

Application No: 13/2631C

Location: LAND OFF, NEW PLATT LANE, ALLOSTOCK, CHESHIRE

Proposal: Full Planning Application For A Residential Development Comprising Demolition Of Existing Poultry Houses And Erection Of 38 Dwellings With Associated Access And Landscaping. (Access Road Only Within Cheshire East. Main Part Of Development In Cheshire West And Chester)

Applicant: Mr Peter Kilshaw, Bloor Homes Ltd

Expiry Date: 02-Sep-2013

#### **SUMMARY RECOMMENDATION**

- **REFUSE**

#### **MAIN ISSUES**

- **Principle of Development.**
- **Highway Safety**
- **Design**
- **Trees and Landscape**
- **Amenity**
- **Ecology**
- **Education**
- **Open Space**
- **Drainage and Flooding**

#### **REFERRAL**

The application has been referred to Southern Planning Committee because it is a departure from the Development Plan.

#### **1. SITE DESCRIPTION**

The site is situated approximately 3km north of Holmes Chapel Centre and predominantly lies within the Shakerley ward of Cheshire West and Chester (CWAC). The application site straddles the CWAC Boundary and as such, a small portion of the land in question lies within Cheshire East Council's (CEC) administrative boundary.

The aspect of the site which is situated in Cheshire East lies in the parish of Goostrey, whilst the body of the site, in CWAC lies in Allostock parish.

The site lies to the north of New Platt Lane and it is proposed that the access to the site will be taken directly from this highway. The site is irregular in shape and extends to cover a total area of 2.7ha.

The site comprises a series of vacant buildings and hardstandings, which include former poultry houses. The application site also includes a number of trees (some of which are protected) hedgerows and grassland.

Residential development surrounds the site fronting on to Harrison Drive to the west and north, Lea Avenue to the east and Birch Fold and New Platt Lane to the south. To the west, beyond Harrison Drive, a number farms with associated agricultural land can be found, including; new Platt Farm, Brick Bank Lane, and Rudheath Woods. Similarly, agricultural land and woodland areas are situated to the north of the site.

To the east, the residential properties which lie adjacent to the site extend to Sandy Lane whilst to the south beyond new Platt Lane, substantial agricultural land and woodland block lie including Racecourse Wood, and a small number individual farm houses also present.

## **1. DETAILS OF PROPOSAL**

As originally submitted, full Planning Permission was sought for a residential development comprising 38 dwellings with associated access and landscaping. The scheme includes 26 open market houses comprising 13no. 5 bedroom detached houses, 13no. 4 bedroom detached houses, and 12 affordable houses made up of 3 no. 3 bed units, 8 no. 2 bed units and 1 no. 1 bed unit.

Amended plans have now been received reducing the numbers on site to 37.

## **2. RELEVANT PLANNING HISTORY**

There are no relevant previous planning applications relating to this site.

## **4. PLANNING POLICIES**

### **Policies in the Local Plan**

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  
H6 Residential Development in the Open countryside

### **National Policy**

National Planning Policy Framework

### **Other Material Policy Considerations**

Article 12 (1) of the EC Habitats Directive  
The Conservation of Habitats and Species Regulations 2010.

## **4. OBSERVATIONS OF CONSULTEES**

### **Cheshire Fire and Rescue**

- Access and facilities for the fire service should be in accordance with the guidance given in Document B of the Building Regulations 2000
- The applicant is advised to submit details of the water main installations in order that the fire hydrant requirements can be assessed.
- Arson is an increasingly significant factor in fires and construction sites are a major target. Would advise at this stage consideration is given to development of a fire risk assessment
- Would advise consideration be given to the design of the refuse storage areas to ensure it is safe and secure. If this cannot be achieved means for securing wheelie bins against the building should be provided.
- If planning approval is granted, the applicant should be advised that means of escape should be provided in accordance with current Building Regulations.
- Recommend fitting domestic sprinklers to reduce the impact of fire on people, property and environment and to avoid impact on business continuity.

### **Jodrell Bank**

- Request a condition requiring electromagnetic screening measures to be incorporated in the design of the buildings which would help to reduce interference from such items as computers, microwave ovens and general electrical products.

