

Draft Committee Report

Susan Orrell

Application No: 12/1903C

Location: Land North of Congleton Road, SANDBACH, CHESHIRE, CW11 1DN

Proposal: Outline application for the erection of up to 160 dwellings, including landscaping, access and associated infrastructure and the demolition of 130 Congleton Road.

Applicant: Taylor Wimpey UK Limited and Seddon Home

Expiry Date: 16-Aug-2012

SUMMARY RECOMMENDATION

RESOLVE to contest the forthcoming Appeal against non-determination on Open Countryside policy grounds and prematurity grounds

MAIN ISSUES

**Principle of Development
Sustainability of the site
Housing Land Supply
Impact upon the Open Countryside
Highway Safety and Traffic Generation
Landscape and Tree Matters
Air Quality
Countryside and Landscape Impact
Hedgerows
Open space
Layout and Design
Ecology
Amenity
Education
Impact on Public Right of Way**

REASON FOR REFERRAL

The application has been referred to Strategic Planning Board because the proposal represents a departure from the development plan as it is situated outside of the settlement zone line for Sandbach.

This application was submitted on 17 May 2012 and initially applied for up to 195 dwellings. Since the closure of the initial consultation period, Planning Officers have negotiated with the applicants in order to resolve the matters which were giving cause for concern for Officer's which resulted in a reduction in the overall numbers of dwellings to 160. This resulted in a further full consultation period. Unfortunately, the uncertainty about appeal decisions for similar scaled development as this in the Sandbach area and the implication of these decisions and other planning permissions in the Sandbach area has resulted in the delay in the determination of this application. The Applicant has therefore appealed.

In such cases the matter is taken out of the hands of the Local Planning Authority and the determination is made by the Secretary of State.

Therefore, the purpose of this report is merely to seek the committee's resolution as to what its decision would have been had it been able to determine the application, and this will form part of the Authority's Statement of Case on the appeal. It is generally accepted that failure to do this, with the case for the Authority relying on officer level views, will result in less weight being given to the Authority's case and there may be possible costs implications.

1. DESCRIPTION OF SITE AND CONTEXT

This application relates to a site accessed via Congleton Road in Sandbach and extends to some 7.9 ha of agricultural land, 0.9 ha of which falls within Grade 2 (very good quality agricultural land) and 7.0 ha within sub-grade Grade 3a land.

The site is adjoined to the north and the west by residential properties fronting Congleton Road and open countryside designated fields to the east and south. To the north of the site is the Sandbach Rugby club and farmland. To the south west is the playing field and buildings associated with Offley Road primary school.

There are two public footpaths close to the site, one along the western boundary adjacent to the school and leading to the rugby ground to the north and a second to the east of 130 Congleton Road, leading north. A further right of way runs along the drive to Fields Farm some distance to the east. Vehicular access into the site is proposed from an existing field access adjacent to the central public right of way.

There are 3 main groupings of trees; adjacent to the public right of way on the south western edge of the site, mid way through the site along a hedged field boundary; and on the north

eastern edge (presumably part of a former hedge line). The latter two groupings are covered by a tree preservation order.

The housing on the western side of Congleton Road is predominantly of lower density and 2 storey detached dwellings in reasonably generous plots are the main type of development. These dwellings form the boundary of the settlement line for Sandbach.

The access to the site falls within the Settlement Zone Line of Sandbach with the remaining part of the site situated within Open Countryside as designated in the adopted Congleton Borough Local Plan First Review (2005).

2. DETAILS OF PROPOSAL

This application has been amended from 195 units to 160 residential units (circa 20 units per hectare) on land to the rear and including 130 Congleton Road, Sandbach. The proposal would also accommodate the demolition of 130 Congleton Road to form the access to the site. Access is to be determined at this stage with all other matters reserved.

The site would include the provision of 30% affordable housing, the creation of balancing ponds, 2.81 hectares of public open space which will encompass informal open space, a LEAP with 5 pieces of equipment, and the routes of Public Right of Way (PROW) that cross the site. The majority of the open space would be located to the northern periphery of the site and the central zone focussed on the existing PROW routes.

The development would consist of 2 to 5 bedroom units which would have a maximum height of up to 2.5 storeys within the central zone and up to 2 storeys in the zone closest to the existing dwellings on Congleton Road.

The Design & Access statement indicates that the mix of unit types for market and affordable housing will be with a range of possible numbers of units.

For a development of up to 160 units, the levels of market housing proposed are within the following ranges:

2 beds mews/semi's = 0- 24 units (0-15 %),
3 beds mews/semis/detached = 38-64 units (25-40%),
4 Beds semis/detached 64-86 units (35 - 55%) and
5 beds 16- 38 units (10 - 25%)

A total of 30% affordable housing is proposed. The mix of affordable housing unit types equates to the following -

2 beds mews/semi's - between 64 and 88 units (40-55%)
3 beds mews/semis/detached - between 64 and 88 units (40-55%)
4 beds semis/detached - between 16 and 40 units (10 -25%)
5 beds detached - between 0 and 8 units (0 -5%)

3 RELEVANT HISTORY

34104/3	Outline 10 houses Appeal Dismissed 2002
32821/3	Residential development consisting of 11 detached dwellings
32345/3	Residential development comprising of 12no units refused 25 September 2000
20901/1	Residential Development – refused 2 May 1989
22517/1	Residential Development – refused 21 August 1990 Appeal dismissed 1 August 1991

Some of the above decisions relate to parts of the site, however, the 2 later decisions relate to a similar sized development area as currently proposed. The appeal was dismissed on rural protection policy grounds.

1. POLICIES

Local Plan policy

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

Regional Spatial Strategy

DP1	Spatial Principles
DP2	Promote Sustainable Communities
DP7	Promote Environmental Quality
L4	Regional Housing Provision
L5	Affordable Housing
RDF1	Spatial Priorities
EM1	Integrated Enhancement and Protection of the Regions Environmental Assets
MCR1	Manchester City Region Priorities

MCR 4 – South Cheshire

Cheshire Replacement Waste Local Plan (Adopted 2007)

Policy 10 (Minimising Waste during construction and development)

Policy 11 (Development and waste recycling)

Other Considerations

National Planning Policy Framework

The EC Habitats Directive 1992

Conservation of Habitats & Species Regulations 2010

Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

Interim Planning Statement Affordable Housing

Interim Planning Statement Release of Housing Land

North West Sustainability Checklist

Sandbach Town Strategy

Emerging Cheshire East Development Strategy

SHLAA 2013

Highways Agency :

No objection. The information submitted with the Transport Statement is considered to be acceptable and the trip rates will not impact upon the strategic road network.

