

Application No: 13/0100C

Location: LAND AT 50A, NANTWICH ROAD, MIDDLEWICH, CHESHIRE, CW10 9HG

Proposal: Residential development comprising demolition of existing bungalow and outbuildings and erection of 24 dwellings including access, parking, landscaping and associated works (Resubmission)

Applicant: P.E. Jones (Contractors) Limited

Expiry Date: 03-Apr-2013

SUMMARY RECOMMENDATION:

Approve subject to conditions and the satisfactory completion of a Section 106 Legal Agreement

MAIN ISSUES:

Planning Policy And Housing Land Supply

Affordable Housing

Highway Safety, Congestion And Traffic Generation

Tree Matters

Ecology

Site Layout and Design

Neighbours Amenity

REASON FOR REFERRAL

Members will recall refusing an identical scheme at this site by the Applicant under reference 12/2225C. The application was refused, contrary to Officer recommendation, on the following grounds;

The proposal, by virtue of the increased traffic generation through the adjacent residential area would have an adverse impact on the amenity of local residents due to traffic generation coming through the estate contrary to Policy GR6 of the Congleton Borough Local Plan First Review 2005.

The Applicant has appealed this refusal of permission and a Public Inquiry is due to be heard in June/July 2013. Statement of Cases are to be exchanging in late April 2013.

The current scheme is identical albeit more information has been provided concerning noise and amenity impacts with specific regard to the amenity impacts and noise environment of the estate.

In the light of the additional evidence that has been submitted, Officers have also sought further advice on the prospects at appeal having regard to the specific reason for refusal. That advice raises concerns about the robustness of that reason for refusal, should a refusal of permission be maintained in this case, having had regard to the fresh information.

This report therefore provides updated information in respect of existing uses on the site so that Members can make a sound judgement such that any reason for refusal are not considered to be unreasonable.

DESCRIPTION OF SITE AND CONTEXT

This application relates to a derelict bungalow with an extensive garden and orchard which has been left unmanaged in the last few years. There are 2 outbuildings within the grounds comprising a single storey brick garage and shed.

The site is surrounded on all sides by residential development. To the north, northeast and west there are modern detached dwellings on Glastonbury Drive and Tewkesbury Close. To the south east the site surrounds the detached dwelling and ancillary outbuilding (2 storey) within no 50 Nantwich Road. The site extends along Nantwich Road to Mill Lane, an unadopted track which serves a small number of dwellings.

There are a number of significant mature trees within the site which are covered by the Congleton Borough Council (Nantwich Road, Middlewich) Tree Preservation Order 1975, including a group of Lime trees to the Nantwich Road frontage of the site.

The Glastonbury Drive access to the modern housing estate is the sole access from Nantwich Road and currently serves a total number of 128 dwellings presently within Glastonbury Drive, Tewkesbury Close, Lindisfarne Close, Welbeck Close and Fountains Close.

The site is situated within the settlement zone line of Middlewich as designated in the adopted Congleton Borough Local Plan First Review (2005).

DETAILS OF PROPOSAL

Full planning permission is sought for the demolition of the existing bungalow on the site and the construction of 24 residential units.

The residential mix is:

- 13 no 4 bedroomed houses (2 storey)
- 2 no 3 bedroomed houses (2 storey)
- 9 no 2 bedroomed houses (2 storey)

The proposed access is to be formed adjacent to 28 Tewkesbury Close as a continuation of the estate to the rear of the site and is taken from Tewksbury Drive via Glastonbury Drive. Overall, with this proposal included, Glastonbury Drive would serve a total of 152 residential units.

RELEVANT HISTORY

12/0334C - Residential Development Comprising Demolition of Existing Bungalow & Outbuildings & Erection of 28 Dwellings Including Access, Parking, Landscaping & Associated Works – Withdrawn

12/2225C - Residential Development Comprising Demolition of Existing Bungalow & Outbuildings & Erection of 24 Dwellings Including Access, Parking, Landscaping & Associated Works – Refused 7 Jan 2013.

