

Application No: 13/4781C

Location: Land East of, Meadow Avenue, Congleton, Cheshire, CW12 4BX

Proposal: Outline application with access for erection of up to 14 no. dwellinghouses with ancillary facilities and associated infrastructure.

Applicant: Mr Robert Pedley

Expiry Date: 11-Feb-2014

### **SUMMARY RECOMMENDATION**

**APPROVE subject to completion of Section 106 Agreement and Conditions**

### **MAIN ISSUES**

**Planning Policy And Housing Land Supply  
Sustainability  
Affordable Housing,  
Highway Safety And Traffic Generation.  
Flood risk and drainage  
Layout and design  
Amenity  
Landscape Impact and Hedge and Tree Matters  
Ecology**

### **REFERRAL**

The application has been referred to Strategic Planning Board because it is a major development which is a departure from the Development Plan.

This is a re-submission of an application that was refused in July 2013 and is currently the subject of an appeal. The re-submission has been made because of the recent appeal decisions relating to housing land supply. This application was also refused on highway safety and ecological grounds.

### **SITE DESCRIPTION**

The application site is some 0.77 hectares of land to the east of Meadow Avenue and north of Waggs Road, Congleton. To the south and east is open countryside. Stony Lane, which is the

route of a public footpath, runs along the western boundary of the site. The site is generally level with hedgerows and trees on the boundaries.

The site is identified in the Strategic Housing Land Availability Assessment as suitable, achievable and developable. Its' availability is described as marginal/uncertain; however as the owners of the land have submitted this application, it would now appear to be available.

## **DETAILS OF PROPOSAL**

Outline planning permission is sought for the erection of up to 14 dwellings, with ancillary facilities and associated infrastructure. Access is to be taken from the eastern end of Meadow Avenue, with all other matters, including appearance, landscaping, layout and scale, reserved for a subsequent application.

## **RELEVANT PLANNING HISTORY**

12/3536C      2013 Refusal for 14 dwellings. The reasons for refusal were as set down below:

1. *"The development would create new residential development in the open countryside and is therefore not in compliance with Policy PS8 of the adopted Congleton Borough Local Plan First Review 2005."*
1. *"The development would have an adverse impact on Badger habitat contrary to the requirements of Policies NR3 and NR5 of the adopted Congleton Borough Local Plan First Review 2005."*
2. *"The development would have an adverse impact on highway safety contrary to the requirements of Policy GR9 of the adopted Congleton Borough Local Plan First Review 2005."*

## **PLANNING POLICIES**

National Planning Policy Framework

### **Local Plan Policy**

#### **Cheshire East**

Pre-Submission Core Strategy

#### **Congleton Borough Local Plan First Review 2005**

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

### **OBSERVATIONS OF CONSULTEES**

#### **Natural England**

No objection.

#### **Environment Agency**

No objection.

#### **Environmental Protection**

Recommend conditions relating to hours of construction, piling, floor floating and demolition and dust control.

#### **United Utilities**

No objection.

#### **County Archeologist**

No objection subject to condition that the site should be subject to a scheme of archaeological mitigation. This should consist of a programme of supervised metal detecting across the rest of the area to identify and record any artefacts present. If particular concentrations of material are located, more intensive work may be required at these specific localities. If only a general spread of artefacts is located, no further fieldwork is likely to be required. A report on the work will need to be produced and the mitigation may be secured by the condition given below:

## **Public Rights of Way**

The proposed development site is adjacent to the network of public rights of way in the countryside to the south of Congleton. This network, known as the Southern Fringes project area, is well used and a highly valued resource and offers a key rural leisure facility for residents of the town. Signage and interpretation panels are already provided and path furniture has been upgraded. That said, the path immediately to the south of the proposed development site, Congleton Public Footpath No. 7, is in need of remedial works due to scouring of the path by surface water.

In order to maximise the benefits of the site's location in terms of proximity to this leisure facility, and in order to accommodate the increased footfall and improve the accessibility of the path network to the prospective residents, as well as existing residents of the area, contributions towards improving this footpath would be sought. Discussions relating to application ref. 12/3536C concluded that the developer would accept a condition requiring the improvement works to be undertaken, to an agreed specification.

