

Application No: 12/2440N  
Location: LAND OFF QUEENS DRIVE, NANTWICH  
Proposal: Outline Application - Proposed Residential Development  
Applicant: Gladman Developments Limited  
Expiry Date: 28-Sep-2012

#### **SUMMARY RECOMMENDATION**

- **REFUSE**

#### **MAIN ISSUES**

- **Principle of Development.**
- **Sustainability**
- **Loss of Agricultural Land**
- **Affordable Housing**
- **Highway Safety and Traffic Generation.**
- **Contaminated land**
- **Air Quality**
- **Noise Impact**
- **Drainage and Flooding**
- **Archaeology**
- **Built Heritage**
- **Countryside and Landscape Impact**
- **Forestry**
- **Hedgerows**
- **Open space**
- **Layout and Design**
- **Ecology**
- **Amenity**
- **Education**
- **Impact on Railway**
- **Impact on Public Right of Way**
- **Impact on Canal**

#### **REFERRAL**

The application has been referred to Strategic Planning Board because it is a largescale major development and a departure from the Development Plan.

## **1. SITE DESCRIPTION**

The application site measures 9.90 hectares and lies on the south western edge of Nantwich. The site is defined and contained on two sides by Queens Drive to the north and the Shropshire & Union Canal to the west. To the east, Fields Farm and associated outbuildings and yards occupies a triangular shaped area of land in between the site and the railway line.

The site is agricultural land comprising a single broadly square pastoral field. A row of approximately 8 semi-detached houses face towards the site on the northern side of Queens Drive and a further 12 properties back onto the site on the southern side of the road. These are two storey late twentieth century red brick properties and are set back from the road behind drives.

There are 2 public footpaths that run along the boundaries of the site (one within the site boundary). Immediately west of the site, the towpath of the Shropshire and Union Canal is a well used path by walkers and fishers, with a seating area adjacent to the site and a listed milepost. The hedgerow along this boundary is intermittent with occasional trees.

At the north west and south west corners of the site attractive stone bridges over the canal (one a road bridge and the other a farm access track) are listed structures. The eastern edge is more open, and defined by a post and wire fence.

The Nantwich Circular Walk passes through the site along the southern boundary, linking across the railway on a level crossing into Nantwich. The southern boundary is defined by a hedgerow and occasional mature trees, with a group of trees in the south east corner adjacent to an off site pond. This lower south east corner is boggy and appears to have potential for occasional flooding, with the existing footpath raised above ground level.

The contours within the site generally slope from west to east, with the canal at a high point of approximately 50m AOD on the western boundary. The land then rises up very slightly to the west of the canal to a minor ridge, before dropping down to the western boundary to a low point of 44m AOD in the south eastern corner. A minor shallowing of contours east of the existing listed milepost could be due to excavation of the canal, and allows views across the site from this position. In the wider context, the landscape is relatively flat, with land slowly rising to the west to a high point of approximately 60mAOD at Acton. To the east, the contours drop towards the River Weaver approximately 500m east of the site.

## **2. DETAILS OF PROPOSAL**

Outline planning permission is sought for a total of 7.6 hectares of residential development, providing up to 270 dwellings. There would be a broad range of block densities from 30-40 dwellings per hectare (dph), The development would provide for a broad mix of dwellings and house types, ranging from 2 to 5 bedroom units, offering a mix of market housing from first time homes to larger family homes. The housing mix would include affordable housing, which will be accommodated in small clusters and evenly distributed around the development.

The proposal also includes 2.04Ha of Public Open Space & Habitat Creation Areas. The open space will include informal recreation, footpaths and habitat creation areas. 0.17ha of ponds, will be created with areas of permanent water and ephemeral areas with grassland planting and 0.04ha of Equipped Children's Play Space (0.04Ha) would also be provided, offering toddler, child and teenage play provision. The play space would be set within an area of public open space. In addition, a tea room / convenience store would be located near the entrance to the site adjacent to the canal with outdoor picnic area and parking.

## **2. RELEVANT PLANNING HISTORY**

There are no relevant previous planning applications relating to this site.

## **3. PLANNING POLICIES**

### **Regional Spatial Strategy**

Policy DP 1 Spatial Principles

Policy DP 2 Promote Sustainable Communities

Policy DP 4 Make the Best Use of Existing Resources and Infrastructure

Policy DP 5 Manage Travel Demand; Reduce the Need to Travel, and Increase Accessibility

Policy DP 7 Promote Environmental Quality

Policy DP 9 Reduce Emissions and Adapt to Climate Change

Policy RDF 1 Spatial Priorities

Policy RDF 2 Rural Areas

Policy L 1 Health, Sport, Recreation, Cultural and Education Services Provision

Policy L 2 Understanding Housing Markets

Policy L 5 Affordable Housing

Policy RT 2 Managing Travel Demand

Policy RT 3 Public Transport Framework

Policy RT 4 Management of the Highway Network

Policy RT 9 Walking and Cycling

Policy EM 15 A Framework For Sustainable Energy In The North West

Policy EM 16 Energy Conservation & Efficiency

Policy EM 17 Renewable Energy

Policy MCR 4 South Cheshire

### **Policies in the Local Plan**

NE.2 (Open countryside)

NE.5 (Nature Conservation and Habitats)

NE.9: (Protected Species)

NE.20 (Flood Prevention)

NE.21 (Land Fill Sites)

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

RES.5 (Housing In The Open Countryside)

RT.6 (Recreational Uses on the Open Countryside)  
TRAN.3 (Pedestrians)  
TRAN.5 (Cycling)

## **National Policy**

National Planning Policy Framework

## **Other Material Policy Considerations**

Interim Planning Policy: Release of Housing Land (Feb 2011)

Interim Planning Statement: Affordable Housing (Feb 2011)

Strategic Market Housing Assessment (SHMA)

Relevant legislation also includes the EC Habitats Directive and the Conservation (Natural Habitats &c.) Regulations 1994

North West Sustainability Checklist

## **4. OBSERVATIONS OF CONSULTEES**

### **Public Rights of Way**

- The application is adjacent to public footpath Edleston No. 8 and public bridleway Edleston No. 1 as recorded on the Definitive Map. It appears unlikely, that the proposal would affect the public right of way, although the PROW Unit would expect the standard informatives relating to keeping the right of way open and safe for the public during the construction period to be added to any consent.
- The aim to improve such facilities is stated within the policies of the Cheshire East Rights of Way Improvement Plan (ROWIP) 2011-2026 and Cheshire East Local Transport Plan (LTP) 2011-2026
- The Illustrative Masterplan, Design and Access Statement and Development Framework plan refer to a footpath along the southern edge of the proposed development site. This path is in fact a recorded Public Right of Way with public bridleway status, and is known as Public Bridleway No. 1 in Edleston parish. The public have existing rights of access along this route on foot, horse and bicycle.
- If the development will temporarily affect the public right of way the developer must apply in advance for a temporary closure of the route, preferably providing a suitable alternative route.
- This Public Right of Way forms part of a number of long distance and local circular routes including the Nantwich Riverside Loop and the Crewe and Nantwich Circular Walk. The Development Framework suggests that this route would be 'upgraded and resurfaced', any proposals for changing the surface of this route would require prior approval of the Public Rights of Way team.
- The Illustrative Masterplan suggests that the Public Bridleway would have an open aspect within the design of the site and this would be welcomed as offering increased natural surveillance of the path whilst not constricting its width or aspect. At present, users of this public bridleway pass through a gate on raised ground onto Green Lane and then descend a flight of steps to the canal towpath. The use of the proposed pedestrian/cycle links (indicated by point 5 on the Illustrative Masterplan) to connect the public bridleway with the canal towpath via a level path would offer a greater

permeability for the site and improved accesses for future residents using the paths around the site.

- The proposal to create paths between the site and the towpath are supported, along with the proposals for additional paths within the green corridors of the site – research shows that people want options for walks from their homes so that they can build them into their daily routines. At the same time, access for cyclists should be promoted and the proposed paths should be designed, to best practice, as shared use routes to increase the accessibility of the site.
- The canal towpath along the western edge of the proposed development site is a recorded Public Right of Way with public footpath status and known as Public Footpath No. 8 in Edleston parish. It also has, however, permissive rights of access on bicycle. It should be noted that a recent improvement project was completed on this length of towpath to improve the width and surface for all users. The project included the installation of a bench, relocation of a mile marker and in filling of the towpath hedge with whips. The improvements made should not be compromised by the proposed 'potential area of mooring boats/picnic area/ café fronting canal' and the through passage of pedestrians and cyclists must not be hampered.
- The application documents refer to a proposed convenience store/tea shop. If such premises are considered viable in this location, then a direct path connection to the towpath for both walkers and cyclists should be designed, with cycle parking facilities outside the retail outlets.
- The permeability of the site to pedestrians and cyclists and accessibility to the facilities of the town centre will be a key issue. The proposed location of an access for pedestrians and cyclists (indicated by point 5 on the Illustrative Masterplan) at the current field gate to the immediate east of the canal bridge on Queens Drive may not be ideal; the visibility at this location is poor due to the bend in the road and the hump back bridge. An access further east along Queens Drive may be more appropriate for non-motorised traffic heading towards the town centre, (which forms part of Regional Cycle Route No. 75).
- A key access route from the proposed development site through to the town centre will be via Nantwich Riverside Park, as noted in section 3.13 of the Interim Travel Plan. An assessment of the condition of the bridges across the River Weaver to accommodate the increased usage by pedestrians and cyclists to and from the development site will be required with contributions towards any works being sought from the developer should planning permission be granted. Further, the residents of the proposed development will require access to the railway station for leisure and commuting. The path alongside the railway between Shrewbridge Road and Wellington Road which acts as a direct route for this journey will require surfacing to bring it up to a suitable standard to accommodate the new footfall. Contributions should be sought towards this works should planning permission be granted.
- The development, as noted above, is on the route of a number of promoted routes. A number of these routes, which will be an attractive leisure consideration for prospective residents of the development, use Marsh Lane to the west of the canal. At present there is no pavement alongside Marsh Lane at this location and a suggestion has been registered under the ROWIP (Ref. W22) for the creation of such a facility for the safety of pedestrians using the promoted routes.
- The Application Form refers to the creation of new rights of way. However, there is no discussion as to the proposed status of these routes i.e. *Public* Rights of Way or other path status. The status and maintenance of any new route, whether on-site or off-site,

would require agreement with the Public Rights of Way team and Highways and the corresponding due legal process completed should the route be dedicated or adopted. Contributions for ongoing maintenance will be required if maintenance is not to be undertaken through provision within a management company.