Environment Agency: The Environment Agency has no objection in principle to the proposed development but made the following comments.

- The site is shown on the EA Flood Maps as being within Flood Zone 1, which is low probability of river/tidal flooding.
- If surface water is to discharge to a watercourse, the FRA demonstrates this is to be the mean annual run-off from the existing undeveloped site, of 4.63 litres/second/hectare. Attenuation is to be provided above this rate up to the 1 in 100 years design event, including allowances for climate change. This is acceptable.

If surface water is to discharge to mains sewer, the FRA explains that this will be via a pumping station with the discharge rate to be confirmed by UU. Although this is acceptable in principle, the discharge rate set by UU may be greater than the 'greenfield' rate, which would not be acceptable from a flood risk viewpoint.

The discharge of surface water should, wherever practicable, be by Sustainable Drainage Systems (SuDS). SuDS, in the form of grassy swales, detention ponds, soakaways, permeable paving etc., can help to remove the harmful contaminants found in surface water and can help to reduce the discharge rate.

No Objection is raised subject to conditions requiring the submission of a scheme to limit the surface water run-off generated by the proposed development. The discharge of surface water

from the proposed development is to mimic that which discharges from the existing site. The discharge of surface water should, wherever practicable, be by Sustainable Drainage Systems (SUDS).

United Utilities: no objection subject to the following conditions :

- No surface water is discharged to the combined sewer network
- A critical sewer crosses this site and we will not permit building over it, easement factors must be adhered to in any detailed design.
- This site must be drained on a separate system, with only foul drainage connected into the 375dia combined sewer located in Congleton Road. Surface water should discharge to the watercourse to meet the requirements of The National Planning Policy Framework.

Strategic Highways Manager: No highway objections subject to conditions for

1. A scheme of traffic management/speed reduction measures and on-street parking controls along Congleton Road to be submitted for approval with the reserved matters application.
2. Approval, at reserved matters stage, of a scheme for provision of replacement on street car parking within the proposed development site for that lost on Congleton Road by the proposed extension to waiting restrictions.

And subject to S106 financial contributions for -

- £480,000 towards improvements at any of the following locations; A534 Old Mill Road / The Hill junction and Sandbach town centre (this equates to £3000 per dwelling).
- A S106 financial contribution to address the impact of the development at the junction of A534 Old Mill Road/Congleton Road. The value of this contribution to be based on the agreed costs of the improvement scheme submitted in support of the application and, that the funding be available to use at either this location or the locations (A534/ Old Mill Road/ The Hill junctions) above.

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.

Environmental Health:

No objections subject to conditions -

- The hours of construction of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday: 08:00 to 18:00 hrs; Saturday: 09:00 to 14:00 hrs; Sundays and Public Holidays Nil
- Should there be a requirement to undertake foundation or other piling on site, it is recommended that these operations are restricted to: Monday – Friday 08:30 – 17:30 hrs; Saturday 09:30 – 13:00 hrs; Sunday and Public Holidays Nil
- In terms of site preparation and construction phase, it is recommended that the proposed mitigation measures are implemented to minimise any impact on air quality in addition to ensuring dust related complaints are kept to a minimum.
- The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. The applicant submitted a Phase I preliminary risk assessment for contaminated land, which recommends a Phase II site investigation. As such, and in accordance with the NPPF, recommend that conditions are imposed to secure a Phase II investigation.
- The developer shall agree with the LPA an Environmental Management Plan (EMP) with respect to the demolition and construction phases of the development. The EMP shall identify all potential dust sources, and outline suitable mitigation. The plan shall be implemented and enforced throughout the construction phases.

Education:

Based on a development of 160 2+ bedroom dwellings this development is anticipated to generate 26 primary places and 21 Secondary places.

The financial contribution being sought via S106 Agreement is :

Primary sector = £282,004

Secondary sector = £343,196

Public Open Space:

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 for maintenance for a 25 year period would be (for 160 units):

Maintenance: £45 408

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 and there would be a requirement for new provision.

The play area should be of a LEAP size and should include at least 5 items of equipment, using play companies approved by the Council. The Greenspace Division would request that the final layout and choice of play equipment

be agreed with CEC, the construction should be to the Council's satisfaction. Full plans must be submitted prior to the play area being installed and these must be approved in writing prior to the commencement of any works. A buffer zone of at least 20m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site.

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 if the Open Space is to be maintained would be (for 160 units) ;

Maintenance: £114,624

Should the Developer not wish to incorporate a LEAP on site then off site contributions will be required. Based on 160 dwellings the financial contribution for 'off site ' enhancement to increase capacity and improve quality of a play area in the vicinity of the proposed development would be:

Enhanced provision £35, 162.88

Maintenance £ 114,624

(according to information within the application this is not the preferred option for the Applicant)

Public Rights of Way:

Footpath No. 6 - The application documents describe the public footpaths as being accommodated within green corridors, the concept of which is supported. Footpath No. 6 presently has an available width of approximately 5m (as stated in the application documents). This width must be considered the legal width of the definitive path due to the enclosed nature of the route and no diminution can occur without recourse to a legal order under the Highways Act 1980 extinguishing that part no longer available. Therefore, this available width must be retained for public use within the proposed green corridor. Connections from Footpath No. 6 to the estate roads should be maximized.

Sustrans:

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

- 1.The proposal will create additional local traffic. Therefore we would like to see the development make a contribution to improving the walking/cycling network within Sandbach and to the railway station.
2. The proposed 3m greenway connection from the heart of the site to Offley Road is welcome.
3. The design of the estate roads should restrict vehicle speeds to 20mph.
4. The design of any smaller properties should include storage areas for residents' buggies/bicycles.

2. VIEWS OF THE PARISH COUNCIL

Sandbach Town Council strongly object on the following grounds

- i. This is a speculative, opportunistic and pre-emptive development; not plan led
- ii. In accordance with the Planning Inspectorate Report of 2002 (Local Plan Inspectors report) relating to development of this land, this Green Field Agricultural land is highly valuable in environmental terms.
- iii. This proposal is not mixed-use and will not bring employment to the area
- iv. Does not comply with the CEC Interim Policy for the release of housing land
- v. Will increase traffic and road safety issues in an area with existing problems, close to both a Primary School and Nursery.

