

Application No: 13/1421N

Location: LAND TO THE REAR OF BRIDGE STREET, (ACCESS FROM SALLY CLARKES LANE) WYBUNBURY

Proposal: Outline application for residential development at 30 dwellings per hectare net with Primary access off Sally Clarke's Lane and other matters reserved

Applicant: Mr & Mrs G Poole

Expiry Date: 22-Jul-2013

SUMMARY RECOMMENDATION

REFUSE

MAIN ISSUES

Impact of the development on:-

Principal of the Development

Location of the Site

Landscape

Affordable Housing

Highway Implications

Amenity

Trees and Hedgerows

Design

Ecology

Public Open Space

Education

Flood Risk and Drainage

REASON FOR REFERRAL

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

1. DESCRIPTION OF SITE AND CONTEXT

The site of the proposed development extends to 0.80 ha and is located to the west of Bridge Street and to the south of Sally Clarkes Lane. The site is within open countryside as defined by the Crewe and Nantwich Replacement Local Plan. To the east of the site is residential development (fronting Bridge Street). To the north is Sally Clarkes Lane which includes one

dwelling known as Willowmead and a site which has planning permission for two dwellings. To the south of the site is Wybunbury Delves Primary School and to the west of the site is agricultural land.

The land is currently in agricultural use and includes a small car sales garage at the junction with Sally Clarkes Lane. The land levels on the site are uneven with the land level rising to the south of the site.

2. DETAILS OF PROPOSAL

This is an outline application for residential development at a density of 30 dwellings per hectare.

Access is to be determined at this stage and this would be via a remodelled junction at Sally Clarkes Lane.

The indicative plan shows a scheme of 20 dwellings including 12 semi-detached two-storey dwellings and a terrace of 8 bungalows.

The layout plan shows that the proposed development would provide off-street parking for the dwellings at 24-46 Bridge Street (2 spaces per dwelling).

3. RELEVANT HISTORY

12/3274N - All matters left reserved seeking approval of access, appearance, landscaping, layout and scale for 2no. Dwellings – Approved 18th October 2012

P08/0811 - Outline Application for Two Dwellings – Approved 11th October 2010

P95/0654 - O/A for demolition of repair garage and erection of 4 dwellings – Refused 19th October 1995. Reasons for refusal:

- Intrusion into the open countryside contrary to Structure Plan Policy
- Highway safety due to proximity to Sally Clarke's Lane and visibility splays

7/18456 - Demolition of commercial garage and two dwellings and construction of 11 terraced and 6 detached houses, together with associated roads, footpaths and landscaping – Refused 26th July 1990. Reasons for refusal:

- Development in the open countryside contrary to Structure Plan Policy
- Development would be out of scale with the village contrary to Structure Plan Policy
- The site is not allocated for development and is contrary to Local Plan Policy

7/12763 - Dwelling with integral garage – Refused 6th February 1986. Reasons for refusal:

- Outside the settlement boundary line as defined by the County Development Plan
- The development is not an infilling in an otherwise built up frontage and would be contrary to the Structure Plan
- Outside the Settlement Boundary and would adversely impact upon the character of the open countryside
- Sally Clarke's Lane is narrow with no turning facilities

4. POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

NE.2 (Open countryside)
NE.5 (Nature Conservation and Habitats)
NE.9: (Protected Species)
NE.20 (Flood Prevention)
BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
RES.5 (Housing in the Open Countryside)
RES.7 (Affordable Housing)
RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)
TRAN.3 (Pedestrians)
TRAN.5 (Cycling)

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
Cheshire East Development Strategy
Cheshire East SHLAA

5. CONSULTATIONS (External to Planning)

United Utilities: No comments received at the time of writing this report.

Strategic Highways Manager: The Strategic Highways Manager has undertaken a significant amount of negotiation for this development proposal since his initial recommendation of refusal on 15th May 2013.

The reason for refusal was lack of information and incorrect junction geometry and subsequent to those early comments the applicants have engaged a highway consultant to resolve the access strategy for the site.

Subsequently site meetings have resolved the necessary design for the proposed junction and revised details have been provided which demonstrate that required design standards can be met and that a viable junction design to serve this site is available.

Planning conditions will be recommended which will control the highway aspects of this proposal should a planning permission be granted.

