

Application No: 13/3018N

Location: 414, NEWCASTLE ROAD, HOUGH, CW2 5JF

Proposal: Outline application for up to thirty nine houses of mixed type to include 30% affordable

Applicant: Mr David Wooton

Expiry Date: 16-Oct-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 1.17 ha and is located to the south of Newcastle Road. The site is rectangular in shape and within the open countryside as defined by the Crewe and Nantwich Replacement Local Plan.

To the north of the site is residential development which fronts Newcastle Road. To the east of the site are an existing petrol station and a group of commercial units. To the south of the site is open countryside and to the west of the site is residential development which fronts Stocks Lane.

The land is currently in agricultural use and is bound by hedgerow and trees. The site includes an existing dwelling and group of barns. The land levels on the site are generally flat.

## **2. DETAILS OF PROPOSAL**

This is an outline application for a residential development of up to 39 dwellings.

All matters are reserved, but an indicative plan shows an indicative access point opposite 463 Newcastle Road.

## **3. RELEVANT HISTORY**

No relevant planning history

## **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 objection providing that the following conditions are met:

- This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the soakaway/watercourse/surface water sewer

**Strategic Highways Manager:** The indicative plan shows that there is only one main access proposed to serve the development this is shown as a 5.0m carriageway with a 2.0m footway.

The traffic generation rates proposed for the development have been derived from the TRICS database and are considered acceptable rates for the semi rural location of the site. The predicted traffic generation is 30 trips in the morning peak and 32 vehicles in the evening peak. The distribution of the development traffic has then been assigned to the road network. However it is not clear which methodology has been used to distribute the traffic and it is the Strategic Highway Managers view that a greater percentage will travel towards Crewe rather than in the Nantwich direction. An opening year and future year assessment of the development has not been undertaken or has any capacity tests at the nearby signal junction of Crewe Road/Newcastle Road.

Despite there being deficiencies in the information provided by the applicant the amount of additional trips turning left and passing through the signal junction will be some 20 vehicles in an hour only and then 12 of these vehicles travelling north up Crewe Road. Although there is a large amount of development approved in the Shavington area and there are concerns regarding the cumulative traffic levels using the road network, it is clear that the amount of vehicles involved with this application is very minor indeed and would certainly not produce a severe impact as required in the NPPF.

The indicative priority junction access to the site is located close to the Petrol filling station (PFS) and there is a potential for turning conflicts to arise with vehicles using both the PFS and the residential access. Therefore, the site access should be relocated further away from the PFS so to reduce turning conflicts. The provision of a new footway along the site frontage is required to provide a link to the nearby signal junction.

There are a number of local bus services 6 and 44 and these services use Crewe Road which is within walking distance of the site and as such the accessibility of the site is considered reasonable.

This development is a relatively small in highway terms and the amount of generated traffic when distributed on the road network only produces small increases in trips and as such it not sufficient to warrant a recommendation of refusal.

**Environmental Health:** Conditions suggested in relation to contaminated land, noise mitigation, hours of construction, waste provision, travel plans and air quality.

**Environment Agency:** The FRA submitted with this application does not comply with the requirements set out in paragraph 9 of the Technical Guide to the National Planning Policy Framework (NPPF). The submitted FRA does not therefore; provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

In particular, the submitted FRA fails to assess all sources of flood risk to the site and fails to demonstrate that the surface water discharges from the site will be managed such that flood risk is not increased elsewhere.

According to the FRA the proposed development will be set between 0.45m and 1.25m below existing ground levels. However, the FRA does not address whether ground water or overland flow from an exceedance event pose a flood risk to the site.

The NPPF states that surface water discharges from a development must mimic the run-off from the existing site. The FRA does not demonstrate that surface water will be restricted to existing rates and volumes. Attenuation should be provided to cater for the 1 in 100 year plus climate change event, yet the FRA fails to address this.

Additionally, the FRA suggests that soakaways will be used for highway drainage, yet provides no evidence that the ground conditions are suitable.