### **Highways**

#### Standard of the access road

- As shown on the submitted Site Plan, this is to be of 5.5m carriageway with, on each side, a mix of 1.8 metre footway and margin strip. The road will have an S-alignment, which will

result in pedestrians likely to walk on verges. As a result I require continuous footways on both sides and these should be of 2 metre width. The road centreline radius is down to 16 metres, which is acceptable in being adequate for traffic whilst moderating speeds.

- Owing to land ownership constraints, a chicane is proposed on the access road more or less where it passes from Cheshire East into Cheshire West & Chester. I have no objection in principle to such a chicane, given the low vehicular flow. I compute that the situation where a driver has to yield to an oncoming vehicle will only arise about once a day. However, I need to be assured that adequate visibility and road widths can actually be achieved, as the road has to fit between trees and ownership boundaries. I have not received sufficiently-accurate land boundary plans to confirm that the proposed layout can be accommodated within the narrow neck of land occupied by the chicane and so am not assured that it can be constructed with provision of adequate intervisibility for drivers and pedestrians. Without the assurance of more detailed surveys I must recommend refusal on the basis of inadequate information.

#### Junction with New Platt Lane

- The speed limit on New Platt Lane is 30mph, though speed surveys in the vicinity of the proposed access indicate this is exceeded. A speed survey in September this year indicated that average speeds were of the order of 34mph westbound and 31mph eastbound, with of course many drivers travelling faster. However, the visibility splays available are of a high standard and so I consider the proposed access to be acceptable and likely to operate without undue safety concerns. There is no accident history in the vicinity.

#### Traffic Impact on the CEC road network

- For the 37 houses now proposed, the applicants predict peak-hour movements as follows:
  - AM 7 arrivals, 14 departures
  - PM 14 arrivals, 9 departures
- I consider these to be optimistic, given the dependency of the site on car transport; even so, peak-hour movements will only be of the order of 25-30. Of these, about half can be expected to be to or through Goostrey village with the remainder westward to and from the A50. Thus the impact of traffic will not be substantial and not in itself a reason for objection.

#### Sustainability of the site

- Goostrey has only limited local facilities. There is a general shop (approx an 8 minute walk), Post Office/local shops (20 minutes), within reasonable walking distance, but the primary school, church, public houses and railway station are about 25 - 30 minutes walk. Thus for employment, shopping and secondary education, as well as most leisure opportunities, a car trip to one of the neighbouring towns is necessary.
- Goostrey is served by bus service 319, which operates from Sandbach via Holmes Chapel five times a day. All these journeys are in the daytime inter-peak period, so of no use to commuters or for evening trips. Also the nearest bus stop is a five-minute walk. Thus whilst any additional passengers from the site would be welcome support

for the local bus service, only a very small proportion of total trips from the site can be expected to be made by bus.

- Because of its rural location, the site is relatively well-placed for cycling journeys as many of the neighbouring towns can be neared, if not quite reached, by relatively quiet back roads. However, cycling is still likely to be a minority mode of transport. It has considerable potential for short trips within Goostrey, for example to the railway station, as a substitute for car.

## Conclusions

- As stated above, I have insufficient information to satisfy myself as to the practicality of the chicane which leads me to recommend refusal on the basis of insufficient information. I also consider that the site does not meet the criteria required of a sustainable site, and residents will be over-dependent on car transport.
- Should the Council be minded to approve this application, I recommend the following conditions be applied to mitigate its failings:
  - *No development shall commence until full plans, cross-sections and constructional details of the access road have been submitted to and approved in writing by the Local Planning Authority. No development shall be carried out otherwise than in accordance with the approved details unless the Local Planning Authority has first agreed to any variation in writing.*
  - *A contribution of £40,000 shall be made through a S106 Obligation toward the improvement of bus shelters, the provision of cycle stands and pedestrian and cycle facilities within Goostrey, to encourage the use of sustainable modes of transport and decrease car-dependence.*

## **Greenspace**

### 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 provision to meet the future needs arising from the development
- Based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the amount of new Amenity Greenspace required would be 1290m<sup>2</sup>

### 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 surplus in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

- The new development will increase the usage and pressure on nearby facilities at Boothbed Lane Play area. Therefore off site financial contributions are sought in accordance with the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development to increase the capacity of the existing play area at Boothbed Lane.
- Financial contributions sought from the developer would be;

Enhanced Provision:	£11,812.53
Maintenance:	£38,506.50

- Goostrey Parish Council should also be consulted as they would want an input due to the history of the open space and any future requests they may have in relation to the development of the open space.