## **Greenspaces**

With reference to the plans for 14 dwellings consisting of seven 5 bedroom, three 4 bedroom, two 3 bedroom and two 2 bedroom houses the following Streetscape comments and observations are made.

### *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 deficit 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. There is no Public Open Space indicated on the site layout plan

Alternatively quality enhancements of the infrastructure at Astbury Mere Country Park would benefit the new development

Given that an opportunity has been identified for enhancing the quality of existing Amenity Greenspace to serve 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 financial contributions sought from the developer would be :

Enhanced Provision:	£3,011.31
Maintenance:	£6,740.25

### *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. The Council recognises that smaller developments will not always practically be able to provide open space and/or play provision on site where less than 20 dwellings are proposed and financial contributions would be sought towards enhancement of public open space/play provision within an 800m radius.

An opportunity has been identified for enhancing the quality of an existing facility at West Road Play where the existing facilities are substandard

Given that an opportunity has been identified for upgrading the /quality of Children and Young Persons Provision, based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

Enhanced Provision:	£ 5,219.00
Maintenance:	£ 17, 014.50

Streetscape would request that any enhancement contributions should not be 'time limited' so ensure maximum benefit to the new and existing community, thus enabling the 'pooling' of funds

Streetscape would respectfully ask to be notified of any observations you may have regarding these comments, and to be informed of any changes that are made to the initial proposals as soon as you are aware of them.

## Highways

The application is for 14 residential units on land that is accessed from the eastern end of Meadow Avenue. The access crosses Stony Lane which is a public right of way.

The main highway consideration is whether the development will have any traffic impact on the local highway network and whether the existing infrastructure is sufficient to accommodate the additional development.

Meadow Lane connects with Waggs Road and serves some 21 existing dwellings, there is a footpath one side of Meadow Lane and a verge on the opposite side. The carriageway width of Meadow Lane is 4.8m wide which is the standard width for small residential estate roads, the addition of a further 14 dwellings would not a raise a technical problem as it is generally accepted that a 4.8m road can serve up to 50 units.

The traffic generation that can be expected from the proposed development is low and even though the access roads including Waggs Lane and Fol Hollow are very narrow in places and certainly not suited to serve any new large developments, this level of development does not raise a material impact on traffic flows that are currently using these roads.

As the proposed access crosses a public right of way, the views of the public rights of way officer should be sought as to whether the additional vehicular traffic will cause a problem.

In summary, as the proposed development is only small in number the impact on the highway network is minimal and even though the main access roads to the site are not designed to accommodate high traffic flows, it would be extremely difficult to defend a traffic impact reason for refusal for 14 units.

No highway objections are raised.

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

Congleton Town Council object to this application and recommend that Cheshire East Council refuse the application on the following grounds:

- The development would create a new residential development in the Open Countryside and is therefore not in compliance with Policies PS8 and H6 of the adopted Congleton Borough Plan First review of 2005.
- The development would have an adverse impact on Badger habitat contrary to the requirements of policies NR3 AND NR5 of the adopted Congleton Borough Plan First review of 2005.
- The development would have adverse impact on highway safety contrary to the requirements of Congleton Borough Plan First review of 2005.
- Highway implications due to the weight restrictions on Waggs Road and Fol Hollow.
- The development is not in line with the Core Strategy Document as produced by Cheshire East Council which has been adopted and voted on unanimously by Congleton Town Council taking guidelines from Congleton Town Council Neighbourhood Plan which was also adopted unanimously.

#### **OTHER REPRESENTATIONS**

At the time of report writing approximately 69 representations have been received, full copies of which can be viewed on the application file. This expresses concerns about the following matters:

##### Principle

- Loss of green field site
- Loss of agricultural land
- The houses are not needed. There are plenty of properties for sale in Congleton
- The land is not allocated for housing
- Will lead to further development around the site and Astbury will be swallowed by Congleton
- Creation of urban sprawl towards the A34
- Proposal is premature coming before the adoption of the local plan
- Not in accordance with the Congleton Town Plan
- Will open the flood gates for future development
- Will undermine the spatial vision for the area

- Planning driven by greed
- The applicant has not undertaken an assessment of the sustainability of the site
- Does not meet affordable housing requirements

