

Application No: 13/3764C

Location: Land off Waggs Road, Congleton, Cheshire

Proposal: The erection of 104 residential dwellings, including open space, together with associated works including landscaping, the formation of access, site works and other necessary works

Applicant: Bellway Homes Limited c/o agent

Expiry Date: 10-Dec-2013

SUMMARY RECOMMENDATION

Refuse

MAIN ISSUES

Policy

Housing Land Supply

Loss of Agricultural Land

Sustainability

Design Considerations

Landscape and Tree Matters

Provision of Open Space

Impact on Residential Amenity

Highway Safety and Traffic Generation

Impact on Protected Species

Flooding and Drainage

Affordable Housing

Impact on Education Capacity

Archaeology

1. REFERRAL

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

2. SITE DESCRIPTION

The application site comprises an irregular parcel of Greenfield land, 3.63 hectares in size, situated to the south of Waggs Road and Meadow Avenue, Congleton. The land is designated as being within the open countryside in the adopted local plan.

The land is in agricultural use and is Grade 3 (subject to urban pressures). There are native hedgerows on the northern boundary with the existing housing development, a bank top hedgerow on the western boundary with Fol Hollow and a hedge and trees on part of the southern boundary in the vicinity of New Bank Farm. The remainder of the southern boundary and the eastern boundary are largely open giving views towards the hills. The site is divided by a continuous central hedge running north-south and there are two mature field oak trees near to the proposed site entrance.

Public Footpath No.6 runs along the eastern boundary of the site.

The north western corner of the site slopes steeply down several metres to Waggs Road where there is a large amount of mature vegetation which is a valuable habitat for protected species.

3. DETAILS OF PROPOSAL

Full planning permission is sought for the erection of 104 dwellings on this site. The dwellings would comprise 35 three bedroom and 38 four bedroom open market houses and 31 three bedroom affordable houses. The affordable dwellings would be 65% affordable rent and 35% shared ownership.

The development would have a mix of dwelling types including detached, semi-detached and mews style properties, all of which would be two-storey, with varying finishes including brick and render.

Access, both vehicular and pedestrian would be taken from a single point adjacent to No. 124 Waggs Road. This access would incorporate visibility splays of 2.4m x 43m to the west and 2.4m x 35m to the east, with footpaths on either side.

The north western corner of the site is to be retained as an area of public open space, with the existing trees and vegetation to be retained.

A Local Area of Play (LAP) is proposed centrally within the site.

4. RELEVANT PLANNING HISTORY

There is no relevant planning history relating to this site.

5. PLANNING POLICIES

National Planning Policy Framework

Local Plan Policy

PS8	Open Countryside
GR1	New Development
GR2	Design

GR3	Residential Development
GR5	Landscaping
GR6	Amenity and Health
GR9	Accessibility, servicing and provision of parking
GR14	Cycling Measures
GR15	Pedestrian Measures
GR17	Car parking
GR18	Traffic Generation
GR21	Flood Prevention
GR 22	Open Space Provision
NR1	Trees and Woodland
NR2	Statutory Sites (Wildlife and Nature Conservation)
NR3	Habitats
NR5	Habitats
H2	Provision of New Housing Development
H6	Residential Development in the Open countryside
H13	Affordable Housing and Low Cost Housing

Other Material Policy Considerations

Interim Planning Policy: Release of Housing Land (Feb 2011)

Interim Planning Statement: Affordable Housing (Feb 2011)

Strategic Market Housing Assessment (SHMA)

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

North West Sustainability Checklist

6. OBSERVATIONS OF CONSULTEES (EXTERNAL TO PLANNING)

Environmental Health

No objection subject to conditions restricting hours of construction / piling, the submission of an environmental management plan, a Phase II Contaminated Land Assessment and submission of a residential travel plan and inclusion of electric vehicle infrastructure.

Environment Agency

No objection subject to conditions relating to surface water run off and flood risk management.

Flood Risk Manager

I have now had a chance to review the above application and note that the EA's Mr Graham Bate has had some extensive involvement in assessing flood risks and in the subsequent development of the early Drainage Strategy based on preliminary calculations submitted by the developer. The early assessment work is in line with what I would expect to see for a site of this size and does identify the key constraints and considerations that will need to be considered in some detail. I also note that Agreement in principle has already been reached with both United Utilities and Environment Agency and on the basis that the site will be drained using "greenfield equivalents" to mimic existing drainage

patterns for the undeveloped site, combined with on site storage for excess surface water generated by the developed the site in oversized pipe work or similar arrangements.

In principle, this approach would be acceptable but ensuring compliance with any agreed and restricted discharges from the site will be essential if off site impacts and flood risks are to be effectively managed. Particular attention will need to be given to the performance of the hydrobrake flow control across the full range of **catchment critical storm events** (at points of interest off site) identified as part of this early assessment and also, the off site receiving infrastructure to ensure adequate drainage arrangements are indeed in place.