POLICIES

Regional Spatial Strategy (RSS)

DP1	Spatial Principles
DP2	Sustainable Communities
DP 3	Promote Sustainable Economic Development
DP 4	Make the Best Use of Existing Resources and Infrastructure
DP 5	Manage Travel Demand; Reduce the Need to Travel
DP 6	Marry Opportunity and Need
DP 7	Promote Environmental Quality
EM11	Waste Management Principle
EM2	Remediating Contaminated Land
EM5	Integrated Water Management)
EM18	Decentralised Energy Supply
MCR3	Southern Part of the Manchester City Region
L2	Understand Housing Markets
L4	Regional Housing Provision
RT2	Managing Travel Demand)
W3	Supply of Employment Land)

Cheshire Replacement Waste Local Plan (Adopted 2007)

Policy 11 (Development and waste recycling)

Local Plan Policy

PS4	Towns
GR21	Flood Prevention
GR1	New Development
GR2	Design
GR3	Residential Development
GR5	Landscaping
GR6	Amenity & Health
GR7	Amenity & Health
GR8	Pollution
GR9	Accessibility, servicing and parking provision

GR18	Traffic Generation
GR19	Infrastructure
GR22	Open Space Provision
H1	Provision of New Housing Development
H2	Provision of New Housing Development
H4	Residential Development in Towns

Other Material Considerations

The National Planning Policy Framework (NPPF)

SPG1	Provision of Public Open Space in New Residential Developments
SPG2	Provision of Private Open Space in Residential Developments
SPD4	Sustainable Development

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

Middlewich Town Strategy
2013 SHLAA
Emerging Development Strategy

CONSULTATIONS (External to Planning)

Environmental Health: No objection subject to conditions concerning hours of work, mitigation strategy for building works to minimise dust, noise

Strategic Highways Manager: No objection subject to conditions concerning construction access methodology and a S106 contribution of £30000 to assist in improving the pedestrian environment on Nantwich Road and providing improved pedestrian linkages to the town centre and waiting restrictions on Glastonbury Drive.

Nature Conservation Officer (NCO): No Objection subject to the implementation of a mitigation strategy for reptiles (Biodiversity Action Plan) species and replacement foraging habitat for bats.

United Utilities : No objection subject to conditions concerning site to be drained on separate system

Forestry Officer - Raises no objection subject to conditions concerning tree protection for TPO trees on Nantwich Road frontage

Housing Strategy and Needs Manager – No objection subject to the provision of 30% Affordable Housing being provided.

Education – Education Contribution is not required in this case

Greenspaces Manager - There is a deficiency in the local area, however, in the light of the limited size of the site, provision of off site works (enhancement of this existing area of Amenity Greenspace) at Fountain Fields are acceptable in terms of the Interim Guidance.

Enhanced Provision:	<u>£ 3,909.42</u>
Maintenance:	<u>£ 8,750.50 (25 years)</u>

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 for Children and Young Persons Provision. The financial contributions sought from the developer would be;

Enhanced Provision:	<u>£10,621.22</u>
Maintenance:	<u>£22,089.00 (25 years)</u>

VIEWS OF THE TOWN COUNCIL:

Middlewich Town Council object to the proposal. In their opinion, the site is not allocated within the Town Strategy. Therefore, in supporting the Strategy, and in the interests of consistency the Town Council cannot support this application. If permission is granted they wish to see a pedestrian crossing provided across Nantwich Road.

OTHER REPRESENTATIONS:

A petition containing 117 signatories with addresses in Glastonbury Drive, Tewkesbury Close, Malmesbury Close, Buckfast Way, Welbeck Close has been submitted which states that they consider access should be via Nantwich Road and not through the estate. This petition was originally submitted opposing the first application and has been resubmitted in its entirety against this re-submission

99 letters and emails of objection have been received from residents in the immediate vicinity of the site, including addresses within the existing estate and properties on Nantwich Road. The comments can be read in full on the website but raise the following concerns:

Principle

- The houses are not needed when so many remain unsold.
- Affordable, smaller units are not pepper-potted, focussed in one area of site
- Over-development
- Too much development in the area
- Not in the Middlewich Town Strategy therefore not in the Plan

Highways

- Additional traffic generated - all to Glastonbury Drive/Nantwich Road junction
- Increased volume of traffic
- Safety – Nantwich Road is ambulance priority route
- Additional queuing to get onto Nantwich Road at peak time
- Disturbance during building work through estate
- Parking congestion at the junction with Nantwich Road is already a problem, further additional traffic will add to existing safety problems at the junction
- Putting double yellow lines at the junction of Nantwich Rd moves the parking further into the estate, the layout of which means that there will be congestion further into the

estate, which has a narrow and windy layout. This will lead to more dangerous manoeuvres to avoid parked vehicles.