**Public Open Space:** A commuted sum payment of £25,000 for off-site provision should be secured. Specifically, to make improvements to the existing equipped children's play area at Wessex Close, Shavington.

**Natural England:** Statutory Sites – No objection. Natural England advises that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which West Midlands Mosses SAC, Midland Meres & Mosses Phase 1 Ramsar has been classified.

The application is in close proximity to the Wybunbury Moss SSSI Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which this site has been notified. Natural England advise that this SSSI does not represent a constraint in determining this application.

It is noted that a survey for European Protected Species has been undertaken in support of this proposal. Natural England does not object to the proposed development. On the basis of the information available the Natural England advice is that the proposed development would be unlikely to affect bats and GCN.

We have not assessed the survey for badgers, barn owls and breeding birds<sup>2</sup>, water voles, white-clawed crayfish or widespread reptiles. These are all species protected by domestic legislation and you should use our protected species standing advice to assess the adequacy of any surveys, the impacts that may results and the appropriateness of any mitigation measures.

For all other advice protected species refer to the Natural England standing advice.

**Education:** This development is expected to generate 7 primary and 5 secondary aged pupils.

A developer contribution of £75,924 is required towards accommodating the primary pupils generated by this development.

## 6. VIEWS OF THE PARISH COUNCIL

**Shavington Parish Council:** Object to the application on the following grounds:

- The land at present forms part of the open countryside to the south of Newcastle Road.
- There are just 5 residential properties on the South Side of the Newcastle Road between Pit Lane and Stock Lane with quite substantial open spaces between them; this could not be accurately described as ribbon development.
- The proposal could also not be accurately described as ribbon development as there is a service road which feeds to double development behind the first row of the proposals at the front. The second and third row of the proposed development faces onto open countryside.
- The access to the petrol filling station and other retail and business activities is just before the proposed entrance for the development. The Parish Council has grave concerns over highway safety as there have been numerous accidents and near misses involving vehicles leaving the petrol station. There is a bend in the road as you approach the petrol station from the direction of Hough village and a further 80 vehicles accessing and egressing the proposed site at this location will only exacerbate the hazards. The previous proposal to construct a Tesco convenience store at the petrol filling station site was refused, at least in part on the grounds of traffic concerns and pedestrian safety.
- The Parish Council understands that the recently approved development at the Triangle site already adequately fills the quota for affordable housing in the immediate vicinity. This understanding is also reinforced by the recent refusal of a similar application for residential development at Hough – the Pit Lane/Newcastle Road application was refused since the quota for affordable housing in the area had been met both by the Triangle site and other affordable housing proposed in Shavington.
- The plan of the proposed development shows two open access points to the fields beyond and this gives the impression that the development will be capable of being extended further into fields behind, and into more open countryside.
- The current PPG for development on this land indicates that it could be used for infill with a maximum of three properties only.
- The highway proposals submitted as part of the application are over-engineered and give an inaccurate picture of the effect of this development on the Newcastle Road.
- Surface water from the development will put extra pressure on the highway drain which will already be under significant additional pressure from the additional 300 properties to be built at the Triangle site.
- Residents crossing over the Newcastle Road on foot or by bicycle could only safely do so at the Goodall's Corner traffic lights. These do have central reservations but these are for the lights only and not designed for pedestrian use.
- The only Primary and Secondary Schools in footfall distance are in Shavington so children would need to cross the very busy Newcastle Road.
- In the SHLAA this area is classified as a 'Blue' site and only sites identified as 'Pink' are designated for development under the current strategic plan.

**Wybunbury Parish Council:** Object to the application on the following grounds:

- The land at present forms part of the "Open Countryside" to the south of Newcastle Rd.
- There are 5 Residential properties on the South Side of the Newcastle Rd from Pit Lane to Stock Lane with quite substantial open spaces between them i.e. not ribbon development.
- All but two of the above properties are pre 1900.
- The petrol station & retail developments access is just before the proposed entrance for development "there has been several accidents involving vehicles leaving the petrol

station/garage in the past” as there is a bend in the road as you approach the petrol station from the direction of Hough village.