- In order to maximize the use of any proposed new or improved path infrastructure, destination signage and interpretation should be included within the design of the site and on the adjoining highway and public rights of way networks. The developer should be tasked to inform new residents about opportunities for local leisure walks and rides, including the promoted routes mentioned above, in addition to travel planning.

## **Canal and River Trust**

No objections to the proposed development, subject to the following issues being addressed.

- It is acknowledged in the application documents that the public right of way running along the towpath of the Shropshire Union Canal will provide an important sustainable access and leisure route for residents of the proposed development. The increased use of this section of the towpath will result in an additional maintenance burden on the Canal & River Trust, particularly to the south of Green Lane Bridge where the towpath currently has a grassed surface. In addition, the means of accessing the towpath at Green Lane Bridge would benefit from improvements to make it accessible by all groups of towpath users.
- The applicant states that consideration will be given to the inclusion of planning contributions in addition to those listed in the draft Heads of Terms, subject to the appropriate tests of necessity and reasonableness. The Canal & River Trust is satisfied that the upgrading of the 1.7km stretch of towpath between Bridge 90 (Green Lane) and Bridge 88 (Baddington Lane) would meet the statutory tests, being necessary to make development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. In the absence of any improvement works, the condition of this stretch of towpath would deteriorate significantly due to the increased use by pedestrians and cyclists as a result of the development, to the detriment of all towpath users.
- Policy NE.11 of the adopted Borough of Crewe and Nantwich Replacement Local Plan states that *“Within river, watercourse and canal corridors, development which would have an adverse impact on....public access...will only be permitted where the reasons for the development clearly outweigh the conservation value of the river, watercourse or canal corridor.”*
- The towpath improvement works should either be secured in the form of a developer contribution or a requirement for the developer to carry out the works under the supervision of The Canal & River Trust. The surfacing and specification of the towpath works should match the recently improved stretch of towpath to the north of Green Lane Bridge, taking into account the setting of the Listed canal bridges and mileposts, and the works should also include improving the towpath access at Green Lane Bridge. Should the applicant prefer to make a contribution for the Trust to deliver these works, the cost is likely to be in the region of £200,000, although I must stress that this is a very broad estimate. Should the applicant confirm that this is the preferred method of delivering the improvements I would be glad to provide a more accurate cost prior to determination of the application.

- If the Council is minded to grant planning permission, it is requested that the following condition be attached:
  - *Prior to the commencement of development, details of appropriate mitigation measures to prevent any risk of pollution or harm to the adjacent Shropshire Union Canal or its users during construction of the development, shall be submitted to and agreed in writing by the local planning authority in consultation with the Canal & River Trust. The approved measures shall thereafter be implemented in full unless otherwise agreed in writing by the local planning authority.*
- It is also requested that the following informative is attached to the decision notice:
  - *“The applicant/developer is advised to contact the Canal & River Trust’s Third Party Works Team (01606 723800) in order to ensure that any necessary consents are obtained and that the works comply with the Canal & River Trust “Code of Practice for Works affecting the Canal & River Trust”.*

## Natural England

- Application does not appear to fall within the scope of the consultations that Natural England would routinely comment on.
- The application is not likely to result in significant impacts on statutory designated sites, landscapes or species.
- It is for the local authority to determine whether or not this application is consistent with national or local policies on biodiversity and landscape and other bodies and individuals may be able to help the Local Planning Authority (LPA) to fully take account of the environmental value of this site in the decision making process, LPAs should seek the views of their own ecologists when determining the environmental impacts of this development.
- Recommend the use of Natural England Standing Advice
- Would expect the LPA to assess and consider the possible impacts resulting from this proposal on the following issues when determining this application:
  - Green Infrastructure - The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement,. Natural England would encourage the incorporation of GI into this development. Evidence and advice on green infrastructure, including the economic benefits of GI can be found on the Natural England Green Infrastructure web pages.
  - Protected Species - It is not clear from the information in support of this application what the impact on protected species will be. We would encourage the authority to ask the applicant to provide further information that clearly describes the impact of the proposal on protected species and any proposed mitigation together with evidence to show how they concluded what the impacts will be.
  - Local wildlife sites - If the proposal site could result in an impact on a Local Site1, Local Nature Reserve (LNR) or priority habitat the authority should ensure it has sufficient information to fully understand the impact of the proposal on the local site before it determines the application, ensuring that it

does so in conformity with the wording of paragraph 168 of the National Planning Policy Framework.

- Biodiversity enhancements - This application may provide opportunities to incorporate features into the design which are beneficial to wildlife, such as the incorporation of roosting opportunities for bats or the installation of bird nest boxes. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, would draw attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that '*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*'. Section 40(3) of the same Act also states that '*conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*'.
- Local Landscape - This proposal does not appear to be either located within, or within the setting of, any nationally designated landscape. All proposals however should complement and where possible enhance local distinctiveness and be guided by the Authority's landscape character assessment where available, and the policies protecting landscape character in the local plan or development framework. Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

## **Environmental Health**

- Prior to the development commencing, an Environmental Management Plan shall be submitted and agreed by the planning authority. The plan shall address the environmental impact in respect of air quality and noise on existing residents during the demolition and construction phase. In particular the plan shall show mitigation measures in respect of;
  - Noise and disturbance during the construction phase including piling techniques, hours of working, vibration and noise limits, monitoring methodology, screening, a detailed specification of plant and equipment to be used and construction traffic routes;
  - Waste Management: There shall be no burning of materials on site during demolition / construction
  - Dust generation caused by construction activities and proposed mitigation methodology.
  - The Environmental Management Plan above shall be implemented and in force during the construction phase of the development.
- Prior to its installation details of the location, height, design, and luminance of any proposed lighting shall be submitted to and approved in writing by the Local Planning Authority. The details shall ensure the lighting is designed to minimise the potential loss of amenity caused by light spillage onto adjoining properties. The lighting shall thereafter be installed and operated in accordance with the approved details.
- The applicant has submitted a noise report with the application. The report recommends mitigation designed to ensure that occupants of the properties are not

adversely affected by noise from road traffic and the nearby railway. Therefore, before the development commences Environmental Health require a detailed noise mitigation scheme to be submitted, to protect the proposed occupants from road traffic and rail noise. Any mitigation shown as part of the report must achieve the internal noise levels defined within the “good” standard within BS8233:1999. The scheme must also include provisions for ventilation that will not compromise the acoustic performance of any proposals whilst meeting building regulation requirements. The agreed scheme shall be implemented, and maintained throughout the use of the development.

- The assessment submitted with respect to potential air quality impact is satisfactory and the conclusions are accepted.
- Would however recommend that a condition be attached to the application to ensure there is no adverse impact by virtue of dust generation during the construction phase of the development.
- The application is for new residential properties which are a sensitive end use and could be affected by any contamination present.
- The applicant has submitted a Phase I Preliminary Risk Assessment for contaminated land with the application, which recommends a Phase II site investigation be undertaken. This should include the area of the identified possible former pond.
- As such, and in accordance with the NPPF, this section recommends that the following conditions, reasons and notes be attached should planning permission be granted to require the provision of a Phase II investigation and the submission and implementation of any necessary mitigation.

### **Electricity North West**

- Have considered the above planning application submitted on 10/7/12 and find it has no impact on our Electricity Distribution System infrastructure or other ENW assets, as it is outside our Network Distribution area. Any requirements for a supply of electricity will be considered as and when a formal application is received.

### **Archaeologist**

- The application is supported by an archaeological desk-based assessment, which has been prepared by CgMs Ltd on behalf of the applicants. This study has considered the data held in the Cheshire Historic Environment Record, aerial photographic evidence, historic mapping, and readily-available secondary sources. It concludes that the lack of any indication for archaeological potential in the sources listed above and the distance of the site from the known area of Roman and medieval activity at Nantwich means that the site has a very low archaeological potential and, consequently, concludes that no further archaeological mitigation is justified.
- The County Archaeologist has carefully considered the conclusions of the report and, mindful of the size of the site and the results of recent evaluation work and watching briefs in similar locations (Stapeley Water Gardens, Swanley canal marina etc), have concluded that in this instance the archaeological potential is not sufficient to justify any further archaeological mitigation.
- A further issue concerns the effect of the development on the setting of Dorfold Hall Park, which lies immediately to the north-west of the development area beyond the canal, and is included in English Heritage’s Register of Parks and gardens (Grade II). It must be admitted, however, that only the south-east corner of the park lies adjacent o

the north-west corner of the proposed development and that the two are separated by the canal and Queen's Drive/Marsh Lane. In addition, the whole of the eastern limits of the park are already abutted by modern development so, in these circumstances, an objection on setting grounds would be difficult to sustain.

- Finally, it should be noted that as the supporting report is a cultural heritage study, it also includes a consideration of the effect of the development on Listed Buildings in the vicinity and the wider historic built environment. This area is the responsibility of the Council's Conservation Officers who will be able to offer any necessary advice.

## **Network Rail**

Network Rail is placing a holding objection to the above proposal.