Environmental Health: Conditions suggested in relation to hours of operation, dust control and contaminated land.

Public Open Space: A contribution £18,000 should be made towards improving the existing childrens playground on Wybunbury Playing Fields.

Public Rights of Way: It appears that Public Footpath Wynbunbury No. 14 (which runs along Sally Clarkes Lane) may be obstructed by the proposed development. The application proposes to move the vehicular access approximately 8 metres south east from its existing location but it is unclear whether the developer proposes to divert the public footpath. In addition, there is a proposed post and rail fence to be constructed in place of the existing access which will obstruct the footpath.

As there is currently no proposal for the path to be suitably diverted under the Town and Country Planning Act 1990 (TCPA) by the applicant the PROW unit originally objected.

However the PROW have accepted that the issue will be dealt with at the Reserved Matters stage and have withdrawn their objection.

Natural England: No comments received at the time of writing this report.

Education: A development of 20 dwellings will generate 4 primary and 3 secondary aged pupils.

An analysis of both the existing primary and secondary provision has indicated that there is some surplus currently in both sectors. However based on the large number of developments currently being considered through the planning process and by an appeal panel then it is felt that this surplus should be considered used. On this basis the following contributions will be required:

Primary - $4 \times 11919 \times 0.91 = £43,385$

Secondary - $3 \times 17959 \times 0.91 = £49,028$

6. VIEWS OF THE PARISH COUNCIL

Wybunbury Parish Council: Objects to this application on the following grounds:-

- There is no requirement for Sally Clarkes Lane to be changed in any way other than for the sole benefit of the applicant, the residents who live on Sally Clarkes Lane do not wish the lane to be altered in any way.
- The Parish Council have plans to enhance the area of Sally Clarkes Lane by making a feature of the adjoining land which leads down to Wybunbury brook. Residents have been consulted and they have been asked for their views; a park area with seating etc was favourite, this would be a much welcomed amenity for residents and the many groups of walkers who use Sally Clarkes Lane. The proposed development would impact on these plans in a detrimental way, reducing parking and presenting access which would not be of use to anyone who is infirm.

The Parish Council would also like to raise the following points:

- Access - The difference in levels and the bend in the proposed new access road, where the new lane would meet the old, would cause difficulties for the heavy vehicles that would need to use it e.g. refuse lorries, farm vehicles and the cattle wagon business which is run from Brookhouse Farm.

- The design and access Statement for the development states - (4. Access and Parking) "The proposals provide access to further land site ref. 3783 under the Church Commissioners Ownership. The Site will therefore provide for the short term as well as the medium to long term for potential development subject to planning applications". This is totally unacceptable, as this site is also Green Belt land and the proposed access (being so close to the Bridge) will not cope with increased traffic.
- Traffic - The proposed development is too close to Wybunbury brook bridge and would lead to increased level of traffic. The traffic is already high as evidenced by the following information collected by the Speed indication Device - the figures for Bridge Street traffic are 3780 vehicles a day (380 per hour peak times)
- Drainage is proposed via soak away. This is unlikely to be able to cope, water coming down from the steep inclines and would lie on the old Sally Clarkes Lane and cause problems for road users and pedestrians (public Footpath) alike, especially during Winter months as gritters cannot access the old part of the lane due to it being single track. There is a flood risk on the lane.
- Previous surveys indicate the main sewer would have to be replaced.
- The local housing needs survey does not support a need for this number of houses. The need will be met by the recently approved Wybunbury/Shavington Triangle which will already increase Wybunbury housing stock by 70%.
- As the need for affordable housing has already been met (Wybunbury and Shavington Triangle) further development cannot be permitted on a green field site on such grounds.
- The land has recently been used as agricultural and is not disturbed land.
- The proposed access to Parish land on Sally Clarkes Lane would be via a very steep slope and cannot be acceptable access, especially to the disabled. It would also be needed by the owner of the adjoining field (Brook Meadow), to facilitate maintenance by farm vehicles.
- The proposed site includes a terrace of 8 single storey bungalows for the use of older people, the site is hilly and totally unsuitable for this purpose. The site is also at the opposite end of the village with regard to local amenities such as Post office, Village Hall etc.