- Vehicles leaving the proposed development could be masked by vehicles leaving the petrol station, as customers enter & exit the petrol station by either entrance.
- The various developments at the garage have had to go to appeal on access grounds & screening was a condition imposed due to the open country side on the south side of the developments.
- Development for developments sake no demand for affordable housing due to the Triangle development filling the local quota, the recent application for residential development at Hough “Pit lane Newcastle Rd” was refused as the quota for affordable housing in the area had been met both by the Triangle & affordable housing proposed in Shavington.
- The housing development quota in CEC for the next 7.2 years has been reached.
- The plan of the proposed development shows two open access points to the fields beyond giving the impression that the development will be extended further into the fields behind this development again into open countryside.
- According to the SHLAA this site is marked blue & should only have a maximum number of 36 properties not 44 as the applicant is applying for.
- The current PPG for development on this land says it would be infill with a maximum of three properties only.
- The housing development off Bridge Street Wybunbury was recently refused as the affordable housing which this development was partly of was refused as the affordable housing quota was filled.
- The highway proposals submitted as part of the application are over engineered & give a misleading picture of the effect of this development on the Newcastle Rd.
- This application is purely for developments sake. They are hoping to win approval due to CEC having pressure put on them to approve applications for housing.
- This application is not for ribbon development as there is a service road which feeds to double development behind the first row of development at the front.
- The second & third row of development faces onto open country side, not developed land in any shape or form.
- The surface water from the development (highway water) will put extra pressure on the highway drain along with the triangle development as well.
- The property run-off water, either disposed via each property soak away or to a water course the only one being the one that will go through the triangle development will put more pressure on the ground water levels along with the water being disposed in the same way from the triangle development.
- When there was a proposal to change the petrol station kiosk to a Tesco extra the problems identified were, extra traffic leaving the site, pedestrian access across the Newcastle rd & air pollution.
- Resident’s crossing over the Newcastle Rd on foot or by bicycle would have to go to the traffic lights to cross. There are reservations but only to house the traffic lights not as crossing reservations these would need to be installed.
- The only school at Primary in foot fall distance is Shavington so Children would need to cross the road. The same for the older children attending Shavington High.
- In the SHLAA this area is classified as a Blue site & only sites identified in Pink are designated for development under the strategic plan.
- Wybunbury Parish Council supports Shavington Parish Councils objects to this development along with Hough Parish Council.

**Hough and Chorlton Parish Council:** Object on the following grounds:

- Currently there are 3 major development sites totalling in excess of 1000 new dwellings that have already been approved or are in the latter stages of approval within the Shavington parish.
- This is 'development for developments sake'. The housing development quota in CEC for the next 7.2 years has been reached.
- There is no demand for affordable housing due to the Triangle development filling the local quota. The recent application for residential development of affordable housing in Hough at the junction of Pit Lane and Newcastle Road was refused; with one reason being that the quota for affordable housing in the area had been met both by the Triangle development and the various affordable housing developments proposed in Shavington.
- The housing development at Bridge Street Wybunbury was recently refused as the affordable housing quota was filled
- The land at present forms part of the 'Open Country Side' to the south of Newcastle Rd.
- There are 5 Residential properties on the South Side of Newcastle Rd from Pit lane to Stock Lane, with quite substantial open spaces between them. All but two of the above properties are pre 1900. These new houses would not be in keeping with the area.
- This application is not for ribbon development as there is a service road which feeds to double development behind the first row of development at the front. The second & third row of development faces onto open country side and are not developed land in any shape or form.
- The plan of the proposed development shows two open access points to the fields beyond giving the impression that the development will be extended further into the fields behind this development again into open country side.
- According to the SHLAA this site is marked blue and only sites identified in Pink are designated for development under the strategic plan
- Even if allowed, the development should have a maximum number of 36 properties not the 44 that the applicant is applying for.
- In the SHLAA this area is classified as a Blue site & The current PPG for development on this land says it would be in fill with a maximum of three properties only.
- There is a petrol station & retail/leisure development access point next to the proposed entrance to the development. This is a dangerous access point and there have been several accidents involving vehicles leaving the petrol station in the past. Visibility is poor due to the bend in the road as vehicles approach the petrol station from the direction of Hough village. Vehicles leaving the proposed development could potentially be masked by vehicles leaving the petrol station, as cars enter & exit the petrol station by either entrance.
- The various developments on the site of the Petrol station have had to go to appeal on access grounds, safety, air pollution & screening was a condition imposed due to the open country side on the south side of the developments.
- Whilst provision for a new footpath has been made, it appears to lead to the traffic lights at the junction of Newcastle Road and Stock Lane. There is no pedestrian access at the traffic lights and therefore must be considered an unsafe crossing point until, and unless, investment is made to upgrade the crossing point.
- The only school at Primary stage in foot fall distance is Shavington, so children would need to cross a very busy road. The same would apply to older children attending Shavington High School.
- The air quality consultant supplied by the applicant has recommended refusal based on air quality.
- The highway proposals submitted as part of the application are over engineered & give a misleading picture of the effect of this development on the Newcastle Rd.