### **Environment Agency**

- No comments received at the time of report preparation.

### **United Utilities**

- No comments received at the time of report preparation.

### **Education**

- There is sufficient space in the local primary school and secondary school to accommodate the pupils which will be generated from this development.

## **5. VIEWS OF THE PARISH / TOWN COUNCIL**

**26<sup>th</sup> July 2013**

- Goostrey Parish Council (GPC) objects strongly to the above planning Application by Bloor Homes.
- The site, straddles Allostock in Cheshire West and Chester (CWAC) and Goostrey in Cheshire East (CEC). All of the proposed housing is within CWAC, but the highway access is within CEC. GPC expects CEC to make the decision in respect of the planning application for the highway access on to New Platt Lane. GPC acknowledges that the proposed houses are in Allostock and it is for CWAC to make the decision in respect of the planning application for the housing. However, we understand that all parties involved (Bloor, GPC, APC, CWAC and CEC) acknowledge that it will be mainly existing community services in Goostrey which will be impacted if the development goes ahead and this is the reason for GPC requiring its objections to be heeded.
- GPC are concerned that Bloor Homes are promoting the site as "Goostrey" as indicated in the Design and Access statement and in the Community Involvement Statement. The bulk of the site is actually in Allostock, with the access to the site in

Goostrey. GPC assume that the purpose of labelling the development as "Goostrey" is to take advantage of the generally better premium for properties in Goostrey. GPC consider this labelling to be a serious misrepresentation.

- In the Supporting Planning Statement, Section 3.2, it states that "The proposals will have a positive impact on "Goostrey" and the wider area." Yet again Bloor believe they are selling homes in Goostrey, which they are not, but Goostrey will have to shoulder the bulk of any social impact. GPC are concerned to ensure that Goostrey obtains appropriate financial gain for community use to alleviate the increased demands on its primary school, roads, community services etc.
- GPC's greatest concern is the site access road that is planned for New Platt Lane. New Platt Lane is a busy road. The junction of A50 and New Platt Lane is notorious for road traffic accidents, three have occurred already since January 2013. New Platt Lane as it enters into Goostrey is a site for a Parish Council owned Speed Indication Unit and although there are 30mph signs before you access the village cars are regularly recorded travelling in excess of the speed limit and up to 55mph. The SIU is located very close to the proposed junction of New Platt Lane and the site access road.
- GPC believe that lack of available land may have influenced the introduction of a pinch point in the access road rather than the more usual use of rumble strips at these locations. GPC are very concerned that this pinch point is on a blind bend and too narrow at this point to allow the safe access for both one way traffic, cyclists, pedestrians and emergency vehicles.
- GPC do not understand the trip generation figures given in the Traffic impact statement. GPC consider the figures to be unbelievably low. There will be 38 homes probably with two cars each, and as they are family homes there will be commuters who will drive to work, drive to the railway station as it is over 1.5miles away and drive to school as Byley School is the nearest Cheshire West primary school, unless Cheshire West are going to provide a bus service? GPC believe that there will be at least 30 cars leaving the development every weekday morning between 7.30am and 9.30am and the same returning each day.
- The existing public bus service is weak and is insufficient to provide sustainable transport for commuters, even to Holmes Chapel.
- GPC object to the number of dwellings proposed in the development because of the additional demands the development will place on local services. Contrary to the statement in the Supporting Planning statement 3.11: two storey dwellings are NOT reflective of the neighbouring properties. The properties in Lea Avenue are bungalows and despite the existence of substantial poultry sheds on the site, they are lower than the neighbouring bungalows. GPC therefore object to the proposal to build large two storey houses adjacent to the existing bungalows in Lea Avenue, Goostrey. These two storey houses will dominate the existing row of bungalows and create a significant noise and light pollution impact on these existing properties. The density and positioning of the homes are detrimental to existing properties on both Harrison Drive, Allstock and Lea Avenue, Goostrey.
- GPC are concerned about the social impact of positioning the low cost housing in a dark corner of the development. We believe this to be unacceptable. In a conversation

with Bloor, the developer suggested that this grouping is a requirement of the providers of Low Cost Housing to simplify identification of properties for which they are responsible. We are sure that, as there are only a handful of homes, the staff of the housing provider would be easily able to locate them if they were “ Pepper Potted” throughout the development.