### **1. Green Lane Level Crossing:**

- Network Rail are very concerned by the effect of the proposal upon the Network Rail level crossing at eastings 364367 / northings 351260.
- The level crossing is referred to as Green Lane (on the Shrewsbury – Crewe railway line), which comprises both a farm user worked crossing and public footpath crossings.
- A check of the rail services on the railway line via the Network Rail Rail Planner shows 26 services from Shrewsbury to Crewe commencing 05.44am until midnight and 27 services from Crewe to Shrewsbury from 04.54 to midnight. Therefore at a first view approximately 53 train passenger services per week day cross over Green Lane Level Crossing (this figure would need to be investigated further for each day of the week, weekends and any night-time or any freight services and is therefore subject to revision).
- Network Rail would remind Cheshire East Council that they have a statutory responsibility under planning legislation to consult the statutory rail undertaker where a proposal for development is likely to result in a material increase in the volume or a material change in the character of traffic using a level crossing over a railway under Schedule 5 (f)(ii) of the Town & Country Planning (Development Management Procedure) Order, 2010.
- Level crossings are not only the type that highway users may be familiar with, i.e., warning signals, warning bells and barriers. The user worked crossings and footpath crossings are usually used by a single user, e.g. a farmer, moving his livestock from one field to another. Level crossings of this type have a telephone which feeds into the nearest signal box and it is with a call to the signal box that the user would determine if the railway was safe to cross.
- Whilst it appears that the final site development traffic would not have vehicular access to Green Lane Level Crossing, there is still the issue of construction traffic and the significant increase in foot traffic risk issues as a result of the potential 270 dwellings and their residents.
- Network Rail has objected in the past to similar developments in Nantwich which were ultimately granted by Cheshire East Council, these impacted upon a level crossing referred to as Cronkinsons. The increased usage as a result of that development has resulted in three near miss incidents within the last three years, and crossing misuse such as children playing chicken on the railway line.

- Network Rail believes that the proposed 270 dwellings complete with their residents (including minors and young children) will result in a material increase in the volume and material change in the type of traffic using the crossing, thus importing a risk to the railway potentially leading to very similar issues as seen at Cronkinsons.
- As a first principle, Network Rail would therefore wish to see the closure of Green Lane Level Crossing and its replacement with a footbridge which would remove all risk to the railway and all individuals. As Network Rail is a publicly funded organisation with a regulated remit it would not be reasonable to require Network Rail to fund mitigation measures necessitated by commercial third party development. Network Rail would request that the developer is required to fund any mitigation measures identified as a direct result of the proposed development, including a footbridge.
- The National Planning Policy Framework states on pg.9-10, that, "*Plans and decisions should take account of whether...Safe and suitable access to the site can be achieved for all people.*" The provision of a developer contribution to fund a footbridge would see the proposal in line with the NPPF comments as well as Policy TRAN3 of the Borough of Crewe and Nantwich Replacement Local Plan 2011
- Network Rail would also draw the attention of Cheshire East Council to a recent appeal decision where a proposal at Princes Risborough (Wycombe Council area) included an increase in the material and volume of traffic going over a level crossing. The inspector and Secretary of State acknowledged that no further planning applications should be considered unless it included the closure of the crossings. I include a copy of the appeal decision for the council's attention.

## **2. Nantwich Railway Station:**

- The site is a little distance to the South of Nantwich railway station and therefore would be accessible principally by vehicle from the development.
- Currently at Nantwich Railway Station there is no formal drop off point or station parking. As Nantwich Railway Station has no formal drop off point and has no station parking Network Rail would seek developer funded contributions to install a drop off point and station parking to mitigate any additional pressures arising from the development by increased footfall as a result of the 270 proposed dwellings and their residents.
- Where growth areas or significant housing allocations are identified close to existing rail infrastructure it is essential that the potential impacts of this are assessed. Many stations and routes are already operating close to capacity and a significant increase in patronage may create the need for upgrades to the existing infrastructure. As Network Rail is a publicly funded organisation with a regulated remit it would not be reasonable to require Network Rail to fund rail improvements necessitated by third party commercial development (as point 1).
- Network Rail would seek to work with maintenance teams and the Local Authority with external funding support towards possible upside access, drop off and parking. Network Rail Maintenance has occupied a small yard area we have in this locality which would need review, given the limited available sites nearby.
- Network Rail would also remind the council and the applicant of the potential for any noise/ vibration impacts caused by the proximity between the proposed development and the existing railway, which must be assessed in the context of the National

Planning Policy Framework (NPPF) and the Local Planning Authority, should use conditions as necessary.

### **Environment Agency**

- No comments received at the time of report preparation.

### **United Utilities**

- No comments received at the time of report preparation.

### **Highways**

- No comments received at the time of report preparation.

### **Education**

- It is anticipated that a development of 270 dwellings will generate 44 primary places and 35 secondary places.
- The attached spreadsheet shows these schools with capacities, numbers on roll and latest forecast figures. It also shows the developments catchment schools in Bold type as being Acton Primary School and Malbank School and Sixth Form College.

#### **Primary**

- The spreadsheet shows that at present there are 103 places available in the local primary schools, however the Councils pupil forecasts are showing that the number of available places in these schools are falling with forecasts indicating only 17 places available by 2017. Given that we anticipate 44 new places to be created and that our forecasts are indicating only 17 available by 2017 then we have a shortage of places available of 27. On this basis a primary contribution of  $27 \times 11,919 \times 0.91 = \text{£}292,850$  towards primary education.

#### **Secondary**

- The spreadsheet shows the details of the local secondary schools but excludes the sixth form provision. Given that it is anticipated that the development will generate 35 primary aged children then it is expected that the local secondary schools have enough accommodation to accommodate the pupils of this age.

### **Greenspaces**

- No comments received at the time of report preparation.

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

### **Nantwich Town Council**

- Objects to this development.

- Development on this site would be an extension of the built up area into the open countryside without any benefits to the town's infrastructure.
- The proposal would cause demonstrable harm to the character and appearance of the open countryside contrary to Policy NE.3 of the Adopted Local Plan.
- The proposed dwellings would result in an unacceptable level of traffic using Queens Drive and the adjacent roads into the town centre and would create problems on the highway network contrary to Policy BE.1 of the Adopted Local Plan.
- The site was not supported in the recent consultation with stakeholders on the proposed Town Strategy which will inform policy in the forthcoming Local Plan.
- In addition the site does not accord with the principles put forward by the Town Council in its submission regarding the Town Strategy, particularly in relation to the need to use brown field sites prior to new green field sites.
- Development of this site will also affect the enjoyment of the public footpaths in this area including the Circular Walk around Nantwich.

### **Acton, Edleston & Henhull Parish Council**

The Parish Council objects to this planning application for the following reasons:

- The development of this site was the least favoured of the options considered by the group convened to consider the draft Nantwich Town Strategy. Part of this site is grade two agricultural land and should remain for agriculture if more suitable sites are available for development.
- The Parish Council is most concerned about the possible scale of development resulting from interest being shown in a number of sites around Nantwich and particularly those sites within the parishes of Acton, Henhull and Edleston (this site). Such large scale development could have the result of changing the character of the area and, if undertaken in a piecemeal fashion, will result in deficiencies in local services, lack of transport systems and unduly long journeys to work.
- A specific concern is the issue of access to the locality of the site. Road access is available by three roads. Marsh Lane, to the west, leads to Wrenbury via a humped back canal bridge. Marsh Lane to the north is so narrow that cars cannot pass each other on the move and then joins Welsh Row. Queens Drive also joins Welsh Row via a difficult junction. A recent scheme to better manage and limit traffic in Welsh Row has, at best, been of limited benefit and traffic queues at the traffic lights at the bridge and by Malbank School for much of the day. The development of this site will exacerbate these problems. Even the completion of the proposed link from Taylor Drive to Edmund Wright Way would do little to offset the impact of traffic from the proposed houses.
- If this application is approved the Parish Council considers that the link to Taylor Drive should be completed before houses are occupied and that a rural footpath from Dig Lane to near the canal bridge be provided as part of the circular Crewe and Nantwich walk.

### **6. OTHER REPRESENTATIONS**

2 letters of objection have been received from various addresses making the following points:

- This site is outside that established town boundary and as such there should be a presumption against development.
- Gladman have a history of submitting speculative planning applications and taking them to appeal if necessary.
- The Council should resist this application as strongly as possible and do their very best to ensure that valuable farm land is not lost to unwanted and unneeded development.
- It will spoil a beautiful view. Existing residents have live near to the site for many years and to have 270 houses at the bottom of their gardens would be devastating.
- Also building here would put a massive strain on the roads, canal, schools and other infrastructure. The local schools have already struggled with the rise of intake since the building of the new estates in the area. Marsh Lane bridge could not take the extra traffic that would be brought up here, plus the new road put round Kingsley Fields was put there to take pressure off Welsh Row but building in Queens Drive would increase traffic on there again.

## **7. APPLICANT'S SUPPORTING INFORMATION:**

- Landscape Assessment
- Design and Access Statement
- Phase 1 Contaminated Land Report
- Transport Assessment
- Affordable Housing Report
- Renewable Energy Statement
- Community Engagement Statement
- Air Quality Report
- Utilities Appraisal
- Archaeological Report
- Noise Assessment
- Planning Statement
- Social Economic Report
- Flood Risk Assessment
- Arboricultural Assessment
- Ecological Report
- S106 Heads of Terms
- Travel Plan

## **8. OFFICER APPRAISAL**

### **Main Issues**

Given that the application is submitted in outline, the main issues in the consideration of this application are the suitability of the site, for residential development having regard to matters of planning policy and housing land supply, affordable housing, highway safety and traffic generation, contaminated land, air quality, noise impact, landscape impact, hedge and tree matters, ecology, amenity, open space, drainage and flooding, sustainability and education.

### **Principle of Development.**

## **Policy Position**

The site lies in the Open Countryside as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policies NE.2 and RES.5 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

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

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

Members should note that on 23<sup>rd</sup> March 2011 the Minister for Decentralisation Greg Clark published a statement entitled ‘Planning for Growth’. On 15<sup>th</sup> June 2011 this was supplemented by a statement highlighting a ‘presumption in favour of sustainable development’ which has now been published in the National Planning Policy Framework (NPPF) in March 2012.

Collectively these statements and the National Planning Policy Framework mark a shift in emphasis of the planning system towards a more positive approach to development. As the minister says:

*“The Government’s top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government’s clear expectation is that the answer to development and growth should wherever possible be ‘yes’, except where this would compromise the key sustainable development principles set out in national planning policy”.*

## **Housing Land Supply**

Whilst PPS3 ‘Housing’ has been abolished under the new planning reforms, the National Planning Policy Framework (NPPF) reiterates at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

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

The NPPF states that, Local Planning Authorities should have a clear understanding of housing needs in their area. This should take account of various factors including:

- housing need and demand,
- latest published household projections,
- evidence of the availability of suitable housing land,
- the Government's overall ambitions for affordability.

