

Application No: 12/3536C

Location: Land East of, Meadow Avenue, Congleton, Cheshire, CW12 4BX

Proposal: Outline Application With Access For Erection Of Up To 14 No. Dwellinghouses With Ancillary Facilities And Associated Infrastructure.

Applicant: Mr Robert Pedley

Expiry Date: 12-Dec-2012

SUMMARY RECOMMENDATION

APPROVE subject to completion of Section 106 Agreement and Conditions

MAIN ISSUES

Planning Policy And Housing Land Supply
Sustainability
Affordable Housing,
Highway Safety And Traffic Generation.
Flood risk and drainage
Layout and design
Amenity
Landscape Impact and Hedge and Tree Matters
Ecology

REFERRAL

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

SITE DESCRIPTION

The application site is some 0.77 hectares of land to the east of Meadow Avenue and north of Waggs Road, Congleton. To the south and east is open countryside. Stony Lane, which is the route of a public footpath, runs along the western boundary of the site. The site is generally level hedgerows and trees on the boundaries.

The site is identified in the Strategic Housing Land Availability Assessment as suitable, achievable and developable. Its' availability is described as marginal/uncertain; however as the owners of the land have submitted this application, it would now appear to be available.

DETAILS OF PROPOSAL

Outline planning permission is sought for the erection of up to 14 dwellings, with ancillary facilities and associated infrastructure. Access is to be taken from the eastern end of Meadow Avenue, with all other matters, including appearance, landscaping, layout and scale, reserved for a subsequent application.

RELEVANT PLANNING HISTORY

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

PLANNING POLICIES

National Planning Policy Framework

Local Plan Policy

Cheshire East

Development Strategy

Congleton Borough Local Plan First Review 2005

PS8 Open Countryside

GR1 New Development

GR2 Design

GR3 Residential Development

GR5 Landscaping

GR6 Amenity and Health

GR9 Accessibility, servicing and provision of parking

GR14 Cycling Measures

GR15 Pedestrian Measures

GR17 Car parking

GR18 Traffic Generation

GR21 Flood Prevention

GR 22 Open Space Provision

NR1 Trees and Woodland

NR2 Statutory Sites (Wildlife and Nature Conservation)

NR3 Habitats

NR5 Habitats

H2 Provision of New Housing Development

H6 Residential Development in the Open countryside

H13 Affordable Housing and Low Cost Housing

Cheshire Replacement Waste Local Plan (Adopted 2007)

Policy 10 (Minimising Waste during construction and development)

Policy 11 (Development and waste recycling)

Regional Spatial Strategy

DP4 Make best use of resources and infrastructure

DP5 Managing travel demand

DP7 Promote environmental quality

DP9 Reduce emissions and adapt to climate change

RDF1 Spatial Priorities

L4 Regional Housing Provision

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

EM3 Green Infrastructure

EM18 Decentralised Energy Supply

MCR3 Southern Part of the Manchester City Region

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

OBSERVATIONS OF CONSULTEES

Natural England

This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. It appears that Natural England has also been consulted on this proposal to offer advice on the impact on a protected species.

Natural England's advice is as follows:

We have adopted national standing advice for protected species. As standing advice, it is a material consideration in the determination of the proposed development in this application in the same way as any individual response received from Natural England following consultation and should therefore be fully considered before a formal decision on the planning application is made.

The protected species survey has identified that the following European protected species may be affected by this application: Bats and Great Crested Newts. Our standing advice sheets for individual species provide advice to planners on deciding if there is a 'reasonable likelihood' of these species being present. They also provide advice on survey and mitigation requirements.

The standing advice has been designed to enable planning officers to assess protected species surveys and mitigation strategies without needing to consult us on each individual application. The standing advice was issued in February 2011 and we recognise that it will take

a little while for planners to become more comfortable with using it and so in the short-term will consider species surveys that affect European protected species against the standing advice ourselves, when asked for support by planners.

We have not assessed the survey for badgers, barn owls and breeding birds¹, water voles, widespread reptiles or white-clawed crayfish. These are all species protected by domestic legislation and you should use our standing advice to assess the impact on these species.

We used the flowchart on page 10 of our Standing Advice Species Sheet: Bats beginning at box (i) we reached box (v) - We looked at the survey report and determined that the survey was not clear enough to decide whether there are suitable features for roosting within the application site (eg buildings, trees or other structures) that are to be impacted by the proposal. We were unable to progress further through the flow chart. Please refer to page 14 of the ecological report which indicates that further survey effort is required.