### Highways

- Congestion on Waggs Road and Fol Hollow
- Fol Hollow is not suitable for additional traffic
- Danger from traffic to children at the nearby school
- Danger from HGVs during development because of unsuitable roads
- There would be more car movements generated from the site than those stated in the application
- Inadequate transport statement
- Traffic survey does not reflect the local knowledge of the traffic issues in the locality
- Impact on footpaths
- Street scene photographs submitted with the application are stage managed and do not show the true traffic implications

### Infrastructure

- No plans for extra hospitals, schools, nurseries and police
- No provision of community facilities or open space
- The application offers no infrastructure benefits

### Loss of Open Countryside

- Damage to the landscape character of Priesty Fields
- Adverse visual impact on the area
- Threat to the unique natural heritage of enormous value to Congleton
- Loss of a rare example of access to the centre of a town through wooded countryside
- Green spaces are beneficial to the mental health of the nation

### Amenity

- Loss of privacy to the properties on Waggs Road
- Increase in noise levels
- Quality of life will be severely affected during construction

### Ecology

- Adverse impact on wildlife
- The development will crowd the wildlife corridor
- Adverse impact on many protected species that are known to be in the area
- A pond has been filled in the adjacent field and newts are appearing in neighbouring gardens

### Drainage and Flooding

- Inadequate drainage on Waggs Road
- Flood Risk
- Scale of the pumping station is unnecessary for a development of this size

### Design

- Development is out of character with the area
- Houses would not be in keeping with those in the locality

### Other Matters

- This is the same as the application that was previously refused
- The Council should have been better organised and had a functioning local plan
- Loss of a view across the land
- The land is not completely in the ownership of the developer
- The sewage system proposed would serve 300 dwellings meaning this is a 'Trojan Horse' for future development
- The 76 bus route has been cancelled

## **OFFICER APPRAISAL**

### **Main Issues**

Given that the application is submitted in outline form with only the access points being applied for, the main issues in the consideration of this application are the suitability of the site for residential development, having regard to matters of planning policy, housing land supply, the sustainability of the location, affordable housing, highway safety, traffic generation, landscape impact, hedge and tree matters, ecology, amenity, open space and drainage.

### **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.

In addressing this, members should be mindful of the key principles of the National Planning Policy Framework

This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

*“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world.”*

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

**an economic role** – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

**a social role** – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

**an environmental role** – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

### ***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 October 2013 the Cabinet Member agreed the Cheshire East Local Plan Pre-Submission Core 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, an annual average of 1350 homes per year. This figure represents not only the objectively assessed need for housing based on the latest household projections but also a policy "boost" to allow for an enhanced level of economic development once the downturn recedes.

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. This calculation took account of the High Court judgement in the Hunston Properties case (subsequently reinforced at the Court of Appeal). For whilst the RSS has clearly been revoked, it remains the only examined housing figure for the current period and itself represented a step change in housing growth when it was adopted (reversing the previous policy of restraint). Accordingly the three Appeal decisions published on 18 October 2013 all use the RSS base.

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’*

Since then the Council has published the Pre-Submission Core Strategy which is supported by fuller evidence and takes account of the 16,000 comments made during the two consultations in 2013. Accordingly its weight should correspondingly increase in decision making. Never the less, given the stance taken in the above appeals the emerging Local Plan can only be given moderate weight in the determination of this planning application.

### **Countryside Policies**

As well as assessing housing supply, the decisions at Sandbach Road North and Congleton Road Sandbach are also significant for clarifying the status and intent of settlement zone line and countryside policies.

Some have sought to argue that as settlement boundaries effectively contain the built area of a town or village – and so define the area in which development is usually concentrated – that accordingly they should be viewed as housing supply policies. This subsequently could mean that those policies, along with normal countryside policies, should be considered “out of date” if there is no five year supply of housing land. This view is derived from paragraph 49 of the framework which states that:

*“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”.*

There are appeal decisions that appear to support this perspective, although those in Cheshire East have generally taken a different approach.

The recent appeal decisions consider this matter in some detail. It was noted by the Inspector that the settlement zone lines serve a variety of purposes – and take account of land allocated for development up to a particular point (in this case 2011). However, the Inspector considered that settlement zone lines were not driven by the need to identify land for development, but rather are based on the objective of protecting countryside once development land is identified. Consequently, he concluded that the related policy (Policy PS4 of the Congleton Local Plan) was *“not sufficient directly related to housing land supply that it can be considered time expired for that purpose.”* Instead the Policy is *“primarily aimed at countryside & green belt protection”*. These objectives are largely in conformity with the NPPF and attract *“significant weight”*. In both appeals conflict with countryside policies were acknowledged.