The figures contained within the Regional Spatial Strategy proposed a dwelling requirement of 20,700 dwellings for Cheshire East as a whole, for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum. In February 2011 a full meeting of the Council resolved to maintain this housing requirement until such time that the new Local Plan was approved.

It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the Strategic Housing Land Availability Assessment (SHLAA) which was adopted in March 2012.

The SHLAA has put forward a figure of 3.94 years housing land supply.

Paragraph 47 of the NPPF requires that there is a five year supply of housing plus a buffer of 5% to improve choice and competition. The NPPF advocates a greater 20% buffer where there is a persistent record of under delivery of housing. However for the reasons set out in the report which was considered and approved by Strategic Planning Board at its meeting on 30<sup>th</sup> May 2012, these circumstances do not apply to Cheshire East. Accordingly once the 5% buffer is added, the Borough has an identified deliverable housing supply of 3.75 years.

The NPPF clearly states at paragraph 49 that:

*“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

*“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- *specific policies in the Framework indicate development should be restricted.”*

The forthcoming Cheshire East Local Plan will set new housing numbers for the area and identify sufficient land and areas of growth to meet that requirement up to 2030. The Submission Draft Core Strategy will be published for consultation in the spring of 2013.

Consequently, the current shortfall in housing land will be largely remedied within the coming year or so. However, in order that housing land supply is improved in the meantime, an Interim Planning Policy on the Release of Housing Land has been agreed by the Council. This policy allows for the release of appropriate greenfield sites for new housing development on the edge of the principal town of Crewe and as part of mixed development in town centres and in regeneration areas, to support the provision of employment, town centres and community uses.

The Council is currently consulting on a revision to this document. This broadens the scope of land release to include small, non strategic sites on the outskirts of other towns, provided that they are not within the green belt, do not intrude into open countryside and that certain sustainability criteria are met. The Consultation draft limits the size of such sites to 1Ha.

This provision aside, the application site accords with the spirit of the new policy. The proposal only represents a small scale development and would not represent an incursion into the open countryside or a major urban extension due to the characteristics of the site. With respect to sustainability, this will be considered further below.

The value of the Interim Planning Policy lies in the fact that this represents the democratically decided expression of the Cheshire East Community on how housing supply should be positively managed ahead of the Local Plan. This accords with the sentiments in the NPPF which indicates that local people and their accountable Councils can produce their own planning proposals, which reflect the needs and priorities of their communities. However, it is not a development plan document or a supplementary planning document and accordingly carries only limited weight as a material consideration. This has been confirmed by previous Appeal Inspectors who have considered earlier versions of the policy.

The Written Ministerial Statement: Planning for Growth (23 March 2011) goes on to say *“when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development.”* They should, inter alia, 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 the recent recession; take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing; consider the range of likely economic, environmental and social benefits of proposals; and ensure that they do not impose unnecessary burdens on development.

The proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to the town including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain. Therefore, provided that the proposal does not compromise the key sustainable development principles, it is in accordance with government policy and therefore should be supported in principle.

### **Appeals**

There are several contemporary appeals that also feed into the picture of housing supply in Cheshire East. At Elworth Hall Farm in Sandbach, a proposal for 26 homes was allowed on a small site on the outskirts of the town.

In contrast, appeal decisions on larger sites in the same town have not reached a conclusive outcome. Hindheath Road (269 homes) has been remitted back to the Secretary of State following a successful high court challenge, whilst at Abbeyfields (280 homes) the Secretary of State's Appeal against the High Court Decision to quash his decision to dismiss the Appeal failed. Consequently the decision remains quashed and has been sent back to the Secretary of State to be redetermined.

In addition Members should also have regard to the appeal at Loachbrook Farm in Congleton (200 homes), which was allowed due to lack of a 5 year supply despite the Inspector acknowledging adverse impacts on landscape.

The Blackpool, Worsley and Fylde cases are also relevant. These have been brought to Members attention previously and in each case the Inspector attaches considerable weight to the lack of a five year supply in determining the Appeals.

Meanwhile in Neighbouring Cheshire West & Chester, the lack of a five year supply and the absence of any management measures to improve the position were material in allowing an appeal for housing on a greenfield site in the countryside in the Cuddington Appeal case, which Members will be aware of from previous Appeals Digest reports.

### ***Conclusion***

From the above, it can be concluded that:

- The Council does not have a five year supply of housing – and the presumption in favour of sustainable development should apply.
- The Interim Planning Policy currently under consultation promotes the development of small sites in sustainable locations which 'round off' the urban area. It could be argued that this site could fall within this definition.
- There appears to be a distinction between the way in which Inspectors and the Secretary of State have viewed small scale additions to the urban area which have limited impact and major urban extensions. Elworth Hall Farm, like the site currently under consideration, is a small site almost surrounded by other houses and a logical 'rounding off' of the existing settlement. Hind Heath Road, by contrast was a much larger incursion of built development into the surrounding open countryside.
- Appeals indicate that significant weight should be applied to housing supply arguments.
- The Loachbrook Farm case shows that even where significant adverse landscape impacts are identified these do not always outweigh the housing land supply requirement.
- The NPPF is clear that, where a Council does not have a five year housing land supply, its housing supply relevant policies cannot be considered up to date. Where policies are out of date planning permission should be granted unless:

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- *specific policies in the Framework indicate development should be restricted.”*
- These arguments are considered to be sufficient to outweigh the general presumption against new residential development within the Open Countryside as set out in the adopted development plan.

Overall, housing supply is a very important consideration in the determination of this application and must be given considerable weight. It is considered that the principle of the scheme is acceptable and that it accords with the general policy of encouraging housing on the edge of Crewe to meet the supply needs of the authority. Therefore, the application turns, therefore on whether there are any significant and demonstrable adverse effects, that indicate that the presumption in favour of the development should not apply and this is considered in more detail below.

## **Sustainability**

The National Planning Policy Framework definition of sustainable development is:

*“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”*

Although at an Appeal in Clitheroe, an Inspector stated that

*“accessibility is but one element of sustainable development; it is not synonymous with it. There are many other components of sustainability other than accessibility. The concept includes such matters as meeting housing needs in general and affordable housing in particular; ensuring community cohesion; economic development; ensuring adequate provision of local health facilities and providing access for recreation in the countryside”.*

Accessibility is a key factor of sustainability that can be measured. The methodology used by the applicant is informed by the Chartered Institution of Highways and Transportation (CIHT) document entitled ‘Providing for Journeys on Foot’. This document provides a range of standards on suggested acceptable walking distances. However, the applicant has decided that only the highest distance of 2000m (a preferred maximum for commuting, school and sightseeing), is to be appraised against, with no justification for this approach. The resultant assessment indicates that *“it has been demonstrated that the site is accessible by pedestrians”.*

The site is considered to be available but not suitable, achievable or deliverable by the SHLAA which states that the site is located on a “bus route on Queens Drive”

An alternative methodology for the assessment of walking distance is that of the North West Sustainability Checklist, backed by the Department for Communities and Local Government (DCLG) and World Wide Fund for Nature (WWF). The Checklist has been specifically designed for this region and relates to current planning policies set out in the North West Regional Spatial Strategy for the North West (2008).

The Checklist can be used by both developers and architects to review good practice and demonstrate the sustainability performance of their proposed developments. Planners can also use it to assess a planning application and, through forward planning, compare the sustainability of different development site options.

The North West Sustainability Checklist is supported by Policy DP9: Reduce Emissions and Adapt to Climate Change of the Regional Spatial Strategy for the North West, which states that:

*“Applicants and local planning authorities should ensure that all developments meet at least the minimum standards set out in the North West Sustainability Checklist for Developments (33), and should apply ‘good’ or ‘best practice’ standards wherever practicable”.*

The Regional Spatial Strategy for the North West currently remains part of the Development Plan for Cheshire East.

The criteria contained within the North West Sustainability Checklist are also being used during the Sustainability Appraisal of the Cheshire East Local Plan. With respect to accessibility, the toolkit advises on the desired distances to local facilities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions. The results of an accessibility assessment using this methodology are set out below.

Category	Facility	Queens Drive, Nantwich
Open Space:	Amenity Open Space (500m)	400m
	Children’s Play Space (500m)	400m
	Outdoor Sports Facility (500m)	725m
Local Amenities:	Convenience Store (500m)	700m
	Supermarket* (1000m)	1815m
	Post box (500m)	700m
	Playground / amenity area (500m)	400m
	Post office (1000m)	700m
	Bank or cash machine (1000m)	700m
	Pharmacy (1000m)	1815m

	Primary school (1000m)	955m
	Secondary School* (1000m)	1403m
	Medical Centre (1000m)	2010m
	Leisure facilities (leisure centre or library) (1000m)	1842m
	Local meeting place / community centre (1000m)	1852m
	Public house (1000m)	1426m
	Public park or village green (larger, publicly accessible open space) (1000m)	725m
	Child care facility (nursery or creche) (1000m)	955m
<b>Transport Facilities:</b>	Bus stop (500m)	240m
	Railway station (2000m where geographically possible)	1880m
	Public Right of Way (500m)	149m
	Any transport node (300m in town centre / 400m in urban area)	149m
<i>Disclaimers:</i>		
<i>The accessibility of the site other than where stated, is based on current conditions, any on-site provision of services/facilities or alterations to service/facility provision resulting from the development have not been taken into account.</i>		
<i>* Additional parameter to the North West Sustainability Checklist</i>		
<i>Measurements are taken from the centre of the site</i>		

Rating	Description
	Meets minimum standard
	Fails to meet minimum standard (Less than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m).
	Significant failure to meet minimum standard (Greater than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m).

It is considered that the proposal does not meet the minimum standards of accessibility to the following facilities:

- Supermarket
- Pharmacy
- Medical Centre
- Leisure Facilities
- Community Centre

Where the proposal fails to meet the standards, the facilities / amenities in question are still within a reasonable distance of those specified and are therefore accessible to the proposed development.