- The property run-off water will be disposed via each property soak away or to a water course, and will go through the same infrastructure as the triangle development. It will put unacceptable levels of pressure on the ground water levels.

A letter of objection has been received from Cllr Clowes raising the following points:

- Whilst the site lies just inside the Shavington Parish boundary, it lies at a 'triangulation point' between three parish councils; Shavington, Hough & Chorlton (to the East) and Wybunbury (to the South), where the *Newcastle Road, acts as a physical boundary* between urban South Crewe (Shavington Ward) and the Rural Ward of Wybunbury.
- Whilst there is potential for *infill development* along the southern side of Newcastle Road, infill is usually defined as between two and three properties in a roadside 'gap' where there is a similar density of ribbon development. There are very few properties along this southern side of Newcastle Road as it extends towards Hough and Chorlton.
- Therefore a development of up to *39 properties would represent an over-intensive 'backfill'* development that would be out of keeping with the streetscape in this area.
- So too it would create an *obvious incursion into open countryside to the South* (easily visible from Stock Lane). This is an area that is currently used for agricultural and equestrian purposes and adjoins the Wybunbury Moss SSSI area.
- The application diagrams offer an unusual and over-engineered road scheme within the development, with the roads ending at the boundary onto open fields at the rear of the site. This is inconsistent with a development of this size.
- The site is registered as a 'Blue' site (site no. 2900) in the 2012/13 Cheshire East SHLAA and as such, is identified as potentially 'developable' in the long-term but is NOT currently 'deliverable' (that is; available for immediate development). Therefore as Cheshire East now has a 7.1 year housing supply allocation in place, this application constitutes an inappropriate development in a rural setting.
- This site lies adjacent (to the west) to a busy petrol station where already, petrol station customers have to share access and egress from the forecourt with three other businesses. Development of these sites was controversial on highways grounds and proximity to open countryside. Whilst permission was eventually granted on appeal, the inspector did make comment on the limitations of the site, and its environs.
- The site also lies adjacent (to the east) to a busy staggered crossroads that is controlled by traffic lights. The road hatchings and the graduation of the extra right-hand turning lane in the centre of Newcastle Road are a key feature of this road junction and commence in close proximity to the main entry/exit to the proposed development. When combined with the equally close proximity of the shared garage exit, this development poses a significant risk to road users.
- The application shows the provision of a new footpath to the traffic light junction but there is no appropriate means for pedestrians to safely cross the junctions in any direction. This would be essential for such a development to be considered sustainable for pedestrians as the road has to be crossed to access services and schools in Shavington. So too, pedestrian access to schools and services in Wybunbury would be equally unsafe and unsustainable as there are no footpaths at all beyond Stock Lane.
- The application suggests that there is a need for affordable housing that will be met (in part) by this development. In fact affordable housing need in all three parishes is being met by other applications that have already been approved in the locale in the past eight months (including 110 properties (of 400) approved on the Shavington Triangle site just 300m to the west of this application).