This means that these policies remain important in the planning balance – but are not necessarily determinative. The two decisions pinpoint that much depends on the nature and character of the site and the individual circumstances pertaining to the application. At Congleton Road, the Inspector considered that the objective to boost significantly the supply of housing outweighed the “relatively moderate” landscape harm. In contrast, at Sandbach Road North the provision of housing was viewed as an “important and substantial” material consideration, but there would also be serious harm resulting from the impact on the character and appearance of the countryside. On this occasion that identified harm, combined with the significant weight attributed to countryside policies, outweighed the benefits in terms of housing supply.

In reaching this conclusion, the Inspector memorably noted that:

*“the lack of a 5 year supply of housing land does not provide an automatic ‘green light’ to planning permission”.*

Therefore, countryside policies in existing local plans can be considered as consistent with NPPF and are not housing land supply policies – and thus not of date, even if a 5 year supply is not in evidence. They accordingly need to be played into the planning balance when

decisions are made. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

### **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 for the supply of housing land 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 moderate 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.

### **Location of the Site**

The site is part of a larger site which is considered to be suitable, achievable and developable by the SHLAA. To aid the assessment as to whether this site comprises sustainable development, the applicant has submitted a services assessment to support the application. This assessment shows the distances that the development would be from local services and seeks to demonstrate its sustainability. These distances are shown below:

- Shop selling food and grocery      Several in town centre 800m
- Post box      Junction of Waggs Road/Meadow Avenue
- Playground/amenity area      Several within 500m including Astbury Mere, Banky Fields and Marlfields School fields
- Post Office      Congleton Post Office within 1,000m
- Bank or cash point      Several along Bridge Street 800m
- Pharmacy      Swan Bank 800m
- Primary School      Marlfields 400m
- Medical Centre      West Street 800m
- Leisure Facilities      Tennis club 600m and Astbury Mere 400m
- Local Meeting Place      Trinity Methodist Church Hall 600m
- Child Care Facility      Marlfields 400m

The SHLAA also shows that the site is within 300m of a bus stop and 2,700m of a railway station.

It is considered in the light of this assessment that the proposed development would be within a sustainable location.

Overall, it is concluded that the site is sustainably located and the presumption in favour of sustainable development in the light of Paragraph 49 of the NPPF should apply.

The application turns therefore on whether there are any **significant** and **demonstrable** adverse effects that indicate that the presumption in favour of the development should not apply. This is considered in more detail below.

### **Affordable Housing**

The site is located in Congleton, which comes under the Congleton sub-area, in the SHMA Update 2013 which has identified a requirement for 58 new affordable homes per year between 2013/14 – 2017/18 made up of a need for 27 x 1 beds, 10 x 3 beds, 46 x 4+ beds and 37 x 1 bed older person dwellings. (There is an oversupply of 2 bed accommodation).

In addition to this information taken from the SHMA Update 2013, Cheshire Homechoice is used as the choice based lettings method of allocating social rented accommodation across Cheshire East. There are currently 584 applicants on the housing register who have selected Congleton as their first choice. These applicants require 240 x 1 bed, 218 x 2 bed, 101 x 3 bed and 10 x 4 bed and 2 x 5 beds (13 applicants did not specify how many bedrooms they require).

The Interim Planning Statement: Affordable Housing states that affordable housing will be required on any Windfall Sites that are for 15 dwellings or more or are greater than 0.4ha in size in settlements with a population of 3,000 or more. It states that the affordable housing requirement will be 30%, in accordance with the recommendation of the Strategic Housing Market Assessment 2010. The SHMA 2010 recommends a tenure split for affordable housing of 65% social rent and 35% intermediate.

The Affordable Housing IPS also requires that the affordable units should be tenure blind and pepper potted within the development. The external design, comprising elevation, detail and materials, should be compatible with the open market homes on the development thus achieving full visual integration. It also that the affordable housing should be provided no later than occupation of 50% of the open market dwellings.