In summary, whilst the site does not comply with all of the standards advised by the NWDA toolkit, as stated previously, these are just guidelines and are not part of the development plan. Owing to its position on the edge of Nantwich, there are some amenities that are not

within the ideal standards set within the toolkit and will not be as close to the development as existing dwellings which are more centrally positioned. Indeed this is not untypical for suburban dwellings. However, all of the services and amenities listed are accommodated within Nantwich and are accessible to the proposed development on foot, by bus or bike and therefore it is considered that this small scale site is sustainable.

Policy DP9 of the RSS relates to reducing emissions and adapting to climate change. It requires:

- proposals to contribute to reductions in the regions' carbon dioxide emissions from all sources;
- take into account future changes to national targets for carbon dioxide and other greenhouse gas emissions
- to identify, assess and apply measure to ensure effective adaptation to likely environmental social and economic impacts of climate change.

RSS (Policy EM18) policy also necessitates that, in advance of local targets being set, large new developments should secure at least 10% of their predicted energy requirements from decentralised and renewable or low-carbon sources, unless it can be demonstrated that this is not feasible or viable. The developer has indicated that they are committed to ensuring that 10% of the energy requirements of the development will be from decentralised and renewable or low carbon sources and would be willing to accept a condition to this effect.

As all matters are reserved with the exception of access, aspects of the design relating to climate change and sustainability cannot be discussed in detail at this stage. However, the applicant states that the target for the development is:

- To be compliant with Level 3 of the Code for Sustainable Homes, however it is unclear if this is intended to be the full requirements, or only those associated with energy efficiency (which is a mandatory requirement within Building Regulations).
- The scheme will look to incorporate renewable energy options that will provide 10% of the expected energy demand of the site, a requirement of existing policy.

Therefore, the scheme meets the minimum policy requirements in terms of energy efficiency.

However, the applicant claims that a justification for the site being considered sustainable is that the proposals achieve a high level of energy efficiency – *“existing building regulations Code at Level 3 gives ample scope within the hands of a Reserved Matters Application to meet these policy requirements in full. Furthermore this in itself represents a significant improvement over national minimal standards that are themselves evolving on an ambitious trajectory, unmatched anywhere in the developed world, and quite probably beyond”*.

It is considered that, despite the applicant's claims, the approach to sustainable design is weak, especially given the rural edge location. The site could be achieving more, including passive environmental design objectives. Climate change adaptation could be a key principle alongside mitigation. The provision of 10% renewables and Code for Sustainable Homes level 3, is considered to be an un-ambitious target given that the proposal is in outline. Part of the site could be earmarked for an exemplar sustainable or self build scheme

and localised plot by plot measures could be used to supplement the strategic SUDs Living walls/roofs could be incorporated into the scheme and the principle of delivering growing spaces within the development could also be established at outline.

The applicant therefore does not demonstrate how the scheme will achieve an exceptionally high energy efficiency standard and the information submitted does not support the justification for the site being considered to be exceptionally sustainable in this regard.

Nevertheless, given that it is viable and feasible to meet the requirements of the RSS policy and a detailed scheme can be secured as part of the reserved matters through the use of conditions, it is not considered that a refusal on these grounds could be sustained. However, it is considered that a sustainability framework/strategy could be required by condition to be developed for the site, to better address the issues.

### **Loss of Agricultural Land**

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (grades 1, 2 and 3a in the ministry of agriculture fisheries and food classification) will not be permitted unless:

- the need for the development is supported in the local plan;
- it can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non agricultural land; or
- other sustainability considerations suggest that the use of higher quality agricultural land is preferable to the use of poorer quality agricultural land.

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

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

According to the Agricultural Land Assessment produced by the applicant, the agricultural land quality of the site is: 20% Grade 2, 70% Grade 3a; and 10% Grade 3b and 4.

### **Affordable Housing**

The majority of the site appears to be in the Wrenbury parish, although part also appears to be in Nantwich. Therefore housing officers have considered the affordable housing need for both areas.

The SHMA 2010 shows that in the Wrenbury sub-area there is a requirement for 5 new affordable units each year between 2009/10 – 2013/14. This is made up of a requirement for 3 x 2 beds and 4 x 4/5 beds, (the SHMA 2010 identified a surplus of 3 beds therefore the net requirement is 5 units). The SHMA 2010 shows that in the Nantwich sub-area there is a requirement for 73 new affordable units each year between 2009/10 – 2013/14, comprising a need for 21 x 1 beds, 20 x 2 beds, 10 x 3 beds, 17 x 4/5 beds and 6 x 1/2 bed for older persons properties.

Cheshire Homechoice is used as the choice based lettings method of allocating social rented accommodation across Cheshire East. There are currently 286 applicants who have selected Nantwich, Queens Drive or Wrenbury as the area which is their first choice for a property. The breakdown of properties as required by these applicants is 80 x 1 bed, 113 x 2 bed, 68 x 3 bed and 9 x 4 bed. 95 of the applicants who need a 1 or 2 bed property have indicated they would consider a flat.

The Affordable Housing IPS states that on all sites over 15 units the affordable housing requirement will be 30% of the total units. The tenure split required is 65% rented affordable units, 35% intermediate tenure as per the recommendations of the SHMA 2010. The application indicates that the proposed development would be for up to 270 dwellings, this equates to a requirement for up to 81 affordable homes.

As this is an outline application, Housing Officers have only been able comment on the information provided, in which the applicant has committed to providing 30% affordable housing on site. This should be secured by way of S106 agreement, which should also include a requirement that full details of the affordable housing scheme are submitted for the Councils approval with each relevant reserved matters application.

The Affordable Housing IPS requires that the affordable units should 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 Affordable Housing IPS also states that affordable homes should be constructed in accordance with the standards proposed to be adopted by the Homes and Communities Agency and should achieve at least Level 3 of the Code for Sustainable Homes (2007). The design and construction of affordable housing should also take into account forthcoming changes to the Building Regulations which will result in higher build standards particularly in respect of ventilation and the conservation of fuel and power.

The Affordable Housing Interim Planning Statement requires that the affordable homes should be provided no later than occupation of 50% of the open market units, unless the development is phased and there is a high degree of pepper-potting, in which case, the maximum proportion of open market homes that may be provided before the provision of all the affordable units may be increased to 80%.

The Section 106 Agreement could also make provision for this detail to be agreed at the reserved matters stage, once the final layout has been determined.

It is the Council's preference that the affordable housing is secured by way of a S106 agreement, which requires the developer to transfer any rented affordable units to a Housing Association and includes the requirement for the affordable house scheme to be submitted at reserved matters and also includes provisions that require the affordable homes to be let or sold to people who are in housing need and have a local connection. The local connection criteria used in the agreement should match the Councils allocations policy. This is in accordance with the Affordable Housing IPS which 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 that

*“in 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”*

In summary, the Section 106 Agreement should make provision for the following:

- 30% of the dwellings to be affordable, (this equates to up to 81 dwellings.)
- The tenure split of the affordable housing required is 65% rented, 35% intermediate tenure
- Affordable Homes should be pepper-potted (in clusters is acceptable.)
- The affordable homes should be built to the standards adopted by the HCA at the time of development and achieve at least Code for Sustainable Homes Level 3
- The affordable homes should be provided no later than occupation of 50% of the market dwellings (or 80% if the development is phased and there is a high level of pepper-potting of the affordable units)
- Any rented units to be transferred to an RSL

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

A Transport Assessment has been submitted with the application which concludes that:

- Vehicular access to the development will be taken from a new priority access on Queens Drive.
- Parking provision and the internal site layout will be in line with the local standards contained in the Cheshire East Local Plan. A review of accidents over a five year period does not indicate any correlations that would suggest that highway condition, layout or design were significant contributory factors in the accidents.
- It has been demonstrated that the development conforms to and supports both national and local policy. The site is adjacent to a well-established residential area where pedestrian facilities already exist and are of a high standard with well-lit, well-used and well-defined footway networks close to the site. Similarly, the site benefits from proximity to existing cycle infrastructure. The walking and cycling infrastructure provides access to local services in Nantwich Town Centre within a reasonable distance. There are existing public transport facilities accessible directly from the site in the form of the bus services operating on Marsh Lane and Queens Drive. Nantwich Railway Station is a little over 2km from the site and is accessible via a short bus journey.

- The walking, cycling and public transport opportunities at the site constitute alternative modes of travel to the car which are considered to be realistic modes of travel for commuting, leisure and education based journeys.
- The results of the capacity assessments and percentage impact assessment indicate that the development traffic can be satisfactorily accommodated on the surrounding highway network, although mitigation measures may be required at two junctions. From a traffic and transportation perspective there are no reasons why the development proposals should not be granted planning approval.

Comments from the Strategic Highways Manager were awaited at the time of report preparation, and a further update will be provided to Members prior to their meeting.

### **Contaminated land**

The developer has submitted a Phase 1 desk study for contaminated land, which recommends that a Phase 2 Geoenvironmental Assessment (Site Investigation) is carried out. The report identifies site investigation locations which could comprise trial pits or boreholes. Dependent upon the consistency of conditions encountered, the investigation could be phased. A trial pit investigation provides a better means of identifying trench stability for construction purposes and is less susceptible to conclusions on the nature of the underlying ground conditions being distorted by local variations. However, the requirement for further investigation by boreholes may well be identified by the initial Trial Pits, dependent upon conditions encountered and scheme proposals. Both forms of investigation would allow the ground to be sampled, logged and tested for geotechnical and contamination purposes as deemed necessary.

Foundation requirements can only be confirmed once physical site investigation works have been undertaken and soil conditions identified and assessed. It is considered that the risk of contamination issues impacting on the development proposals is low. However, this preliminary assessment can only be confirmed, or otherwise, once physical site investigation works have been undertaken and ground conditions sampled and assessed with testing as necessary.

The Council's Environmental Health officers have commented that the application is an outline application for new residential properties which are a sensitive end use and could be affected by any contamination present. They have examined the Phase I desk study and have endorsed its conclusions that a Phase II site investigation should be carried out. In accordance with the NPPF, they have recommended that conditions are imposed to secure a Phase II investigation and any necessary mitigation that may be deemed necessary as a result of that work.

