement with the Highway Authority under the Highways Act 1980.
- The developer will provide a contributory sum to the upgrade of existing estate footway links and the approaches to the Puffin crossing on the A54 Holmes Chapel Road. The sum of money is estimated at £7,500.00 for the high friction surface and approximately £10,000 for upgrades to connecting footways and provision of a small amount of footway lighting. The total sum therefore would be £17,500.00.
- The developer will provide a sum of £12,500 for the upgrade of two local bus stops to quality partnership facilities.

- The contributory sums will be subject to inclusion in a Section 106 Agreement under the Town and Country Planning Act 1990.

## **Greenscape:**

### ***Children and Young Persons Provision***

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 (in accordance with the submitted details on the Landscape Proposals Sheets 1 and 2, Drawing No. 4081, dated November 2011) there would still be a deficit in the quantity of provision having regard to the local standards set out in the Council's Open Space Study.

An assessment of existing play provision within the 800m distance threshold of the proposed development site has identified that there is a requirement for an additional play facility to meet the future needs arising from the development. However, in line with the Council's policy a contribution to upgrade existing facilities would be preferred on this occasion.

A deficit in both quantity and quality has been identified in some of the existing open space accessible to the new development, and in order to meet the needs of the development, opportunities have been identified for the upgrading of the existing facilities. There are currently two sites that would benefit from upgrading and enhancement;

An opportunity has been identified for the enhancement of the Locally Equipped Area for Play (LEAP) facility on Angus Grove within 50 metres of the site to increase its capacity. As this play area is located within the largest area of Amenity Greenspace, is the most heavily used as identified in the 2005 Open Space Survey and also the most easily accessible for the residents of the proposed development in the event that planning permission is granted; an enhancement from a LEAP play facility to a Neighbourhood Equipped Area for Play (NEAP) with provision being made for DDA inclusive equipment would be desirable.

This would not just contribute to improving the quantity of equipment on site; it would also improve accessibility to the site in terms of DDA requirements, encouraging greater use of the facility.

Alternatively there are opportunities to upgrade the main park facility for Middlewich off Queens Street known as Fountain Fields.

Given that an opportunity has been identified for upgrading the capacity of Children and Young Persons Provision, based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

|                     |                   |
|---------------------|-------------------|
| Enhanced Provision: | <u>£36,600.15</u> |
| Maintenance:        | <u>£76,117.50</u> |

### ***Amenity Greenspace***

Following an assessment of the provision of Amenity Greenspace accessible to the proposed development, it has been identified that there will be a deficit in this type of provision in the event that planning permission is granted. Whilst it is acknowledged that the developer is providing an amount of Amenity Greenspace on site equating to 1,416 square metres there is still a shortfall of 1,134 square metres.

An opportunity has been identified on Harbutt's Field to make enhancements to the Open Space which, just outside the Accessibility Standard of 800m, is still considered reasonably accessible to the development. The upgrading of the infrastructure such as the access path around the perimeter of the Amenity Greenspace would expand the sites capacity further by improving links to pedestrian footways along the River Croco and the Canal tow path. It should be noted this would be subject to approval from English Heritage and Archaeology Planning Advisory Service as this is a Roman site.

Alternatively upgrading infrastructure at Fountain Fields would increase the capacity to benefit the new development.

Given that an opportunity has been identified for enhancing the capacity of existing Amenity Greenspace to serve the development based on the Council's Guidance Note and its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

|                     |  |
|---------------------|--|
| Enhanced Provision: | <u>£ 5,990.92 (based on shortfall only)</u>                        |
| Maintenance:        | <u>£30,153.75 ( based on shortfall and proposed new provision)</u> |

It is acknowledged that 850 square metres is being proposed as Allotments which is welcomed for the Middlewich area. These could be self managed by an Association or possibilities could be explored through the Town Council.

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

No objection subject to the following comments:

- That no development be commenced until a full archaeological survey has been undertaken and that it be requested that such survey be undertaken in consultation with Middlewich Town Council as a potential community archaeological dig; and
- That the developer be required to enter into a Section 106 agreement to provide for improved play provision in the locality.