We used the flowchart on page 8 of our Standing Advice Species Sheet: Great crested newts beginning at box (i) we reached box (viii) which advises the authority to accept the findings and consider promoting biodiversity enhancements for great crested newts (for example creation of new water bodies and suitable terrestrial habitat) in accordance with NPPF and Section 40 of the NERC Act. Please refer to page 15 of the ecological report which makes recommendations in relation to mitigation.

For future applications, or if further survey information is supplied, you should use our standing advice to decide if there is a 'reasonable likelihood' of protected species being present and whether survey and mitigation requirements have been met. If you would like any advice or guidance on how to use our standing advice, or how we used the standing advice to reach a conclusion in this case.

This advice is given to help the planning authority determine this planning application. On the basis of the information available to us with the planning application, Natural England is broadly satisfied that the mitigation proposals, if implemented, are sufficient to avoid adverse impacts on the local population of Great Crested Newts and therefore avoid affecting favourable conservation status. It is for the local planning authority to establish whether the proposed development is likely to offend against Article 12(1) of the Habitats Directive. If this is the case then the planning authority should consider whether the proposal would be likely to be granted a licence. Natural England is unable to provide advice on individual cases until licence applications are received since these applications generally involve a much greater level of detail than is provided in planning applications. We have however produced guidance on the high-level principles we apply when considering licence applications. It should also be noted that the advice given at this stage by Natural England is not a guarantee that we will be able to issue a licence, since this will depend on the specific detail of the scheme submitted to us as part of the licence application.

Environment Agency

We have no objection in principle to the proposed development.

Howty Brook is designated 'main river'. Under the terms of the Water Resources Act 1991, and the Land Drainage Byelaws, the prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 8 metres of the top of the bank of

a designated 'main river'.

This will include any proposed surface water outfall structure, which should be built wholly within the bank profile using materials in keeping with the local area. The discharge exit velocity should not exceed 1.0 metre/second and be angled with the direction of flow in the Brook.

United Utilities

None received at the time of report writing.

County Archeologist

No objection subject to condition that the site should be subject to a scheme of archaeological mitigation. This should consist of a programme of supervised metal detecting across the rest of the area to identify and record any artefacts present. If particular concentrations of material are located, more intensive work may be required at these specific localities. If only a general spread of artefacts is located, no further fieldwork is likely to be required. A report on the work will need to be produced and the mitigation may be secured by the condition given below:

Public Right of Way

The development will affect Public Footpath Congleton No. 6, as recorded on the Definitive Map of Public Rights of Way held at this office (working copy extract attached).

We have met with Grant Dinsdale from Dolphin Land & Development Consultancy Ltd regarding the application and have no objection providing that a safe crossing point is provided for pedestrians where the access road crosses the public footpath. We also discussed improvements to the footpath and are happy for these to go ahead.

Please note the Definitive Map is a minimum record of public rights of way and does not preclude the possibility that public rights of way exist which have not been recorded, and of which we are not aware. There is also a possibility that higher rights than those recorded may exist over routes shown as public footpaths and bridleways.

The PROW Unit expects that the Planning department will ensure that any planning conditions concerning the right of way are fully complied with. In addition, advisory notes should be added to the planning consent as follows:

"No change to the surface of the right of way can be approved without consultation with the PROW Unit. The developer should be aware of his/her obligations not to interfere with the public right of way either whilst development is in progress or once it has been completed; such interference may well constitute a criminal offence. In particular, the developer must ensure that:

- *there is no diminution in the width of the right of way available for use by members of the public*
- *no building materials are stored on the right of way*
- *no damage or substantial alteration, either temporary or permanent, is caused to the surface of the right of way*
- *vehicle movements are arranged so as not to unreasonably interfere with the public's use of the way*

- *no additional barriers (e.g. gates) are placed across the right of way, of either a temporary or permanent nature*
- *no wildlife fencing or other ecological protection features associated with wildlife mitigation measures are placed across the right of way or allowed to interfere with the right of way*
- *the safety of members of the public using the right of way is ensured at all times"*

Any variation to the above will require the prior consent of the PROW Unit. If the development will permanently affect the right of way, then the developer must apply for a diversion of the route under the TCPA 90 as part of the planning application.

If the development will temporarily affect the right of way then the developer must apply for a temporary closure of the route (preferably providing a suitable alternative route). The PROW Unit will take such action as may be necessary, including direct enforcement action and prosecution, to ensure that members of the public are not inconvenienced in their use of the way both during and after development work has taken place.

Greenspaces

With reference to the plans for 14 dwellings consisting of seven 5 bedroom, three 4 bedroom, two 3 bedroom and two 2 bedroom houses the following Streetscape comments and observations are made.