### **Air Quality**

The developer has submitted an air quality report which states that a construction phase assessment has been undertaken to determine the risk and significance of dust effects from demolition, earthworks, construction activities and trackout from the proposed development. The assessment has been undertaken in accordance with the guidance on assessing the impacts of construction phase dust published by the IAQM.

The risk of dust effects is considered to be a medium to high risk category for earthworks, construction activities and trackout. Site specific mitigation measures will therefore need to be implemented at the site.

The significance of the dust effects has been assessed by taking into account the sensitivity of the local area and the risk that the activities might give rise to dust effects. The local area is considered to be of low through to high sensitivity. The significance of dust effects for earthworks, construction activities and trackout with the site specific mitigation measures in place, are considered to be negligible to slight adverse.

With regard to the operational phase, air quality at ten representative existing sensitive receptor locations has been considered in the air quality assessment. The existing receptor locations are all considered to be moderately sensitive

The air quality assessment has predicted that there will be a negligible impact on concentrations of NO<sub>2</sub> and PM<sub>10</sub> at all ten of the existing receptors considered, in 2014 and 2017 with the development in place.

All predicted NO<sub>2</sub> and PM<sub>10</sub> concentrations are well below the objective/limit values and no exceedences of the NO<sub>2</sub> and PM<sub>10</sub> annual mean air quality objectives of 40µg/m<sup>3</sup> are predicted to occur, in 2014 and 2017, for both the 'without development' and 'with development' scenarios. Therefore, the imperceptible change would be described as negligible.

All existing receptor locations are considered to be moderately sensitive, and are therefore predicted to experience a negligible/not significant impact as a result of the proposed development when the magnitude of impact is considered along with the sensitivity of the receptor.

To summarise, the air quality assessment indicates that the proposed development generated traffic will have a negligible impact on existing sensitive receptor locations in 2014 and 2017. It is not therefore considered necessary to recommend measures to mitigate road traffic emissions.

With regard to proposed sensitive receptor locations NO<sub>2</sub> and PM<sub>10</sub> concentrations are predicted to be well below the respective annual mean air quality objectives for 2014 and 2017, at the proposed sensitive receptors considered. It is not therefore considered necessary to recommend measures to mitigate road traffic emissions.

The site is not located within or close to any designated Air Quality Management Areas. Therefore, having examined the report, Environmental Health have raised no objection in principle on Air Quality grounds. However, they have recommended the submission and implementation of mitigation measures to minimise any impact on air quality arising from construction dust. This can also be secured by condition.

## **Noise Impact**

The site is located in close proximity to an operational main line railway. The applicant has submitted a Noise Report which concludes that the dominant noise sources, which will potentially affect the residents of the proposed residential development, include vehicle movements on Queens Drive, Marsh Lane and the local road network, and passenger train movements on the Manchester to Cardiff Railway line.

The results of the noise survey and assessment indicate that the required external noise limit of 55dB LAeq 16 hour will be met in outdoor living areas of the development. The proposed residential properties will themselves screen the majority of outdoor living areas from road traffic on Queens Drive, Marsh Lane, and the proposed site access, together with rail traffic on the Manchester to Cardiff railway line, further reducing noise levels in outdoor living areas

To achieve the internal noise levels required in living room and bedroom areas, in accordance with WHO 1999, standard thermal double glazing (which attenuates 26-29dB(A) from traffic dominated noise) in a solid brick or blockwork façade would be sufficient.

The implementation of the recommended glazing should ensure that internal noise levels are met in living rooms and bedroom areas across the site with the windows closed. However, with the windows open the attenuation provided by the façade will be no more than approximately 15dB(A), which would allow the internal noise limit to be exceeded in some living rooms and bedrooms located nearest to, and with a direct line of sight of Queens Drive, Marsh Lane and the Manchester to Cardiff railway line. Acoustic ventilation would therefore need to be installed in some habitable rooms.

The facades of the properties further into the site will be protected by the buildings themselves and/or screened by other buildings. Acoustic ventilation would not necessarily need to be installed in the living rooms and/or bedrooms of these properties.

The requirement for glazing and acoustic ventilation will be confirmed, on a plot by plot basis, at a reserved matters stage.

The report has been examined by the Councils Environmental Health officers, who have accepted its conclusions and raised no objection subject to the imposition of conditions requiring full details of proposed mitigation measures to be submitted, approved and implemented. As a result, it is not considered that a refusal on noise grounds could be sustained.

## **Drainage and Flooding**

The applicant has submitted with the application, a detailed Flood Risk Assessment (FRA). The findings of the report can be summarised as follows. The FRA has identified that the site lies in an area of Zone 1 Flood Risk. The canal is generally contained by the surrounding ground levels and the risk of a structural failure resulting in flooding to the development has been discounted. Whilst the canal is managed by the Canal and Rivers Trust, the risk of overtopping due to a severe flood event cannot be discounted. On this basis, development levels should be set to convey any overland flows safely through the site without impacting on property.

Some raising of ground levels alongside the existing watercourse system in the north east corner of the site will be required arising from the drainage development proposals. It is considered that this requirement will mitigate against any residual risk of flooding associated with this system.

It is proposed to connect surface water drainage into the existing ditch/watercourse system with flows limited to the Greenfield run off rate, thus mimicking existing run off in accordance with the NPPF.

The proposed drainage system will be designed in accordance with Sewers for Adoption 6 Edition to accommodate a 1 in 30 year event. The system will be put forward for adoption by United Utilities under a Section 104 Agreement and United Utilities will therefore become responsible for the long term maintenance of the new site drainage system.

Additional storage up to the 1 in 100 year plus climate change event will be contained above ground. Private drainage (i.e. not adoptable) serving houses within the development will be designed to current building standards

The FRA therefore concludes that it has been demonstrated, in accordance with the NPPF, that the development is not at risk of flooding from external sources, will not increase flood risk associated with the development and its environment and is therefore appropriate.

United Utilities and the Environment Agency were considering the submitted information at the time of report preparation and a further update on this matter will be provided to Members prior to their meeting.

## **Archaeology**

The application is supported by an archaeological desk-based assessment, This has established that the site has low/nil potential for any archaeological evidence from the prehistoric, Roman and Saxon/Early-Medieval periods, and a low potential for sub-surface archaeological deposits from the Medieval/Post-Medieval periods to be present. In light of the above, it is concluded that as the archaeological potential of the site is minimal, no mitigation measures are required to address archaeological issues on the site.

The County Archaeologist has carefully considered the conclusions of the report and, has concluded that, in this instance, the archaeological potential is not sufficient to justify any further archaeological mitigation.

## **Built Heritage**

Whilst the development is relatively close to the scheduled historic park and garden of Dorfold Hall, the presence of landscape and the separation of the site and screening arising from Marsh Lane Bridge minimises the potential for the development to impact upon its setting.

The setting of the 2 listed bridges could be adversely affected by development, particularly as they are structures set in open countryside, with the benefit of a landscape setting.

However, if the development is carefully designed at Reserved Matters, then the significance of these assets could become better revealed and act as point of reference and townscape interest within the development

The canal has no formal designation, but it is considered a non designated heritage asset. It will be important therefore to respond positively to its setting in the design of development along the western edge of the site and to deliver the landscape buffer along this edge of the site. Development along this edge should take its cue from the relationship with the canal.

## **Countryside and Landscape Impact**

The Council's Landscape Officer has examined the proposals and commented that the baseline information does include reference to the National Character Areas as defined by Natural England in their revised study of the countryside Character Series (1998), where the application area is defined as Character Area 61; Shropshire, Cheshire and Staffordshire Plain. The study also refers to the Cheshire Landscape Assessment 2008, adopted March 2009 which identifies that this site is located in Landscape Type 7: East Lowland Plain; within this character type the application site is located within the Ravensmoor Character Area: ELP1.

The Landscape and Visual Assessment states that it has been carried out encompassing the 'Guidelines for Landscape and Visual Assessment' (GLVIA) published by the Landscape Institute and the Institute of Environmental Management and Assessment 2002.

The Landscape and Visual Assessment includes an assessment of local character areas – and identifies the following areas: the Lowland Plain (1), the Dorfold Hall Estate (2), Nantwich Outside of Conservation Area (3), Park along River Weaver Corridor (4), and Nantwich Town Conservation Area (5). Officers do not feel that the assessment has adequately addressed the landscape effects that the proposals will have for the Lowland Plain (1) and Nantwich outside of Conservation area (3) especially. They feel that the landscape significance for these two local character types would be greater than the assessment indicates.

The Landscape and Visual Assessment includes a visual assessment for 13 viewpoints and explains a visual impact for the chosen viewpoints. Officers do not agree with the sensitivity of the receptors for a number of these viewpoints and feel that the significance of visual impact may be more significant than the assessment indicates.

This is an outline application and as such it is difficult to comment on the illustrative layout in any detail, but the Landscape Officer does not feel that the proposals as shown will have a significantly adverse landscape or visual impact. Consequently they do not feel that refusal on landscape or visual grounds could be substantiated.

## **Forestry**

The site comprises a single field to the west of Nantwich adjacent to the canal. Tree and hedge cover is concentrated around the periphery of the site. The trees are predominantly Oak with some Ash and Poplar. There are established hedges to the north and south and

sporadic lengths of hedge to the west adjacent to the canal. The vegetation is typical of agricultural land in the area. There are no currently statutory constraints on the trees.

The document FPCR Arboricultural Assessment dated January 2012 includes a comprehensive tree survey which accords with BS 5837:2005 trees in relation to construction. A total of ten individual trees and two groups of trees were surveyed.

The Council's Landscape Officer has considered the submitted information and commented that, as the application is outline, with only access included, it is only possible to make a general assessment of the development proposals based on the Illustrative Masterplan. In principle, the plan indicates all the existing mature trees could be retained. However; the feasibility of the proposal would only be tested by detailed analysis at reserved matters stage. Many of the trees contain a proportion of deadwood and many have wildlife value. Should the trees be placed in a new setting, their location within the layout and their future management will need careful consideration.

The Arboricultural Implication Assessment suggests a veteran Oak in the north east corner of the site would be adequately safeguarded in public open space. References are also made to the implications of the development on trees to the south east of the site. Unless the precise areas of open space are defined and agreed at outline stage, the Landscape Officer does not consider any weight can be afforded to this element of the report and, as stated above, would be seeking further details in due course.