- The additional traffic will lead to accidents within the estate
- Construction traffic accessing the site via the shared access adjoining 50 Nantwich Road as proposed will be dangerous and dirty and injurious to the amenity of adjoining residents
- The access at 50 Nantwich Road is shared by 5 properties whose consent has not been sought
- Safety of pedestrians on Nantwich Road
- How are people going to cross the road
- No pavements are proposed to increase the numbers of units
- The areas should be amenity space

Infrastructure

- Local schools cannot accommodate the additional children.
- Local doctors can not accommodate more patients

Amenity

- Loss of outlook / views of open area
- Loss of privacy to houses adjacent
- Overdeveloped, cramped layout
- Design is out of character with area and overly prominent
- Loss of light to windows within ancillary outbuilding to 50 Nantwich Road
- Increased noise from parking area in neighbouring garden
- Overlooking from windows of new houses into adjoining dwellings
- Social and play areas should be included
- Boundary treatment long term security
- Increased noise and disturbance as result of increased traffic going through estate
- The noise survey is questioned in terms of the timings and its conclusions. The additional traffic will be noisy for residents at the end of the cul de sac where presently there is no traffic.
- Light intrusion into neighbouring houses where there presently is none due to the cul de sac

Trees

- Impact upon root protection areas of trees outside site in neighbours property
- Impact upon trees within the site
- Arboricultural Report of poor quality
- Lack of consideration of implications for important off site trees and hedges
- Loss of the trees to form the site access (non protected but mature trees which are of high amenity value to locals)
- It would be of greater benefit to residents to remove the TPO trees on the frontage to form the access via Nantwich Road

Ecology

- Impact upon protected species

Drainage

- Services will be an extension of existing in Tewkesbury Drive. Residents have experienced problems in the past, further development will put strain on services

APPLICANT'S SUPPORTING INFORMATION:

A full package of supporting information has been submitted with the application including;

- Supporting Planning Statement
- Design and Access Statement
- Ecological Assessment and Mitigation Statement
- Transport Assessment
- Phase 1 Contamination Assessment
- Noise Assessment
- Arboricultural Assessment
- Draft Heads of Terms

All of these documents are available in full on the planning file, and on the Council's website.

OFFICER APPRAISAL

Principal of Development

Given the locality of the site within the urban settlement of Middlewich, the site is considered to be highly accessible and sustainable. In principle, Policies PS2 and H4 of the Development Plan state that there is a presumption in favour of new housing development within the settlement, subject to compliance with other local plan policies concerning amenity and site planning factors.

National Planning Policy Framework

At the heart of the National Planning Policy Framework is a presumption in favour of sustainable development. The document states that for decision taking this means, inter alia, approving development proposals that accord with the development plan without delay.

According to paragraphs 19 to 21, "the Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. Investment in business should not be overburdened by the combined requirements of planning policy expectations."

Another important material consideration is the Written Ministerial Statement: Planning for Growth (23 March 2011) by The Minister of State for Decentralisation (Greg Clark). Inter alia,

it states that, *“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.*

Furthermore, it states that when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate economic development. Local Authorities should therefore, inter alia, consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession; take into account the need to maintain a flexible and responsive supply of land for key sectors; consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits and ensure that they do not impose unnecessary burdens on development.

The proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to the town including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain. The proposal will also address a known need for affordable housing.

Paragraph 14 of the NPPF which advises that when Councils are decision taking, they should:

“Approve development proposal that accord with the development plan without delay, and

Where the development plans is absent, silent, or relevant policies are out of date they should grant planning permission unless;

- ***any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessing against the policies in this framework taken as a whole; or***
- *Specific policies in this framework indicate development should be restricted”*

Notwithstanding this requirement, this scheme is located within an existing residential area, close to a range of local amenities and is considered to be highly sustainable. Accordingly, there is an in principle presumption in favour of the development in accordance with paragraph 14 of the NPPF.

The application therefore turns on whether there are any adverse impacts that would so significantly and demonstrably outweigh the presumption in favour of the development.

Previously when refusing 12/2225C, Committee considered that the impacts upon the amenity of existing residents within the estate on grounds of the added disturbance by virtue of the additional traffic associated with the 24 additional dwellings would significantly and demonstrably outweigh the benefits of the development that was sufficient to outweigh the presumption in favour of the development.

The Applicant has undertaken further studies of the noise environment and provided more information to address this concern and to assist Committee in assessing the amenity implications for existing residents. This is considered further below but it is necessary to consider all relevant planning issues;

Impact on character and appearance of the area

Local Plan policies GR1, GR2 and GR3 address matters of design and appearance. Policy GR1 states that the Council will promote high standards of design and new development should reflect local character, use appropriate materials and respect form, layout, siting, scale and design of surrounding buildings and their setting. Policy GR1 requires new residential development to create an attractive, high quality living environment. Policy GR2 states that the overall scale, density, height, mass and materials of new development must normally be sympathetic to the character of the local environment, street scene, adjoining buildings and the site itself.