- This development is for 39 houses which, if approved, will create a need for additional school places, and further strain on services and infrastructure in the local area. Local schools are already oversubscribed (and that is before the completion of the other far larger schemes in the same area that have already been passed and whose new residents will also need to access the same primary and secondary schools, and Rope Lane GP surgery).
- For these reasons, I request that the Strategic Planning Board refuse this application.

## **7. OTHER REPRESENTATIONS**

Letters of objection have been received from 37 local households raising the following points:

### Principal of development

- There is no need for more housing
- There are too many housing developments proposed in Shavington
- Plenty of safer alternatives to build housing
- Loss of the existing dwelling
- No need for affordable housing in Hough
- The proposed HS2 route runs through the area
- Newcastle Road acts as a boundary to Shavington village
- The site is not sustainably located
- Approving the application would set a precedent
- Cheshire East can now demonstrate a 5 year housing land supply
- Lack of jobs in the area
- The site is not a preferred site within the SHLAA
- The development is not infill
- The Triangle will meet the needs of Shavington
- Loss of open countryside
- Contrary to Local Plan Policy NE.2

### Highways

- Increased traffic within the village
- Newcastle Road already suffers from congestion
- Increased traffic on the strategic road network (M6 and A500)
- Pedestrian safety
- Highway safety
- The proposed access is dangerous
- Safety problems crossing Newcastle Road
- Proximity to the access for the existing petrol station
- Lack of public transport
- Proximity to the existing cross roads
- The access is at an accident black-spot
- Planning permission was refused for a Tesco express due to highways concerns
- Speeding vehicles in the vicinity of the site
- Parking/delivery issues for the proposed dwellings

### Green Issues

- Impact upon hedgerows
- Impact upon Badgers
- No breeding bird survey

- The site is subject to flooding
- Impact upon protected species
- Loss of agricultural land
- Loss of wildlife
- Impact upon Barn Owls

#### Infrastructure

- Local schools are already full
- The Doctors surgery is full
- Lack of infrastructure

#### Amenity Issues

- Increased pollution
- Impact upon air quality
- Loss of outlook
- Noise and disruption

#### Other issues

- Increased flood risk
- Loss of property value

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 Oligra Town Planning)
- Acoustic Report (Produced by Cheshire Environmental Associates)
- Transport Statement (Produced by Bob Hindhaugh Associates)
- Flood Risk Assessment (Produced by Bob Hindhaugh Associates)
- Bat and Great Crested Newt Survey (Produced by EVR Ecology)
- Phase I Land Contamination Report (Produced by Peak Associates)
- Arboricultural Impact Assessment (Produced by Buckland Tree Care)
- Agricultural Land Classification Report (Produced by Solum Environmental)

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 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**

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 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 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.

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) – 965m
- Cash Point (1000m) – 150m
- Primary School (1000m) – 1000m
- Local meeting place (1000m) – 800m
- Convenience Store (500m) – 150m
- Bus Stop (500m) – 320m
- Public Right of Way (500m) – 235m

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:

- Public House (1000m) – 1100m
- Amenity Open Space (500m) – 800m
- Children's Play Space (500m) – 800m
- Post Box (500m) – 965m

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 4000m
- Secondary School (1000m) – 1770m
- Medical Centre (1000m) - 2090m
- Pharmacy (1000m) – 2090m
- Child Care Facility (nursery or crèche) (1000m) - 1770m
- Leisure Centre (1000m) – 1770m
- Outdoor Sports Facility (500m) – 1770m

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 Shavington, 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 (Shavington is classed as a local service centre in the Cheshire East Local Plan Policy Principles document) and will be the same distances for the residential development on Newcastle Road 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 site is situated in open countryside outside the settlement boundary line to the south east of Shavington and to the south of Newcastle Road. It has associated policy protection in the relevant Local Plan. There are no landscape designations on the site but a large proportion is currently

undeveloped agricultural land. In the Cheshire Landscape Character Assessment it lies within Type 10 Lower Farms and Woods, specifically LFW7 Barthomley. It is a relatively level landscape overlooked to some extent by residential development on Newcastle Road. The roadside hedge restricts views of part of the site from Newcastle Road.