Amenity Greenspace

Following an assessment of the existing provision of Amenity Greenspace accessible to the proposed development, if the development were to be granted planning permission there would be a deficit in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

Consequently there is a requirement for new Amenity Greenspace to meet the future needs arising from the development. There is no Public Open Space indicated on the site layout plan

Alternatively quality enhancements of the infrastructure at Astbury Mere Country Park would benefit the new development

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

Enhanced Provision:	£3,011.31
Maintenance:	£6,740.25

Children and Young Persons Provision

Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning

permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development. The Council recognises that smaller developments will not always practically be able to provide open space and/or play provision on site where less than 20 dwellings are proposed and financial contributions would be sought towards enhancement of public open space/play provision within an 800m radius.

An opportunity has been identified for the enhancing the quality of an existing facility at West Road Play where the existing facilities are substandard

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

Enhanced Provision:	£ 5,219.00
Maintenance:	£ 17, 014.50

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

Streetscape would respectfully ask to be notified of any observations you may have regarding these comments, and to be informed of any changes that are made to the initial proposals as soon as you are aware of them.

Highways

This is a full planning application for 14 residential units on land that is accessed from the eastern end of Meadow Avenue. The access crosses Stony Lane which is a public right of way.

The main highway consideration is whether the development will have any traffic impact on the local highway network and whether the existing infrastructure is sufficient to accommodate the additional development.

Meadow Lane connects with Waggs Road and serves some 21 existing dwellings, there is a footpath one side of Meadow Lane and a verge on the opposite side. The carriageway width of Meadow Lane is 4.8m wide which is the standard width for small residential estate roads, the addition of a further 14 dwellings would not a raise a technical problem as it is generally accepted that a 4.8m road can serve up to 50 units.

The traffic generation that can be expected from the proposed development is low and even though the access roads including Waggs Lane and Fol Hollow are very narrow in places and certainly not suited to serve any new large developments, this level of development does not raise a material impact on traffic flows that are currently using these roads.

As the proposed access crosses a public right of way, the views of the public rights of way officer should be sought as to whether the additional vehicular traffic will cause a problem.

In summary, as the proposed development is only small in number the impact on the highway network is minimal and even though the main access roads to the site are not designed to accommodate high traffic flows, it would be extremely difficult to defend a traffic impact reason for refusal for 14 units.

No highway objections are raised.

VIEWS OF THE PARISH / TOWN COUNCIL

Congleton Town Council object to this application and recommend that Cheshire East Council refuse the application on the following grounds:

- Outside the development zone
- Proposed on open countryside, not meeting the criteria in CDC local plan
- Unsustainable on highways grounds
- Traffic problems around Marlfields school
- Plans are premature prior to the adoption of the Town Strategy and Local Plan
- Wildlife and biodiversity

OTHER REPRESENTATIONS

In excess of 180 representations have been received, including ones from the local MP and the three local ward members and a five page petition, full copies of which can be seen on the application file, expressing concerns about the following matters:

Principle

- Loss of green field site
- Loss of agricultural land
- The houses are not needed. There are plenty of properties for sale in Congleton
- The land is not allocated for housing
- Will lead to further development around the site and Astbury will be swallowed by Congleton
- Creation of urban sprawl towards the A34
- Proposal is premature coming before the adoption of the local plan
- Not in accordance with the Congleton Town Plan
- Will open the flood gates for future development
- Will undermine the spatial vision for the area
- Planning driven by greed
- The applicant has not undertaken an assessment of the sustainability of the site
- Does not meet affordable housing requirements

Highways

- Congestion on Waggs Road and Fol Hollow
- Fol Hollow is not suitable for additional traffic
- Danger from traffic to children at the nearby school
- Danger from HGVs during development because of unsuitable roads
- There would be more car movements generated from the site than those stated in the application
- Inadequate transport statement
- Traffic survey does not reflect the local knowledge of the traffic issues in the locality
- Impact on footpaths

Infrastructure

- No plans for extra hospitals, schools, nurseries and police
- No provision of community facilities or open space
- The application offers no infrastructure benefits

Loss of Open Countryside

- Damage to the landscape character of Priestly Fields
- Adverse visual impact on the area
- Threat to the unique natural heritage of enormous value to Congleton
- Loss of a rare example of access to the centre of a town through wooded countryside
- Green spaces are beneficial to the mental health of the nation

Amenity

- Loss of privacy to the properties on Waggs Road
- Increase in noise levels
- Quality of life will be severely affected during construction