Whilst not explicit in the FRA report, it does not specifically reference known off site drainage issues, flooding problems and flood risks associated within the Fol Hollow ordinary watercourses and Main River reaches beyond. It will therefore be essential that final detailed assessments and drainage designs for site discharges are agreed in context of the receiving land drainage infrastructure which at this time , is reliant on riparian (landowner) maintenance.

Mr Graham Bate is aware of the offsite flooding problems and indeed, of the early study work that Cheshire East Council is currently undertaking to look at these risks in more detail and clearly with a view to securing funding to implement any identified and necessary improvements to help reduce these risks.

I would reasonably expect some further detailed discussions around these aspects if the site is to be taken forward.

Highways

13th November 2013

The planning application proposal is to provide 104 residential units; access to the site is taken from Waggs Road in the form of a priority junction. The site access road will have a carriageway of 5.5m wide with a 2.0m footway on one side and a narrow verge on the other side.

Visibility from the site access is shown as 2.4m x 43m in the non leading direction and 2.4m x 35m in the leading direction. Whilst these visibility splays are acceptable for reasonably low traffic speeds, I am concerned that actual speeds along this section of road are higher than 30mph and therefore the visibility splays are not adequate. Speed surveys should be undertaken and the 85th percentile speed determined in order to provide the appropriate visibility splays.

With regard to the accessibility of site, there are no footways on Fol Hollow to the west of the site and the footways on Waggs Road towards the town centre are in certain locations substandard in width and are only provided on one side. Therefore, although the town centre is not too distant a walk from the site, the standard of pedestrian facilities are poor indeed and as such I consider the site not readily accessible to pedestrians. The site is located a considerable distance from the nearest bus services and cannot be deemed accessible to public transport.

Considering the traffic impact of the development, the trip rates have been based current flow data from a nearby residential site and not using a TRICS analysis. The rates used are considered acceptable and the peak hour generation is some 58 and 64 trips. The distribution submitted is in favour of trips towards the town centre this is what might be expected and I raise no issues on this matter.

The only capacity assessment that has been undertaken is the site access junction, I have no issues with the capacity at the site access it is the junctions further afield that have capacity issues. Both West Street roundabout and the signal junction at the A54 Clayton bypass/ Rood Hill junction are operating over capacity currently and forecasts indicate worsening congestion will occur at these junctions in 2017 without development. However, once the traffic is distributed on the road network the development trips using these junctions will be small and I cannot justify an objection in regards to capacity impact.

The main concern I have is the impact the development will have on Fol Hollow and Waggs Road, these roads are already used as a rat run to avoid the congested A34 through Congleton and this application will add further traffic onto roads that are below standard. Fol Hollow is no more than a single track in places with a very poor alignment and sharp bends and forward visibility is limited, this access road is not suitable to serve the development. The development would also produce 9% and 11% increase in flows on Fol Hollow, this is a significant percentage increase on current flows. To the east of the site, Waggs Road is narrow and has pinch points, traffic calming has been introduced due to the poor width of Waggs Road and also to address traffic speeds. Again, the development produces a significant percentage increase in flows, 16% and 13% and will only add traffic to a substandard urban road.

Internally the road layout within the site is acceptable although I would highlight that there are concerns regarding the adoption of the site given the lack of service strips and narrow verges.

In summary, there are a number of concerns regarding this development, the visibility at the access is limited and it needs to be demonstrated that the visibility provided is sufficient for the approach speeds on Waggs Road. The accessibility of the site in regard to pedestrians is poor and bus services are a considerable distance from the site. Both Fol Hollow and Waggs Road are not suitable to serve a major development of this nature and there will be an unacceptable impact on these roads.

Therefore, I am recommending that the application is refused as it has an unacceptable traffic impact on the road network and that the site is not readily accessible and cumulatively these impacts can be considered severe.

21st November 2013

Further information has been received from the applicant that proposes additional works to Waggs Lane, this work proposes further traffic calming to be introduced and also two sections of carriageway narrowings that incorporates wider footways.

Whilst these measures are of benefit, they do not address the main concerns that Waggs Lane is not designed to accommodate high traffic flows, it varies in width, does not have continuous footways on both sides and the existing footways are very narrow in places.

Fol hollow is more problematical, it has sharp bends with limited forward visibility and also the carriageway is single track in places and is not suitable to serve major development.

Therefore, the advice provided remains in that an objection to application is raised.

Sustrans

If this land use is approved by the local community and by the council's planning committee, our comments are as follows:

- 1) For a site of this size we would like to see another access for pedestrians and cyclists, away from traffic. This could be via Stony Lane.
- 2) The design of the estate should restrict vehicle speeds to less than 20 mph.
- 3) The design of any smaller properties should include storage areas for residents' buggies/bicycles.
- 4) Can this development make a contribution to improving the walking/cycling locally to help with journeys to the town centre and the town's public park, to local schools and to the railway station?
- 5) We would like to see travel planning set up, with targets and monitoring.

Streetscape

Amenity Greenspace

Following an assessment of the existing provision of Amenity Greenspace accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

Consequently there is a requirement for new Amenity Greenspace to meet the future needs arising from the development. The amount of Amenity Greenspace required would be 3,500m². With reference to page 27 of the D&A Statement 'Planning Layout' two areas of Public Open Space have been indicated with additional areas of incidental Open Space not labelled as such.