The application is an outline application and the illustrative plan is of a poor quality. It is not possible to offer any assessment of how landscape treatment could enhance the visual amenity of the site if development was permitted and this issue would be dealt with at the Reserved Matters Stage.

The following objectives which would help to reduce the landscape impact could be secured at the reserved matters stage should the application be approved:

- Respect existing landscape and characteristics of the site (principally any significant trees and hedgerows);
- Conserve and enhance existing trees worthy of retention and any notable hedgerows as an integral and structuring part of a Landscape Framework;
- Minimise any potential adverse landscape or visual effects through the application of best practice design principles and careful attention to design through all stages of the development process.

## **Affordable Housing**

The Interim Planning Statement: Affordable Housing states that in areas with a population exceeding 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 SHMA 2010 identified a requirement for 155 new affordable homes between 2009/10 – 2013/14 in the Wybunbury & Shavington sub-area, which is made up of a requirement for 5 x 1 bed, 10 x 2 bed, 4 x 3 bed, 7 x 4/5 bed and 4 x 1/2 bed older persons dwellings.

There are currently 98 applicants on the housing register with Cheshire Homechoice (which is the choice based lettings system for allocation social & affordable rented housing in Cheshire East) who have selected Shavington as their first choice, these applicants require 34 x 1 bed, 37 x 2 bed, 18 x 3 bed & 5 x 4 bed properties (4 applicants haven't set the number of bedrooms they require).

There have been a number of planning applications approved in the Wybunbury & Shavington sub-area recently. These have in the main been outline planning approvals for large schemes, which include an element of affordable housing, and it appears the affordable housing delivered from these applications will cross over into the next 5 year period for the SHMA and potentially even beyond that period.

The development at Stapeley Water Gardens will deliver affordable housing in the 5 year period of the SHMA 2010 and it is anticipated there will also be some delivery from the Rope Lane, Shavington development, however even if all the affordable housing required from both these sites was delivered there would be provision of 69 affordable homes leaving a shortfall against the requirement identified in the SHMA 2010 up until 2014.

If this application is approved there would be a requirement for a proportion of the dwellings to be provided as affordable dwellings, this should be 30% of the total dwellings with 65% provided as affordable or social rented dwellings and 35% as intermediate tenure dwellings. Based on the proposal for up to 39 dwellings this equates to a requirement for 12 affordable dwellings, with 8 provided as social or affordable rent and 4 provided as intermediate tenure.

The applicant has offered 30% of the total dwellings as affordable and providing an indicative mix of affordable units as 11 x 3 bed houses and 1 x 4 bed house. However this does not reflect the type of affordable property there is the highest need for in the Wybunbury & Shavington sub-area which is 2 bed properties. As the submitted plan is indicative the type of property to be provided as affordable housing could be agreed when any reserved matters application is submitted if this outline is approved.

The affordable housing should also be provided no later than occupation of 50% of the open market dwellings.

### **Highways Implications**

The application is in outline form and the access would be determined at the Reserved Matters stage. In this case the site has a long frontage to Newcastle Road (which has a 40mph speed limit) which is relatively straight along the front of the site with a wide grass verge. In addition vehicle speeds are likely to be relatively slow as they approach the signal junction with Stock Lane/Crewe Road. As a result it is considered that an adequate single access point could be achieved with the required visibility splays as part of the Reserved Matters Application.

In terms of the highway impact of development the NPPF states that:

*'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'*

In this case the predicted traffic generation from this development is 30 trips in the morning peak hour and 32 vehicles in the evening peak hour. Of these it is predicted that 20 vehicles would turn left and use the signalled junction at Newcastle Road/Crewe Road/Stock Lane. This number of vehicles is very minor during the peak hour and the impact of the development cannot be classed as severe.