Ecology

- Adverse impact on wildlife
- The development will crowd the wildlife corridor
- Adverse impact on many protected species that are known to be in the area
- A pond has been filled in the adjacent field and newts are appearing in neighbouring gardens

Drainage and Flooding

- Inadequate drainage on Waggs Road
- Flood Risk
- Scale of the pumping station is unnecessary for a development of this size

Design

- Development is out of character with the area
- Houses would not be in keeping with those in the locality

Other Matters

- The Council should stand up against these developments and take the risk of appeal costs
- The Council should have been better organized and had a functioning local plan
- Lack of democratic accountability because of decisions going to appeal
- The land is not completely in the ownership of the developer
- “What would our forefathers who gave their lives in the world wars have thought? The very land they fought and died for. The people of Britain have had enough and the people of Congleton have had enough. One life, one country and when it’s gone it’s gone.”

OFFICER APPRAISAL

Main Issues

Given that the application is submitted in outline form with only the access points being applied for, 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, housing land supply, the sustainability of the location, affordable housing, highway safety, traffic generation, landscape impact, hedge and tree matters, ecology, amenity, open space and drainage.

Principle of Development

The site lies in the Open Countryside as designated in the Congleton Borough Local Plan First Review, where policies H6 and PS8 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.

The proposed development would not fall within any of these 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 23rd March 2011 the Minister for Decentralisation Greg Clark published a statement entitled ‘Planning for Growth’. On 15th 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”.

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.

The SHLAA 2010, identifies the site as part of a larger site with capacity of up to 30 units (2321). It is described as suitable with policy change, achievable and developable.

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 30th May 2012, these circumstances do not apply to Cheshire East.

Accordingly once the 5% buffer as required by the NPPF 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 Cheshire East Development Strategy is now a material consideration in the determination of planning applications this document identifies the preferred sites for residential in the borough. This site is not one of those identified; however a development such as this for 14 dwellings is not considered to conflict with the strategic objectives of the Strategy, given its limited size and sustainable location.

Appeals

Four appeals are of particular relevance to this application.

An appeal was allowed on a site with very similar policy considerations in August 2011, at Elworth Hall Farm, Sandbach. Here the inspector concluded that:

“The various LDF options for the spatial distribution of growth do not exclude housing away from Crewe – indeed in each case Crewe would take only about 37% of all growth. I appreciate that various other policy documents issued by the Council support the promotion of Crewe. However, to my mind the way in which the IPP exclusively focuses development in the town (with the exception of town centre schemes and regeneration areas) does not reflect the spatial vision in either RSS or the emerging LDF. This means I can afford it only limited weight.”

The Inspector also attached considerable weight to the fact that the site had been identified in the SHLAA as deliverable (i.e. ‘available’, ‘suitable’ and ‘achievable’). He considered that:

“The SHLAA had been prepared under a robust methodology and should be afforded significant weight. Based on the evidence before me, it appears to have been compiled in accordance with nationally recognised good practice and has been accepted by the Council presumably after proper consideration and with due regard to the direction of its policy. Consequently I have no basis to put aside its overall finding that this is a suitable site for housing.”

Members should also be aware of the recent appeal decision at Loachbrook Farm Congleton. In this case the inspector gave significant weight to the lack of a 5-year housing land supply and approved the development for up to 200 dwellings. In the Inspector's view, the site which is within the open countryside and a departure from the Local Plan, would harm the character and appearance of the countryside and would result in the loss of the best and most versatile agricultural land. However, the Inspector found that these issues were outweighed by the need to secure a 5-year supply of deliverable housing land that would also contribute to providing affordable and low cost housing.

In terms of prematurity the Inspector found that it would not be premature or prejudice the development of other sites. The Inspector stated that;

'General Principles also indicates that applications should not be refused on the sole ground of prematurity and, taking account of Government advice, there is little justification for delaying a decision or, as the Council suggest, for considering other sites that the Council contend offer increased levels of sustainability'

Conclusion

- The Council does not have a five year supply of housing – and the presumption in favour of sustainable development should apply.
- The site is considered to be available, suitable and achievable by the SHLAA
- Appeals in Cheshire East plus others elsewhere in the country indicate that significant weight should be applied to housing supply arguments.
- 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."*

- There is scope for new development in other towns in the Borough.
- *Significant weight should be attached to the SHLAA where it has identified sites as being deliverable for housing.*
- *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 which form a much larger incursion of built development into the surrounding open countryside.*

Additionally a scheme for up to 80 dwellings at Rope Lane, Shavington determined that, although there was harm to the character and appearance of the area and the site being in the Green Gap, that the lack of a 5 year housing land supply and provision of affordable housing outweighed these elements. As such the appeal was allowed.