3. OTHER REPRESENTATIONS

Working for Cycling have made various suggestions concerning cycle routes and cycle parking for Congleton Road.

One letter of support has been received from the Governing Body of Offley Road Primary School on the grounds that the increased number of children within catchment can only add support to the course of action already underway by the governing body to make an application to Cheshire East Council to return to a two form entry school with a Pupil Admission Number (PAN) of 60 children.

Letters and emails of objection have been received from Fiona Bruce MP, Persimmon Homes, Strutt and Parker representing Betley Court Estate, a local Group named the Congleton Road Action Group and circa 200 individuals all of which can be viewed on the case file and web site. The issues raised are as follows;

Principal of the development

- Sandbach is under attack – has had 40% of recent applications in the Borough
- The scale of development proposed is strategic in a Sandbach context
- Application is premature
- The proposal is not plan led
- The site is outside the settlement boundary
- The site is a greenfield site
- The application is a departure from the plan for which no exceptional circumstances exist to justify a Departure.
- There is adequate brownfield land in Sandbach
- Loss of high quality agricultural land
- 300 houses for sale and 100 for rent in Sandbach – accordingly there is no need for any more.
- There have been a series of planning refusals for housing developments on the site in the past
- The impact upon the character and appearance of the area
- countryside will be lost for the enjoyment of future generations
- Goes against the employment lead vision of the Town Strategy
- There are other more suitable site
- Contrary to the core principles of the NPPF

- There is no need for more housing
- Cumulative impact in conjunction with other Sandbach housing permissions
- Prematurity of the proposal
- We will have no green fields left on the perimeter of Sandbach
- Contrary to the Sandbach Town Strategy, site has been rejected
- Site should be re-allocated as Local Green Space and this can only be considered in accordance with the site allocations process in the LDF process, therefore this application should not be determined until then
- Loss of agricultural land (grade 2/3) supporting cattle and sheep grazing
- The town is being targeted by developers, which cumulatively will result in 2000 additional houses in addition to the 1000 existing commitments
- A strategic approach is needed through the LDF process not a scattergun approach
- Approving this application would impact upon sites on previously developed land
- The development would be contrary to the Councils Draft Interim Planning Policy on the Release of Housing Land
- Sandbach is becoming a commuter town and can not support new housing developments without employment proposals
- Recently approved brownfield developments more than adequately cater for the current need for housing
- Planning approval of housing on this Greenfield site would prejudice the development of the existing brownfield sites already with planning permission, which would provide significant regeneration benefits in those areas
- No immediate need for this development. There are already approved plans for additional housing developments with further plans awaiting appeal.

Persimmon Homes

- The application submitted is opportunistic and the principle of the proposed does not conform with the value placed by the NPPF on planning being genuinely plan-led, empowering local people to shape their surroundings, with succinct local and neighbourhood plans.
- Recent Inspector and Secretary of State reports regarding the proposed development of land off Abbeyfields agreed such opportunistic and ad-hoc development would jump-the-gun, thereby prejudicing the fairness and effectiveness of the LDF process. From recent high profile appeal decisions relating to strategic sites in Sandbach it should be understood strategic sites must be considered together through the plan making process, especially given that the Elworth Hall Farm, site is not supported for housing through the locally developed Town Strategy.
- Land supply is only one factor in the determination of an application and should not exclusively dictate the appropriateness of a scheme. This is demonstrated by the Adderbury Appeal decision, which identified a proposal for 65 dwellings as strategic and gave weight to the fact that the settlement was faced with a range of possible options of both the scale and location of future development in the village and a decision of the appeal scheme in isolation may well pre-empt those local decisions.
- A proposal consisting of up to 160 dwellings is of strategic scale relative to the settlement of Sandbach (however such a level of development may not be considered strategic in the context of Crewe). Therefore the flexibility applied to the Crewe Road, Alsager application (which consisted of only 65 dwellings), in that it broadly accorded with the spirit of the IPP cannot be applied here.

- The determination of the application, in coordination with other recent decisions in the area represents an opportunity for the Council to cement a robust planning argument for countering the uncoordinated and ad-hoc development of major Greenfield edged of settlement sites.

Highways

- Increased traffic
- Congleton Road operates way beyond designed capacity and to add more traffic is irresponsible
- Highway safety along Congleton Road, particularly at rush hour for children going to/from school
- Existing traffic congestion in the area
- Junction 17 of the M6 is already a dangerous and busy junction

Amenity

- The fields are used by local people for walking and should remain a "green space" for local people to enjoy.
- The open views of the countryside would be lost
- Loss of outlook for dwellings overlooking the site
- Overlooking
- Light pollution

Green Issues

- Loss of foraging habitat
- Impact upon wildlife
- Impact upon protected species
- Loss of hedgerow
- Biodiversity Impact
- Impact upon Badgers on site

Infrastructure

- Impact upon local schools
- Impact upon local health services
- Impact upon provision of local services, water and sewer systems
- Impact upon local highway infrastructure
- Impact upon PROW network on site

Other issues

- Demolition of 130 Congleton Road would be detrimental to character of the existing street
- A petition and application has been submitted to allocate the land as designated Local Green Space via the Local Plan Process. This application should be considered in the light of site allocations work to ensure that local people's views can be taken on board. The application is premature.

All comments are available to view on the case file and web site.

4. APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents;

- Planning Statement and Addendum
- Design and Access Statement and Addendum
- Statement of Community Involvement
- Transport Assessment
- Extended Phase 1 Habitat Survey
- Bat Survey
- Economic Benefits Assessment
- Landscape Character and Visual Assessment
- Tree Survey
- Air Quality Assessment
- Flood Risk Assessment
- Geophysical Survey
- Noise Assessment
- Statement of Community Involvement
- Sustainability Assessment
- Ground conditions desk top study
- Site waste plan
- Agricultural land quality appraisal
- Affordable Housing Statement
- Draft Heads Of Terms for Legal Agreement

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Principal of Development

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 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 NPPF indicates that account should be taken of the intrinsic character and beauty of the countryside, with restrictions on new housing to where it would enhance or maintain the vitality of rural communities. Policies H6 and PS8 have been formally saved, are consistent with policy

contained within the Framework. As such, they carry some weight in the determination of this application.

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.