Hatherton and Walgherton Parish Council: The Council is concerned about the potential for future development following this application. The highways authority has identified that the proposed junction arrangements are more suited for a much larger development therefore the Council is concerned about future plans for the area.

7. OTHER REPRESENTATIONS

Letters of objection have been received from 2 local households raising the following points:

Principal of development

- There is no need for more housing
- The approval of the Wybunbury/Shavington Triangle would increase the accommodation in the area by 98%
- The development would provide an access for a further site within the SHLAA and could lead to a further 33 dwellings
- Lack of pre-app consultation
- Loss of open countryside

Highways

- Increased traffic within the village

- Increased risk of accidents on the bridge
- Highway safety
- The proposed access would harm Sally Clarkes Lane
- There would be difficulties accessing the site by refuse and delivery vehicles
- The old persons bungalows are not located in an acceptable location
- Loss of the bus stop which is located at the site access point

Green Issues

- Impact upon hedgerows
- Access is required to cut hedgerows along Sally Clarkes Lane
- Impact upon protected species
- The Badger mitigation details are not adequate
- Loss of agricultural land

Infrastructure

- There are drainage problems and there are potential flooding issues
- Previous surveys have indicated that the sewer will need to be replaced
- The local Primary School is already full
- Lack of information on the treatment of the PROW

Amenity Issues

- Overbearing impact
- Loss of day light
- Loss of privacy
- There would be no private rear gardens
- Noise and disruption from construction of the dwellings
- Increased noise

Other issues

- Inaccuracies within the Design and Access Statement
- The additional access to the school would be a security risk
- The desk top study is inadequate
- Loss of property value

A letter of general observation has been received which raises the following points:

- The majority of the site is open countryside
- Enough housing will be provided by another application in the village
- The removal of car-parking on Bridge Street may reduce traffic calming to the detriment of highway safety
- The proximity of the access to the bridge means that there may be visibility concerns at the site access point
- There should be reference to the diversion of the PROW
- The garage site would be suitable for infilling subject to health hazard assessments

Letters of no objection/support have been received from 15 households raising the following points:

- Benefit of providing off-street parking for residents on Bridge Street
- No objection to the proposed housing at the rear
- Support the benefit that the proposed development will provide

- The parking to be provided to the rear will be convenient and safer
- The proposal will provide much needed affordable housing
- The development fits well in the existing village
- The development is in an ideal location

The full content of the objections is available to view on the Councils Website.

8. APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Design and Access Statement (Produced by Bower Edleston Architects)
- Tree Survey (Produced by Peter Jackson)
- Affordable Housing Statement (Produced by Bower Edleston Architects)
- Ecological Report (Produced by EVR Ecology)
- Phase I Desk Study (Produced by Demeter Environmental Ltd)

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Principle of Development

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

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

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

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

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

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

Housing Land Supply

The National Planning Policy Framework (NPPF) states at paragraph 47 that there is a 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.

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 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.

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 not considered that Policy NE.2 which protects Open Countryside is not out of date and the provisions of paragraphs 49 and 14 do not apply in this case.

Emerging Policy

The current application site was not considered as part of the Development Strategy.

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 decision’s in Doncaster MBC 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 pre-maturity case can be defended in this case.

However, the 5 year supply is a minimum provision and not a maximum and, given that there remains presumption in favour of sustainable development which according to the NPPF

“should be seen as a golden thread running through both plan-making and decision-taking”, it is still necessary to consider whether the proposal would constitute sustainable development and whether there would be any significant adverse impacts arising from the proposal.

Conclusion

- The site is within the Open Countryside where under Policy NE.2 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.
- 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.

Location of the site

The site is considered by the SHLAA to be sustainable. To aid this assessment, there is a toolkit which 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 accessibility of the site shows that following facilities meet the minimum standard:

- Post office (1000m) – 580m
- Cash Point (1000m) – 580m
- Primary School (1000m) – 100m
- Local meeting place (1000m) – 650m
- Public House (1000m) – 430m
- Child Care Facility (nursery or crèche) (1000m) - 450m
- Bus Stop (500m) – 100m
- Public Right of Way (500m) – 100m

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. Those amenities are:

- Amenity Open Space (500m) – 600m
- Children’s Play Space (500m) – 650m

- Outdoor Sports Facility (500m) – 600m
- Convenience Store (500m) – 580m
- Post Box 580m