More recently a scheme for up to 269 dwellings was allowed by the Secretary of State and the Planning Inspectorate at Hind Heath Road, Sandbach. Here the Inspector and Secretary of State said that despite the development:

- causing a material harm to countryside protection policies;
- resulting in the loss of a sizeable area of good quality agricultural land;
- being in an area where there is a shortage of local employment;
- being some distance from the town centre and its facilities;
- "the appeal site is not wholly consistent with Government policies on sustainable development and climate change."

That the Councils' lack of a 5 year housing land supply and the provision of affordable housing, outweighed the disadvantages of the development.

In the light of these decisions and the primacy of the NPPF in the light of the lack of a 5 year housing land supply, it is considered that a refusal of planning permission for this site on the housing land supply grounds would not be sustainable and costs may be awarded against the Council should it be 'unreasonable'.

Location of the Site

The site is part of a larger site which is considered to be suitable, achievable and developable by the SHLAA. To aid the assessment as to whether this site comprises sustainable development, the applicant has submitted a services assessment to support the application. This assessment shows the distances that the development would be from local services and seeks to demonstrate its sustainability. These distances are shown below:

- | | |
|-------------------------------------|---|
| • Shop selling food and grocery | Several in town centre 800m |
| • Post box | Junction of Waggs Road/Meadow Avenue |
| • Playground/amenity area | Several within 500m including Astbury Mere, Banky |
| Fields and Marlfields School fields | |
| • Post Office | Congleton Post Office within 1,000m |
| • Bank or cash point | Several along Bridge Street 800m |
| • Pharmacy | Swan Bank 800m |
| • Primary School | Marlfields 400m |
| • Medical Centre | West Street 800m |
| • Leisure Facilities | Tennis club 600m and Astbury Mere 400m |
| • Local Meeting Place | Trinity Methodist Church Hall 600m |
| • Child Care Facility | Marlfields 400m |

The SHLAA also shows that the site is within 300m of a bus stop and 2,700m of a railway station.

It is considered in the light of this assessment that the proposed development would be within a sustainable location.

Overall, it is concluded that the site is sustainably located and the presumption in favour of sustainable development in the light of Paragraph 49 of the NPPF should apply.

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. This is considered in more detail below.

Affordable Housing

The site is located in Congleton, which comes under the Congleton sub-area, in the SHMA 2010 which has identified a requirement for 33 new affordable homes per year between 2009/10 – 2013/14 made up of a need for 7 x 1 beds, 3 x 3 beds, 13 x 4/5 beds and 15 x 1/2 bed older person dwellings.

In addition to this information taken from the SHMA 2010, Cheshire Homechoice is used as the choice based lettings method of allocating social rented accommodation across Cheshire East. There are currently 246 applicants on the housing register who have selected Congleton as their first choice. These applicants require 91 x 1 bed, 94 x 2 bed, 40 x 3 bed and 3 x 4 bed.

The Interim Planning Statement: Affordable Housing states that affordable housing will be required on any Windfall Sites that are for 15 dwellings or more or are greater than 0.4ha in size in settlements with a population of 3,000 or more. It states that the affordable housing requirement will be 30%, in accordance with the recommendation of the Strategic Housing Market Assessment 2010. The SHMA 2010 recommends a tenure split for affordable housing of 65% social rent and 35% intermediate.

The Affordable Housing IPS also 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. It also that the affordable housing should be provided no later than occupation of 50% of the open market dwellings.

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.

Although the site is for only 14 dwellings, as it is larger than 0.4ha, there is a requirement for affordable housing to be provided. As the revised Interim Planning Policy: Release of Housing Land has not yet been adopted the affordable housing provision should meet the requirements of the Interim Planning Statement: Affordable Housing this should be 4 dwellings, with 3 provided as social or affordable rent and 1 provided as an intermediate tenure dwelling.

If the application is approved it is recommended that the affordable housing secured by way of a s106 agreement which includes provisions requiring a scheme to be submitted with the reserved matters application, which the scheme to include the following:

- A requirement for provision of 4 affordable dwellings.
- 3 of the affordable dwellings are to be provided as social or affordable rent, and 1 as an intermediate tenure dwelling
- That the location and type of dwellings to make up the affordable homes are shown on a plan identifying which are the rented and which are the intermediate dwellings.
- That timing for delivery of the affordable housing, as this is a relatively small development and phasing would not be expected that affordable housing should be provided no later than occupation of 50% of the open market dwellings.