Housing Land Supply

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. In December 2012 the Cabinet agreed the Cheshire East Local Plan Development Strategy for consultation and gave approval for it to be used as a material consideration for Development Management purposes with immediate effect. This proposes a

dwelling requirement of 27,000 dwellings for Cheshire East, for the period 2010 to 2030, following a phased approach, increasing from 1,150 dwellings each year to 1,500 dwellings.

Appeals

There are a number of 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 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. This appeal is now subject to challenge in the High Court

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.

In the case of Hind Heath Road, the Secretary of State considered that the lack of 5 year land supply means that the relevant policies for the supply of housing should not be considered up to date and that the presumption in favour of sustainable development is engaged. The Secretary of State considered that, on balance, the proposal represented sustainable development, although there are factors weighing against the proposal. This decision is currently the subject of a High Court challenge.

However, in the recent Secretary of State decision's in Doncaster MBC it was found that a development was premature, even though the Development Plan was still under preparation. Important to this decision was the finding that a five year supply of housing land was available. There is nothing in national guidance to suggest prematurity and housing supply should be linked in this way, and logic might question how the two are interlinked, but this factor was evidently influential in this case. This decision is relevant to this application in the light of the Council's recently published 2013 SHLAA.

Emerging Policy

It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the emerging Strategic Housing Land Availability Assessment (SHLAA) February 2013. The SHLAA has put forward a figure of 7.15 years housing land supply. This document is to be considered by the Strategic Planning Board on 8th February and the Portfolio Holder on 11th February 2013.

The Council's housing policy position is constantly moving with new advice, evidence and case law emerging all the time. However the Council has a duty to consider applications on the basis of the information that is pertinent at determination time. Consequently, given it is recommended that the application be considered in the context of the 2013 SHLAA.

The Sandbach Town Strategy considered a number of development options around the town. These were subject to consultation which closed on 2 April 2012. All comments were

considered and the Strategy document was revised accordingly. A total of 263 representations were received on the draft Sandbach Town Strategy, along with a petition of 152 signatories. The application site was included in the Strategy consultation as part of 'Site F: Land to the Rear of Congleton Road'. Site F was listed as a potential development area but was discounted by the Stakeholder Panel. The consultation did not directly ask consultees for their views on discounted sites, but several respondents voiced objections to the potential development of the site.

Although the Town Strategy was agreed by Sandbach Town Council on 21 August 2012 subject to alterations to the infrastructure priorities, the Council concluded that 'further robust evidence is required to demonstrate a need for any additional housing allocation' prior to validation of the Development Strategy section.

The Cheshire East Development Strategy approved by Strategic Planning Board and Cabinet for consultation until 26 February 2013 and as a material consideration, directs additional housing in Sandbach to two strategic sites: land adjacent to Junction 17 of the M6 to the south east of Congleton Road (700 homes) and the former Albion Chemicals site (up to 375 homes).

These sites have now been carried forward into the Draft Local Plan (Development Strategy) and are now the subject of consultation. The NPPF consistently underlines the importance of plan-led development. It also establishes as a key planning principle the Local people should be empowered to shape their surroundings. Regrettably the Secretary of State has often chosen to give less weight to these factors within his own guidance – and comparatively more to that of housing supply. These inconsistencies feature within the legal action that the Council is taking elsewhere.

The SHLAA 2013, indicates that the site is **not** included within the 5 year housing land supply, rather the site is identified as being deliverable in years **6-10**. As such, this site does not contribute to the 5 year housing land supply and therefore conflicts with decisions regarding the scale, location and phasing of development contained within the Draft Cheshire East Local Plan Development Strategy.

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 is added, the 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 years.

It is acknowledged that the proposed development would 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.

However, the adverse impacts in terms of conflict of this proposal with the emerging draft strategy of releasing this site for housing development would significantly and demonstrably outweigh the benefits of the proposal in terms of housing land supply, since the site is not

relied upon with the emerging Development Strategy or the emerging SHLAA and thus is not contributing to the 5 year housing land supply.

The Government document *The Planning System: General Principles* sets out the approach to questions of prematurity. It explains that it may be justifiable to refuse planning permission on the ground of prematurity where a Development Plan is being prepared if a proposal is so substantial or the cumulative effect would be so significant that granting permission would pre-determine decisions about the scale, location or phasing of new development

Members will be aware of the current situations with regard to appeal decisions for other sites in the Sandbach area. However, it is clear that 160 additional units would be substantial and the cumulative impact of all these outstanding appeals, when taken together with the application site would have significant implications for the future development of the area.

Conclusion

From the above, it can be concluded that:

- The site is within the Open Countryside where under Policy PS8 there is a presumption against new residential development.
- The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development 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 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 years and therefore the presumption in favour of the proposal does not apply.
- The proposal does not accord with the emerging Development Strategy. Previous Appeal decisions have given credence to such prematurity arguments where authorities can demonstrate a five year supply of housing land.
- The proposal, by virtue of its prematurity would compromise the spatial vision for the Sandbach area. Notwithstanding the limited weight to be attached to the Development Strategy, the granting of permission would seriously diminish the role of the Development Strategy in guiding future development.
- However, the 5 year supply is a minimum requirement and the NPPF carries a presumption in favour of sustainable development. It is therefore necessary to consider whether the proposal is sustainable in all other respects.

Sustainability of the site

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”

Accessibility is a key factor of sustainability that can be measured. A 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.

The toolkit sets maximum distances between the development and local amenities.

These comprise of:

- post box (500m),
- local shop (500m),
- playground / amenity area (500m),
- post office (1000m), bank / cash point (1000m),
- pharmacy (1000m),
- primary school (1000m),
- medical centre (1000m),
- leisure facilities (1000m),
- local meeting place / community centre (1000m),

- public house (1000m),
- public park / village green (1000m),
- child care facility (1000m),
- bus stop (500m)
- railway station (2000m).