The highways impact of the development is therefore considered to be acceptable and an acceptable access could be secured at the Reserved Matters stage.

### **Amenity**

In terms of the surrounding residential properties, the main properties affected are those which front onto Newcastle Road to the north of the site and the property known as 396 Crewe Road to the west.

An indicative layout plan has been provided in support of this application and this shows that from the front elevation of the proposed dwellings to the front elevation of the existing dwellings which front onto Newcastle Road there would be a separation distance of approximately 29 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 Newcastle Road is therefore considered to be acceptable.

To the west of the site is a detached dwelling known as 396 Crewe Road. The indicative layout shows that the nearest dwelling on the application site would have a side elevation facing 396 Crewe Road with a separation distance of approximately 8 metres. This relationship between side elevations is considered to be acceptable.

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

In terms of the amenities of the future occupiers there is the potential for noise from Newcastle Road, the petrol station and the children play world. The report suggests that's the use of glazing measures, acoustic fencing and ventilation. This is accepted by the Councils Environmental Health Officer who has raised no objection to the development subject to the imposition of a condition.

The Environmental Health Officer has requested conditions in relation to contaminated land, hours of construction, waste provision, travel plans and air quality. These conditions will be attached to the planning permission.

## **Trees and Hedgerows**

### Trees

The application is supported by an arboricultural impact assessment which covers 59 Individual trees and 8 lengths of hedge. Eight of the tree are Grade A (High quality and value) and 14 are Grade B (Moderate quality and value) and the report indicates there is current and future value to trees on site. The view is expressed: *'There is a large area suitable for development, if the design of the development respects RPA's and shade areas of the existing BS5837:2012 Category A and B trees (as described in the tree schedule and plans accompanying this report), the development will benefit from the existence of the trees and they may be utilized as screening'*

In this case some of the Grade A trees are ornamental trees and relatively young. As a result it is considered that some losses would be acceptable and the trees do not have TPO protection. The application is in outline form with all matters reserved. It is considered that a development of up to 39 dwellings (at 33 dwellings per hectare) could be accommodated on the site. Further details about tree retention on the site would be secured as part of the reserved matters application.

### Hedgerows

Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'Important'. Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application. Hedgerows are also a habitat subject of a Biodiversity Action Plan. The Regulations require assessment on various criteria including ecological and historic value.

The Planning Statement contains a response from Cheshire Shared Services Archives and Local Studies which indicates that a hedgerow on site is important under criterion 5a of the Regulations. The response states there is evidence to suggest that the hedgerow in question, adjoining the ancient road or highway between Nantwich and Newcastle under Lyme, would have formed an integral part of a field system pre-dating the Enclosure Acts.

There is no evidence of a consultation to the Cheshire Archaeologist in relation the historic criteria in the Regulations and no indication that the hedgerow has been assessed under the ecological criteria.

In this case the hedgerow regulations assessment is incomplete but it can be concluded from the response which has been received that the hedgerow would qualify as important under 1 of the criteria. Given the Councils housing land supply position there would be no material consideration to outweigh loss of this hedgerow.

## **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 at 33 dwellings per hectare is appropriate and is consistent with that of the surrounding area of Shavington. The development would have a linear form that would respect the existing dwellings which front Newcastle Road.

The indicative layout is poor and it significant improvements would be required as part of the Reserved Matters Stage. The properties would follow the ribbon of development which is located along Newcastle Road and Stock lane. The scheme would allow for dwellings to front onto Newcastle Road which is appropriate and a hedgerow boundary could be provided to Newcastle Road.

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

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 proposed development is located within 1km of Wrenbury Moss which holds a number of statutory nature conservation designations. Natural England have been consulted on this

application and have advised that the proposed development is not likely to have an adverse impact upon the features for which the site was designated and they advise that an appropriate assessment under the Habitat Regulations is not required.

A Habitat Regulations Screening Assessment has been undertaken by the Councils Ecologist and this has concluded that the proposed development is not likely to have a significant impact upon Wybunbury Moss and its designation as a SAC and RAMSAR site.