- That the affordable homes are constructed to comply with the standards adopted by the Homes and Communities Agency and meet Code for Sustainable Homes Level 3.

The Affordable Housing Interim Planning Statement states that

("The Council will require any provision of affordable housing and/or any control of occupancy in accordance with this statement to be secured by means of planning obligations pursuant to S106 of the Town and County Planning Act 1990 (as amended))

It also goes on to state

("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".)

It is therefore the preferred option that the developer undertakes to provide any social or affordable rented affordable units through a Registered Provider who are registered with the Homes and Communities Agency to provide social housing.

Loss of Agricultural Land

The site is classified as Grade 3 (subject to urban pressures) agricultural land and the applicants state that it has had limited agricultural use over recent use due to the discontinuation of New Bank Farm for farming purposes.

Policy NR8 of the Local Plan states that proposals which involve the use of the best and most versatile agricultural land (grades 1, 2 and 3a based on the ministry of agriculture fisheries and food land classification) for any form of irreversible development not associated with agriculture will only be permitted where all of a number of criteria are satisfied.

These are where there is need for the development in the local plan; the development cannot be accommodated on land of lower agricultural quality and does not break up viable agricultural holdings

There is also guidance contained within the NPPF which states at paragraph 112 that:

'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. 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'

Due to its limited size, the site does not offer a significant contribution to the high quality agricultural land in the area.

Thus, whilst the proposal would result in the loss of a small quantity of Grade 3 agricultural land, the loss would not be 'significant' and would not outweigh the benefits that would come from delivering this small scale development and assisting with the Council's housing land supply situation helping to reduce pressure on less sustainable and preferential Greenfield sites elsewhere.

The lack of a 5 year housing land supply would outweigh the loss of agricultural land on this site and a reason for refusal could not be sustained on these grounds. This is supported by a recent decision made by the Secretary of State at Bishop's Cleeve, Gloucestershire where two developments (one of up to 450 homes and another of up to 550 dwellings) were approved outside the settlement boundary with one being located on the best and most versatile agricultural land, and the recent decisions at Loachbrook Farm and Hind Heath Road which comprised significantly larger development areas (over 10hectares) of Grade 2 and 3a land.

Highway Safety and Traffic Generation.

Access is being formally applied for with this application. This is to be via the existing highway network within the Meadow Avenue.

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

Paragraph 32 of the National Planning Policy framework states that:-

- *'All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment and that any plans or decisions should take into account the following;*
- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.*
- *Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

The most common concern expressed within the objections received as part of the neighbour consultation process is whether Waggs Road and Fol Hollow can accommodate any further development feeding onto them, having specific concern about the safety of the pedestrian environment on both these roads. Much comment is also made about existing problems on Waggs Road.

The Strategic Highways Manager considers that, due to the small amount of housing proposed, the impact on the highway network would be minimal and a refusal on highway safety grounds could not be sustained.

Flood Risk and Drainage

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. The submitted Flood Risk assessment concludes that residential development would be considered sustainable in terms of flood risk.

The Environment Agency has been consulted as part of this application and have raised no objection to the proposed development. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

Scale and Layout

The indicative layout plan shows 14 houses, twelve 2 storey and two 2½ storey. This is considered to be an acceptable form of development, in keeping with the character of the surrounding development. This character comprises a mixture of dwelling types, both bungalows and two-storey dwellings.

Given that this application is in outline form and only access is to be determined at this stage, the appearance and layout will be determined at reserved matters stage.

Amenity

The Congleton Borough Council Supplementary Planning Document, Private Open Space in New Residential Developments, requires a distance of 21.3m between principal windows and 13.4m between a principal window and a flank elevation 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 up to 14 dwellings could reasonably 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.

The SPD also requires a minimum private amenity space of 65sq.m for new family housing. The indicative layout indicates that this can be achieved. It is therefore concluded that the proposed development could be accommodated in amenity terms and would comply with the requirements of Policy GR1 of the Local Plan.

Landscape Impact and Trees/Hedgerows

The application site is identified as Open Countryside in the Congleton Borough Local Plan. There are no landscape designations on the application site and within the Cheshire Landscape Character Assessment the application site is located on the boundary of the Lower Farms and Woods 2 landscape, specifically Character Area 11, Brereton Heath Area. The site displays many of the characteristics of the Brereton Heath Character Area, the character of the site is influenced by the development of bungalows along the northern boundary, along Waggs Road. Dwellings to the west of Stony Lane, the western boundary pathway, are largely screened by the existing boundary vegetation that runs alongside this sunken track along the western boundary of the application site.