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 3900m
- Secondary School (1000m) – 4800m
- Medical Centre (1000m) - 5380m
- Pharmacy (1000m) – 3900m
- Leisure Centre (1000m) – 4900m

In summary, the site does not comply with all of the standards advised by the NWDA toolkit. However, as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Wybunbury, 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. Nevertheless this is not untypical for a sustainable village (Wybunbury is classed as a sustainable village in the Cheshire East Local Plan Policy Principles document) and will be the same distances for the residential development on Bridge Street from the application site. However, all of the services and amenities listed are accommodated within Shavington, Nantwich or Crewe and are accessible to the proposed development via a short bus journey. Accordingly, it is considered that this small scale site is a sustainable site.

Landscape

The application site is an L-shaped parcel of land which includes a small garage and utilitarian buildings to the Bridge Street frontage and a rectangular parcel of land to the rear. The land has uneven land levels and generally rises towards the boundary with Wybunbury Delves Primary School.

As part of the last Local Plan Inquiry, the Inspector states that he was satisfied that there was no requirement for additional housing location over the Borough as a whole, and more particularly in the village of Wybunbury. Notwithstanding this, in terms of the landscape impact, the Inspector stated that the development would *‘be highly visible, to the extent that I consider it would have a significant visual impact upon the setting of the village’*.

However it is not considered that this conclusion is accurate. From the case officer and Landscape Officers site visit the site would only be glimpsed from a small section of Bridge Street with the main view point when crossing the bridge. Other views would be from Sally Clarkes Lane and distantly across the playing fields at Wybunbury Delves Primary School from Wybunbury Road.

The proposed development would respect the linear form of development along Bridge Street and the existing boundary hedgerow would be retained to provide a green buffer to the open countryside to the west. Therefore it is considered that the site does have the capacity to support this proposed residential development.

Affordable Housing

Wybunbury has a population below 3,000. As such there is a requirement to provide 30% affordable housing on sites of 0.2 hectares or 3 dwellings or more under the Council's Interim Planning Statement on Affordable Housing (IPS).

Wybunbury is located in the Wybunbury and Shavington sub-area in the Council's Strategic Housing Market Assessment 2010 (SHMA). In this sub-area the SHMA identified a requirement for an additional 31 new affordable housing units per year between 2009/10 – 2013/4, these are made up of 5 x 1 beds, 10 x 2 beds, 4 x 3 beds, 7 x 4/5 beds and 4 x 1/2 bed older persons accommodation.

The Wybunbury Rural Housing Needs Survey 2012 (RHNS) was sent out to all households in the parish (620) and 282 households responded, which is a response rate of 45%. The survey established that there are 11 households that have at least one member who wished to form a new household within the Wybunbury Parish. Seven households had one member who wished to form a new household within the next five years, two households had two members and a further two had three or more members. Therefore overall this equates to at least 17 individuals. It is accepted that there may be persons from separate households in the same community who wish to form a joint household. Where there was more than one hidden household the household requiring the move the soonest was looked at further. Of these 9 out of 11 households had an annual income of below £35,000 per year.

In addition to the information from the SHMA 2010 and the Wybunbury RHNS, information taken from Cheshire Homechoice, which is the Choice Based Lettings system used to allocate social/affordable rented housing across Cheshire East. This shows that there are currently 15 applicants who have selected Wybunbury as their first choice. Of these applicants, 2 require 1 beds, 5 require 2 beds, 6 require 3 beds and 4 require 4 beds, 2 applicants have not specified the number of bedrooms they require.

Therefore, as there is affordable housing need in Wybunbury, there is a requirement that 30% of the total units at this site are affordable, which equates to 6 dwellings. The Affordable Housing IPS also states that the tenure split the Council requires is 65% rented affordable units (either social rented dwellings let at target rents or 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 SHMA 2010.

The affordable housing statement proposes 6 units of affordable housing which is acceptable as per the IPS (4 rented units and 2 units intermediate tenure). All of the proposed affordable units would be 2 bed houses and this would be acceptable.

As this application is an outline application, details of the proposed affordable housing scheme shall be provided at the first reserved matters and the details of the affordable housing scheme, include the mix of unit types and how these meet the required tenure split. Affordable housing would be controlled through the use of an affordable housing condition.