Affordable homes should be constructed in accordance with the Homes and Communities Agency Design and Quality Standards and should achieve at least Level 3 of the Code for Sustainable Homes (2007).

Although the site is for only 14 dwellings, as it is larger than 0.4ha, there is a requirement for affordable housing to be provided. As the revised Interim Planning Policy: Release of Housing Land has not yet been adopted the affordable housing provision should meet the requirements of the Interim Planning Statement: Affordable Housing this should be 4 dwellings, with 3 provided as social or affordable rent and 1 provided as an intermediate tenure dwelling.

If the application is approved it is recommended that the affordable housing is secured to include provisions requiring a scheme to be submitted with the reserved matters application, with the scheme including the following:

- A requirement for provision of 4 affordable dwellings.
- 3 of the affordable dwellings are to be provided as social or affordable rent, and 1 as an intermediate tenure dwelling
- That the location and type of dwellings to make up the affordable homes are shown on a plan identifying which are the rented and which are the intermediate dwellings.
- That timing for delivery of the affordable housing, as this is a relatively small development and phasing would not be expected that affordable housing should be provided no later than occupation of 50% of the open market dwellings.
- That the affordable homes are constructed to comply with the standards adopted by the Homes and Communities Agency Design and Quality Standards and meet Code for Sustainable Homes Level 3.

It is the preferred option that the developer undertakes to provide any social or affordable rented affordable units through a Registered Provider who are registered with the Homes and Communities Agency to provide social housing.

### **Loss of Agricultural Land**

The site is classified as Grade 3 (subject to urban pressures) agricultural land and the applicants state that it has had limited agricultural use over recent use due to the discontinuation of New Bank Farm for farming purposes.

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.

There is also guidance contained within the NPPF which states at paragraph 112 that:

*'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality'*

Due to its limited size, the site does not offer a significant contribution to the high quality agricultural land in the area.

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 small scale development and assisting with the Council's housing land supply situation helping to reduce pressure on less sustainable and preferential Greenfield sites elsewhere.

The lack of a 5 year housing land supply would outweigh the loss of agricultural land on this site and a reason for refusal could not be sustained on these grounds.

### **Highway Safety and Traffic Generation.**

Access is being formally applied for with this application. This is to be via the existing highway network within the Meadow Avenue.

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.

Paragraph 32 of the National Planning Policy framework states that:-

- *'All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment and that any plans or decisions should take into account the following;*
- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- *improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.*
- *Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.*

The most common concern expressed within the objections received as part of the neighbour consultation process is whether Waggs Road and Fol Hollow can accommodate any further development feeding onto them, having specific concern about the safety of the pedestrian environment on both these roads. Much comment is also made about existing problems on Waggs Road.

The Strategic Highways Manager considers that, due to the small amount of housing proposed, the impact on the highway network would be minimal and a refusal on highway safety grounds could not be sustained.

### **Flood Risk and Drainage**

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. The submitted Flood Risk assessment concludes that residential development would be considered sustainable in terms of flood risk.

The Environment Agency has been consulted as part of this application and have raised no objection to the proposed development. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

### **Scale and Layout**

The indicative layout plan shows 14 houses - twelve 2 storey and two 2½ storey. This is considered to be an acceptable form of development, in keeping with the character of the surrounding development. This character comprises a mixture of dwelling types, both bungalows and two-storey dwellings.

Given that this application is in outline form and only access is to be determined at this stage, the appearance and layout will be determined at reserved matters stage.

### **Amenity**

The Congleton Borough Council Supplementary Planning Document, Private Open Space in New Residential Developments, requires a distance of 21.3m between principal windows and 13.4m between a principal window and a flank elevation to maintain an adequate standard of privacy and amenity between residential properties.

The layout and design of the site are reserved matters. However, the indicative layout demonstrates that up to 14 dwellings could reasonably be accommodated on the site, whilst maintaining these minimum distances between existing and proposed dwellings. It also illustrates that the same standards can be achieved between proposed dwellings within the new estate.

The SPD also requires a minimum private amenity space of 65sq.m for new family housing. The indicative layout demonstrates that this can be achieved. It is therefore concluded that the proposed development could be accommodated in amenity terms and would comply with the requirements of Policy GR1 of the Local Plan.