- GPC are concerned about the general drainage of the area as the site is known to have existing wet areas. GPC note that the site is to be drained on the separate system with foul drainage discharging to the existing public foul sewer network for which United Utilities is responsible. Surface water from both the dwellings and highway is to be discharged to soakaways. There is a Flood Studies Report included with the Application. Can there be confirmation from the relevant authorities that the drainage proposals for the site are satisfactory and will not adversely affect any existing public or private drainage systems?
- GPC are extremely concerned about the environmental impact on the area especially the conclusions which have been extrapolated from “snap shot “environmental surveys. GPC understand that the Forestry Commission has objected to the damage already done to woodland on the site.
- GPC believe that the level of community consultation and involvement prior to the application has been far lower than is desirable for a proposed development of this significance and probably less than that intimated in the Application. The submission by Bloor indicates that 600 leaflets were sent to residents. GPC find this very hard to believe as not one Parish Councillor received a leaflet through their door and we understand that residents on New Platt Lane did not receive any of the leaflets announcing the “Consultation Event”. GPC only found about the proposal because Bloor booked the Goostrey village hall to hold the event. When we contacted How Planning (their agent) to ask for a meeting to discuss their plans it was refused. Certainly not community involvement in our book!
- GPC ask that Cheshire East Council refuse this application in its entirety.

### ***20<sup>th</sup> September 2013***

- We note that the plans for this development have been updated, although there is now one less house on the development and a few minor changes we do not consider these changes alter our position. Therefore, notwithstanding the amendments, Goostrey Parish Council still objects in the strongest terms to the scheme and the access road.

## **6. OTHER REPRESENTATIONS**

402 copies of a standard letter addressed to Cheshire West and Chester Council, 42 individual letters/electronic representations of objection have been received from local households, raising the following objections, in precis:

### ***Principle of development***

- Whilst CW and C Council does not have 5 years supply, this does not justify approval in the planning balance. Other matters cause significant and demonstrable harm so as to outweigh the presumption in favour of housing in NPPF terms
- Out of scale
- Unsustainable development in economic , social or environmental terms
- The site is not identified for development in the Plan
- Harm caused by the development would significantly and demonstrably outweigh the benefit
- Loss of open countryside
- Contrary to the wishes of the local community/inadequate pre-application community involvement
- Impact upon the landscape
- There is no need for more housing
- The proposal is contrary to the Local Plan policies
- Jodrell Bank impact
- The proposed mix of dwellings will not widen choice in the area – driven by profit rather than need
- Design is off the peg, standard units- does not improve design quality of area as required by NPPF

### ***Highways/ Locational sustainability***

- Impact upon highway safety due to narrowness of access/contrived nature of the access
- Greater congestion on New Platt Lane and the A50
- Future residents would be dependent on the car
- Pedestrian safety
- The distances to the main cluster of village shops (1,947 m) and to the Primary School (2,287 m) are significantly greater than the Sustainability report submitted with the application
- Areas roads are not as cycle friendly as suggested and not an attractive cycling environment of the majority of people
- There are only five buses on six days of the week, the first leaving Goostrey at 09:30, the last arriving at 14:30, and with a gap at lunchtime. Thus, for instance, the service is not available for employment purposes and for “commuters”, as claimed by the Transport Statement
- General accuracy of the accessibility distances as submitted are questioned

### ***Green Issues***

- Despite significant tree removal already, more trees to be lost will be detrimental to quality of the area
- Increased flood risk / impact of drainage on Harrison Drive
- Increased flooding during extreme weather events
- Impact upon the landscape
- Impact on trees and hedgerows

- the plot is a nature habitat for badgers, bats, newts and voles. The survey contained in the proposal is inadequate and needs to be repeated with a longer observation period at more appropriate times according to the species being surveyed.
- Loss of hedge and other vegetation, loss of wildlife habitats

### ***Infrastructure***

- The infrastructure in the area unable to sustain such an increase in dwellings and their occupants demands upon services
- Increased pressure on local schools.
- Impact on medical facilities
- The sewage system/drainage system is overstretched and existing pipes can not cope/ Existing pumping station has overflowed in recent years
- Few facilities for youngsters

### ***Amenity Issues***

- Over- development of the site
- Over-bearing relationship with existing neighbours
- Noise and disruption from construction of the dwellings
- Increased noise caused by vehicular movements from the site
- Increased light pollution
- Overbearing effect on neighbouring properties
- Impact upon residents due to the disruption of services (gas, water, drainage, broadband etc) during installation

### ***Other Matters***

- Although the boundary of the main site is outside Cheshire East, the site is part of the 'Settlement' of Goostrey and therefore if this application does go ahead any Section 106 benefits should come to Goostrey village.
- Copies of all the representations can be viewed in full on the web site.