The Public Open Space includes a belt of mixed species woodland to the North West edge of the site although part of this would appear to be Highway Land. Also contained within this area is a badger set. With reference to page 27 of the D&A Statement the presence of the badger proof fence in position A to D would appear to prohibit public access and access for maintenance vehicles to the Public Open Space. What are the implications of the 30m badger set stand off on the POS?

It would be preferable to see more native planting in this area which would be in keeping with the adjacent belt of woodland trees rather than 'roses' identified on the plan.

It is not clear whether existing hedgerow trees are to be incorporated into adjacent gardens (eg Between points D and E) or whether they are to be included in the incidental Open Space

It is recommended that the Management and maintenance of the Public Open Space be transferred to a Management company due to increased maintenance and management liabilities of mature trees and wooded areas.

Children and Young Persons Provision

Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development and an equipped Play area will be required. Page 27 of the D&A Statement shows a LAP (Local Area of Play) on a parcel of Public Open Space but this does not appear to be 'equipped'. With reference to the D&A Statement (Page 27 'Planning Layout') there does not appear to be a safe route to the LAP for children particularly from the East of the Development ie a lack of continuous footpaths?

The play area should be of a LEAP size and should include at least 5 items of equipment, using play companies approved by the Council. We would request that the final layout and choice of play equipment be agreed with CEC, the construction should be to the Council's satisfaction. Full plans must be submitted prior to the play area being installed and these must be approved in writing prior to the commencement of any works. A buffer zone of at least 20m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site.

As with the Amenity Greenspace it is also recommended that the children's play area is transferred to a management company.

Education

No contributions required as local schools have increased their capacity.

United Utilities (UU)

No objection provided that the site is drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the watercourse/surface water sewer and may require the consent of the Local Authority. No surface water flows shall communicate with the public sewerage system via direct or indirect means.

Archaeology

The site of the proposed development lies on the southern fringes of Congleton but is beyond the limits of the town's Area of Archaeological Potential, as defined in the Local Plan of the former Congleton Borough Council. In addition, no sites are currently recorded on the Cheshire Historic Environment Record from within the application area, although the Cheshire Historic Landscape Characterisation Project does include the area within its

'Ancient Fieldscapes' category, indicating that existing field boundaries may owe their origins to medieval or early post-medieval enclosure. This limited archaeological potential is acknowledged by the applicants on Page 7 of the EIA Screening Request that accompanies the application. In the section on Archaeology and Cultural Heritage it is stated that if archaeological remains are discovered during construction works, any remains that cannot be preserved in situ will be recorded to an appropriate standard.

It is advised that this outlines an appropriate approach and that any archaeological works might usefully concentrate on recording sections across the sections of hedges and boundary that will be disturbed by development and monitoring particularly intrusive and extensive aspects of development, such as the drainage system. A report on the work will be required and the mitigation may be secured by condition, a suggested wording for which is given below:

No development shall take place within the area until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.

The use of such a condition is in line with the guidance set out in Paragraph 141, Section 12 (*Conserving and Enhancing the Historic Environment*) of the *National Planning Policy Framework* (2012), published by the Department for Communities and Local Government and the still current *PPS5 Planning for the Historic Environment: Historic Environment Planning Practice Guide* (Department for Communities and Local Government, Department for Culture Media and Sport, English Heritage, 2010).

Public Rights of Way (PROW)

The transport assessment acknowledges the adjacent Public Right of Way, namely Public Footpath No. 6 in Congleton, as running along the eastern boundary of the proposed development site. This public footpath offers an alternative walking route to and from the site, particularly to the network of Public Rights of Way known as the Southern Fringe project which forms a major leisure facility for residents of the area. However, the Planning Layout drawing does not indicate a connection to this network of paths from the proposed development. The transport assessment also acknowledges that a network of paths offers an alternative, traffic-free route to the town centre.

Contributions would be sought to enhance the quality of these facilities in order to accommodate the increased usage arising as a result from any development on this site.

The legal status, maintenance and specification of any proposed pedestrian and cyclist routes within the site would need the agreement of the Council as Highway Authority.

The developer should be tasked to provide new residents with information about local walking and cycling routes for both leisure and travel purposes.

7. VIEWS OF CONGLETON TOWN COUNCIL

Object on the grounds that:

The planning application to construct up to 104 dwellings on land off Waggs Road is in an area designated by the Congleton Borough Council Local Plan as Open Countryside and as such fails to satisfy policy PS9(iv) of the Local Plan as a development of up to 104 dwellings cannot be described as infilling. It also is contrary to H6 of the Local Plan in that the infill development must be appropriate to the local character in terms of its use, intensity and scale, indeed as a consequence of its scale alone it is contrary to H6.

It is also contrary to H14 of the Local Plan in that it is not a small scheme and does not consist entirely of housing that will be retained as low cost in perpetuity.