Highways Implications

The application is in outline form with access to be determined at this stage.

The Strategic Highways Manager is mindful of the comments made by Wybunbury Parish Council regarding vehicle flow and proximity to the bridge over the brook which has priority working.

The Strategic Highways Manager states that the observed site conditions indicate that there is no material concern on highway technical grounds which would support the view of the Parish Council for the following reasons:

- Daily traffic flow for Bridge Street at 3780 vehicles per day is actually relatively low and well within the traffic capacity of this public highway.
- Traffic generation from this site will be less than 30 peak hour trips which, under Department for Transport guidance, is considered not to be a material impact where a public highway has capacity.
- The proposed junction design will provide visibility to the nearside kerb in both directions and is in accordance with accepted standards which, after the site visit, have been set within the guidance of Manual for Streets 2.
- Traffic approach speeds are generally low.
- The bridge over the brook is actually beyond the necessary visibility splays required for the junction which also means that it is beyond the necessary stopping site distance for traffic on approach.

These are the technical factors ruling the traffic generation, junction placement, visibility and stopping site distances. After the site visit, negotiations and the subsequent highway report provided by the applicant, it is clear that they are all adequately met.

In addition a revised junction design is proposed which will not be over scale for the development and the S.H.M. finds this satisfactory.

At the site visit, the applicant's highway consultant noted that the road markings in the vicinity of the site and bridge needed to be refreshed and stated that along with the provision of the proposed access and its markings that the applicant would be prepared to renew the related existing markings.

Given the revised design of the proposed access, which meets the required standards the Strategic Highways Manager considers that the scheme is acceptable on highways grounds subject to conditions.

Amenity

In terms of the surrounding residential properties, the main properties affected are the properties which front onto Bridge Street and the property known as Willowmead which fronts onto Sally Clarkes Lane.

From the front elevation of the proposed dwellings to the rear elevation of the properties which front onto Bridge Street there would be a separation distance of approximately 30-35 metres. This distance exceeds the separation distance of 21 metres between principle elevation as set out in the SPD on Development on Backland and Gardens. The impact upon the properties which front Bridge Street is therefore considered to be acceptable.

To the north-west of the site is a detached dormer bungalow known as Willowmead and a site which has outline consent for two dwellings which is in control of the applicant. The indicative layout shows that the proposed dwellings which would face the rear boundaries of these properties would be single-storey bungalows (it should be noted that these properties would be set at a slightly higher level than Willowmead). However in this case the indicative plan shows that there would be a separation distance of approximately 24 metres between the principle elevations. Again this exceeds the standard separation distances set out in the Councils SPD and is considered to be acceptable.

Due to the separation distances involved, no other residential properties would be affected.

The Environmental Health Officer has requested conditions in relation to hours of operation, dust control and contaminated land. These conditions will be attached to the planning permission.

Trees and Hedgerows

The submitted tree survey identifies two lengths of hedge on the northern boundary, both afforded a Grade A rating and a group of Hawthorn and Lime trees in the north west corner of the site, afforded a Grade C reference.

The boundary hedgerow is worthy of retention and would benefit from some infill planting. There are no trees of significant public amenity value on/adjoining the site. As a result, there are no significant forestry concerns in respect of the indicative layout.

Design

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.”

In this case the density of the site is appropriate and is consistent with that of the surrounding area of Wybunbury. The development would have a linear form that would respect the existing dwellings which front Bridge Street.

The indicative layout shows that the properties on the site would overlook the highway and parking areas. The properties would follow the ribbon of development which is located to the east and fronts Bridge Street. A prominent scheme of tree-planting within the site would create an avenue effect which would add quality to the appearance of the development.

To the open countryside to the west, the boundary hedgerow could be provided/retained to act as a green buffer to the open countryside.

There are Grade II Listed Buildings located at Wybunbury Delves Primary School. However given the scale of the development and separation distances involved it is not considered that the development would impact upon the setting of the Listed Buildings on site.

Although there are some weaknesses with the indicative design, it is considered that an acceptable scheme could be agreed at the Reserved Matters stage and would comply with Policy BE.2 (Design Standards) and the NPPF.