#### **OTHER REPRESENTATIONS**

Letters of objection have been received off the occupiers of 12, 16 and 38 Jersey Way. The salient points raised in the letters of objection are as follows:

- The proposal will result in overlooking, loss of privacy and over shadowing to my gardens.
- Does the proposal comply with CCC Design Aid Guidance?
- The proposal will have a detrimental impact on the existing residents due to noise whilst the properties are being constructed and once they are occupied;

- Jersey Way is a narrow road where vehicles find it difficult to pass each other and it will be especially difficult for emergency vehicles, this is made worse when vehicles do not park correctly;
- The applicants preferred access option is via Holmes Chapel Road;
- A previous planning application in August 2008 again with access through Jersey Way received over 88 objections from residents on Jersey Way, Dexter Way, Ayrshire Close, White Park Close, Guernsey Close and Chillingham Close. Specifically they felt that access through Jersey Way was unsatisfactory as it gave too little regard to pedestrian safety or the amount of new traffic that would be utilising Jersey Way and Dexter Way. At our (88 residents) invitation, Russell Homes then submitted amended plans which provided access to the site from Holmes Chapel Road. This had far more benefits and was as such approved by the planners;
- The proposal will exacerbate congestion in the area and will have a detrimental impact highway safety;
- The site borders onto land reserved for the re-opening of Middlewich Railway Station;
- The neighbouring railway line is frequently used by trains;
- Flooding is likely to occur especially on the area marked as public open space;
- Planning permission was already refused for access through Jersey Way in September 2004;
- The developer has already breached the conditions attached to the 2008 application;
- Debris as vehicles leave the site will be detrimental to highway safety;
- The area is already congested and builders may block people driveways;
- Part of the site lies within an area designated as an area of archaeological importance;
- The proposal will reduce the value of properties within the area;
- The Council needs to consider, in supporting such an application, the associated local services, of which more are required in order to keep pace with and support the expansion of the towns housing population; and
- This junction is partly on a bend. When cars are parked on Dexter Way oncoming traffic is forced onto the wrong side of the road. Drivers exiting Jersey Way and turning left have to be alert that oncoming traffic maybe on the wrong side of the Dexter Way.

## **APPLICANT'S SUPPORTING INFORMATION**

- Design and Access Statement
- Flood Risk Assessment
- Protected Species Survey
- Landscape Report
- Transport Statement
- Geo Environmental Site Investigation Report
- Viability Report
- Noise Impact Assessment

## **OFFICER APPRAISAL**

### **Principle of Development & Main Issues**

The proposed scheme is a full application and the applicant is proposing on erecting 77no. dwellinghouses together with associated works. The site already benefits from planning permission for residential development following approval of planning applications

07/1452/FUL for 88 (renewed under 10/0924C and 09/0809C) and 93 dwellings respectively. Consequently, the principle of residential development has clearly been established and given that those consents remain extant, this application does not present an opportunity to revisit that issue. The main considerations in the determination of this application are, the acceptability of this scheme in terms of principle of development; design; amenity; affordable housing; noise; ecology; archaeology; landscape; drainage and flooding; open space; highway safety; education; other issues; and CIL regulations.

## **Design**

### ***Policy Context***

PPS1 and PPS3 support a mix of housing types within new development. Whilst encouraging good design, PPS1 says that planning authorities should not attempt to impose architectural styles and particular tastes, or be unnecessarily prescriptive. In this case, the case officer is satisfied that the proposal represents an acceptable design solution in the context of existing development.

Policy GR.2 (Design) is broadly in accordance with this guidance but places greater emphasis on the impact to the streetscene and encouraging development which respects the character, pattern and form of development within the area.

With reference to the above policy context, in order to ensure that the proposal satisfactorily contributes to and improves the street scene, it needs to be reflective of and complementary to the local vernacular, which will mean modest sized properties which are simple in design terms with gardens.