## **7. APPLICANT'S SUPPORTING INFORMATION:**

- Transport Statement
- EIA Screening Report
- Statement of Community Involvement
- Design and Access Statement
- Arboricultural Method Statement
- Design and Access Statement
- Habitat Survey
- Supporting Planning Statement
- Technical Information – Green Screens.

## **8. OFFICER APPRAISAL**

## **Main Issues**

The majority of the site lies within the CWAC area. However, the site access road and, it would appear, a narrow strip of land along the eastern boundary of the site are within Cheshire East. It will therefore be for CWAC to determine whether or not to grant planning permission for the proposed dwellings and it is within the jurisdiction of CEC to grant or refuse planning permission for the access road and the change of use of the strip of land in question to private garden area.

As a neighbouring authority and statutory consultee, however, it is also open to CEC to make representations to CWAC in respect of the main part of the site, for them to take into account when determining their application.

Therefore, the main issues in the determination of the application are the acceptability in principle of the proposed access road and change of use of land and their impact in terms of highway safety, design, amenity, ecology, drainage, trees and landscape.

In respect of the consultation response to CWAC, the key issues are the impact of the development on education, open space and highway infrastructure within Cheshire East.

## **Principle of Development**

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

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

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

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

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”.*

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

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

The NPPF states that, Local Planning Authorities should have a clear understanding of housing needs in their area. This should take account of various factors including housing need and demand, latest published household projections, evidence of the availability of suitable housing land, and the Government's overall ambitions for affordability.

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:*

- n 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*
- n specific policies in the Framework indicate development should be restricted.”*

The application for housing development has been submitted on the premise that CWAC cannot demonstrate a 5 year housing land supply. It will be a matter for that Council to determine whether or not this is the case and whether consequently, paragraph 49 and 14 of the NPPF and the presumption in favour of sustainable development are engaged. It will also be a matter for CWAC to determine whether, if this is the case, the proposal represents sustainable development and *any adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in*

*the Framework taken as a whole; or whether any specific policies in the Framework indicate development should be restricted.*

In the event that CWAC determine that the presumption in favour of unsustainable development should apply and that planning permission should be granted for the development in order to meet a shortfall in the 5 year housing land supply requirement, this would be an important material consideration in the determination of the application for this access road, which would provide justification for a departure from the Congleton Borough Local Plan in respect of open countryside policy.

However, if CWAC refuse planning permission for the housing development, it is considered that the proposed access road would be an unnecessary and unjustifiable extension of built development into the open countryside and should be refused on that basis.

Similarly, the change of use of land to garden area within open countryside is not normally permitted. However, if CWAC approve the application for the new dwellings, the strip of land in question would lie between the existing gardens in Lea Avenue and the gardens of the new dwellings. In these circumstances, no harm to the character and appearance of the open countryside would occur from the change of use of the land to open countryside. However, if planning permission for the residential development is refused by CWAC, the change use will be an unnecessary incursion.

Therefore, if Members are minded to grant planning permission for the proposed access, it is considered that this power should be delegated to the Planning and Place Shaping Manager, pending the outcome of the CWAC planning application.

### **Drainage and Flooding**

The applicant has submitted a flood risk assessment which indicates that the site is entirely located within areas defined as Flood Zone 1. This zone is considered to be at low risk for flooding and residential development is suitable in principle. The nearest watercourse to the site is an unnamed tributary of Bradshaw Brook. A field drainage ditch is located within the southern portion of the site whilst the nearest surface water pond is a former brick pit located 200m to the north west. The report concludes that the proposed residential development is entirely acceptable with regard to flood risk.

United Utilities and the Environment Agency have been consulted on the application, but no response had been received at the time of report preparation. A further update on this matter will be provided to Members prior to their meeting.

### **Amenity**

It is not considered that the proposed change of use of land to gardens would have any adverse impact on residential amenity.

The proposed access road has the potential to impact on the amenity of neighbouring properties, including no 2a New Platt Lane, the curtilage of which the proposed access road will run through. No.2 New Platt Lane, 50 Lea Avenue also have the potential to be affected

due to the proximity of the proposed access road to their rear and side boundaries. Potential impacts include vehicle noise, headlights and overlooking from users of the road.