The proposed development would be contrary NR4 of the Congleton Local Plan as proposals for development will not be permitted where they would adversely affect sites of nature conservation or geological importance in the designated Wildlife Corridor, the proposed development would have a significant impact on the destruction of wild life habitat.

Additionally in the emerging Cheshire East Local Plan, land North of Lamberts Lane and East of Waggs Road was considered in the Shaping Our Futures document and rejected.

7. OTHER REPRESENTATIONS

Representations have been received from approximately 105 addresses objecting to this application on the following grounds:

Principle

- The site is not part of the local plan
- Lies outside the development zones identified in the Congleton Town Strategic Plan
- Not in an area outlined within the emerging Strategic Local Plan
- Does not satisfy the requirements of Policies PS8 and H6
- The development fails to comply with the core principles of the NPPF
- The development fails to comply with the adopted CEBC Local Transport Plan
- Cheshire East has a 5 year housing land supply
- Loss of good quality agricultural land
- Speculative development in open countryside
- Brownfield sites should be used first
- Departure from the development plan
- Loss of a green field site
- The land is not allocated for housing
- Proposal is premature before the adoption of the local plan
- Will undermine the spatial vision for the area
- The site was rejected in the "Shaping our Futures" document
- Will create urban sprawl
- The land is not urban as stated by the developer
- This is not a small scheme for affordable housing

Highway Safety

- Roads will not cope with the increased traffic that 104 houses will bring
- Unsafe access
- Increased traffic generation which will lead to accidents especially near schools
- Waggs Road and Fol Hollow are already a very dangerous environment for pedestrians and cyclists
- Congestion already disrupts lives
- Fol Hollow is unsuitable for any increase in traffic volumes
- Proposed traffic calming measures will create nuisance and noise
- Traffic statement is not accurate
- No emergency access to the site
- Refuse vehicles would have to reverse within the site
- Collisions and near misses are a regular occurrence on local roads
- Double parking already happens outside the schools
- Danger from HGVs during development
- Should the application be approved the developer should fund traffic calming measures
- The development would jeopardise the building of the link road
- Waggs Road is a rat run and it is only a matter of time before someone is killed
- Fol Hollow has no footpaths
- People use the winding roads like a race track
- Visibility splays seem misleading as they do not comply with Manual for Streets
- Cycling is hazardous
- There is no bus service after 2pm
- There are regular non-reported minor accidents
- There is no safe route for children of any age to walk or cycle to school

Amenity

- Total loss of privacy
- Total loss of outlook
- Overshadowing
- Noise and disturbance
- Flood risk

Ecology

- Destruction of wildlife and habitat
- Adverse impact on protected species
- Longest Badger sett in Cheshire
- Wildlife corridor
- Degradation of biodiversity
- Unexplained digging going on near protected species habitat
- A pond has been filled in on the site

Landscape

- Loss of a valuable countryside asset with natural scenery and walks enjoyed by many people
- Intrusion into open countryside

- Development would appear prominent when viewed from Priestly Fields, Mow Cop and Congleton Edge
- Loss of hedgerow
- Threat to the unique natural heritage of enormous value to Congleton
- Green spaces are beneficial to the mental health of the nation
- This unbroken route from countryside to town centre is far too important to England's heritage to be lost to the short termism of Government housing targets
- Impact on the historic village of Astbury
- Loss of beautiful walks

Other Matters

- Appalled and disgusted that this planning for housing development would even be considered
- This is a ludicrous planning application
- No infrastructure improvements being offered
- Local schools and GP surgeries are already oversubscribed
- Would open the flood gates for further development
- A site of this size should not have to rely on a pumping station
- The local area has already been subjected to significant amounts of development
- Inadequate drainage
- The houses are not needed as there are plenty for sale in Congleton
- Flood risk
- The application should be refused for the same reasons as the site off Meadow Avenue
- Speculative building by a greedy developer
- Loss of spectacular unobstructed views all the way to Mow Cop
- Developers immoral greed

8. OFFICER APPRAISAL

Main Issues

This is a full planning application and the main issues in the consideration of this application are the suitability of the site for residential development, having regard to matters of principle of development in respect of policy and housing land supply, sustainability, loss of agricultural land, affordable housing, air quality, residential amenity, drainage and flooding, design issues, open space, landscape impact, trees and forestry, ecology, education, highway safety and traffic generation and archaeology.

Principle of Development

The site lies in the Open Countryside, as designated in the adopted Congleton Borough Local Plan First Review 2005, where Policies PS8 and H6 state that only development which is essential for the purposes of agriculture, forestry, outdoor sport, recreation and tourism, cemeteries and for other uses of land which preserve the openness of the countryside and maintain or enhance its local character. Residential development will be restricted to agricultural workers dwellings, replacement dwellings, and conversion of existing buildings or limited development within the infill boundary line.

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 concerns.

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.

However the most up to date position on the Councils 5-year housing land supply figure is following the recent appeal decisions. As part of the consideration of the Congleton Road and Sandbach Road North decisions, the Inspector found that the housing land supply over 5 years is 5750 dwellings. It is necessary to add to this figure the existing backlog 1750 dwellings and a 20% buffer for a record of persistent under delivery which gives a total requirement of 9000 dwellings over 5 years or 1800 per annum.