The site has a network of existing hedgerows and trees and is agricultural in character. The site, local and wider topography provide an attractive setting especially to the south and east, where there are longer distance views towards the Peak Fringe. The site is strongly influenced by the existing boundary hedgerows and longer distance views, so that visually the site is very well connected to the wider agricultural landscape, rather than Congleton to the north.

No assessment of the landscape or visual impacts have been included with the application, yet the application (Supporting Planning statement 1.3 (8)) indicates that 'A preliminary overview of

the landscape and ecology has confirmed that its value in these regards as 'relatively low' with the proposals leading to a net gain in landscaping and diversity'. Officers do not feel that the application has addressed the landscape and visual effects that the proposals will and they have the potential to be detrimental.

This is an outline application and although an illustrative layout has been included, it is considered that in the development of a site masterplan should be provided, the key objectives being:

- Respect the existing landscape characteristics of the site (principally the mature trees and hedgerows) ;
- Conserve and enhance the vast majority of the existing mature trees and any notable hedgerows as an integral and structuring part of the Landscape Framework;
- Minimise any potential adverse landscape or visual effects through the application of best practice design principles and careful attention to design through all stages of the development process – particularly, attention to design and specification of landscape boundary treatments to the existing properties.

These issues can be addressed at the reserved matters stage.

Tree Comments

The application is supported by a Tree Survey Report dated August 2102 (Ref DF/4183/Tree Survey report 'A') by Trevor Bridge Associates. The report indicates that the survey has been carried out in accordance with the recommendations of British Standard BS5837:2012 Trees in relation to design, demolition and construction. The report states that it has been carried out to act as an aid to layout by identifying the better trees, specifying protective measures and also any work that might be necessary to maintain the trees in an improved or safer condition.

The submitted Site Analysis plan and the Illustrative Site Layout plan show tree / hedge root protection areas and crown spreads. In addition, the Tree Survey recommends the production of an Arboricultural Method Statement and Tree Protection Plan once a final layout is agreed. The Illustrative layout plan indicates that the existing trees and most of the boundary hedgerows would be retained as part of the proposed layout.

Should a decision be made to approve the proposals as they stand, it would be essential to ensure that a reserved matters submission provided comprehensive details of proposed new levels, an Arboricultural Impact Assessment in accordance with BS 5837:2012, tree protection measures and an Arboricultural Method Statement if appropriate.

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. (CBC Local Plan policy NR3 refers).

The original submission included some documentation in respect of hedgerows but it was not comprehensive.

Additional information has now been received and it is now considered that the removal of the small element of hedgerow would be acceptable.

Ecology

Great Crested Newts

The submitted report refers to a garden pond that is located 200m to the west of the proposed development site which was not inspected during the survey.

The location of this pond is not annotated on the maps included with the submitted survey report. However, considering the scale of the development, the relatively limited habitat available and the distance from the pond, it is considered that the proposed development is unlikely to have a significant impact upon Great Crested Newts, even if they did occur at this pond. No further surveys in respect of this species are therefore required.

Bats

The submitted report recommends that a bat activity survey is undertaken to allow an assessment to be made of the potential impacts of the proposed development upon this species group.

No report of this recommended survey has been submitted in support of the planning application. From the submitted indicative layout plan it appears that all the trees on site can be retained as part of the development. Therefore, there is unlikely to be any loss of bat roosting habitat. However it is currently not possible to assess the potential impacts of the development upon foraging and commuting bats. Therefore, it is considered that it would be acceptable to approve the application with a condition requiring a bat survey with mitigation measures at reserved matters stage.

Badgers

The submitted report states that there are no badger setts on site. There is however evidence of badgers accessing an adjacent garden where foraging may be taking place. The isolation of a badger sett from foraging habitat can amount to a material consideration for planning.

The submitted report recommends the retention of the western and eastern hedgerow boundaries and the provision of a buffer zone adjacent the hedgerows to allow badgers to be able to still move freely across the site.

Breeding Birds

The proposed development site has the potential to support breeding birds including the more widespread biodiversity action plan priority species which are a material consideration for planning.

The retention of the hedgerows on site will reduce the potential impacts of the development upon breeding birds. However, if planning consent is granted, it is recommended conditions be attached along the lines of the following:

(Prior to undertaking any works between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds. A report of the survey and any mitigation measures required to be submitted and agreed by the LPA.

Prior to the commencement of development the applicant to submit detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including house sparrow and swift. Such proposals should be agreed by the LPA. The proposals shall be permanently installed in accordance with approved details.)