In this case the development site meets the following sustainability distances:

- bank / cash point /post office - High Street (750m),
- pharmacy - Co-operative The Commons (700m),
- primary school (50m),
- medical centre -Ashfield Primary Care Centre (approx 1000m),
- local meeting place / community centre - Masonic Hall The Commons (approx 700m),
- public house Symphony 48 Congleton Road(500m),
- public park / village green – Sandbach Park (650m),
- child care facility - Kids Corner Nursery & Pre-School 120 Congleton Road (250m),
- bus stop (250m)

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. These amenities are:

- a local shop - Queens Drive (750m),
- railway station Sandbach Station (3000m).
- leisure facilities - Sandbach Leisure Centre (approx 1200m),
- playground / amenity area Sandbach Park (approx 650m),
- a local shop (750m),
- post box Sandbach Post Office (800m),

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

However, this is not untypical for suburban dwellings and will be the same distances for the existing residential development adjacent to the application site on Congleton Road. However, all of the services and amenities listed are accommodated within the town centre and are accessible to the proposed development on foot or via a short bus journey, with a bus stop on Congleton Road in close proximity to the site entrance. Accordingly, it is considered that this site is a sustainable site which has access to a choice of services.

Accordingly it is concluded that the development of the site comprises a sustainable development.

Affordable Housing

The Council's Interim Planning Statement (IPS) for Affordable Housing states that the Council will seek affordable housing on all sites with 15 units or more, and the general minimum proportion of affordable housing for any site will be 30% of the total units.

The Strategic Housing Market Assessment 2010 shows that for the sub-area of Sandbach there is a requirement for 75 new affordable units per year, made up of a need for 21 x 1 bed units, 33 x 2 beds, 7 x 3 bed units, 4 x 4/5 bed units and 10 x 1/2 bed older persons units. Whilst the Strategic Housing Manager advise relates to information from 2010, this is the most up to date information at the time of writing this report.

In addition to the information from the SHMA 2010, Cheshire Homechoice is the choice based lettings system used to allocate social housing in Cheshire East. There are currently 220 applicants on the housing register who have selected Sandbach or Sandbach Town Centre as their first choice. These applicants require 80 x 1bed, 83 x 2 bed, 28 x 3 bed and 1 x 4 bed (28 applicants haven't indicated how many bedrooms they need)

Therefore as there is affordable housing need in Sandbach there is a requirement that 30% of the total units at this site are affordable, which equates to 48 dwellings, which are being offered by the applicant. The Affordable Housing IPS also states that the tenure mix split the Council would expect is 65% rented affordable units (either social rented dwellings let at target rents of affordable rented dwellings let at no more than 80% of market rents) and 35% intermediate affordable units. The affordable housing tenure split that is required has been established as a result of the findings of the Strategic Housing Market Assessment 2010. The applicant is offering the 59 affordable dwellings on a tenure split of 29 provided as rent and 30 provided as intermediate tenure, this is not in accordance with the Affordable Housing IPS or the SHMA 2010.

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%.

All 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 Affordable Homes should also be integrated with the open market homes and not be segregated in discrete or peripheral areas.

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”

The affordable housing provision required is 30% affordable housing, with a tenure split of 65% social or affordable rent and 35% intermediate tenure. Based on the reduced number of total dwellings this equates to a requirement for 48 affordable units, split as 31 units provided as rented affordable housing and 17 as intermediate affordable housing.

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 Council's 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”

The Applicant has agreed to enter into S106 Agreement. However, Members will be aware that in a number of recent appeals locally, Inspectors have imposed a condition in respect affordable housing rather than require the provision via Legal Obligation.

Loss of Agricultural Land

The applicant has submitted an agricultural land classification study which concludes that the proposal would involve the loss of 0.9 hectares of Grade 2 land whilst the remainder of the 7.9 hect site comprises Grade 3a. The site therefore comprises the best and most versatile agricultural land.

Policy NR8 of the Congleton Plan has not been saved. There is, however, 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’

The area of high quality farmable land is significant in the context that it comprises the whole site. Clarification has been sought from the owner of the site concerning the recent history of the use of the site and the intentions of the current tenant.

The site was initially bought by the current owner's family in 1954 as part of 60 acre Offley House Farm. 40 acres were sold in 1960 and the remainder of the site (now the application site). Since that time the owner advises that the land was used for horse grazing by the owners family and also rented out on a 6 monthly summer grazing basis. The owner has subsequently ceased using the site for grazing of his horses (he lives in Kermincham) but has continued with the summer grazing let. Over the last few years, the owner has rented the site out on a yearly basis so that the farmer could make a claim under the rural payment scheme. The site has been used for hay/silage and cattle grazing. Little effort has been undertaken to improve the land and the farmer has had difficulty with trespass on the land, dog fouling, cutting wire fences

The site is of limited size (7.9 hect). As such, consideration needs to be had as to whether this loss would be 'significant' and would outweigh the benefits to the housing land supply that would come from delivering this small, sustainably located site helping to reduce pressure on less sustainable and preferential Greenfield sites elsewhere.

Appeal decisions, both locally and nationally, have considered the loss of best and most versatile agricultural land but have shown the lack of a 5 year housing land supply would outweigh the loss of agricultural land on this site and therefore a reason for refusal could not be sustained on these grounds. This view is supported by a recent appeal 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. The recent decision at Loachbrook Farm, Congleton which comprised a larger development area (over 10hectares) of Grade 2 and 3a land also re-inforces this view.

At Loachbrook Farm, the Inspector considered that the 3500 additional houses to be provided in Congleton by 2030 (as indicated in the emerging Core Strategy (as being the Councils preferred sites for future development) and categorised as being developable by the SHLAA) involved a preponderance of the best quality agricultural land in the area. Nevertheless, the Inspector concluded that the loss of the agricultural land carried neutral weight, given that other preferred sites would involve a similar loss of the best agricultural land around the Congleton area.

Highway Safety and Traffic Generation.

This application is an outline form with site access applied for. The site's side road and layout details are not yet provided and would be dealt with via a reserved matters application

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.*

A single point of access is proposed that is taken from Congleton Road. This will use an existing field access that will be improved to allow a carriageway width of 5.5m and two footways of 2.0m. As part of the access proposals, a right turn lane on Congleton Road is proposed.

The site access proposal, including the right turn lane, has been supported by a stage 1 and 2 safety audit that in the view of the independent auditor has not raised any significant issues that would affect the design of the access.

In considering the access proposals, the design conforms to current highway standards and is of sufficient width to serve 160 units. Adequate visibility is available in both directions from the access point.

However, there is a problem with on-street parking close to the site access. This is as a result of parents parking for the nearby primary school. To address this potential harm, which would include the prevention of parking within the extents of the right turn lane and ensure visibility is maintained, a Traffic Regulation Order would be required to extend waiting restrictions. It is considered that the removal of a stretch of on street parking could, if alternative provision is not made, lead to illegal and unsafe parking elsewhere. As such, alternative on street parking areas should be identified on the proposed access road into the new site. The layout and form of this provision could be agreed at the reserved matters stage.