Ecology

Wybunbury Moss SSSI

The Wybunbury Moss SSSI site is located 400 metres to the north of the site. Given the scale of the development and the separation distance involved, it is considered that there is unlikely to be any impact upon the SSSI. However, at the time of writing this report the consultation response from Natural England was outstanding and this will be reported verbally to the Strategic Planning Board.

Habitats

Hedgerows

Hedgerows are a UK Biodiversity Action Plan priority habitat and a material consideration. The hedgerow located on the western boundary of the site should be retained and enhanced as part of the proposed development. This would be secured through the use of a planning condition should the application be approved.

Protected species

An active protective species sett has been recorded on the boundary of the proposed development site. In the absence of mitigation, the proposed development is likely to have an adverse impact on the sett and potentially pose the risk of killing or injuring the resident animals.

To mitigate the potential impacts of the development, the applicant's consultant is proposing to construct an artificial sett in the adjacent field and then to partially or totally close the existing sett. Outline proposals for the timing of the works to reduce the impacts upon badgers have also been provided. This work would be subject to a Natural England license. The Councils Ecologist has advised that the mitigation measures are acceptable and should be secured through the use of a planning condition.

Breeding Birds

In order to safeguard breeding birds the Councils Ecologist has suggested the use of conditions relating to the timing of works and bird boxes.

Public Open Space

Policy RT.3 states that, where a development exceeds 20 dwellings, the Local Planning Authority will seek POS on site. The Policy does also state that where sufficient recreational open space is

already available in close proximity, the LPA may require the developer to enhance that Open Space instead.

In terms of children's play space Policy RT.3 states that the local planning authority will accept a contribution towards play equipment if easily accessible from the site.

In this case there is POS and children's play space within the village. This area is easily accessible from the application site via the existing PROW network and the POS Officer has suggested a contribution of £18,000 towards upgrading this site. The applicant has accepted this contribution and this will be secured as part of a S106 Agreement.

Education

In terms of primary school education, the proposed development would generate 4 new primary places. As there are capacity issues at the local primary schools, the education department has requested a contribution of £43,385. The applicant has agreed to make this contribution and this would be secured via a S106 Agreement.

In terms of secondary education, the proposed development would generate 3 new secondary school places. As there are capacity issues at the local secondary schools, the education department has requested a contribution of £49,028. The applicant has agreed to make this contribution and this would be secured via a S106 Agreement.

Flood Risk and Drainage

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. As the application site is less than 1 hectare, a Flood Risk Assessment (FRA) is not required as part of this application. The application is in outline form and is considered to be acceptable in terms of its flood risk/drainage implications.

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 development would result in increased demand for both primary and secondary school places and there is very limited spare capacity. In order to increase capacity of the schools which would support the proposed development, a contribution towards both primary and secondary school education is required. This is considered to be necessary and fair and reasonable in relation to the development.

As explained within the main report, POS and children's play space is a requirement of the Local Plan Policy RT.3. As no provision would be made on site it is necessary to provide

improvements off-site. This contribution is directly related to the development and is fair and reasonable.

On this basis the S106 recommendation is compliant with the CIL Regulations 2010.

10. CONCLUSIONS

The site is within the Open Countryside where under Policy NE.2 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 application is in outline form but, from the indicative plan, it is considered that an acceptable design solution can be secured and the development would not have a significant impact upon the landscape.

The proposed development would provide a safe access and the development would not have a detrimental impact upon highway safety or cause a severe traffic impact.

In terms of Ecology, it is not considered that the development would have a significant impact upon ecology or protected species.

Following the successful negotiation of a suitable Section 106 package, the proposed development would provide an adequate contribution in lieu of open space on site.

The necessary requirement for affordable housing would be provided and would be secured through the use of a planning condition.

The education impact can be mitigated through a contribution which the applicant is willing to make and would be secured via a S106 Agreement.

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

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 locationally sustainable.

However, these are considered to be 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 policies NE2 of the local plan and the provisions of the NPPF in this regard.

11. RECOMMENDATIONS

REFUSE:

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy NE.2 (Open Countryside) and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. 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.**

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 Planning and Place Shaping Manager 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.

Should this application be the subject of an appeal, authority be delegated to the Development Management and Building Control Manager in consultation with the Chairman of the Strategic Planning Board to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

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