In terms of the existing supply the Inspector found that there is currently:
'a demonstrable supply, taking the generous approach to Council estimates, which is likely to be in the region of 7000 to 7500 dwellings at most' (Sandbach Road North Appeal)

This demonstrable supply therefore equates to a figure of 4.0 to 4.2 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."*

As it has been found that Cheshire East cannot demonstrate a five year supply of housing land, the provisions of paragraphs 49 and 14 apply in this case. It is therefore necessary to carry out a balancing exercise in this case to assess whether the harm 'significantly and demonstrably' outweighs its benefits.

Emerging Policy

Clarification has been given on the weight which can be attributed to the emerging Local Plan as part of recent appeal decisions for Abbeyfields, Sandbach and Congleton Road, Sandbach and Sandbach Road North, Alsager. As part of the decision for the Abbeyfields site the SoS stated that:

'As the emerging LP is still at an early stage the Secretary of State accords it limited weight in his decision making'

As part of the appeal decision for Congleton Road, Sandbach and Sandbach Road North, Alsager the Inspector found that:

'There is a draft Local Plan, variously described as the Core Strategy and Development Strategy, which is moving towards a position in which it can be submitted for examination. The Council is seeking to achieve this in late 2013. The current state of the plan is pre submission. It is not disputed that there are many outstanding objections to the plan, and to specific proposals in the plan. Hence it cannot be certain that the submission version of the plan will be published in the timescale anticipated. The plan has already slipped from the intended timetable. In addition there can be no certainty that the plan will be found sound though I do not doubt the Council's intentions to ensure that it is in a form which would be sound, and I acknowledge the work which has gone into the plan over a number of years.

Nonetheless I cannot agree that the draft Local Plan should attract considerable weight as suggested by the Council. There are many Secretary of State and Inspector appeal decisions which regard draft plans at a similar stage as carrying less weight. The Council's own plan has been afforded little weight in the earlier months of 2013, and although the plan has moved on to an extent, it has not moved on substantially. For these various reasons I consider that the draft Local Plan can still attract no more than limited weight in this case'

Given the above the emerging Local Plan can only be given limited weight in the determination of this planning application.

Conclusion

- The site is within the Open Countryside which is also subject to Policy PS7 (Open Countryside) where 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.
- Cheshire East has a housing land supply figure of in the region of 4.0 to 4.2 years
- Only limited weight can be applied to the emerging Local Plan.
- As the Council cannot demonstrate a 5 year housing land 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 as part of the planning balance.

Loss of Agricultural Land

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. However, 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.

In this instance, an Agricultural Land Use and Land Classification Report has been submitted. This report found the site is not graded in the 1 to 5 category, excellent to very poor and as such is not classed as being the 'best and most versatile agricultural land' defined in the NPPF.

Thus, whilst the proposal would result in the loss of a small quantity of Grade 3 agricultural land, the loss would not be 'significant' and would not outweigh the benefits that would come from delivering this development and assisting with the Council's housing land supply situation helping to relieve pressure on less sustainable and preferential Greenfield sites elsewhere.

Sustainability

The site is considered by the SHLAA to be close to a bus route, which would allow access to services and close to a primary school.

The Planning Statement maintains that pedestrian access on footways from the site is good, with the exception of a short stretch. It also maintains that the site is within a 5 minute cycle journey for the whole of Congleton and that nearby towns can be reached using public transport.

Whilst it is acknowledged that some services and facilities are not in very close proximity to the site, on balance it is considered that the proposed development would be within a relatively sustainable location.

The NPPF advises that there are three dimensions to sustainable development which require the planning system to perform a number of roles. These roles consist of an economic role, a social role and an environmental role. This proposal would satisfy the economic and social roles by providing for much needed housing adjoining to an existing settlement where there is existing infrastructure. With respect to fulfilling the environmental role, this will be considered later. Subject to this, the proposal is considered to be sustainable.

Design Considerations

This application seeks full planning permission for 104 dwellings, therefore full details of layout and design form part of the application.

Access to the site would be taken from Waggs Road adjacent to number 124, it would then branch off to the east and west with narrower, shared surface mews streets and spaces. The layout contains a series of linked landscape squares and spaces to punctuate the route and provide focal points and destinations, including the Local Area of Play. The majority of the trees and hedgerows will be retained within the site.

The dwellings would be of varying designs with a mixture of finishes including brick and render. They would all be two storey, many with gable features to the front. The finishes would vary from a combination of brick and render with timber detailing, solely render and solely brick finish all with grey roof tiles, which it is considered would provide a varied and interesting streetscene.

A mixture of detached, semi-detached and mews style properties are proposed and these would be distributed throughout the site, in order to provide a varied appearance to the street scene. It is considered that these would be in keeping with the character of the surrounding development and would create an attractive form of built environment.