This proposal, as amended, comprises a small development of 24 no. two storey dwellings which are a mix of detached, semi-detached and small number of terrace blocks arranged around a cul-de-sac road. Plot sizes are smaller than the existing 1980's/1990's housing estate which adjoins most boundaries of the site, however, the density is more in keeping with modern day requirements to ensure the efficient use of land, particularly in the most sustainable of locations. The modern estate itself has a mixed residential character, with modern bungalows, and 2 storey 4-bedroomed detached style modern properties predominating within the Tewksbury Drive estate layout. To Nantwich Road the properties are older, Edwardian terraced housing and Nantwich Road. Most of the site is discreetly located behind the sizeable house, ancillary 2 storey coach-house at 50 Nantwich Road. A Group of TPO protected Lime trees are retained to the Nantwich Road frontage. A path linking Nantwich Road and the site is provided through the tree belt where a detached dwelling fronting onto Nantwich Road adds to passive surveillance.

The cul-de-sac layout of houses would be broken-up by the use of seven varieties of house styles within the layout of the dwellings, parking is set generally behind the building lines for the detached dwellings. Smaller terraced units to the west of 50 Nantwich Road present their rear elevation to the Nantwich Road facing elevation, however, this part of the site has been revised by the Applicant during the course of the application and is now considered to be acceptable.

The density is circa 35 units per hectare which is considered an efficient use of the site. The height, scale, massing and coverage of the proposed dwellings is considered appropriate having regard to the similar heights and scale of surrounding properties.

When previously determining identical application 12/225C, no concerns were raised by Committee in regard to design, massing, layout or scale. Matters of design and layout do not form any part of the reason for refusal of 12/225c. It is therefore concluded that the proposed development would adequately reflect the local mixed character and the overall scale, density, height, mass and materials of the dwellings would be sympathetic to the character of the local environment and would comply with policies GR1, GR2 and GR3 of the Local Plan.

Highways – safety, access and congestion

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**.

Matters pertaining to the access through the estate were debated widely by the Committee when they resolved to refuse 12/225C. The Strategic Highways Manager has previously advised that, in his expert opinion, a reason of refusal on grounds of highway safety could not be substantiated based upon the additional traffic associated with 24 dwellings going through the estate.

The updated Transport Statement submitted in support of this application demonstrates a worse case scenario of up to 16 vehicle movements in the busiest hour (pm peak) associated with this development. This is equivalent to one additional vehicle movement every 4 minutes in the busiest hour through the estate. The Strategic Highways Manager has previously accepted the Transport Assessment as being robust and there is no reason to dispute the technical data provided now.

Car borne traffic will access the site via the existing network Glastonbury Drive and Tewksbury Close. Both Glastonbury Drive and Tewkesbury Close have carriageway widths of 5.5 metres and two 2 metre footpaths. National criteria and the Design Aid for Housing Roads categorise such a standard as appropriate to serve up to 300 residential units. The current estate access via Nantwich Road serves a total of 128 residential units presently. The proposal will result in 24 additional properties (152 units in total are proposed to be served – technically therefore the existing estate road layout is capable of serving this development and more).

The Transport Statement expresses the opinion that the increased level of traffic generation is negligible and will have no material effect on the traffic capacity of the estate roads or indeed on the junction capacity of Glastonbury Drive with the A530.

The Strategic Highways Manager has considered the trip rates and agrees that they are both appropriate and robust for this type and scale of development. He concurs with the conclusions reached.

There remain numerous objections from residents within Glastonbury Drive, Tewkesbury Close and the other streets within the estate which raise highway safety concerns about the ability of Glastonbury Drive/Tewkesbury Close to cope with the additional traffic and raising safety concerns about the operation of the junction of the access and Nantwich Road. Many people raise existing on street parking in close proximity to the main road junction and within the estate as being an impediment to the free flow of traffic and objectors express concern that this proposal will exacerbate this situation.

Construction traffic going through the existing estate is another common concern and it is understandable that local residents would rather not see these vehicles using the estate road for construction access. The Applicant has stated that they would be willing to access the site via the track adjoining no 50 Nantwich Road for the duration of the development, however, this will impact upon the phasing of the delivery of the affordable dwellings within the development. The Applicant has satisfied the Highways Engineer that a temporary construction access can be technically achieved. Neighbours on Nantwich Road have stated that this shared access will require their consent. This is legal matter. However, it is considered that a permanent access point can not be taken as it would require third party land.