However, the existing boundary treatment vegetation and tree cover which can be protected through the use of suitable conditions will help to mitigate any impact. The landscaping and boundary treatment can be enhanced through the use of conditions. Furthermore, it is common within suburban residential areas for residential access roads, to run close to side and rear boundaries of other properties. Therefore subject to these conditions, it is not considered that a reason for refusal on amenity grounds could be sustained in an Appeal situation.

### **Design and Visual Impact**

The proposed access road is largely screened from the surrounding area, including the open countryside, by existing properties, tree cover and vegetation, which, as detailed above, could be protected and enhanced through conditions. Therefore, it is not considered that a “stand-alone” reason for refusal on design and visual impact grounds could be sustained.

However, the road would be visible from New Platt Lane and would result in the loss of trees and other vegetation which currently occupies the site - this is discussed in more detail below. Consequently, it would result in a change in the character of the site and a creeping suburbanisation along New Platt Lane extending the built form into the open countryside. As has been stated already, unless there are over-riding material considerations, such as the need for CWAC to demonstrate a 5 year housing land supply, this would be an unwarranted and unjustified incursion and contrary to Policy PS8 of the local plan and the provisions of the NPPF, which includes amongst its Core Principles, the protection of the intrinsic value of the countryside.

Likewise, in respect of the change of use to gardens, as stated above, if CWAC approve the application for the new dwellings, the strip of land in question would lie between the existing gardens in Lea Avenue and the gardens of the new dwellings and would be entirely invisible from the surrounding area. Consequently, there would be no visual impact but if planning permission were not granted, it would represent an undesirable urbanisation of a strip of open countryside.

### **Trees and Landscape**

The section of the application site which falls within Cheshire East forms part of the garden to 2a New Platt Lane. There are trees on the New Platt Lane frontage, trees on the west and eastern boundaries and trees on adjoining land.

The submission is supported by a tree survey, an Arboricultural Impact Assessment and an Arboricultural Method Statement.

A section of a proposed access to the site leading off new Platt Lane would run through the garden to 2a New Platt Lane, in close proximity to a number of trees. Whilst trees on the New Platt Lane frontage are shown for retention, the development would result in the loss of one Leyland Cypress on the western boundary of this property, and it appears the road may be within the root protection area of a number of off-site trees to the west which have

recently been afforded TPO protection by Cheshire West and Chester Council. The trees in question are over mature mature Birch with an understorey of Rhododendron. They are afforded low Grade C in the tree survey.

The pinch point between the trees and the road occupies a relatively short distance, and the number of trees affected would be small. There would be opportunities for planting in mitigation and on this basis any impact on public visual amenity would be limited. Therefore, it is not considered that a refusal on tree grounds could be sustained.

It is not considered that the change of use to garden land would have any tree or landscape implications.

## **Ecology**

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate *"in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment"* among other reasons.

The Directive is then implemented in England and Wales : The Conservation of Habitats and Species Regulations 2010. ("The Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

The Regulations provide that the Local Planning Authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

It should be noted that, since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must have regard to the requirements for derogation referred to in Article 16 and the fact that Natural England will have a role in ensuring that the requirements for derogation set out in the Directive are met.

If it appears to the planning authority that circumstances exist which make it very likely that the requirements for derogation will not be met, then the planning authority will need to consider whether, taking the development plan and all other material considerations into account, planning permission should be refused. Conversely, if it seems from the information that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements will be met or not, a balanced view taking into account the particular circumstances of the application should be taken and the guidance in the NPPF. In line with guidance in the NPPF, appropriate mitigation and enhancement should be secured if planning permission is granted.

In this case the Council's Ecologist has examined the application and commented that he does not anticipate there being any significant ecological issues associated with the proposed development.

## **Highways**

There are three key issues in the consideration of the highway implications of this scheme. The first is any potential off-site impacts of the development in terms of congestion at junctions within Cheshire East, which may require some degree of mitigation to be secured. The second is the sustainability of the site and the extent to which it will be dependent upon car-borne travel and the third is acceptability of the proposed access in terms of highway safety and design standards.

With regard to the first issue, in the absence of any objection from the Strategic Highways Manager in respect of the impact on off-site junctions, it is not considered that a refusal on the grounds impacts on the Cheshire East network within the vicinity, or Section 106 contributions towards off-site highways works could be justified.