The density of development is 28.65 dwellings per hectare, which is a similar density to the nearby Marsh Farm development. The density in the local area varies from some properties set in large plots on Waggs Road, to a mixture of large and small plots on Meadow Avenue and smaller plots on Fields Crescent. It is considered that whilst the development would not contain large plots such as those on Waggs Road, it would reflect the urban grain of the wider area.

The position of the proposed Public Open Space softens the edge to the open countryside, and as shown on the layout, would be well overlooked by some of the proposed units.

On this basis, it is considered that an appropriate design has been submitted, which will sit comfortably alongside the mix of existing development within the area. The proposal is therefore considered to be in compliance with Policy GR2 of the adopted local plan.

Tree Matters

The application is supported by an Arboricultural Impact Assessment dated July 2013 by Ascerta Consulting Ltd. The report indicates that the assessment has been carried out in accordance with the recommendations of British Standard BS5837:2012 Trees in relation to design, demolition and construction. The report has been carried out to assess the environmental and amenity values of all trees on or adjacent to the development area and the arboricultural implications of retaining trees with a satisfactory juxtaposition to the new development.

BS5837:2012 Trees in relation to design, demolition and Construction – Recommendations no longer refers to Arboricultural Implications Assessments, but to Arboricultural Impact Assessments (sub section 5.4 of the Standard). The assessment should evaluate the effects of the proposed design, including potentially damaging activities such as proposed excavations and changes in levels, positions of structures and roads etc in relation to retained trees. In this regard BS5837:2012 places greater robustness and level of confidence necessary to ensure the technical feasibility of the development in respect of the successful retention of trees.

The British Standard identifies at para 5.2 *Constraints posed by Trees* that all relevant constraints including Root Protection Areas (RPAs) should be plotted around all trees for retention and shown on the relevant drawings, including proposed site layout plans. Above ground constraints should also be taken into account as part of the layout design. The

submitted detail satisfies the criteria outlined within BS5837:2012 enabling a determination of any possible direct or indirect impact on retained trees to be assessed.

The development proposals require the removal of a limited number of sections of hedgerows, but no trees require removal to facilitate the proposed layout

Located immediately to the south of the proposed new access off Waggs Road stand a pair of mature Oak trees identified as T1 and T2 within the record of inspection. T1 has been identified as a moderate (B1) value specimen, with T2 downgraded to a low value C2. The Council does not concur with these categorisations with both trees visible from a number of public vantage points increasing their value to category A high value specimens.

The new access including the graded banking has been positioned to respect the Root Protection Area (RPA) of T1, allowing the access road to be constructed to an adoptable standard. The proposed driveway which serves Plots 1 and 2 extends through the RPA's of both T1 and T2. Highways have advised that as the driveway would be private, as the Council do not normally adopt such cul-de-sacs serving 5 or less properties, and providing the Council are satisfied that that the junction with the spine road is safe, and the construction of the access is not likely to be such that any inherent weakness would migrate to affect the highway, it would not be concerned over the form of construction. It is accepted that ground levels and conditions are considered suitable to a "no dig" construction technique allowing implementation as presented whilst retaining both trees. This type of construction will require additional details in the form of a suitable Construction Method Statement, but can be address by conditions. This approach is supported by 7.4 of the Arboricultural Impact Assessment.

The proposed development in terms of build footprints respects the root protection areas (RPAs) associated with both T1 and T2. A limited amount of selective pruning is anticipated but this will not detract from their natural shape and form or contribution to the immediate area or the wider landscape. It appears T1 may be located within a proposed area of POS with T2 forming part of a private garden. Whilst it is not anticipated that there will be any significant issues post development in terms of light and nuisance, formal protection under a TPO would appear to be a prudent course of action given the prominence of the trees within the landscape. This is currently being progressed.

The southern boundary of the site supports a number of individual and groups of trees located both on site and on adjacent land. No direct impact in terms of construction is anticipated with a reasonable offset achieved in terms of RPA's utilisable garden space and rear elevations.

The retained tree aspect associated with this site can be protected in accordance with current best practice BS5837:2012. The details provided as part of Tree Protection Drawing P.333.13.02 satisfies this requirement.

In order to gain access to the site and facilitate the designed road layout a number of short sections of hedgerow require removal from H1 H3 and H6. No details have been provided in terms of informing if they are considered to be important in respect of the 1997 Hedgerow Regulation. Where those hedges which form the boundary with both an existing

dwelling house and a constructed property should the development proceed regulations do not or would not apply.

All arboricultural works should be carried out in accordance with Ascerta Consulting Ltd Arboricultural Impact Assessment and supporting documents dated July 2013 received on the 5th September 2013

No Development shall take place until details of an Engineer designed no dig hard surface construction for the driveway incursion within the RPA's of both T1 and T2 has been submitted to the Local Planning Authority (position of RPA as shown on the submitted Tree Protection Plan) . These details shall also include the proposed details of the materials for the final wearing surface.