### ***Elevational Detail***

The application proposes a mixture of two storey dwellings including detached, semi detached and terraced properties. According to the submitted plans, there will be 42no. detached, 18no. semi detached and 17no. terraced properties. Typically the dwellings will measure approximately 5.1m high to the eaves and 7.6m high to the ridge. According to the submitted plans and the Design and Access statement the dwellings will be constructed out of facing brick, under a concrete tile roof and some of the properties will incorporate a render finish, which will be conditioned, in the event that planning permission is approved. In addition to the above, the properties will incorporate sill and lintel details and some will have projecting gables, in order to make the dwellings appear less stolid and uniform. It is considered that the proposed mixture of house types would not be at odds with the pattern and design of development in the surrounding area.

The scale, proportions and detailing on the proposed dwellings are similar to those within the surroundings mimicking its context without creating a pastiche form of development. The dwellings are set back from the road frontage and respect the surroundings, providing a sympathetic and unobtrusive infill development.

### ***Site Layout***



The nature of the site, which is a linear plot somewhat constrains the way in which the site can be developed. The application site would be served by a single access point from Jersey Way, in between numbers no's 14 and 16 Jersey Way. According to the revised plans the public open space will be located immediately to the north of the site entrance. The access road serving the site is in the form of a letter 'T', with several cul-de-sacs off it.

A number of the proposed properties face the POS, which helps with natural surveillance. Located at the north end of the application site are the terraced properties, which are organised into 5no. blocks of 3 and 4 dwellinghouses. Located to the front of plots 51 to 53 and 60 to 63 are car parking spaces, which are broken up with hard and soft landscaping. Located to the rear of plots 51 to 59 is another area of car parking, a pumping station and allotments. Beyond these plots is a small industrial estate. The remainder of the site is a mix of detached and semi detached properties, which front onto the access road or the cul-de-sacs. It is noted that plot no. 24 fronts directly onto Holmes Chapel Road. Furthermore, separating plot no. 24 from no. 3 Holmes Chapel Road is a public footpath, which will serve the new development.

The street has been designed so that it bends (albeit slightly) and as there is a variation in property types this helps to provide more interest in the streetscene, for example, located on a number of corners are larger properties, which help to create focal points and draw the eye. Furthermore, properties at the end of the street have been designed so they face down the street and provide an end stop and vista to the street.

Overall, it is considered that the variety of designs of proposed dwellings and variations in the building line provides interest in the streetscene. Furthermore, the areas of open space also soften and provide interest. The proposal is therefore in accordance with policies GR.2 (Design) and advice advocated within PPS1.

### ***Waste Management***

All of the proposed dwellings have the ability/facility to store the requisite number of storage bins within rear garden areas for general refuse and recycling receptacles.

On bin collection day the receptacles can easily be moved to the public footpaths in close proximity of individual properties ready for collection and then returned to the rear gardens once emptied again. This will ensure that bins or other such containers are not visible on any day other than on collection day.

### ***Over development and loss of buildings with character.***

It is not considered that objection on the grounds of over development can be sustained. The proposed density is acceptable having regard to the existing character of the area and fully accords with the principles of PPS3. Similarly, it is not considered that the loss of any buildings on the site would harm the character of Middlewich. None of the buildings benefit from statutory protection and whilst a barn within the curtilage of no.3 has some features of merit, it is in a very poor state of repair and could in effect be demolished without the need for planning permission.

## **Amenity**

The site is bounded to the north by industrial buildings and to the west by a railway line. Existing residential development bounds the site on all other sides with residential properties fronting onto Holmes Chapel Road to the south and Jersey Way and Dexter Way to the east. The Councils Supplementary Planning Guidance (SPG) recommends that minimum distances of 21.3m be maintained between principal elevations and 13.7m between a principal elevation and a flank elevation.

According to the submitted plans Plots no's 1, 14, and 19 are located with their gable facing the properties which front onto Jersey Way. The rear elevations of plots 15 to 18 face the rear elevations of no's 24 to 30 Jersey Way. All of the proposed dwellings are set well away from the boundaries and the proposals comply with the aforementioned separation distances. Consequently, it is not considered that the proposed dwellinghouses will have a significant impact on the residential amenities of no's 16 to 32 Jersey Way.