The junction of Glastonbury Drive with the A530 is also a concern for residents. In particular they raise the fact that local residents from Nantwich Road who have no off-road parking tend to park in the initial length of Glastonbury Drive and cause some obstruction to vehicles leaving and entering the estate.

Neighbours also express concern that traffic turning into Glastonbury Drive and meeting an egressing vehicle which is overtaking a parked car may have to stop and may end up encroaching onto Nantwich Road.

The Highways Manager has considered these issues very carefully particularly with regard to accident records. Accident records shows the junction shows no injury accident records for the last 5 years. Accordingly, it is concluded that the junction operates safely.

The main concern expressed by objectors is the likelihood of traffic queuing back onto Nantwich Road whilst waiting for an overtaking car to emerge from Glastonbury Drive.

The highest number of new trips arriving and entering this junction occurs in the evening peak when 12 additional vehicles are calculated to access the proposed development. This is an average of 1 vehicle every 5 minutes which again can not really be judged as a material impact on the operation of the junction. The morning peak traffic has an even lower impact at only 1 entering vehicle every 12 minutes. If the on-street parking is considered, it is necessary to judge whether this would exacerbate the situation sufficiently to warrant concern significant

enough for the Strategic Highways Manager to tender a reason for refusal which would be sustainable.

Several objectors consider that a vehicle access off Nantwich Road would be preferable to taking access from Tewkesbury Drive, as this would not increase traffic flows on residential roads. The Strategic Highways Manager accepts there is some merit in this, but it is recognised good practice to minimise the number of access points onto major routes in the interests of road safety and the smooth circulation of traffic. The junction of Glastonbury Drive with Nantwich Road is of good design and will be able to handle what would be a modest proportional increase in flow as a result of 24 units, particularly given that the access to Nantwich Road is designed to cater for up to 300 units.

A significant element of objection from neighbours concerns the use of the existing estate as the vehicular access for this site. Objection is raised on congestion and safety grounds, particularly the backing up and on street parking congestion at the estate junction with Nantwich Road. Many people consider that the site should be accessed via a roundabout on Nantwich Road, adjoining that part of the site which comprises plot 12.

The Highways Engineer, however, having considered the expressed opinion of existing residents that the access should be via a roundabout on Nantwich Road rather than Glastonbury Road advises that a mini-roundabout could technically be provided.

However, this would require the removal of protected trees to the Nantwich Road frontage and would have potential safety issues itself. It should also be remembered that the Council has to determine the proposal as submitted.

Mini-roundabouts are not recommended where the flow on one arm is very low, which is likely here. In this case, given the limited number of properties which any such roundabout would serve, Nantwich Road drivers would rarely have to give way to turning traffic and thus are likely to treat any such mini roundabout as a T junction with themselves having the priority, which is a concern in highway safety terms. There are also driveways on the south side of Nantwich Road which would be difficult to accommodate safely within the confines of any such roundabout. There are very limited traffic calming benefits of such a roundabout.

A *priority* access onto Nantwich Road has also been considered by the Highways Manager, however, overall given the proximity to the existing Glastonbury Drive entrance, the bend in Nantwich Road and the amenity afforded to the wider area by the TPO trees on the Nantwich road frontage, it has been concluded that the access via Glastonbury Drive, as proposed, would be preferable in highways terms.

The Highways Engineer does consider there to be some merit in the provision of waiting restrictions on Glastonbury Road. The development will add to traffic on Nantwich Road and Glastonbury Drive, routes which already suffer from congestion at peak periods. Also the site will generate pedestrian movements, many of which will be to the town centre and other destinations which will involve crossing Nantwich Road. Accordingly, a S106 contribution of £30,000 to cover necessary improvements to waiting restrictions and pedestrian facilities on the above streets. The Highways Engineer does not consider that the provision of waiting restrictions on Glastonbury Road would result in any severe impact upon highway safety, as required by the NPPF to justify refusal on highway safety grounds.

Pedestrian links

The Traffic Statement also considers sustainable travel options and the links to local amenities and schools within the network. The site layout now includes a pedestrian link between the site and Nantwich Road, which will minimise walking distances for existing residents at the end of Tewksbury Close as well as future residents

The site is within the urban boundary of Middlewich and many facilities such as shopping, education and leisure are within convenient walking distance. It is also desirable, in the interests of sustainability, to make pedestrian routes as direct and safe as possible to discourage use of car for such short journeys.