Turning to the issue of sustainability, the Strategic Highways Manager has pointed out that Goostrey has only limited local facilities. There is a general shop (approx an 8 minute walk), Post Office/local shops (20 minutes), within reasonable walking distance, but the primary school, church, public houses and railway station are about 25 - 30 minutes walk. Thus for employment, shopping and secondary education, as well as most leisure opportunities, a car trip to one of the neighbouring towns is necessary.

Goostrey is served by bus service 319, which operates from Sandbach via Holmes Chapel five times a day. All these journeys are in the daytime inter-peak period, so of no use to commuters or for evening trips. Also the nearest bus stop is a five-minute walk. Thus whilst any additional passengers from the site would be welcome support for the local bus service, only a very small proportion of total trips from the site can be expected to be made by bus.

Because of its rural location, the site is relatively well-placed for cycling journeys as many of the neighbouring towns can be neared, if not quite reached, by relatively quiet back roads. However, cycling is still likely to be a minority mode of transport. It has considerable potential for short trips within Goostrey, for example to the railway station, as a substitute for car.

To encourage these more sustainable modes of transport to be utilised, the Strategic Highways Manager has recommended that a contribution of £40,000 should be made through a S106 Obligation toward the improvement of bus shelters, the provision of cycle stands and pedestrian and cycle facilities within Goostrey.

As it is the housing development rather than the access road itself which will create the demand for travel, these contributions cannot be secured via a Section 106 Agreement relating to this application submitted to Cheshire East. They would need to be secured through a Section 106 Agreement attached to any approval granted by CWAC for the houses themselves. It is therefore recommended that the consultation response to CWAC requests that this sum is secured to off-set the impact on Cheshire East Greenspaces

With regard to the access itself, the Strategic Highways Manager has examined the proposals and has raised no objection in principle to the proposed access road but has requested additional information and clarification over a number of detailed design issues. This has been passed on to the developer.

Although further plan of the access road has been supplied, it does not address any of the Strategic Highways Manager's previous concerns on the buildability of the access road through the chicane. The roadway and service strip abut the red-line boundary, which means that there is no leeway should these be shown inaccurately or through the middle of trees. The Strategic Highways Manager has asked for clarity on this from the applicants but none has been provided.

As any services will have to pass through this bottleneck, the situation could arise where it would not be possible for services to be maintained safely whilst maintaining vehicle and pedestrian access. Until the applicants can confirm, through a detailed survey of the immediate area, that an adequate service strip can be provided and maintenance carried out without compromising site access the Strategic Highways Manager recommends refusal.

## **Education**

Although the proposed dwellings are located within CWAC, the nearest school to the site is a Cheshire East school in Goostrey. Consequently, there is the potential for the development to place additional burden on Cheshire East education infrastructure. The Cheshire East Education Officer has been consulted but has commented that the local schools have sufficient capacity to absorb any children arising from this development and therefore no education contributions need to be requested as part of the consultation response to CWAC.

## **Open Space**

Similarly, CEC Greenspaces Officers have considered the proposal to determine the potential impact in terms of use of CEC open space.

They have concluded that 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 provision to meet the future needs arising from the development. Based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the amount of new Amenity Greenspace required would be 1290m<sup>2</sup>.

Due to the number of retained trees within the development, there is a large part of the site (considerably exceeding 1290m<sup>2</sup>) which will not be developed for housing, and will be retained as woodland. Subject to appropriate landscaping, access and provisions, which could be secured by condition this could provide adequate on-site Amenity Greenspace.

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, Greenspace Officers have determined, there would be a surplus in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

The new development will increase the usage and pressure on nearby facilities at. Therefore off site financial contributions are sought in accordance with the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development to increase the capacity of the existing play area at Boothbed Lane. Financial contributions sought from the developer would be;

Enhanced Provision:	£11,812.53
Maintenance:	£38,506.50

It is therefore recommended that the consultation response to CWAC requests that this sum is secured to off-set the impact on Cheshire East Greenspaces.

## **9. CONCLUSIONS**

The majority of the site lies within the CWAC area. However, the site access road and, it would appear, a narrow strip of land along the eastern boundary of the site are within Cheshire East. Therefore, the main issues in the determination of the application are the acceptability of the proposed access road and change of use of land.

