

Application No: 13/1559C

Location: Land East of School Lane, Sandbach Heath, Sandbach, Cheshire CW11 2LS

Proposal: Outline application for up to 13no. residential dwelling houses, associated infrastructure and ancillary facilities

Applicant: Jean Pierpoint, Paul Ferguson, and Grant and Helen Dinsdale

Expiry Date: 16-Jul-2013

**SUMMARY RECOMMENDATION  
REFUSE**

**MAIN ISSUES**

**Principal of the Development  
Planning Policy and Housing Land Supply  
Landscape and Trees  
Affordable Housing  
Highway Implications  
Amenity  
Design  
Ecology  
Open Space**

**REASON FOR REFERRAL**

This application is referred to the Strategic Planning Board as it relates to a departure to the Congleton Borough Local Plan.

**DESCRIPTION OF SITE AND CONTEXT**

The application site comprises a paddock 0.63 hectare in size, currently used for grazing horses. It is a generally level site which is bounded by St John's School to the north, a detached dwelling that was formerly the Vicarage to the south and to the west there is a variety of residential properties fronting School Lane and a cul-de-sac known as Pear Tree Close. To the east is an area of protected open space used by the school for sports activities.

The boundaries of the site to the north, west and east contain existing hedgerows, which has undergone some cutting before submission of the application.

The site is designated as being within the Open Countryside in the adopted local plan and is classed as Grade 3 (subject to urban pressures) agricultural land. It is also identified in the Strategic Housing Land Assessment (SHLAA), reference 2607. It is described as being suitable with policy change, available, achievable and developable.

## **DETAILS OF PROPOSAL**

The application is for outline planning permission for the erection of up to 13 dwellings with ancillary facilities and associated infrastructure. Access is to be determined at this stage with appearance, landscaping, layout and scale to be determined at reserved matters stage. The access would be taken on to School Lane from a central point on the plot.

An **indicative** layout plan has been submitted with the application, which shows a 'T' shaped cul-de-sac with the dwellings arranged around this.

## **RELEVANT HISTORY**

8430/1          1979   Refusal for outline permission for residential development

## **POLICIES**

### **National Policy**

National Planning Policy Framework

### **Local Plan policy**

PS3 – Settlement Hierarchy

PS8 - Open Countryside

GR1- New Development

GR2 – Design

GR3 - Residential Development

GR4 – Landscaping

GR5 – Landscaping

GR9 - Accessibility, servicing and provision of parking

GR14 - Cycling Measures

GR15 - Pedestrian Measures

GR16 - Footpaths Bridleway and Cycleway Networks

GR17 - Car parking

GR18 - Traffic Generation

NR1 - Trees and Woodland

NR3 – Habitats

NR4 - Non-statutory sites

NR5 – Habitats

H2 - Provision of New Housing Development

H6 - Residential Development in the Open countryside

H13 - Affordable Housing and low cost housing

### **Other Considerations**

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

Sandbach Town Strategy

## **CONSULTATIONS (External to Planning)**

### **Environment Agency:**

No objections.

### **United Utilities:**

None received at the time of report writing.

### **Strategic Highways Manager:**

#### *Traffic Generation.*

This proposal for the development of a small number of residential units will not generate sufficient traffic to cause a material impact on the public highway network and the Strategic Highways Manager has no concern in this regard. The Strategic Highways Manager is however mindful of the concerns expressed by objectors and makes the following observations:

- Traffic congestion at school arrival and dispersal times - this is not a sustainable reason for refusal and the traffic generation from 13 dwellings would be approximately 9 trips in the morning peak hour. This equates to less than one trip every 6 minutes and the S.H.M. cannot consider this to be a material impact.
- Rat running manifests itself on local roads when there is stress on other parts of the highway network and is best managed through representations to the traffic management section of the highway authority. The S.H.M. does not find that local rat-running is a material reason to resist this application.
- Road safety should not be taken lightly and the concerns regarding construction traffic can be effectively managed by the production of a construction management plan. Should this proposal gain a permission this would be a recommended condition.

#### *Access*

The junction geometry provided for this development proposal is in excess of that required to serve a development of this scale and has the potential to serve a significant number of dwellings. In addition, the visibility splays provided are taken from Manual for Streets which whilst not unacceptable does conflict with the indicative layout and the provided junction geometry.

The Strategic Highways Manager finds that this type of design approach unsuccessfully combines differing design guidance and specifications and this does not inform quality design and the creation of a place.

There is therefore a need for the proposed design and layout to follow the guidance of one document so that an appropriate layout, design and junction arrangement can be produced.

#### *Indicative Layout.*

Parking ratios are shown at a minimum of 200% provision which is acceptable for 2/3 bed units whilst the larger units have 300% plus provision which is also acceptable.