To turn to the levels of residential amenity to be provided within the development, the recommended minimum distances of 21.3m and 13.7m will be achieved in all cases with the exception of the separation distance between the front elevation of plots 20 and 73 and the gable of plots no. 18 and 74, where there is a separation distance of approximately 10.5m. However, given the orientation and juxtaposition of these plots will not result in any overshadowing or loss of privacy and it is not considered that the standard of amenity afforded to the proposed properties would be compromised to such an extent as to warrant a refusal on amenity grounds. There is approximately 15m separating the properties on the west of the access road from those located on the east. In respect of separation distances to the front of dwellings, modern urban design principles encourage tightly defined streets and spaces. The reduction of separation distances between front elevations helps to achieve these requirements. Furthermore, those rooms which face onto the highway are always susceptible to some degree of overlooking from the public domain. On this basis, it is considered that, where it is desirable in order to achieve wider urban design objectives, a reduction to 15m between dwellings could be justified.

The proposed units all comply with the relevant separation distances and are sited sufficiently far from the site boundaries to avoid any adverse impact on the residential amenity of adjoining properties in the other roads listed above.

The Councils SPG advocates the provision of 65sq.m of private amenity space for all new family dwellings. The majority of plots will include significantly more than 65sq.m. However, the case officer notes that some of the plots have much smaller garden spaces. These plots are primarily the terraced units. The amount of garden space afforded to these units is commensurate with other properties of a similar size in the locality and as such it is not considered that there is sufficient justification to warrant a refusal.

## **Affordable Housing**

This application is for 77 units and there is a requirement for Affordable Housing at this site. The Affordable Housing Interim Planning Statement states that the minimum percentage of Affordable housing that would normally be required is 30%. This would equate to 23 units.

There should be a tenure split of 65% rented affordable housing and 35% intermediate affordable housing.

The SHMA 2010 identifies that for Middlewich there is a requirement for 56 new affordable units per year, made up of a need for 13x1 bed, 8x2 bed, 30x3 bed and 6 x 1 or 2 bed older persons units. In addition to the information from the SHMA, Cheshire Homechoice, which is the choice based lettings system for allocation of social housing across Cheshire East, currently has 99 applicants who have indicated Middlewich as their first choice, the breakdown of the number of bedrooms these applicants require is 24x1 bed, 35x2 bed, 21x3 bed and 4x4 bed. There are currently 15 applicants who have not specified the number of bedrooms they require.

There is an extant planning permission in place for this site which has a requirement for provision of 30% affordable housing, made up of 24x1 bed apartments. The information from the SHMA and Cheshire Homechoice shows that although there is some need for 1 bed units, there is a greater need for 2, 3 and 4 bed units, so provision of houses as the affordable units is preferable as it would help to meet the greater housing need.

The applicant has offered 15 units of affordable housing which is 19% provision, which is not in line with the requirements from the Affordable Housing Interim Planning Statement.

The applicant has submitted a financial viability appraisal which demonstrates that the provision of 30% affordable housing would not be viable at this site. Officers have scrutinised the viability assessment submitted and found it to be sound. Therefore the provision of 15 units (19%), split as 8 intermediate and 7 affordable rent is accepted. Whilst this is less than the previous 30%, it is preferable in that it comprises houses as opposed to flats. Housing officers state that 'Russell Homes wrote to them advising them that they had contacted a number of Housing Associations who operate in the area to see if any were interested taking the 24no. 1 bedroom apartments that were required as per the extant planning permission. However, none of the Housing Associations contacted were willing to take on this number of 1 bed apartments. The Housing Associations contacted by Russell Homes were: -

- Muir Group
- Anchor Trust
- Plus Dane
- Harvest Housing Group
- Johnnie Johnson Housing
- Stonham Housing
- Equity Housing Group
- Great Places
- Guinness Northern Counties

The Affordable Housing IPS requires that the affordable units should also be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration. The submitted plans show that this will be the case.

The Affordable Housing Interim Planning Statement states that "the Council will require any provision of affordable housing and/or any control of occupancy in accordance with this

statement to be secured by means of planning obligations pursuant to S106 of the Town and County Planning Act 1990 (as amended)" It also goes on to state "all cases where a Registered Social Landlord is to be involved in the provision of any element of affordable housing, then the Council will require that the Agreement contains an obligation that such housing is transferred to and managed by an RSL as set out in the Housing Act 1996" It is therefore the Housing Section's preferred option that the developer undertakes to provide the rented affordable units through a Registered Provider who are registered with the Tenant Services Authority to provide social housing. This will be secured through the S106 agreement as set out in the Heads of Terms below.