No detailed landscape proposals are provided. Full details would be required at reserved matter stage. The provision of opportunities for additional native planting are to be welcomed although, the more formal planting and in particular the desirability of the formal avenue feature would have to be considered carefully in design terms.

Consequently, subject to conditions requiring:

- the submission, approval and implementation of tree and hedge protection measures,
- a programme of tree works, an Arboricultural Method Statement,
- a landscape scheme,
- details of services locations
- proposed future management of the new areas of planting,

it is not considered that a refusal on tree and forestry grounds could be sustained.

## **Hedgerows**

Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'Important'. Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application. Hedgerows are also a habitat subject of a Biodiversity Action Plan.

The Ecological appraisal has assessed the ecological value of the hedges in accordance with the Regulations. It states that the hedge to the south of the site qualifies as 'Important'

under the ecological criteria in the Regulations. All three hedges have a moderate score of +3 using the hedgerow Evaluation and grading system (HEGS) and are UKBAP priority habitats.

Policy NE5 of the Crewe and Nantwich Local Plan states, that the local planning authority will protect, conserve and enhance the natural conservation resources and proposals for development will only be permitted where natural features such as hedgerows are integrated into landscaping schemes on development sites.

Given that lengths of hedgerow are proposed for removal, it is considered that a natural feature, which has been identified as being ecologically important, would not be retained and integrated into the development. As a result, the requirements of this policy would not be met.

However, other than the removal of a section of hedge for the road and pedestrian access off Queen Drive, the Illustrative Masterplan would allow hedgerow retention and, for the most part, the hedges are shown outside private gardens. Consequently, it is not considered that a refusal on these grounds could be sustained. It would be preferable if all the hedgerows were outside private gardens, but this is a matter which could be addressed at the reserved matters stage. The retention of important hedgerows within the Reserved Matters design could be made a condition of the outline approval.

Although there is a general archaeological assessment, the submission does not include any specific reference to an assessment of the historic criteria of the Hedgerow Regulations. No consultation with the Cheshire Shared Services Archaeologist and Archivist appears to have taken place. The submitted extract from the 1842 Tithe map may indicate some lengths of hedge represent historic field boundaries predating the Inclosure Act.

However, as stated above, only a small length of hedgerow is shown for removal in order to create the site access. Therefore, even if the historic line of the hedgerow is considered to be important, (as its line follows that of the road), it could still be traced in the landscape following the implementation of the development. Therefore it is not considered that a refusal on the grounds of Policy NE.5 could be sustained.

## **Open space**

Policy RT.3: Provision of recreational open space and children's playspace in new housing developments, of the Replacement Crewe and Nantwich Local Plan, 2011 requires that

*“in new housing developments with more than 20 dwellings, with the exception of sheltered housing, the local planning authority will seek the provision of a minimum 15 sq m of shared recreational open space per dwelling. Where the development includes family dwellings (i.e. those with two or more bedrooms) an additional 20 sq m of shared children's play space per family dwelling will be required as a minimum for the development as a whole”.*

This policy requirement equates to a requirement of 4,050 sqm shared recreational open space and 5,400 sqm shared children's play space which is a total of 9,450 sqm open space.

The need to ensure access to open space is supported within the National Planning Policy Framework, which states that

*“access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities”.*

The proposals for the site include a small children’s play area of 0.04ha or 400sq.m, landscape buffering and informal open space. This falls significantly short of the open space requirements of the Replacement Crewe and Nantwich Local Plan, particularly as much of this open space provision, seems intended to either provide a habitat for great crested newts or acts as an outside seating area for the proposed tea room. Therefore, they will be of limited leisure or amenity value.

The proposal should provide a NEAP. This needs to cater for both young and older children - 6 pieces of equipment for young, plus 6 pieces for older children. A cantilever swing with two support legs plus basket seat and a ground-flush roundabout would also be desirable, as these are very popular, and cater for less able-bodied children. All equipment needs to be predominantly of metal construction, as opposed to wood and plastic. The remaining open space provision should include a Multi Use Games Area.

The type of greenspace requested is also supported by the following findings within the ‘Key Service Centres Open Spaces Summary Report’, which includes the following findings for Nantwich -

- There is a shortage of outdoor sports facilities of 18.04ha.
- There is a shortage of children’s play space of 8.97ha
- There is a shortage of allotment sites, with sites required in accessible locations.

Whilst it is acknowledged that the submitted layout is only indicative, and that the above requirements could be secured at reserved matters stage, through the Section 106 Agreement, there is significant concern as to whether the required open space provision can be met within the site layout, whilst accommodating the number of dwellings for which planning consent has been sought. This is a matter which needs to be addressed before planning permission can be granted.

A private management company would be required to manage the greenspace on the site. However, this could be easily secured through the Section 106 Agreement.

## **Layout and Design**

Whilst it is noted that this is an outline application, and that the submitted layout is only indicative, there are several key issues and areas of concern, which are as follows.

In terms of density, the figure of just over 35dph seems reasonable. However, there is concern that this could place pressure on both the site’s intended green infrastructure and/or undermine the principles in the design and access statement to achieve a softer, lower density edge to countryside boundaries and the canal. It is therefore considered that the maximum yield should be reduced by approximately 10 to 15% to ensure these aspects can

be delivered, or a more detailed plot specific testing layout should be provided to demonstrate that this number can be satisfactorily achieved

With regard to green infrastructure, the approach to creating open space alongside the canal and site edges is seen as positive but existing hedges should be reinforced. Additionally, the form of the central spine of green space seems to be at odds with the overarching character of informal blocks and edges to green space. A more organic edge to this space is therefore suggested. Also, there is also a question about whether this spine of open space is in fact in the right place to exploit all views. The high point to the south west of the site is a point where open space could be located to exploit long views to the town and to the hills to the east. Green infrastructure within streets should also be included to create a green network linking spaces, hedges and other features, particularly to create green routes running north-south. The LEAP is peripheral rather than being centrally located. This provision should be supplemented by local play opportunities in streets. This could be achieved within a home zone type scheme as part of an imaginative approach to street design.

The street hierarchy is generally accepted, but continuous lanes would avoid the need for turning heads and create enhanced permeability. Pedestrian links to the canal should be further exploited and the built edge along this part of the development should positively relate to this asset in order to maximise views and visual relationship.

The practicality of parking is unclear, and as stated previously this could dramatically alter perceptions and impinge upon the principles within the illustrative design.

A positive aspect of the indicative layout is that externally orientated blocks are proposed. There should be strong building form at the gateway. There is the potential to create legibility within the scheme over and above the landmark/focal point opportunities identified in the Design and Access Statement. The design principles discussed in relation to appearance in the Design and Access Statement is encouraging. However, this should be carried through into the detailed design (with principles established in an intermediary design code). Specific, individually designed areas within the scheme could help to add to the sense of place/local distinctiveness. This could be targeted at landmark/focal locations and key urban design 'events' and spaces within the layout. For example, the canal side is an area where this approach should be employed.

More avenue tree planting along the main street would help to soften what could become quite a hard townscape. The site is rural edge and therefore it should also respond to that context to avoid jarring with the form of existing townscape on this edge of the town. The retention of hedges and trees is also commendable but this framework could be further enhanced within the site (in association with spaces, garden boundaries etc.), particularly in the lower density areas on the site edges.

The proposals to utilise Sustainable Urban Drainage Systems (SUDS) is to be welcomed but the opportunity should be taken to create a wider water framework within the areas of greenspace.

The design of the convenience store and tea shop should be of a high quality and its orientation should not impact adversely upon the listed canal bridge. Landscaping should be used to help soften the parking area.

It is considered that the majority of these issues can be addressed at the Reserved Matters stage, and that a detailed Masterplan and Design Code should be prepared, submitted and approved as part of the first Reserved Matters application. This is in accord with the NPPF which endorses the use of Design Coding, which states at paragraph 59 that: "*Local planning authorities should consider using design codes where they could help deliver high quality outcomes*".

However, this would not overcome the fundamental concerns with regard to the maximum number of dwellings proposed and the ability of the site to accommodate the proposed number of dwellings, the open space and urban design principles, which are necessary to achieve a high quality of development. It is therefore considered that the developer has failed to demonstrate that the proposals meet the requirements of policy BE2 (Design) of the Borough of Crewe and Nantwich Replacement Local Plan and the NPPF.

Therefore it is considered that the development is unsustainable and that despite the lack of a 5 year housing land supply, policies within the NPPF indicate that the development should be refused.

## **Ecology**

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate "*in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment*" among other reasons.

The Directive is then implemented in England and Wales The Conservation of Habitats and Species Regulations 2010. ("the Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

The Regulations provide that the Local Planning Authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

It should be noted that, since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must have regard to the requirements for derogation referred to in Article 16 and the fact that Natural England will have a role in ensuring that the requirements for derogation set out in the Directive are met.

If it appears to the planning authority that circumstances exist which make it very likely that the requirements for derogation will not be met, then the planning authority will need to consider whether, taking the development plan and all other material considerations into

account, planning permission should be refused. Conversely, if it seems from the information that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements will be met or not, a balanced view taking into account the particular circumstances of the application should be taken and the guidance in the NPPF. In line with guidance in the NPPF, appropriate mitigation and enhancement should be secured if planning permission is granted.

The application is supported by an acceptable ecological assessment, which has been examined by the Council's Ecologist. With the exception of the presence of hedgerows and the protected species issues discussed below, he advises that the proposed development site has relatively low nature conservation value.

### Great Crested Newts

Great Crested Newts have been identified as breeding at two ponds just outside the boundary of the proposed development. The population is of a medium size. Whilst no ponds will be lost the proposed development is likely to result in a moderate impact on the local Great Crested Newt population through the loss of intermediate and distant terrestrial habitat and would also pose the risk of killing/injuring or disturbing any animals present within the development site when works are undertaken.

To mitigate the risk posed to individual animals, the applicant's ecologist recommends the erection of exclusion fencing and clearance of newts from the development footprint using standard best practise methodologies under license from natural England. To mitigate the loss of habitat the indicative layout scheme for the site shows an area of retained/enhanced habitat in close proximity to the breeding ponds and the creation of four new purpose designed amphibian breeding ponds.