The frontage footpath which is indicated is a requirement for this site however the placement of the affordable element of the development on the frontage of School Lane excludes them from the overall design of the site and puts their vehicle turning movements onto School Lane when they should be served from the main site access if the social realm of the site is to be maximised.

The internal layout should follow the pedestrian priority design principles in Manual for Streets and provide a legible adoptable boundary inclusive of service strips.

#### *Conclusion.*

The proposal does not provide a coordinated approach to design through consistent use of design guidance. The Strategic Highways Manager cannot support this application in its current detail and recommends that the developer revisit the design strategy for the site.

It must therefore recommend refusal on lack of appropriate information at this time.

#### **Environmental Health:**

Recommend that conditions are imposed relating to the hours of construction and piling. They have recommended that the application be refused due to lack of information relating to mitigation to protect future residents from noise generated from the M6.

#### **Public Open Space:**

Contributions anticipated to be used to enhance existing facilities in the vicinity of the development.

##### *Children & Young Persons Provision*

£3,754.37 Enhancement

£12,238.50 Maintenance

##### *Amenity Greenspace*

£2,271.69 Enhancement

£5,084.75 Maintenance

#### **VIEWS OF THE TOWN COUNCIL**

Sandbach Town Council has no objection.

#### **OTHER REPRESENTATIONS**

Letters of objection have been received from around 30 local households raising the following points:

##### Principal of development

- The site is outside the settlement boundary
- The site is not identified for development in the Cheshire East Development Strategy
- The proposed development would not result in sustainable development due to the distance to services and facilities
- Loss of Greenfield land
- Impact upon the rural landscape
- The proposal is contrary to the Congleton Local Plan

- The proposal would harm the rural character of the site
- No benefit to the residents of Sandbach Heath
- Loss of Open Countryside
- A previous application has been refused on this site
- Priority should be given to brownfield sites
- The proposal is contrary to the NPPF
- Loss of agricultural land
- The proposal would bring commuters who would not integrate into the community
- The cumulative impact of all the developments proposed in Sandbach
- Brownfield land should be used first
- The proposal would 'open the door' for future development
- The strain on existing infrastructure including schools
- Will increase the need for car travel

#### Highways

- Increase in the levels of traffic in the area
- Danger and disruption due to construction traffic
- Congestion – the area is already used as a rat run from the M6
- Increased pollution due to additional traffic
- Proximity to air pollution from the M6
- Proximity of accesses to the school and play group
- Narrowness of the local roads
- Danger to school children from increased traffic
- Junction 17 of the M6 is already under great pressure
- All vehicles should be able to enter and leave in forward gear

#### Green Issues

- Loss of green land
- Removal and trimming of trees before the tree survey was undertaken
- Impact upon wildlife
- Impact upon protected species including Buzzards
- Impact upon local ecology
- Loss of trees and hedgerows
- Loss of agricultural land

#### Infrastructure

- Increased pressure on existing infrastructure
- The local schools are almost at capacity
- The local water supply is inadequate
- The local foul water system is inadequate
- S106 monies should be secured for local infrastructure

#### Design Issues

- The properties would be out of character with those in the locality
- The properties would be over dominant
- Noise and disruption from construction of the dwellings

#### Other issues

- "Greedy gold digging" developers who do not live in the area

- The boundary treatments with the school should be retained or replaced like for like
- The argument that the development would support the economic development of the M6 corridor is flawed

## **APPLICANT'S SUPPORTING INFORMATION**

To support this application the application includes the following documents:

- Supporting Planning Statement
- Design and Access Statement
- Extended Phase 1 Habitat Survey
- Tree Survey Report

These documents are available to view on the application file.

## **OFFICER APPRAISAL**

### **Principal of Development**

The site lies in the Open Countryside as designated in the Congleton Borough Local Plan First Review, where policies H6 and PS8 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.

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

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

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

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

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

## Housing Land Supply

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

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

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

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

The figures contained within the Regional Spatial Strategy (now revoked) 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.

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.

Policy change is constantly occurring 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 any given time. Consequently, it is recommended that the application be considered in the context of the 2013 SHLAA.

Paragraph 47 of the NPPF requires that there is a five year supply of housing plus a buffer of 5% to improve choice and competition. The NPPF advocates a greater 20% buffer where there is a persistent record of under delivery of housing. However, for the reasons set out in the report which was considered and approved by Strategic Planning Board at its meeting on 30<sup>th</sup> May 2012, these circumstances do not apply to Cheshire East. Accordingly, once the 5% buffer is added, the 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 years.