### **Landscape Impact and Trees/Hedgerows**

The application site is identified as Open Countryside in the Congleton Borough Local Plan. There are no landscape designations on the application site and within the Cheshire Landscape Character Assessment the application site is located on the boundary of the Lower Farms and Woods 2 landscape, specifically Character Area 11, Brereton Heath Area. The site displays many of the characteristics of the Brereton Heath Character Area, the character of the site is influenced by the development of bungalows along the northern boundary, along Waggs Road. Dwellings to the west of Stony Lane, the western boundary pathway, are largely screened by the existing boundary vegetation that runs alongside this sunken track along the western boundary of the application site.

The site has a network of existing hedgerows and trees and is agricultural in character. The site, local and wider topography provide an attractive setting especially to the south and east, where there are longer distance views towards the Peak Fringe. The site is strongly influenced by the existing boundary hedgerows and longer distance views, so that visually the site is very well connected to the wider agricultural landscape, rather than Congleton to the north.

No assessment of the landscape or visual impacts have been included with the application, yet the application (Supporting Planning statement 1.3 (8)) indicates that 'A preliminary overview of the landscape and ecology has confirmed that its value in these regards as 'relatively low' with the proposals leading to a net gain in landscaping and diversity'. Officers do not feel that the application has addressed the landscape and visual effects that the proposals will have and they have the potential to be detrimental.

This is an outline application and although an illustrative layout has been included, it is considered that in the development of a site masterplan should be provided, the key objectives being:

- Respect the existing landscape characteristics of the site (principally the mature trees and hedgerows);
- Conserve and enhance the vast majority of the existing mature trees and any notable hedgerows as an integral and structuring part of the Landscape Framework;
- Minimise any potential adverse landscape or visual effects through the application of best practice design principles and careful attention to design through all stages of the development process – particularly, attention to design and specification of landscape boundary treatments to the existing properties.

The above landscape comments are noted but given that this is an outline application this level of detail would not be provided. It can however be addressed at the reserved matters stage particularly given the limited scale of the development.

### **Tree Issues**

The application is supported by a Tree Survey Report dated August 2102 (Ref DF/4183/Tree Survey report 'A') by Trevor Bridge Associates. The report indicates that the survey has been carried out in accordance with the recommendations of British Standard BS5837:2012 Trees in relation to design, demolition and construction. The report states that it has been carried out to act as an aid to layout by identifying the better trees, specifying protective measures and also any work that might be necessary to maintain the trees in an improved or safer condition.

The submitted Site Analysis plan and the Illustrative Site Layout plan show tree / hedge root protection areas and crown spreads. In addition, the Tree Survey recommends the production of an Arboricultural Method Statement and Tree Protection Plan once a final layout is agreed. The Illustrative layout plan indicates that the existing trees and most of the boundary hedgerows would be retained as part of the proposed layout.

Should a decision be made to approve the proposals as they stand, it would be essential to ensure that a reserved matters submission provided comprehensive details of proposed new levels, an Arboricultural Impact Assessment in accordance with BS 5837:2012, tree protection measures and an Arboricultural Method Statement if appropriate.

### *Hedgerows*

Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'Important'. Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application. Hedgerows are also a habitat subject of a Biodiversity Action Plan. (CBC Local Plan policy NR3 refers).

The original submission included some documentation in respect of hedgerows but it was not comprehensive. Additional information has now been received and it is now considered that the removal of the small element of hedgerow would be acceptable.

## **Ecology**

### *Great Crested Newts*

The Council's Ecologist considers that the proposed development is unlikely to have a significant impact upon Great Crested Newts.

### *Bats*

A bat activity survey has been undertaken. This survey was undertaken late in the survey season however considering the size and location of the site the Council's Ecologist is satisfied that enough information is available to assess the potential impacts of the proposed development upon bats.

The two trees identified as having potential to support roosting bats will be retained as part of the proposed development and the loss of hedgerow associated with the proposed site access will be compensated for by the proposed additional planting. The additional lighting associated with the development may have an adverse impact on bats. This would be localised and the residual impact of the proposed development upon bats is unlikely to be significant.

If planning consent is granted a condition should be attached requiring any future reserved matters application to be supported by a detailed lighting scheme.