Landscape

The site lies in an area designated as Open Countryside but it's not within an Area of Special County Value. The land is currently in agricultural use. There are native hedgerows on the northern boundary with the existing housing development, a bank top hedgerow on the western boundary with Fol Hollow and a hedge and trees on part of the southern boundary in the vicinity of New Bank Farm. The remainder of the southern boundary and the eastern boundary are largely open giving views towards the hills. The site is divided by a continuous central hedge running north-south and there are two mature field oak trees near to the proposed site entrance.

The application includes detailed soft landscape proposals but if the development is approved, appropriate landscape and boundary conditions should be imposed so that the landscape issues can be addressed.

The proposed layout retains all boundary hedges and trees, the two mature field oaks and most of the central hedge which bisects the site. However, in some areas the space between the central hedge and proposed houses and hardstandings is quite narrow (i.e. plots 56/57, 31/32/33, 40 and 39). This hedge should be properly protected during construction to ensure its long-term retention.

Whilst it is acknowledged that the development would result in the loss of an area of open countryside, which by its very nature is an attractive feature in the area, it is considered that the overall impact on the landscape character of the area would not be so significant as to warrant refusal of the application. This is due to the retention of the majority of the existing hedgerows and because it would also be seen in the context of the existing built environment that it would be adjacent to. It is therefore considered that subject to conditions relating to landscaping, tree protection, boundary treatments and surfacing materials.

The soft landscape proposals are generally acceptable but would need some amendments to ensure that the proposed shrubs would not obscure sight lines and some tree species are too large close in proximity to the dwellings and should be amended. Also, the ecologist has recommended some fruit trees and native shrub roses in the vicinity of the Badger sett.

Hard landscape details would need to be controlled by condition.

The Borough's Nature Conservation Officer has confirmed that the Badger-proof fencing would not be required across the end of the access road adjacent to the POS. It could therefore remain open to allow access for residents and for maintenance purposes.

A post and rail fence, as proposed, would be appropriate on the southern site boundary in the vicinity of the open space/LAP to retain open views of the hills. However, it is recommended that native hedgerows should be planted along the southern garden boundaries to form an appropriate permanent edge to the development.

The Council will not adopt the Public Open Space Areas. A landscape and habitat management plan should therefore be submitted for approval prior to commencement of development. The plan should include details for the establishment of a management company to maintain in perpetuity the open space areas and any other areas not within private gardens.

Provision of Open Space

Open space is to be provided within the site in the form of an informal area in the north western corner of the site, which is to retain the existing trees and vegetation, which are valuable habitat and a Local Area of Play centrally within the site adjacent to the southern boundary.

Streetscape have recommended that the play area should be equipped with at least 5 items of equipment, using companies approved by the Council and that the equipment and layout be approved by the Council.

All areas of public open space should be transferred to a management company and should the application be approved, this should be secured by way of a Section 106 Agreement.

Impact on Residential Amenity

According to Policy GR6, planning permission for any development adjoining or near to residential property or sensitive uses will only be permitted where the proposal would not have an unduly detrimental effect on their amenity due to loss of privacy, loss of sunlight and daylight, visual intrusion, and noise. Supplementary Planning Guidance Note 2 advises on the minimum separation distances between dwellings. The distance between main principal elevations (those containing main windows) should be 21.3 metres with this reducing to 13.8 metres between flanking and principal elevations.

The development would maintain adequate separation distances between the existing and proposed dwellings. In addition there would be adequate private amenity space for future residents.

Environmental Protection have recommended conditions relating to the hours of construction and piling and contaminated land in order to protect residential amenity. These conditions are considered to be reasonable and should be imposed if the

application is approved. Subject to these conditions, the proposal accords with Local Plan Policy GR6.

Highway Safety and Traffic Generation

Policy GR9 states that proposals for development requiring access, servicing or parking facilities will only be permitted where a number of criteria are satisfied. These include adequate and safe provision for suitable access and egress by vehicles, pedestrians and other road users to a public highway.

Policy GR18 requires that proposals will only be permitted where the scale of traffic generated by the development is not likely to worsen existing traffic problems to an unacceptable level or includes measures, a developer contribution towards measures, to overcome any deficiencies in the transport network as a result of the development.

Having regard to this proposed development, the Strategic Highways Manager has raised significant concerns about the impact that the development would have on Waggs Road and Fol Hollow. These roads are below standard, with Fol Hollow being single track in places, with very poor alignment and sharp bends where forward visibility is limited and no footpath in places. Waggs Road is also narrow and has pinch points.

Given the sub-standard nature of both Fol Hollow and Waggs Road in terms of vehicular and pedestrian use, it is considered that the impact of significant percentage increase in traffic flows would be severe. It is therefore considered that the adverse impact on highway safety would **significantly** and **demonstrably** outweigh the benefits of the scheme, namely housing land supply.

Impact on Protected Species

The application is accompanied ecological reports.

Great Crested Newts

The ponds located in close proximity to the proposed development are not reasonable likely to support this protected species, therefore no further action in respect of this species is required.

Common Toad

Common toad a UK Biodiversity Action Plan priority species has been recorded at Astbury Mere. It is however considered that the proposed development is unlikely to have a significant impact on the local conservation status of this species.