Polecat, Hedgehog and Brown Hare

Brown Hare, Polecat and Hedgehog are all Biodiversity Action Plan priority species and a material consideration for planning. The desk survey has indicated that these species are present within 1km of the proposed development. Whilst there is no evidence to suggest that these species are present on the application site, there is a reasonable likelihood that the site may be used at least occasionally by these species.

The buffer zones described above in respect of badgers would also assist in ensuring that polecat and hedgehog are able to move freely through the site.

Brown Hare however, is likely to be deterred from using the site due to the increased level of disturbance associated with the residential development. The level of impact on these three species is however likely to be very localised.

LEVY (CIL) REGULATIONS

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

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

As explained within the main report, affordable housing and contributions to amenity Greenspace and children and young person's provision would help to make the development sustainable and is a requirement of the Interim Planning Policy, local plan policies and the NPPF. It is directly related to the development and is fair and reasonable.

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 be an important benefit – and this application achieves this in the context of a smaller, non strategic land release adjacent to existing development.

Following the successful negotiation of a suitable Section 106 package, the proposed development would provide contributions to public open space, the necessary affordable housing requirements.

The proposal is considered to be acceptable in terms of its impact upon residential amenity, ecology, drainage/flooding and it therefore complies with the relevant local plan policy requirements for residential environments

Whilst the proposal will result in the loss of some grade 3 agricultural land, this is not a significantly large site and it is considered that the benefits of the delivering the site for much needed housing would outweigh this loss. Much of the sites identified within the SHLAA would also result in the loss of the better grades of agricultural land.

To conclude highways matters, whilst the development does add a little extra pressure on the local highway network, it is not sufficient to warrant refusal of the application as the additional movements generated will not be significant.

The Town Strategy for Congleton has allocated this as housing site F. An area intended for development after Areas A-E. It forms part of local people's vision for the future of their own community after other sites in the area have been developed.

Overall, it is considered that the adverse impacts of the development – in terms of conflict with the development plan on Countryside and the loss of agricultural land are outweighed by the benefits of the proposal in terms of residential provision and the provision of affordable housing. Given the scale and location of the development, its relationship to the urban area and its proximity to other services, it is not considered that these adverse impacts significantly and demonstrably outweigh the benefits – Accordingly the application is recommended for approval, subject to a Section 106 Agreement and appropriate conditions.

RECOMMENDATION

APPROVE subject to a Section 106 Legal Agreement to secure affordable housing and contributions to public open space.

And the following conditions

- 1. Commencement**
- 2. Submission of reserved matters (all matter other than access)**
- 3. Plans**
- 4. Tree and hedgerow protection measures**
- 5. Arboricultural Method statement**
- 6. Landscape maintenance and management**
- 7. Boundary treatment to be submitted with reserved matters**
- 8. Breeding Bird Survey for works in nesting season**
- 9. Bats and bird boxes**
- 10. Updated protected species survey and method statement prior to commencement**
- 11. Submission of a scheme to limit the surface water run-off generated by the proposed development,**
- 12. Reserved matters to make provision for containing any such flooding within the site, to ensure that existing and new buildings are not affected and that safe access and egress is provided.**
- 13. Submission of a scheme of Sustainable Urban Drainage**
- 14. Submission of a scheme to manage the risk of flooding from overland flow of surface water, has been submitted to and approved in writing by the Local Planning Authority.**
- 15. This site must be drained on a total separate system, with only foul drainage connected into the public foul sewerage system.**
- 16. The hours of construction of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil**
- 17. Should there be a requirement to undertake foundation or other piling on site it is recommended that these operations are restricted to: Monday – Friday 08:30 – 17:30 hrs Saturday 09:30 – 13:00 hrs Sunday and Public Holidays Nil**
- 18. Submission of scheme to minimise dust emissions arising from construction activities on the site**
- 19. Submission of Construction Management Plan**
- 20. Reserved Matters to include details of bin storage.**
- 21. Details of improvements to public footpath**
- 22. Arboricultural Impact Assessment and Tree Protection Plan to form part of the reserved matters**
- 23. Implementation of a programme of archaeological work in accordance with a written scheme of investigation**
- 24. Reserved matters to incorporate existing and proposed levels and boundary treatments**
- 25. Submission of a Phase I contaminated land survey**

In the event of any changes being needed to the wording of the committee's decision (such as to delete, vary or addition conditions / informatives / planning obligations or reasons for approval / refusal) prior to the decision being issued, the Development Management and Building Control Manager, in consultation with the Chair of the Strategic Planning Board is delegated the authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.

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