## **Noise**

The application site is bounded on western side by a railway line, on the northern side by a number of industrial units and on the southern side by Holmes Chapel Road. Colleagues in Environmental Health have been consulted on the application and have commented that the submitted noise report states that 2007 data was used to calculate the noise criteria of the site in this area, as the 2007 data represented the 'worst case'. However the 2011 data has not been included in the report. The 2011 data therefore needs to be submitted so that Environmental Health can make their own assessment of the site based on all the monitoring information.

The noise report that has been submitted with this application clearly indicates that the noise levels at night are 69dB LAeq placing the proposed properties close to Holmes Chapel Road in category D (planning permission should normally be refused). Within the report there are a number of recommended schemes for acoustically attenuating the properties. However colleagues in Environmental Health are not satisfied with this vague response and would like to see further detail on what attenuation would be achieved by each proposed scheme and also details of the mitigation measures for the associated gardens.

The applicant has been made aware of the concerns raised by Environmental Health and they have submitted an updated noise assessment. At the time of writing this report the amended noise assessment was being considered by Environmental Health and a further update will be provided to Members prior to their meeting.

Noise impacts during construction would be controlled via a condition to restrict the hours of work and any associated pile driving activities.

## **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 implements the Directive in the Conservation of Habitats & Species Regulations 2010 which contain two layers of protection.

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

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.

### *Bats and Badgers*

It is considered that the only protected species that are likely to be affected by the proposed development are roosting bats and badgers. Roosting bats were highlighted as potentially occurring within outbuildings associated with 3 Holmes Chapel Road. It was noted that the original survey was conducted and prepared in 2008 and as such is considerably out of date. Therefore, the applicant has submitted additional information. The Council Ecologist has examined this and commented that ‘no evidence of badgers was recorded during the survey’. Due to the time of the year that the survey was completed no bat activity survey could be undertaken. However, considering the nature of the buildings on site and the abundance of alternative roosting opportunities offered by surrounding properties he is satisfied that neither bats nor badgers are likely to be present or affected by the proposed development.

### 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.

### **Archaeology**

The application site is located within Middlewich's Area of Archaeological Potential, as defined in the Congleton Borough Local Plan. In January 2008 the application area was subject to an extensive programme of pre-determination archaeological trial trenching. This work was carried out by Oxford Archaeology North in association with Wardell Armstrong on behalf of the applicants, Russell Homes, in response to an earlier application (Ref 07/1452/FUL) for the development of the site for housing.

The trial trenching demonstrated the survival of extensive and well-preserved archaeological deposits dating to the Roman period across much of the site.

Since that time, a number of revised planning applications have been submitted to the former Congleton Borough Council and the successor Cheshire East Council (Refs 08/1430, 08/1934/OUT, 09/0809C, and 10/0924C). Some of these applications included extensions to the original area but enough was known about the archaeological potential of these areas to specify the necessary archaeological mitigation, without further pre-determination field evaluation. With regard to the main area, the advice concerning the need for a programme of formal excavation, recording, and reporting in the areas referenced above was repeated together with the recommendation that this work should be secured by means of a suitably worded condition.

The Councils archeologist advises that the present application will also require a full programme of archaeological mitigation, whose scope will be the same as that outlined above, together with further mitigation at the southern end of the site which now extends up to the Holmes Chapel Road and this work will be conditioned accordingly.

### **Landscape**

The site comprises a former depot and includes areas of hard standing, a few isolated trees, a mature hedgerow and watercourses. The majority of the trees which remain on the site are principally located adjacent to the railway boundary with one mature willow close to Jersey Way. None of these trees are of any great significance and they are not subject to any TPO protection. The Councils Landscape Officer has commented that the landscape proposals as shown on the site layout plan appear reasonable in principle. However, the submitted proposals do not provide any significant level of screening between plots to the north of the site and the adjacent industrial area. It is considered that the imposition of conditions relating to boundary treatment and landscaping will be able to help to soften the proposal and provide a better outlook.