The Council's Ecologist advises that, subject to two additional requirements the proposed mitigation and compensation will be sufficient to address the likely impacts of the proposed development on Great Crested Newts. The additional requirements are that firstly the newly created ponds are designed solely for nature conservation and do not form part of any SUDS scheme for the site and secondly that public access is excluded from the new ponds.

The Council's Ecologist recommends that if outline planning consent is granted a condition be attached requiring a detailed great crested newt mitigation strategy be submitted as part of any reserved matter application. The strategy should include:

- the retention and enhancement of all habitats within 50m of the identified breeding ponds,
- the detailed design of the new ponds,
- habitat creation through the open space areas and measures to exclude public access from the new ponds.

On the basis of the layout submitted, and in the light of other open space requirements, it is considered that the applicant has failed to demonstrate how this could be achieved whilst accommodating the proposed level of development. This adds further weight to the concerns regarding the density and layout as described above.

## Hedgerows

Hedgerows are a Biodiversity Action Plan Priority habitat and a material consideration. The hedgerows bounding the proposed development site are of nature conservation value and importantly the hedgerow along the southern boundary of the site has been identified as being "Important" under the Hedgerow Regulations.

The submitted indicative master plan for the site shows the retention of hedgerows to the west and south of the site, but with a loss of hedgerow along the northern boundary.

A new hedgerow is proposed along the eastern boundary of the site. The Council's Ecologist advises that this new hedgerow is likely to be sufficient to compensate for any losses associated with the proposed development.

## Badgers

Some evidence of badger activity was recorded on the site. However no setts were identified. Provided that an appropriate landscaping/habitat creation scheme is implemented it is unlikely that the proposed development would have a significant impact upon badgers. Any future reserved matters application should be supported by an up to date badger survey and a landscaping scheme sensitive to badgers.

## Bats

No bat activity surveys have been undertaken. However it is likely that the site supports habitats that will be utilised by foraging and commuting bats to some extent. In addition a number of trees have been identified that have the potential to support roosting bats. From the submitted indicative master plan, it appears possible to retain these trees within an area of open space/semi-natural habitat and the Council's Ecologist is satisfied that the proposed habitat creation is likely to be sufficient to compensate for any loss of bat foraging/commuting habitat. The proposed development is therefore unlikely to have a significant adverse impact upon bats.

## Breeding Birds

If planning consent is granted standard conditions will be required to safeguard breeding birds and to ensure additional provision is made for roosting bats and breeding birds.

## Conditions

If outline planning consent is granted the ecologist recommends that conditions will be required to:

- Safeguard breeding birds
- Ensure any reserved matters application includes detailed proposals for the proposed habitat creation areas including pond design, hedgerow creation, protection and enhancement etc.

- Ensure any reserved matters application includes additional provision for breeding birds and roosting bats
- Ensure any reserved matters application includes an up to date badger survey and mitigation proposals for any adverse impacts identified.
- Ensure any reserved matters application includes a 10 year habitat management plan.

## **Amenity**

It is generally considered that in New Residential Developments, a distance of 21m between principal windows and 13m between a principal window and a flank elevation is required to maintain an adequate standard of privacy and amenity between residential properties.

The layout and design of the site are reserved matters. However, the indicative layout demonstrates that 270 dwellings could be accommodated on the site, whilst maintaining these minimum distances between existing and proposed dwellings. It also illustrates that the same standards can be achieved between proposed dwellings within the new estate.

A minimum private amenity space of 50sq.m is usually considered to be appropriate for new family housing. The indicative layout indicates that this can be achieved in the majority of cases. However, if the additional areas of open space, as described above, are factored into the site layout, it is unclear on the basis of the information submitted whether 270 dwellings could still be accommodated on site whilst maintaining these amenity standards.

It is therefore unclear as to whether the proposed development, having met the open space, design and ecology requirements would be acceptable in amenity terms and would comply with the requirements of Policy BE.1 of the Local Plan.

## **Education**

The Education Officer has examined the proposal and has raised no objection subject to the provision of a contribution of £292,850 towards primary education. This could be secured through a Section 106 Agreement if the development was deemed to be acceptable.

## **Impact on Railway**

Network Rail has submitted a holding objection due to concerns about increased traffic over a public footpath / farm crossing on the nearby railway. They have stated that they would require a financial contribution for a footbridge to be provided in order to overcome this concern. Although, at the time of report preparation, a precise figure for this contribution was awaited from Network Rail, it is considered that this could be secured by way of the Section 106 Agreement. Therefore, subject to this provision, it is considered that the Network Rail objection could be overcome and that a refusal on these grounds could not be sustained.

Network Rail have also requested a contribution towards provision of car-parking at Nantwich Station.

A planning obligation must comply with the following three tests as set out in the Community Infrastructure Regulations 2010:

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Whilst it is acknowledged that the proposal will increase usage of Nantwich Station, provision of additional parking at the station would encourage the use of non-sustainable methods of travel. The sustainability appraisal above, has established that the proposal is sustainably located in relation to the station and is accessible by walking / cycling and public transport. As stated above, there is the opportunity to enhance provision for walking and cycling. Furthermore, there is no local plan policy to support contributions to off-site provision of car parking. Therefore the proposed contribution would fail to meet the above tests and it is not considered to be a fair and reasonable request.

### **Impact on Public Right of Way**

The development impacts on 2 public rights of way. These are the canal tow path (footpath no.8) and Public Bridleway No. 1(which runs along the southern edge of the site). The Public Rights of Way Officer has raised no objection to the proposal, subject to the Right of Way being maintained as safe and usable for the public throughout the development and any temporary closure, re-routing or resurfacing being approved through the appropriate channels.

However, the Public Rights of Way Officer has also identified that there is an opportunity to improve the quality of these two existing paths and providing new links to them from other parts of the site. The supporting information submitted with the application, indicates that this is the developers intention, and funding for off-site improvements to the rights of way could be secured as part of a Section 106 package. Although the Public Rights of Way Officer has raised some concerns about detailed aspects of how these improvements would be achieved, it is considered that these issues could be largely addressed at the reserved matters stage. However, in the light of the density and layout concerns expressed above, it is unclear as to how and where the footpath linkages within the site would be accommodated, whilst meeting all the other open space and design requirements as set out above.

In addition, the Public Rights of Way Officer has requested contributions to further off site works including, a pavement alongside Marsh Lane, an assessment of the condition of the bridges across the River Weaver and a path alongside the railway between Shrewbridge Road and Wellington Road.

The Public Rights of Way Officer has also queried the status and maintenance of any new route. However, it is considered that this could be dealt with via the management company established by the Section 106 Agreement.

### **Impact on Canal**

As stated above, the site is located in close proximity to the Shropshire Union Canal. The Canal and River Trust have been consulted on the proposals and raised no objection in

principle to the development subject to a condition requiring details of appropriate mitigation measures to prevent any risk of pollution or harm to the canal to be submitted, agreed and implemented.

The Trust has also highlighted the potential of the canal towpath to provide sustainable pedestrian and cycle linkages to the town centre and have welcomed the proposal to connect footpath / cycleway infrastructure within the development to it. Accordingly, they have requested a contribution towards off-site improvement works to the towpath. This could be secured through the Section 106 Agreement. Precise costs for this work were awaited at the time of report preparation and a further update on this issue will be provided in due course.

## 9. CONCLUSIONS

It is acknowledged that the Council does not currently have a five-year housing land supply and that, accordingly, housing supply policies are not considered up to date. In the light of the advice contained in the newly adopted National Planning Policy Framework, where the development plan is “*absent, silent or relevant policies are out of date*” planning permission should be granted unless

*“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

Or

*“specific policies in this Framework indicate development should be restricted.”*

The Development plan is not absent or silent with regard to this application. However, in the absence of a five year supply housing land supply, policies are not considered up to date. Other policies are considered to be in line with NPPF advice.

The boost to housing supply is considered to an important benefit. The proposal is considered to be acceptable in terms of its impact upon residential amenity, ecology, drainage/flooding and provision of primary school education and it therefore complies with the relevant local plan policy requirements for residential environments. The proposal is acceptable in terms of air quality, ground contamination and noise implications and will make adequate affordable housing provision.

Whilst the site does not meet all the minimum distances to local amenities and facilities advised in the North West Sustainability toolkit, there is not a significant failure to meet these and all such facilities are accessible to the site. The development is therefore deemed to be sustainable.

Whilst the proposal will result in the loss of mainly grade 3 and 4 agricultural land, (which is not the best and most versatile agricultural land), it is considered that the benefits of the delivering the site for much needed housing would outweigh this loss, given that the site does not offer a significant quality of land

On the negative side, the housing will be built on open countryside contrary to the provisions of Policy NE2 of the Local Plan, although the proposal will not have a significant impact on the landscape character of the area.

Of significant concern is the density of development which has been proposed. On the basis of the information submitted, it is considered that the applicant has failed to demonstrate, that 270 dwellings can be accommodated on the site, whilst providing the required amount of public open space provision, a good quality of urban design, wildlife mitigation areas, hedgerows, trees, improved footpaths and green linkages.

Unless this can be achieved, the proposal would represent an unsustainable form of development, and would be contrary to policies of the Borough of Crewe and Nantwich Replacement Local Plan 2011 relating to good design, provision of amenity space and specific design policies within the NPPF. The failure to demonstrate an adequate standard of design, layout and amenity would constitute a significant and demonstrable adverse impact that would outweigh the benefits in terms of housing land supply. Accordingly, under the provisions of paragraph 14 and 49 of the NPPF, the application is recommended for refusal.

## **10. RECOMMENDATION**

**REFUSE for the following reason:**

- 1. In the opinion of the Local Planning Authority, the applicant has failed to demonstrate that 270 dwellings can be accommodated on the site, whilst providing an adequate level of public amenity space and a satisfactory standard of layout and design. Unless this can be achieved the proposal is considered to represent unsustainable development and is contrary to policies BE.1 (Amenity) BE.2 (Design Standards) and Policy RT.3: (Provision Of Recreational Open Space And Children's Playspace In New Housing Developments) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and design advice within the NPPF.**

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