The NPPF clearly states at paragraph 49 that:

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

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

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

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

However, given that Cheshire East can now demonstrate a five year supply of housing land it is considered that policies H6 and PS8 which protect Open Countryside are not out of date and the provisions of paragraphs 49 and 14 do not apply in this case.

### ***Emerging Policy***

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 M6 south east of Congleton road (700 dwellings) and Albion Chemicals (375 dwellings)

These sites have now been carried forward into the Draft Local Plan (development strategy) now the subject of consultation. The NPPF consistently underlines the importance of plan-led development. It also establishes as a key planning principle that 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.

In the recent Secretary of State decisions in Doncaster MBC (APP/R0660/A/12/2173294 refers), it was found that a development was to be 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. Given that the Council now has a 5 year supply of housing; it is considered that a prematurity case can be defended in this case.



## **Conclusion**

- The site is within the Open Countryside where under Policy PS8 and H6 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 automatic 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.

## **Location of the site**

To aid a sustainability assessment, a toolkit was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities 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 applicant's assessment of the accessibility of the site shows that following facilities meet the minimum standard:

- Amenity Open Space (within 500m)
- Children's Play Space (within 500m)
- Outdoor Sports (within 1,000m)
- Public Park or Village Green (within 1,000m)
- Convenience Store (within 500m)
- Bus Stop (within 500m)
- Post Box (within 500m)
- Primary School (within 1000m)
- Public House (1000m) – 310m
- Secondary School (within 1000m)
- Medical Centre (within 1,000m)
- Local Meeting Place/Community Centre (within 1,000m)
- Public House (within 1,000m)
- Child Care Facility (within 1,000m)

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 facilities 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. However, all of the services and amenities listed are accommodated within Sandbach and are accessible to the proposed development on foot or via a short bus journey, with a bus stop in close proximity to the site. Accordingly, it is considered that this small scale site is a sustainable one.

## **Landscape and Trees**

The application site is a relatively level agricultural landscape, characterised by hedgerows and a number of mature hedgerow trees, but influenced by the surrounding development. The site has the landscape capacity to accommodate future residential development, providing that this is well planned and designed and takes due account of the existing landscape characteristics and features. In consideration of the site being located in Open Countryside, it is considered that green edges should be used where possible. This would allow the proposed development to sit more comfortably on the urban edge and assimilate more easily into the wider landscape. The anticipated loss of the roadside hedge for access, footway and visibility would be regrettable and it is questioned whether there is a need for a footway to the south of the access as this has no connection. Should the hedge loss be accepted soft landscape boundary treatment should be provided in mitigation. This should ideally comprise a native species hedge.

The submission is supported by a tree survey plan and report. The trees and their respective root protection areas are also identified on the controlling parameter plan. The submission does not include an arboricultural impact assessment as recommended in BS 5837:2012 Trees in relation to design demolition and construction. Nevertheless, given the nature of the site, from the information provided it is considered that subject to appropriate protection measures, the indicative layout could be achieved without harm to trees. Tree protection measures should be secured by condition.

As indicated above, it appears from the submission that in order to accommodate the access, footway and visibility splays on School Lane, it would be necessary to remove the existing boundary hedgerow. Whilst this is regrettable the applicant did have pre-application correspondence with the Cheshire Archaeological Planning Advisory Service, who raised no issues with its removal.

## **Affordable Housing**

The Interim Planning Statement: Affordable Housing (IPS) states that in areas with a population of more than 3,000 the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or than 0.4 hectare in size.

The IPS also states the exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment. The preferred tenure split for affordable housing identified in the SHMA 2010 was 65% social rented and 35% intermediate tenure.

This site is 0.63 hectares in size and as such there is a requirement for 30% affordable housing. The applicant is offering 4 dwellings as affordable housing, this meets the requirements of the IPS. As per the tenure split highlighted above 3 social or affordable rent and 1 intermediate dwelling will be required.

The IPS requires that the affordable units should be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration.

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

The IPS also states: In order to ensure the proper integration of affordable housing with open market housing, particularly on larger schemes, conditions and/or legal agreements attached to a planning permission will require that the delivery of affordable units will be phased to ensure that they are delivered periodically throughout the construction period. The actual percentage will be decided on a site by site basis but the norm will be that affordable units will be provided not later than the sale or let of 50% of the open market homes. However, in schemes that provide for a phased delivery and a high degree of 'pepper potting' of affordable homes, the maximum proportion of open market homes that may be completed before the provision of all affordable units may be increased to 80%.

The IPS 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 Housing Section would prefer that the applicant is required to enter into a s106 agreement requiring them to submit an affordable housing scheme as part of their reserved matters application. The developer should undertake to provide the rented affordable units through a Registered Provider of Affordable Housing.