Walking trips between the site and Middlewich town centre will involve the crossing of Nantwich Road, a principal road which carries a considerable volume of traffic. Pedestrians to and from the site will most frequently be required to cross Nantwich Road to access the town centre facilities. The Strategic Highways Manager has requested a S106 contribution of £30,000 to improve the pedestrian environment to Nantwich Road to link in with the footpath link created next to plot 11. This could include the imposition of Traffic Regulation Orders at the junction of Nantwich Road and Glastonbury Drive which would assist in stopping parking at this junction, a common thread of concern within objections.

Trees

An Arboricultural Tree Survey was submitted with the planning application. A number of Protected trees are located either on the boundary of the site or in neighbouring gardens.

Site access is proposed to be at the end of Tewkesbury Drive. This will require the removal of an unprotected group comprising of a Red Oak, 2 London Plane and a Yew tree. These trees are considered to be an amenity within the street scene for a limited number of residents in the immediate vicinity and some residents within the estate have suggested that these trees should be retained whilst the Protected Lime trees on the Nantwich Road frontage be removed to facilitate the access. This suggestion is not supported by the Tree Officer.

The trees to be removed as part of the proposal are considered the more favourable option as any access off Nantwich Road would have highway safety implications (as discussed in the highways section of this report) and require the removal of at least two protected Lime trees to the main road, more public frontage.

The scheme has been revised to address social proximity concerns expressed by the Arborist with specific regard to Plots 5,6 and 7. The Arborist is now satisfied that the revised layout can be achieved without damaging important trees either within or adjoining the site. None of the trees to be removed are protected and a significant belt of trees will be retained to the site periphery. The Council's Arborist has considered the proposals and raises no objection to the scheme.

Residential Amenity of Neighbours

The surrounding development comprises modern residential cul-de-sac development to the north, south and western sides and older housing to Nantwich Road.

It was concluded by virtue of the decision on application 12/2225C that the layout/overlooking issues and site layout was acceptable and that the proposed development would be acceptable and would comply with the requirements of Policy GR1 of the Local Plan.

Members, when determining that the adverse impacts of the proposal in amenity terms outweighs the benefits, were concerned with the amenity of existing residents within the estate as a consequence of the increased vehicular activity associated with the proposed additional 24 dwellings travelling through the estate.

Further evidence has been submitted by the Applicant to support this application and to assist Members in considering the implications for the noise and amenity environment of existing residents. This is in the form of a noise impact assessment.

The noise impact assessment is considered to be a robust assessment. In precise, the Noise Impact Assessment provides the following –

- i. The Applicant uses the standards contained in Calculation of Road Traffic Noise (CRTN) 1998 as the baseline for assessment.
- i. Noise monitoring of existing conditions has been undertaken by the Applicant in accordance with the CRTN standard.
- ii. CRTN includes a methodology for calculating traffic noise, which has been used to predict the impact of the traffic noise created by the development.
- iii. In order to ensure the assessment is a worse case assessment, peak hour traffic flows from the proposed development (when traffic levels are at their highest) have been compared with existing noise levels in the middle of the day
- iv. The total predicted noise increase is 1dB (A) above baseline.

The Council's Environmental Health Officer (EHO) has considered this further supporting information and accepts the findings. He is further of the opinion that the impact upon the existing noise environment within the estate will be imperceptible and that the Noise Impact Assessment, if anything, is an over-estimation of the likely noise impact of the proposal.

The EHO has confirmed that he would be unable to present evidence to the forthcoming public inquiry to defend this is a reason for refusal, given his professional opinion.

In these circumstances the Council will need to appoint external consultants to present the Council's case at the forthcoming Public Inquiry, which given the lack of evidence would be difficult.

In determining the current application, it is recognised that the residents within the estate may have some real concerns about their amenity. Issues of amenity of residents by virtue of traffic and glare of headlights was considered by the Inspector when granting permission for a significantly larger scheme 165 houses on Warmingham Lane in Middlesbrough (12/0883C). When granting permission in that case, the Inspector states at para 26;

..The alignment of the access directly opposite the detached house at 125

Warmingham Lane would have some adverse effects on the existing residents, owing to the sound of vehicles turning at the junction and the outlook onto traffic facing the house, which could result in some limited glare from headlights. Similar effects would be found at a much reduced scale at other nearby houses. However, none of these effects would be sufficiently serious to justify rejection of the proposal ...