### **Drainage and Flooding**

Development on sites such as this generally reduces the permeability of at least part of the site and changes the site's response to rainfall. Planning Policy Statement 25 (Development

and Flood Risk) states that in order to satisfactorily manage flood risk in new development, appropriate surface water drainage arrangements are required. The guidance also states that surface water arising from a developed site should, as far as possible, be managed in a sustainable manner to mimic the surface water flows arising from the site prior to the proposed development.

In terms of flooding, the Environment Agency have assessed the Flood Risk Assessment and raised no objections to the development subject to the imposition of planning conditions. It is therefore considered that the development would not raise any significant flooding implications that would warrant the refusal of this application.

It is possible to condition the submission of a satisfactory drainage scheme in order to ensure that any surface water runoff generated by the development is appropriately discharged. This will probably require the use of Sustainable Drainage Systems (SUDS) which include source control measures, infiltration devices as well as filter strips and swales which mimic natural drainage patterns.

## **Open Space**

The Council's Greenspace Officer has examined the proposal and following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, states that if the development were to be granted planning permission there would still be a deficit in the quantity of provision having regard to the local standard set out in the Council's Open Space Study.

An assessment of existing play provision within the 800m distance threshold of the proposed development site has identified that there is a requirement for an additional play facility to meet the future needs arising from the development. However in line with the Council's policy a contribution to upgrade existing facilities would be preferred on this occasion.

A deficit in both quantity and quality has been identified in some of the existing play space accessible to the new development, and opportunities have been identified for the upgrading of the existing facilities. There are currently two sites that would benefit from upgrading and enhancement;

The Locally Equipped Area for Play (LEAP) facility on Angus Grove within 50 metres of the site would benefit from enhancement to increase its capacity. This play area is located within the largest area of Amenity Greenspace, is the most heavily used as identified in the 2005 Open Space Survey and also the most easily accessible for the residents of the proposed development in the event that planning permission is granted; an enhancement from a LEAP play facility to a Neighbourhood Equipped Area for Play (NEAP) with provision being made for DDA inclusive equipment would be desirable.

This would not just contribute to improving the quantity of equipment on site; it would also improve accessibility to the site in terms of DDA requirements, encouraging greater use of the facility. Alternatively there are opportunities to upgrade the main park facility for Middlewich off Queens Street known as Fountain Fields.

The area of general amenity greenspace required by policy on this site would be 2550sq.m and this development would provide 1416sq.m. As a result there is an under provision on the site. However, an opportunity has been identified on Harbutts Field to make enhancements to the Open Space which whilst occurring outside the accessibility standard radius of 800m is still considered reasonably accessible to the development. The upgrading of the infrastructure such as the access path around the perimeter of the Amenity Greenspace would expand the site's capacity further by improving links to pedestrian footways along the River Croco and the Canal tow path. (It should be noted this would be subject to approval from English Heritage and Archaeology Planning Advisory Service as this is a Roman site.)

Alternatively upgrading infrastructure at Fountain Fields would increase its capacity to absorb demand from the new development.

It is acknowledged that 850 square metres of land on site is being proposed as Allotments which is welcomed for the Middlewich area. These could be self managed by an Association or possibilities could be explored through the Town Council.

### **Highway Safety and Traffic Generation**

Policy GR9 states that proposals for development requiring access, servicing or parking facilities will only be permitted where a number of criteria are satisfied. These include adequate and safe provision for suitable access and egress by vehicles, pedestrians and other road users to a public highway.

The proposal is seeking to create a new access directly off Jersey Way and a pedestrian access will link Holmes Chapel Road with the proposed application site. It is noted that the application site was allocated for future development and the preceding development of Jersey Way was designed in such a way that allows connection to this land and this application utilises that road layout to provide access for the development.

In support of the application a Transport Assessment has been submitted by the Highway Consultants: Singleton Clamp & Partners which examines the traffic generation from the site and assesses the impact on the local highway junctions via the junction modelling programmes Arcady and Picady, whilst all trip rates for the development are taken from the national TRICS database.

The Highways Engineer has assessed the figures presented in the report and accepts the conclusions as a robust analysis of the likely impact of this development in traffic terms on the local highway infrastructure.