Having regard to the issues discussed above the indicative layout shows the affordable units facing on to School Lane and not integrated in to the development. While not objectionable now, this would not be acceptable should the developer come forward with a similar arrangement at reserved matters stage.

## Highways Implications

Access to the site would be taken from School Lane and the majority of the objections to the proposal relate to highway safety. The Strategic Highways Manager has given a comprehensive consultation response to the proposal which addresses the major issues raised by the objectors. This, in summary is that the traffic generated from the proposal would not be so significant as to exacerbate the existing problems caused by parents collecting their children from school in cars or 'rat running'. As such a reason for refusal on these grounds could not be sustained at appeal.

The issue of the junction design is however an issue that needs to be addressed. The junction geometry is suitable to serve a significant number of dwellings, but the visibility splays are in accordance with Manual for Streets. This is an uncoordinated approach which should not be accepted. Access is not one of the reserved matters for this application, therefore it is important to ensure that the access is appropriate for the proposed development, which in its current form it is not. It is therefore recommended that this should be included as a reason for refusal.

## Amenity

In terms of the surrounding residential properties, these are mainly to the west of the site. Although the application is in outline form only, the indicative layout shows that adequate separation distances would be provided to these properties. The proposed dwellings would be of a density that is consistent with the surrounding area and would not be out of character in this locality.

In terms of air quality, the Environmental Health Officer has confirmed that there are no issues with this matter.

The Environmental Health Officer has requested a condition in relation to noise during construction and pile driving. These conditions will be attached to the planning permission.

The Environmental Health Officer has recommended refusal of the application on the grounds of lack of information about mitigation against noise from the M6. This application is in outline form and therefore detailed construction details are not contained within it. It is considered that this can be adequately dealt with by means of a condition requiring that this information is provided at reserved matters stage.

## 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, a Design and Access Statement has been provided.

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.”*

Whilst the application is in outline form with access as the only matter to be agreed at this stage, the design and access statement has indicated that the development would comprise a mix of 2, 3, 4 and 5 bedroom, terraced and detached dwellings. There is a variety of styles and sizes of dwelling types in the locality, therefore the indicative designs would not be out of character with the surrounding development. As such it is considered that the indicative proposals would be acceptable.

## **Ecology**

The application is supported by an ecological assessment. Whilst, the field work to inform the assessment was undertaken at a poor time of year, officers are confident that enough information has been gathered to allow an assessment of the nature conservation value of the site to be made.

The grassland habitats on site are of limited nature conservation value. Hedgerows are a Biodiversity Action Plan Priority habitat and so the hedgerows around the site should be retained as far as possible and enhanced as part of the development. This matter may be dealt with by means of a condition attached to the outline permission if this application is granted.

If planning permission is granted it is also recommended that conditions be attached to safeguard breeding birds and ensure some additional provision is made for roosting bats and breeding birds:

## **Public Open Space**

At the time of report writing, the Open Space Development has requested that contributions are required for provision of Children and Young Persons Provision and Amenity Greenspace. These are as follows.

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

£3,754.37 for enhancement

£12,238.50 for maintenance

### ***Amenity Greenspace***

£2,271.69 for enhancement

£5,084.75 for maintenance

This should be secured with a Section 106 Legal Agreement.

## **Agricultural Land Quality**

The National Planning Policy Framework highlights that the use of agricultural land should be taken into account when determining planning applications. It advises local planning

authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

In this case a survey of the agricultural land quality has been undertaken and this identifies that the land is classified as Grade 3 (subject to urban pressures). However there are no farm buildings and the site is bounded by non-agricultural uses on three sides and it is considered that, due to its size and location, it is unlikely that it would be a viable parcel of land for future agricultural use.

## **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 requirements for open space and considered to be in compliance with the CIL Regulations 2010.

## **CONCLUSIONS**

The site is within the Open Countryside where under Policies PS8 and H6 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. However, the 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 years and therefore the automatic 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 benefits of allowing development on this site are insufficient to outweigh the harm that would be caused in terms of the impact on the open countryside and as a result the proposal is considered to be unsustainable and contrary to Policy PS8 of the local plan and the provisions of the NPPF in this regard.

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

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

There is however concerns over the junction design and visibility splays on the proposal which requires alteration before it can be accepted.

## **RECOMMENDATION**

### **REFUSE for the following reasons:**

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies PS8 and H6 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.**
  
- 2. The visibility splays which are required by Manual for Streets are in conflict with the indicative layout and the provided junction geometry. It is therefore not possible to ensure that the development will be served by a safe and appropriate access. The proposal is therefore contrary to Policy GR9 (II) of the adopted Congleton Borough Local Plan 2005.**

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

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