Affordable Housing

The site is in the Middlewich sub-area for the SHMA 2010, which shows that for the sub-area there is a requirement for 280 new affordable units between 2009/10 – 2013/14, this equates to a net requirement for 56 new affordable units per year made up of a need for 13 x 1bed, 8 x 2beds, 30 x 3beds and 6 x 1/2bed older persons units.

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 134 applicants who have selected Middlewich as their first choice. These applicants have indicated that they require 39 x 1bed, 48 x 2bed, 30 x 3bed and 3 x 4bed units (14 applicants have not specified how many bedrooms they require)

Our Affordable Housing IPS states that on all sites over 15 units the affordable housing requirement will be 30% of the total units with a tenure split of 65% social rent, 35% intermediate tenure.

Therefore there is a requirement for 7 affordable units on this site with a tenure split of 65% rent and 35% intermediate tenure. The affordable units will be 7 x 2 bed houses, split as 4 for social or affordable rent (Plots 15-18) and 3 as shared ownership intermediate dwellings (Plots 12, 12A and 14).

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. Whilst the proposal is not fully pepper potted throughout the site, the proposed social units will be of the same materials and they will look no different to the general vernacular. On balance, this is considered acceptable.

Where pepper-potting is not fully achieved the Affordable Housing should normally be provided no later than occupancy of 50% of the open market units.

The Applicant (in the light of highways concerns from neighbours within the Glastonbury Drive/Tewkesbury Close area about construction access through the estate puts forward Nantwich Road as the construction access. This would mean that the affordable housing units adjacent could not be immediately developed. Therefore the developer suggests that the affordable units would not be provided until circa 80% of the open market houses have been occupied.

Whilst this would not normally be acceptable, in the light of the concerns expressed by a large number of people within the estate the Strategic Housing Manager raises no objection to the providing of the affordable units after 80% of the market units have been occupied.

Members should be aware, however, that the Highways Engineer would have no objection to the use of the Glastonbury Drive/Tewkesbury Close for construction access purposes if it is considered that the affordable housing should be provided no later than 50% occupancy.

Neighbours on Nantwich Road have raised concern about the use of the shared drive on Nantwich Road for construction purposes. On balance, however, it is considered that the provision of construction access via Nantwich Road is likely to cause the least disturbance through the estate and this weighs in favour of not pepper-potting.

Ecology

The submission includes a survey for protected species (bats) and reptiles. A single Common Lizard was recorded on site during the submitted reptile survey. Common lizard is a species which is protected from killing and injuring. It is also a UK BAP priority species and is listed on S41 of the Natural Environment and Rural Communities Act as being a species of principal importance in England. Based on the submitted assessment the site is likely to support a small population of the common lizard. A scheme of translocation has been submitted which is considered acceptable.

The site supports a relatively low level of bat activity with no evidence of roosting bats recorded. The proposed development may have a minor impact upon foraging bats. To mitigate any loss of bat foraging/commuting habitat it is recommended that the boundaries of the application site are enhanced through the creation of native species hedgerows and the planting of appropriate native trees as part of the landscaping of the site.

Renewable Energy

RSS (Policy EM18) policy also necessitates that, in advance of local targets being set, large new developments should secure at least 10% of their predicted energy requirements from decentralised and renewable or low-carbon sources, unless it can be demonstrated that this is not feasible or viable.

No information is provided with the application concerning the contribution the development will make to on site renewable or low carbon energy supply. Given the layout proposed and the circumstances of the site, it is considered that it is viable and feasible to meet the requirements of the RSS policy and a detailed scheme should therefore be secured through planning condition.

Conclusion

This site is within the existing urban area and is considered a highly sustainable location. In the light of the advice contained in the newly adopted National Planning Policy Framework planning permission should be granted for sustainable development 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. Given the sustainable, urban location of the site, there is a strong presumption in favour of the development in terms of the adopted policy unless there adverse impacts to amenity or highway safety that would justify refusal.

The non –allocation of the site within the Middlewich Town Strategy would not justify the refusal of permission since the Town Strategy is not a development plan, and can be afforded only limited weight in the determination of any planning application. The objection from the Town Council is noted but can not be sustained as a reason for refusal

The proposal is considered to be acceptable in terms of its impact upon residential amenity of neighbours, ecology, drainage and highway conditions in the vicinity of the site.