The wide carriageway is a key factor affecting existing traffic speeds, which are high despite there being in a 30mph speed limit. The proposed development and its proposed site access arrangement would have a direct impact on Congleton Road. To ensure more compliant speeds and the provision of a safe access, it is necessary that a scheme of traffic management/speed reduction measures be linked to any approval and should be funded by the developer. This could be achieved by the introduction of pedestrian refuges, which would

also aid crossing of the road, and active speed indicator signage. Having said this, residents of Congleton Road would need to be engaged in the development of any such proposals.

The development has been assessed both morning and evening peak hours and is likely to add 120-130 trips to the road network. These trips will either have to pass through Sandbach or head towards the motorway network at J17. The applicant has assessed a number of junctions and concluded there is little or no impact. However, the reality is that from the assessment work CEC have undertaken at these junctions, there are significant operational or capacity problems which would be exacerbated by the development proposals if mitigation is not provided.

There are identified congestion problems at J17 M6, where significant delays occur at the off slips. An improvement scheme has been developed by the Highways Agency that, if funded, would improve the situation. However the solution is only intended to address today's congestion problems and is not planned to deal with the any longer term. The proposed junction improvement is currently seeking funding from central government's Pinch Point Programme. If it should not receive funding via this programme, it will have to be funded through development financial contributions.

The signal junction at Old Mill Road/The Hill and the nearby roundabout has capacity problems with the signal junction causing traffic to queue back and affect the operation of the adjoining roundabout. An improvement scheme has been identified by CEC highways that would improve the throughput at the signal junction but again does not provide a long term solution.

The applicant has submitted in the Transport Assessment addendum mitigation proposals to the development traffic at the A534 Old Mill Road/Congleton Road and also at M6 17 on the south facing slip roads. The improvement at the junction of Old Mill Road and Congleton Road is seen as a benefit when considered alongside the potential HA scheme at J17 as it would allow traffic to merge into the main flow. The improvements proposed at J17 are of benefit but could not be implemented as a stand alone scheme as both the northbound and southbound slips needs to dealt with together. Therefore, it is necessary that any financial contributions have the flexibility to be used either for J17, should the HA 'Pinch Point' scheme not be funded, or to implement junction improvements at Old Mill Road/ The Hill.

The sustainability / accessibility of the site is considered good as it located close to Sandbach town centre which has a range of local services. The site is also very close to Offley Primary school. There are a number of bus services that run on Congleton Road and although the frequency of service is currently only hourly, the site does have access to bus services. The location of the site is considered to be accessible, being within a reasonable walking and cycle distance of the town centre. The emerging Local Plan has identified creating a better quality pedestrian environment through improvements to the public realm. If Members were minded to approve this scheme, such changes to the highway environment would encourage more people from this site to walk and cycle to the town centre to use its facilities and services.

Clearly there are enormous development pressures in Sandbach from a number of other housing sites, either with permission or at appeal. However, the impact assessment of this

site can only consider this application and committed schemes in deciding whether to support the application or not.

The site is accessible to the town centre and is sustainably located and would enable walking and cycling trips, especially with the highway and public realm improvements being proposed.

Whilst, there are existing problems in Congleton Road that relate to on-street parking and speed of vehicles using the road, there are no contraventions of highway standards in the submitted access design and it would be difficult to defend a rejection of the application relating to the access design.

The traffic impact of the development has been based upon the submitted transport assessment that was a 195 unit development and given the number of units has been reduced by 35 units the traffic impact is reduced on the network.

Consideration has to be given to whether there is sufficient impact to warrant refusal of the application taking into account the mitigation measures put forward by the applicant. There are key junctions in Sandbach that have capacity problems and these would be exacerbated by this development without suitable mitigation.

On balance, the Strategic Highways Manager advises that, on the basis that the Applicant has agreed to a package of mitigation measures; including S106 contributions and conditions; refusal could not be sustained in this case.

Design

The application is outline with details of scale, layout, appearance and landscaping to be determined at a later date. In support of this planning application an illustrative master plan has been submitted.

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

The master plan and framework plan are illustrative and do contain both strengths and weaknesses. A parameters plan defines the developable and non-developable zones within a centralised zone and the envisaged housing composition (as percentages). It also clarifies the provision of 30% affordable housing. This includes provision of a mix of housing in 2 main character zones, with 2 storey immediately adjacent to existing housing and on the northern edge of the developable area and up to 2.5 storey elsewhere. An outer zone is retained as proposed green space.

In terms of strengths, the scheme comprises perimeter blocks are welcomed and the density of circa 20 dwellings per hectare is appropriate due to the rural fringe location of the site. The

majority of the proposed development would be two-storey. This is considered to be acceptable.

The illustrative masterplan indicates a simple hierarchy, explained in more detail and illustrated conceptually in the Design and Access Statement. This includes areas of woodland fringe housing. In general terms, the hierarchy is considered appropriate for an edge of urban location but the street design will require further consideration and there is a preference that lanes also connect and a design coding for any reserved spaces would be an essential component. This would be particularly important given the suggestion in the Design and Access Statement that the houses would be an off the peg design. This would be inappropriate given the rural location of the site and the perimeter blocks of 2.5 storey development as indicatively proposed.

Landscape Impact

The site has no national or local landscape designation. As part of the application, a Landscape and Visual Impact Assessment has been submitted. This correctly identifies the baseline landscape of the application site and surrounding area.

The application area is located within The East Lowland Plain Type 7 landscape type, and within the Wimboldsley Character Area (ELP5) of the Cheshire Landscape Character Assessment 2008.

In the Landscape Assessment of Congleton Borough, the site lies within the Cheshire Plain Landscape Character Area. The site has a number of the characteristics of the identified character areas, and as the assessment itself indicates in para 6.14 *'Implementing a residential development on the Site would involve a permanent change in landscape character.'* The proposed development would result in the area becoming part of the urban part of Sandbach and, as such, it would no longer have an agricultural character.

As an outline application, limited weight can be afforded to the Illustrative Masterplan. However; the plan suggests that landscape buffers would be provided to the north west and north east of the site which would help to contain the development in the landscape. The plan indicates that much of the existing vegetation could be retained as part of the development in green corridors and green spaces. The extent to which this could be realised would depend on the detailed design, not forgetting that PROW No 7 runs through the area of centre landscaping as proposed.