The application does not present an opportunity to examine the acceptability of the housing development itself as this is a matter for CWAC. However, as a neighbouring authority and a statutory consultee, it is open to CEC to make representations to CWAC in respect of the main part of the site, for them to take into account when determining their application. In respect of the consultation response the key issues are the impact of the development on education, open space and highway infrastructure within Cheshire East.

The site lies in the Open Countryside as designated in the Congleton Borough Local Plan First Review, where policies H6 and PS8 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside.

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.

In the event that CWAC determine that the presumption in favour of unsustainable development should apply and that planning permission should be granted for the development in order to meet a shortfall in the 5 year housing land supply requirement, this would be an important material consideration in the determination of the application for this access road and change of use to garden land, which would provide justification for a departure from the Congleton Borough Local Plan in respect of open countryside policy.

However, if CWAC refuse planning permission for the housing development, it is considered that the proposed access road and change of use to gardens would be an unnecessary and unjustifiable extension of built development into the open countryside and should be refused on that basis.

Therefore, if Members are minded to grant planning permission for the principle of the proposed access, it is considered that this power should be delegated to the Planning & Place Shaping Manager, pending the outcome of the CWAC planning application.

Subject to confirmation from United Utilities and the Environment Agency that the submitted FRA is acceptable, the proposal is not considered to have any adverse impacts in terms of drainage/flooding and it therefore complies with the relevant local plan policy requirements for residential environments.

Any potential impacts on amenity could be adequately mitigated through the issue of appropriate tree protection, landscaping and boundary treatment conditions. The Council's Ecologist has determined that there will not be any significant ecological issues associated with the proposed development.

It is not considered that a refusal on the grounds of off-site impacts at junctions on the Cheshire East network within the vicinity, or Section 106 contributions towards off-site highways works could be justified. However, given the site's rural location, it is likely to be heavily car dependent. It is therefore recommended that the consultation response to CWAC includes a request for £40,000 for cycle and public transport improvements within the Goostrey area of Cheshire East be included within the consultation response to CWAC.

The Education Officer has confirmed that Cheshire East schools in the vicinity have sufficient capacity to absorb any children arising from this development and that no Section 106 contributions will be required in this respect.

However it is considered that the proposal would place additional burden upon CEC children's play space and it is therefore recommended that the consultation response to CWAC requests that a sum of £11,812.53 to increase the capacity of the existing play area at Boothbed Lane and £38,506.50 towards its future maintenance is secured to off-set the impact on Cheshire East Greenspaces.

A small number of trees would be affected by the development at the "pinchpoint" at the chicane on the proposed access road. However, this is a relatively short distance, the trees concerned are only "category C" trees and the number of trees affected would be small. There would also be opportunities for planting in mitigation and on this basis any impact on public visual amenity would be limited. Therefore, it is not considered that a refusal on tree grounds could be sustained.

Despite the submission of amended plans, the applicant has failed to address the Strategic Highways Manager's concerns regarding build-ability of the access road through the chicane. Furthermore, insufficient space would exist for adequate service strip provision, which could cause a situation to arise where it would not be possible for services to be

maintained safely whilst maintaining vehicle and pedestrian access. The proposal is therefore contrary to Policy GR3 of the adopted Congleton Borough Local Plan First Review

On the basis of the above, it is recommended that the application is refused on the basis of impact on highway safety. Furthermore, that authority is delegated to the Planning & Place Shaping Manager to make representations to CWAC regarding S106 contributions, in the event that they are minded to approve the application which has been submitted to them.

## **10. RECOMMENDATION**

**REFUSE for the following reasons:**

- 1. The proposal fails to take account of proximity to trees offsite in Cheshire West to the west of the access. The proposal is therefore considered to be contrary to Policy NR1 of the adopted Congleton Borough Local Plan First Review which states that proposals for development will not be permitted where it is apparent that there would be an adverse effect on existing healthy trees of amenity value and advice within the National Planning Policy Framework.**

**DELEGATE AUTHORITY to Planning & Place Shaping Manager to make representations to CWAC requesting that they secure the following:**

- S106 contributions to increase the capacity of the existing play area at Boothbed Lane within Cheshire East:**
  - Enhanced Provision: £11,812.53**
  - Maintenance: £38,506.50**
- S106 contribution of £40,000 toward the improvement of bus shelters, the provision of cycle stands and pedestrian and cycle facilities within Goostrey.**

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