Further evidence has been provided in the form of a noise survey of the existing street environment. The Environment Health Officer has considered the robustness of the further evidence in the form of the noise report and has advised the noise associated with the increased vehicular activity through the estate will not be perceptible, and will not therefore not result in any material impact upon the amenity of the residents and no objection in principle is raised in amenity terms.

A suitable Section 106 package is recommended which is considered to be compliant with Section 112 of the CIL Regulations to enable the proposed development to provide adequate public open space and recreational facilities as a direct consequence of the development, in the form of commuted sum payment to improve facilities in the area which will be utilised by the future residents, the necessary affordable housing requirements and monies towards highways mitigation to be utilised to improve the pedestrian environment to allow for future residents to walk into the town centre.

The application is identical to the previous scheme 12/2225C that was rejected by Members and is now the subject of the forthcoming Public Inquiry. The logical conclusion may therefore be to refuse this application on the same grounds. However, more information has been provided to support this application in the form of the noise assessment. Legal opinion has been obtained which expresses concern about the strength of the reason for refusal in the light of the additional noise evidence that has been submitted and the professional assessment of that noise assessment by the Council's Environment Health Officer.

The advice was that the reason for refusal can not be substantiated and that the Council is at risk of a full award of the Appellants costs in the forthcoming public inquiry.

Community Infrastructure 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.

The provision of affordable housing is necessary, fair and reasonably related to this development to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

The commuted sum in lieu of public open space and recreation provision is necessary, fair and reasonable, as the proposed development will provide 24 family sized dwellings, the occupiers of which will use local facilities as there is no recreational facilities on site, as such, there is a need to upgrade/enhance existing facilities. Likewise, the future residents will utilise recreational facilities and place additional demands upon such infrastructure within the vicinity of the site. The contribution is therefore in accordance with the Council's Supplementary Planning Guidance.

The highways contribution will be utilised to mitigate for the additional traffic and to assist in improving the pedestrian environment in the vicinity to encourage sustainable modes of transport.

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

RECOMMENDATION

APPROVE subject to a Section 106 Legal Agreement to Secure:

- Provision affordable housing provision on site in the form 4 x 2 bed as social rented affordable units and 3 x 2 bed as intermediate units
- Amenity green space contribution in lieu of on site provision:

Recreation Space	Enhanced Provision: £ 3,909.42
	Maintenance: £ 8,750.50 25 years)

Open Space	Enhanced Provision: £10,621.22
	Maintenance: £22,089.00 (25 years)

- Highways commuted sum of £30000 for provision of waiting restrictions and pedestrian improvements on Glastonbury Drive, Nantwich Road

And the following conditions

1. Time limit – 3 years
1. Plans
2. Materials – samples to be agreed
3. Access to be constructed, formed and graded to satisfaction of highways authority
4. Protection of highway from mud and detritus during construction
5. Tree and hedgerow protection measures
6. Arboricultural Specification/Method statement

7. Details of Hard and Soft Landscaping to be submitted prior to commencement. Landscape scheme to include replacement native hedgerow planting and trees for ecological purposes and boundary treatments
8. Implementation of landscaping scheme
9. Submission of updated ecological survey (badger)
10. Breeding Bird Survey for works in nesting season
11. Bats and bird boxes
12. Translocation scheme for reptiles to proceed in full accordance with the submitted Reptile Mitigation Strategy produced by RSK dated October 2012 prior to commencement of any demolition or development on site
13. Site drainage on separate system - details to be submitted
14. The hours of construction/demolition 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
15. 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
16. Submission of mitigation measures to minimise any impact on air quality from construction dust
17. Submission of a Contaminated Land Phase II investigation.
18. Submission of Construction Management Plan (inc wheel wash facilities, location of contractors parking, storage of site cabins etc) for access via Nantwich Road
19. 10% renewables
20. Construction specification/method statement
21. No new windows – gable elevations plot 12 and 15
22. Details of design / surfacing of proposed footpath links to site frontage
23. Landscaping to include replacement hedge planting to boundaries
24. Open plan estate layout – removal of permitted development rights for fences in front gardens
25. Removal of permitted development rights for extensions-plots 11,12,12a,14,15,16,17,18,19,20,21,22,23
26. Details of ground levels to be submitted
27. Details of bin/bike store to be submitted and implemented for plots 12-15
28. Method statement (trees) footpath link to Nantwich rd and construction of walls/access way to rear plot 12-15 - Nantwich Rd
29. Management scheme to be submitted for the maintenance of communal garden area plots 12-15
30. The parking provision to plots 12 to 15 shall be a maximum of 150%

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