Should the development be deemed acceptable in principle, the Landscaper considers there would need to be stringent controls to ensure the green spaces indicated were provided and that the existing trees and hedgerows were retained.

The visual assessment identifies the receptors and correctly assesses their sensitivity. The assessment indicates that, for a number of receptors, including users of Sandbach footpath 7 which runs through the site and the occupiers of dwellings 134 – 146A Congleton Road, there would be substantial adverse impacts during the construction phase. The assessment also indicates there would be a moderate adverse impact during the construction phase on users of Sandbach footpath 6 adjacent to the western boundary of the site and to occupiers of

West Winds, Lanterns and 122 – 128 Congleton Road. There would be a moderate to slight adverse impact on users of Sandbach footpath 8 to the east of the site. Impacts of less magnitude are identified for other receptors. Whilst some impacts would reduce over time, depending on the mitigation measures taken, it is likely that for some receptors there would be ongoing effects.

Forestry

The submission includes an Arboricultural Impact Assessment which appears to be comprehensive and incorporates a tree survey identifying 63 individual trees and 13 groups of trees in and around the site. The report also includes an assessment of hedges against the Hedgerow Regulations 1997.

The Congleton Borough Council (Congleton Road, Sandbach TPO 1989) protects 37 trees in the vicinity.

The assessment indicates that the tree stock on site is generally in fair or good condition; providing a significant level of visual amenity from both within and outside the site. Many trees are considered to have arboricultural merit by virtue of prominence, size, inclusion within wider landscape groupings or species longevity rather than impeccable condition and the Council's Forestry Officer concurs with this view.

As an outline application, the impacts on existing trees cannot be fully determined as this would depend on the detailed design. The indicative layout would appear to provide for the retention of many trees. However, it would require the removal of a wooded area in the curtilage of 130 Congleton Road to make way for the access as it continues within the site.

In addition, although the plans only cover the design of the access in the immediate vicinity of Congleton Road, it would also appear likely that the section of road linking to the proposed access would be within the root protection area of two mature TPO protected Oak trees. The crowns of the trees extend some distance over the area in question and the Tree Officer consider it likely that there would be adverse impact on these specimens. They are both categorised as Grade B in the tree survey and are prominent when viewed from the existing public footpath and from Congleton Road. However, the outline nature of the proposal means that the internal configuration of road layout within the site is not known. This could be further addressed via reserved matters.

The indicative layout shows substantial areas of new tree planting which, if realised, may help to mitigate losses in the longer term.

Overall, it is inevitable that there will be tree losses on the site and some of these trees are of importance from an amenity point of view, however, mitigation can be achieved which would address this and on balance, it is not considered that this would sustain a reason for refusal.

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. (Policy NR 3 of the Adopted Congleton Borough Local Plan). Hedgerows are also a habitat subject of a Biodiversity Action Plan.

The submission appears to assess the hedgerows from an arboricultural point of view however an assessment from a historic view has been received and concludes that there are no historically significant hedgerows on the site .

The submission identifies 937 linear metre of existing hedgerow, with the indicative layout requiring a loss of 75 linear metres. The arboricultural survey indicates that the lengths of hedgerow adjacent to Sandbach footpaths 6 and 7 are 'Important' under the Regulations. Whilst the survey does not identify the other hedgerows as 'Important', the presence of protected species on the site which may use the hedgerows as habitat / movement corridors is a material consideration and may result in further lengths of hedge being deemed 'Important'.

The Indicative layout shows the hedgerows currently identified as 'Important' retained, together with several other lengths although some sections not deemed 'Important' would be breached in order to create access points.

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. The ecologist advises the following with regard to specific species on the site:

Great Crested Newts

Whilst single great crested newts have previously been recorded near to the proposed development site in no great crested newts were recorded during the latest detailed survey or during monitoring surveys completed in 2010.

Consequently, the Council's Ecologist considers great crested newts are unlikely to be adversely affected by the proposed development

Common Toad

Common Toad, a UK BAP species and a material consideration has been recorded breeding at a pond some distance from the application site. The proposed development is unlikely to have a major impact on this species. However, there is likely to be some loss of foraging habitat. The applicant's ecologist has recommended that a new pond specifically designed for amphibians be incorporated into the scheme to compensate for this loss and to enhance the available habitat for other amphibian species present.

This approach is acceptable and this matter may be dealt with by means of a condition

Badgers

A badger sett is present on site. However it appears unlikely that it would be significantly adversely affected by the proposed development. The proposed development may however result in the loss of some badger foraging habitat.

The Ecologist considers that the loss of badger foraging habitat be compensated for by the sensitive design of the open space areas and the introduction of fruit bearing trees to provide an additional seasonal food supply.

The submitted ecological assessment also recommends that a 2m buffer zone is provided adjacent to the retained hedgerows on site to facilitate free movement of badgers around the site.

On the basis that the above measures are implemented as part of any finalised layout in the event of an appeal, the proposed development is unlikely to have a significant impact upon badgers. However as the status of badgers on a site can change rapidly an up to date badger survey which includes revised mitigation/compensation proposals, would be required for the appeal.

Bats

Evidence of a minor bat roost has been recorded at 130, Congleton Road. In the absence of mitigation the demolition of this property would result in the loss of the roost and would also pose the risk of killing/injuring any bats present. The level of impact is likely to be relatively minor.

Bats are a European Protected Species. If recorded on site, the planning authority must have regard to the Habitat Regulations when determining this application. In particular, the LPA must consider whether Natural England is likely to grant a derogation license.

The Habitats Regulations only allow a derogation license to be granted when:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favorable conservation status of the species will be maintained.

Outline mitigation/compensation proposals have been submitted and the Council's ecologist advises that it is feasible that, if the outline mitigation/compensation is implemented the favourable conservation status of the species of bat concerned would be maintained. Any future reserved matters application should however be supported by an up to date bat survey and finalised mitigation/compensation proposals.

In addition to the roost at 130 Congleton Road, a number of trees have been identified on site with the potential to support bat roosts and bats have been recorded foraging and commuting throughout the site. The submitted ecological assessment states that all trees with bat roost potential will be retained and this appears to be feasible.

The proposed development may have an adverse impact on the foraging and commuting behaviour of bats on the site. However, provided the proposed open space is designed sensitively and includes appropriate native trees and shrub planting this impact is likely to be adequately compensated for. The incorporation of bat boxes is also likely to be beneficial.