### Habitats

#### *Hedgerows*

Hedgerows are a UK Biodiversity Action Plan priority habitat and a material consideration. There are currently hedgerows along the northern and southern boundaries. The indicative layout shows that there would be some removal along the northern boundary and replacement planting could be secured to mitigate this loss.

#### Great Crested Newts and Bats

No evidence of these two protected species was recorded during the submitted survey although it should be noted that a full great crested newt survey has not been undertaken. Natural England has advised in their consultation response that the proposed development is unlikely to affect these two protected species. The Councils Ecologist advises that no further action in respect of these two protected species is required.

#### 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.

#### Other Protected Species

Local residents have raised concerns about the impact upon Badgers and Barn Owls. However the submitted protected species report did not record any field signs of these two protected species and states that the site is unsuitable for sett excavation and that the buildings are not particularly suitable for Barn Owls. The Councils Ecologist has no reason to question the conclusion of the submitted surveys so in the absence of any information to the contrary it is not anticipated that the proposed development will have an impact upon these two species.

### **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 and the POS Officer has suggested a contribution of £25,000 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 7 new primary places. As there are capacity issues at the local primary schools, the education department has requested a contribution of £75,924. 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 5 new secondary school places. There has been no request for a secondary school contribution from the education officer as there is capacity at local schools to take the children.

## **Agricultural Land**

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (Grades 1, 2 and 3A) will not be permitted unless:

- The need for the development is supported by the Local Plan;
- It can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non-agricultural land;
- Other sustainability considerations suggest that the use of higher quality land is preferable.

The National Planning Policy Framework highlights that the use of such 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.

An assessment has been undertaken of the agricultural land (excluding the dwelling, barns, associated curtilage and the access) and this shows that the site is classified as Grade 2 agricultural land. As a result, this issue will form part of a reason for refusal.

## **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 more than 1 hectare, a Flood Risk Assessment (FRA) is required as part of this application.

The EA have been consulted and have raised an objection to the application on the grounds that the FRA does not comply with the requirements set out in paragraph 9 of the Technical Guide to the National Planning Policy Framework. Therefore the submitted FRA does not provide a suitable basis for assessment to be made of the flood risks arising from the proposed development and this issue will form a reason for refusal.

The Environment Agency has requested a FRA to include:

- Calculations showing surface water discharge rates and volumes both pre and post development.
- The amount of attenuation required catering for the 1 in 100 yr plus climate change event must be calculated.
- Flood risk from all sources must be assessed.
- An assessment of how overland flow of surface water will be managed in an exceedance event.

## **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 primary 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 primary 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.

In terms of the flood risk/drainage implications the submitted FRA does not comply with the technical guide to the NPPF. The Environment Agency has objected to the application and as a result the potential flood risk implications will form a reason for refusal.

The application is in outline form and although the layout shown on the indicative plan is not acceptable it is considered that an acceptable design solution can be secured and the development would not have a significant impact upon the landscape.

A safe access could be secured at the Reserved Matters stage 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 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, the positives of the scheme are considered to be insufficient to outweigh the harm that would be caused in terms of the impact on the open countryside. 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 for the following reasons:**

- (a) it is located within the Open Countryside;**
- (b) the development would result in the loss of Grade 2 agricultural land;**
- (c) the development would result in the loss of an important hedgerow.**

**As a result the proposed development is contrary to Policies NE.2 (Open Countryside) and NE.12 (Agricultural Land Quality) 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 contrary 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 submitted FRA does not comply with the requirements set out in paragraph 9 of the Technical Guide to the NPPF and does not provide a suitable basis for an assessment to be made of flood risks arising from the development. There is potential for flood risk and therefore potential harm. As such, to allow this development would be contrary to the NPPF, the Technical Guide to the NPPF and Policy NE.20 (Flood Prevention) of the Borough of Crewe and Nantwich Replacement Local Plan 2011**

**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 Planning and Place Shaping 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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