This current proposal is for 77 residential units and despite the use of more significant trip rates from the TRICS database the proposal has a traffic impact that is materially no different than either of the previous applications and therefore the related traffic impact on the local highway network remains acceptable.

It is considered that the current proposal has a number of benefits over the previous schemes, which include:

- The overall number of units is reduced and therefore traffic impact is acceptable.



- The scheme now offers a pedestrian link to the A54 Holmes Chapel Road and this is seen as a significant benefit to sustainable links. Indeed this was originally an aspiration for the development of this site.
- Property No 3, Holmes Chapel Road is to be retained but will now take its access from within the development site which will effectively remove one permanent access from the A54.

The Highways Engineer states that the proposed layout uses geometry and dimensions from the CCC 1996 Design Aid for housing roads and this is not seen as inappropriate given this design was used for the existing estate link. Within the site the design includes for feature tables and this aspect of the development layout acknowledges the design principles from Manual for Streets. The Highways Engineer confirms that this 'combined approach is acceptable where an existing residential estate is being extended and it does allow particularly good footpath links throughout the site'.

According to the submitted plans each of the proposed plots has sufficient space to provide off street parking in compliance with the Borough Councils adopted residential standards. Therefore, whilst the concerns of local residents are duly noted, in light of the above, and in the absence of any objection from the highway authority, it is not considered that a refusal on highway safety, parking, or traffic generation grounds could be sustained. It is considered that the proposal complies with policy GR9.

## **Education**

The Education Officer's comments had not been received at the time of report preparation. However, in this instance, given that the previous approvals on the site, which were for a greater no. of dwellings, and could still be implemented, did not carry such a requirement. Also given the viability issues on the site, an education contribution would result in the other contributions being reduced accordingly or the scheme being rendered unviable. This would prevent the site from coming forward which would adversely affect housing land supply and would increase pressure to develop greenfield sites elsewhere.

## **CIL Regulations**

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

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

The provision of a contribution towards the highway works is required to help mitigate against the highways impact of the development. The proposed development cannot proceed without these improvements and the contribution is reasonably related in scale and kind to the development. As explained within above, affordable housing, POS and children's play space

is a requirement of the Interim Planning Policy. It is directly related to the development and is fair and reasonable. On this basis the S106 recommendation is compliant with the CIL Regulations 2010.

### **Other Matters**

Issues relating to the loss of property values are not material planning considerations and as such are not sufficient justification to warrant a refusal of the application.

Another concern of the objectors is builder's vehicles blocking local resident's drives and causing other problems in the locality for residents. Again, concerns of the objectors are noted and it is appreciated that it is not uncommon for such problems to occur during the construction periods although these tend to be for limited periods of time and are therefore not considered reasonable grounds for refusal of a planning application. Furthermore, if vehicles are causing an obstruction, this is a matter to be dealt with by the Police; the planning system is not intended to duplicate other legislation. The objector is also concerned about debris being left on the road as the properties are being constructed. It is considered given the nature and scale of the proposal and the constrained plot size any conditions relating to wheel wash facilities are unreasonable.

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

The proposed scheme is a full application and the applicant is proposing on erecting 77no. dwellinghouses together with associated works. The site already benefits from planning permission for residential development following approval of planning applications 07/1452/FUL for 88 (renewed under 10/0924C and 09/0809C) and 93 dwellings respectively. Consequently, the principle of residential development has clearly been established and given that those consents remain extant, this application does not present an opportunity to revisit that issue.

The proposed development would not have a detrimental impact upon highway safety or traffic congestion and the Strategic Highways Manager has secured a number of off-site highway works to ensure that this is the case.

The layout, design and scale of the proposed dwellings are considered to be appropriate. The proposal is considered to be acceptable in terms of its impact upon residential amenity, drainage/flooding, protected species, and trees/landscape. Matters of noise and archaeology can be adequately dealt with through the use of appropriate conditions. Given the previous approvals and the viability issues on this site it is not considered to be reasonable to require an education contribution in this instance.