The application site includes a number of habitats and has the potential to support a protected species. An Ecological Assessment has been produced and in support of this application and the impact of the development upon protected species is considered below.

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

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

and provided that there is

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

The UK implements the Directive in the Conservation of Habitats & Species Regulations 2010 which contain two layers of protection;

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

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

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

In terms of the 3 tests, it is considered that:

- There are no satisfactory alternatives as the site would provide additional housing and economic development in a sustainable location
- In the absence of any impact from the proposed development, it is likely that any contact will be low and will relate mainly to the risk of animals venturing onto the site during the construction phase and the potential disturbance of a potential resting place. Mitigation measures have been included with the survey report.

The Councils Ecologist has advised that these are proportionate to the scale of the potential impacts and the proposed development is unlikely to affect the favourable conservation status of the species.

- There are imperative social reasons of overriding public interest, as the development of the site would provide 30% affordable housing and provide economic development in the area by virtue of the construction activities and the knock on effects that’s this would have for the local economy.

The bat mitigation measures could be secured through the use of a planning condition to retain trees with roosts.

Birds

The proposed development site is likely to support breeding birds including widespread and relatively common BAP species which are a material consideration. As a result, if planning consent is granted for this scheme conditions regarding the timing of works and the provision of suitable features for nesting birds will be needed if permission is granted.

Accordingly, it is not considered that an objection to the proposals on ecology grounds could be sustained.

Public Open Space

In terms of children's playspace, the Greenspace Officer has requested the provision of an on-site 5 piece LEAP. The applicant's agent has confirmed that this will be provided on site and this will be secured through the S106 Agreement. This is acceptable to the Greenspace Officer.

The Greenspace Officer advises that a LEAP should include at least 5 items of equipment, using play companies approved by the Council.. Full plans must be submitted prior to the play area being installed and these must be approved in writing prior to the commencement of any works. A buffer zone of at least 20m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site.

The financial contribution required by Cheshire East to maintain the play area would be £114,624. This would need to be secured by S106 Agreement.

Flood Risk and Drainage

The majority of the application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. This defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. The Environment Agency recommends standard conditions to control run off which could be accommodated within this site.

Education

The Education Officer has examined the proposal and has raised no objection subject to the provision of a contributions towards both primary education and secondary of £282,004 and £343,196 respectively . This could be secured through a Section 106 Agreement if the development was deemed to be acceptable.

Impact on Public Right of Way

The development impacts on 2 public rights of way. A further right of way runs along the drive to Fields Farm some distance to the east. 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 and through to the school. Improved links with the School is also supported by the School.

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.

Renewable Energy

RSS policy EM18 requires that all major developments secure at least 10% of their predicted energy requirements from decentralised and renewable or low carbon sources, unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that it is not feasible or viable. The applicant has not demonstrated that this is not feasible and the design and access statement has not considered the incorporation of such measures. However, this could be dealt with by condition.

HEADS OF TERMS

If the proposal were to be approved the following Heads of Terms comprising a s106 legal agreement would be necessary -

1 Provision of 48 (30%) affordable housing units – (31 units) 65% to be provided as social rent/affordable rent with (17 units) 35% intermediate tenure.

2. The provision of a LEAP (min of 5 pieces of equipment) and Public Open Space to be maintained by a private management company and financial contribution for Maintenance:£45 408 (open Space) and Maintenance for £114,624 for the LEAP

3. Education contribution in respect of primary provision of £282,004 and secondary provision of £343,196

4. Highways Contribution of £480,000 towards highways improvements/urban realm improvements at any of the following locations; A534 Old Mill Road / The Hill junction and Sandbach town centre and a contribution of £50,000 to address the impact of the development at the junction of A534 Old Mill Road/Congleton Road.

In most cases, where an Appeal is submitted, it is usually sufficient for the Appellant to submit a Unilateral Undertaking, to the Planning Inspectorate, with their Appeal paperwork to make the usual provisions for affordable housing, financial contributions to open space, highways, education etc.

Community Infrastructure Levy (CIL) Regulations

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

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

The development would result in increased demand for school places at the primary schools within the catchment area which have very limited spare capacity. In order to increase capacity of the schools which would support the proposed development, a contribution towards primary and secondary school education is required based upon the maximum units applied for. This is considered to be necessary and fair and reasonable in relation to the development.

The contribution of £530,000 to highways improvements will mitigate for the impacts of the additional traffic using the local highway infrastructure in the town centre and are fairly and reasonably related to the scale of this development

As explained within the main report, affordable housing, POS and children's play space would help to make the development sustainable and is a requirement of the Interim Planning Policy, local plan policies and the NPPF.

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development.

10. CONCLUSIONS

The Government has made it clear in the NPPF that there is a presumption in favour of new development, except where this would compromise key sustainability principles.

It is considered that the development would make an important contribution in terms of affordable housing provision and this would be a significant benefit.

The highway safety and traffic generation issues can be addressed through appropriate developer contributions to off-site highway improvements.

Matters of detailed design, amenity, drainage, air quality and noise impact can also be adequately addressed through the use of conditions.

Although there would be some adverse visual impact resulting from the loss of open countryside, it is considered that due to the topography of the site and the relationship with existing urban form and the retention of existing trees and hedgerows, this would not be significant relative to other housing sites in the Borough as to justify refusal of permission of this scheme on this basis.

With regard to ecological impacts, the Council's ecologist is satisfied with the proposed mitigation measures for protected species could be achieved subject to condition.

It is considered that the Council has a 5 year housing land supply, which is a requirement of the National Planning Framework. Accordingly, in the light of the advice contained in NPPF, the

relevant policies for the supply of housing should be considered to be up-to-date. The site is not allocated for development in the Emerging Development Strategy and its development would compromise the delivery the Development Strategy and the Sandbach Town Strategy.

It is therefore considered that the proposal would have significant adverse impacts upon the Open Countryside and the delivery of the spatial vision as expressed in the emerging Development Strategy that demonstrably outweigh the benefits and the application should not be approved.

11. RECOMMENDATIONS

RESOLVE to contest the forthcoming Appeal against non-determination on the following basis:

The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy PS8 of the Congleton Borough Adopted Local Plan First Review 2005 and the principles of the National Planning Policy Framework. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework, and as such the application is also premature to the emerging Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.