Bats

A tree on site has been identified as having bat roosting potential. The submitted illustrative layout shows this the tree as being retained. If planning consent is granted it is recommended that the retention of this tree be secured by means of a condition.

Badgers

A badger site has been recorded immediately adjacent to the proposed development. The submitted badger survey recommends the provision of a 30m undeveloped buffer around

the sett. This recommendation has been incorporated into the indicative layout which shown open space provision in the vicinity of the sett. The proposed development will result in the loss of some foraging habitat utilised by badgers. This is however no likely to be critical to the local badger population.

Breeding Birds

A number of Biodiversity Action Plan priority bird species have been recorded within 1km of the application site. The submitted ecological assessment states that these species are likely to occur on the application site and utilise the hedgers and scattered trees present. Much of the hedgerows and trees on site are retained as part of the submitted illustrative layout details which would at least partially mitigate the impacts of the development upon breeding birds.

If planning consent is granted standard conditions would be required to safeguard breeding birds.

Brown Hare, Hedgehog, Pole Cat

The above Biodiversity Action Plan priority species have been recorded within 1km of the application site and so it is reasonable that they would utilise the site on at least a transitory basis. The proposed development would result in the loss of habitat for these species however the impacts are unlikely to significantly affect the status of the local populations.

Flooding and Drainage

A Flood Risk Assessment has been carried out to determine the impact of the proposed development on flooding. In accordance with the National Planning Policy Framework and local policy, the FRA has considered the impact on the surface water regime in the area should development occur.

United Utilities have considered the report and raised no objections subject to the imposition of appropriate planning conditions.

The Environment Agency has no objection to the proposal, but has stated that the discharge of surface water should, wherever practicable, be by Sustainable Drainage Systems (Suds). Suds, in the form of grassy swales, detention ponds, soakaways, permeable paving etc can help to reduce the discharge rate. They have therefore recommended that conditions be imposed to secure this.

The Flood Risk Manager for Cheshire East Highways has also assessed the information submitted with the application. He draws attention to existing off-site flooding problems and the implication that this development would have.

It is therefore considered that conditions should be imposed relating to surface water run-off and any details submitted should be agreed with the Environment Agency and the Flood Risk Manager.

Provision of Affordable Housing

The proposed development will provide 31 affordable units (20 for affordable rent and 11 for shared ownership) within the proposed 104 dwellings. This provision accords with the Interim Affordable Housing Statement requirements that developments of this scale should provide a minimum of 30% affordable housing within the scheme and of which 65% should be social rented and 35% should be intermediate tenure. The affordable dwellings would all be 3 bedroom units.

The affordable housing is to be mixed in to the site in a satisfactory manner. Plots 46, 47, 57, 58, 66, 67 and 81-85 inclusive would be shared ownership. Plots 40-45 inclusive, 57-65 inclusive and 98-104 inclusive would be affordable rent. It is considered that this would ensure good integration within the development.

Education

The Council's Education Department have confirmed that demand can be catered for by the existing local primary and secondary schools. As such, no mitigation or financial contributions are required.

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.

As explained within the main report, securing a management company for the public open space within the site would help to make the development sustainable. It is directly related to the development and is fair and reasonable.

Having regard to the request for contributions towards Public Rights of Way, No justification or quantifiable figures have been put forward and therefore this would not comply with the CIL Regulations 2010.

11. CONCLUSION

It is acknowledged that the Council does not currently have a five-year housing land supply and that, accordingly, in the light of the advice contained in the National Planning Policy Framework, it should consider favourably suitable planning applications for housing.

In terms of sustainability, this proposal would satisfy the economic and social roles by providing for much needed housing adjoining to an existing settlement where there is existing infrastructure and amenities. With respect to fulfilling the environmental role, this proposal will safeguard the natural and built environment.

The boost to housing supply is considered to be an important benefit – and this application achieves this in the context of a deliverable, sustainable housing land release. The design and layout are considered to be acceptable in this context.

The proposal will not have a significant impact on the landscape character of the area and will represent a rounding off of the settlement without resulting in an intrusion into the open countryside.

Whilst the proposal will result in the loss of some grade 3 agricultural land, it is considered that the benefits of the delivering the site for much needed housing would outweigh this loss, given that the site does not offer a significant quality of land. Recent appeals have also supported this interpretation.

Subject to the required Section 106 package, the proposed development would provide adequate public open space and the necessary affordable housing requirements.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon flood risk, ecology and archaeology.

Having regard highways issues, the adverse impact on highway safety as indicated above would **significantly** and **demonstrably** outweigh the benefits of the scheme, namely housing land supply. The application must therefore fail on those grounds.

RECOMMENDATION

Refuse for the following reason:

- 1. The development would have a severe adverse impact on Waggs Road and Fol Hollow, due to the sub-standard nature of these two highway routes. This severe adverse impact would significantly and demonstrably outweigh the benefits of the scheme namely housing land supply. The development is therefore contrary to Policies GR1(V) and GR18 of the adopted Congleton Borough Local Plan First Review 2005 and the requirements of the NPPF.**

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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