The development would provide 19% affordable housing and will be split on the basis of 7no. rented units and 8no. intermediate units. Although this is below the policy requirement of 30% a robust viability assessment has been submitted to support this level of provision. Also, the proposal will provide family homes rather than flats as previously proposed as part of the approved scheme. This will better meet the demand locally and the needs of the RSL's operating in the area. It is acknowledged that there is a deficit in the provision of Public Open Space on the site. However, the upgrading of the infrastructure at Fountain Fields via a financial contribution will increase the capacity to benefit the new development. The

enhancement of the LEAP facility at Angus Grove will benefit the development and the local community.

Therefore in the light of the above, having due regard to all other matters raised it is concluded that the development complies with the relevant local plan policies and in the absence of any other material considerations to indicate otherwise it is recommended for approval subject to signing of a Section 106 agreement and conditions.

## **RECOMMENDATIONS**

**APPROVE** subject to the following conditions and the satisfactory completion of a S106 Agreement comprising;

### **Heads of terms**

- **Provision of 19% affordable housing (15 no. units comprising of 8no. 2 bedroom units and 7no. 3 bedroom units) split on the basis of 47% social rent (7 units) and 53% intermediate tenure (8 units) as per requirements of the Interim Planning Statement;**
- **Provision for a management company to maintain the on site amenity space and allotments;**
- **The developer will provide a contributory sum to the upgrade of existing estate footway links and the approaches to the Puffin crossing on the A54 Holmes Chapel Road. The sum of money is estimated at £7500 for the high friction surface and £10000 for upgrades to connecting footways and provision of a small amount of lighting. The total sum will be £17500;**
- **The developer will provide a sum of £12500 for the upgrade of two local bus stops to quality partnership facilities;**
- **A commuted sum payment of £112,717.65 to enhance and maintain the LEAP facility at Angus Grove; and**
- **A commuted sum payment of £36,144.67 to enhance and maintain the capacity of existing amenity greenspace.**

### **And the following conditions**

- 1. Standard Time Limit**
- 2. Plan References**
- 3. Materials to be submitted and approved by the Local Planning Authority**
- 4. Details of the surfacing materials to be submitted and approved in writing by the Local Planning Authority**
- 5. Boundary treatment details to be submitted and approved in writing by the Local Planning Authority**
- 6. Details of a Landscaping scheme to be submitted and approved in writing by the Local Planning Authority**
- 7. The approved landscaping scheme to be implemented.**
- 8. Breeding birds surveys if any works are undertaken between 1<sup>st</sup> March and 31<sup>st</sup> August in any year.**

9. Prior to the commencement of development the applicant to submit detailed proposals for the incorporation of features into the scheme suitable for use by roosting bats and breeding birds including house sparrow and swifts. Such proposals to be agreed by the LPA.
10. Remove PD Rights for extensions and alterations to the approved dwellings
11. Drainage scheme to be submitted and approved in writing by the Local Planning Authority
12. All services to be located underground, unless otherwise agreed in writing with the Local Planning Authority
13. Parking to be made available prior to occupation
14. Construction management plan to be submitted and approved in writing prior to the commencement of development
15. No development shall take place within the area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work (to consist of excavation, recording, reporting, and publication) in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.
16. Submission/approval/implementation of external Lighting
17. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) from Campbell Reith Hill
18. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
19. Details of the Footpath connection to Holmes Chapel Road to be submitted and agreed in writing. Footpath to be constructed prior to the first occupation of the dwellings, unless otherwise agreed in writing
20. All Windows/Doors in the development hereby approved to be set behind a 55mm reveal
21. Scheme for Water Course Protection
22. Eco Homes 'Very Good Standard' or 2 Star Code for Sustainable Homes
23. Hours of construction:
 

|                           |                    |
|---------------------------|--------------------|
| Monday to Friday          | 0800 to 1800 hours |
| Saturday                  | 0900 to 1400 hours |
| Sundays and Bank Holidays | Nil                |
24. Pile Foundations
 

|                           |                    |
|---------------------------|--------------------|
| Monday to Friday          | 0830 to 1730 hours |
| Saturday                  | 0830 to 1300 hours |
| Sundays and Bank Holidays | Nil                |

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of

**Planning and Housing is delegated authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.**