### *Badgers*

The submitted report states that there are no badger setts on site. There is however evidence of badgers crossing the site towards its northern boundary and also moving along the western boundary. Badgers are also using the application site to access an adjacent garden.

It is considered that the proposed development may result in the loss of foraging habitat for badgers and reduce their ability to move across the site.

The submitted badger mitigation strategy maintains access for badgers to the adjacent garden and also attempts to maintain access for badgers along the eastern and western boundaries of the application site. Additional fruit trees are also proposed as a means for providing an alternative seasonable source of food for badgers.

It is considered that whilst the usage of the site by badgers may be reduced as a result of the proposed development this is unlikely to have a significant adverse impact upon the status of the local badger population.

As badger activity can change over time it is recommended that if outline planning consent is granted a condition should be attached requiring any future reserved matters application to be supported by an updated badger survey and mitigation method statement.

#### *Breeding Birds*

The proposed development site has the potential to support breeding birds including the more widespread biodiversity action plan priority species which are a material consideration for planning.

The retention of the hedgerows on site will reduce the potential impacts of the development upon breeding birds. However, if planning consent is granted, it is recommended conditions be attached along the lines of the following:

*(Prior to undertaking any works between 1<sup>st</sup> March and 31<sup>st</sup> August in any year, a detailed survey is required to check for nesting birds. A report of the survey and any mitigation measures required to be submitted and agreed by the LPA.*

*Prior to the commencement of development the applicant to submit detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including house sparrow and swift. Such proposals should be agreed by the LPA. The proposals shall be permanently installed in accordance with approved details.)*

#### *Polecat, Hedgehog and Brown Hare*

Brown Hare, Polecat and Hedgehog are all Biodiversity Action Plan priority species and a material consideration for planning. These species are known to occur within 1km of the proposed development. Whilst there is no evidence to suggest that these species are present on the application site there is a reasonable likelihood that the site may be used at least occasionally by these species. The level of impact on these three species is however unlikely to be significant.

## **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, affordable housing and contributions to amenity Greenspace and Children and Young Person's provision would help to make the development sustainable and is a requirement of the Interim Planning Policy, local plan policies and the NPPF. It is directly related to the development and is fair and reasonable.

## CONCLUSIONS

It is acknowledged that the Council does not currently have a five-year housing land supply and that, accordingly, housing supply policies are not considered up to date. In the light of the advice contained in the newly adopted National Planning Policy Framework, where the development plan is “absent, silent or relevant policies are out of date” planning permission should be granted unless:

*“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

Or

*“specific policies in this Framework indicate development should be restricted.”*

The Development Plan is not absent or silent with regard to this application. However, in the absence of a five year supply housing land supply, housing policies are not considered up to date. Other policies are considered to be in line with NPPF advice.

The boost to housing supply is considered to be an important benefit – and this application achieves this in the context of a smaller, non strategic land release adjacent to existing development.

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

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

Whilst the proposal will result in the loss of some grade 3 agricultural land, this is not a significantly large site and it is considered that the benefits of the delivering the site for much needed housing would outweigh this loss. Much of the sites identified within the SHLAA would also result in the loss of the better grades of agricultural land.

To conclude highways matters, whilst the development does add a little extra pressure on the local highway network, it is not sufficient to warrant refusal of the application as the additional movements generated will not be significant.

Overall, it is considered that the adverse impacts of the development – in terms of conflict with the development plan on Countryside and the loss of agricultural land are outweighed by the benefits of the proposal in terms of residential provision and the provision of affordable housing. Given the scale and location of the development, its relationship to the urban area and its proximity to other services, it is not considered that these adverse impacts significantly and demonstrably outweigh the benefits – Accordingly the application is recommended for approval, subject to a Section 106 Agreement and appropriate conditions.

## RECOMMENDATION

**APPROVE subject to the completion of a Section 106 Legal Agreement to secure**

**1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent (4 units) with 35% intermediate tenure (2 units). The scheme shall include:**

- The numbers, type, tenure and location on the site of the affordable housing provision**
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**

**2. A £31,985.06 contribution to public open space.**

**And the following conditions**

- 1. Commencement**
- 2. Submission of reserved matters (all matter other than access)**
- 3. Plans**
- 4. Tree and hedgerow protection measures**
- 5. Arboricultural Method statement**
- 6. Landscape maintenance and management**
- 7. Boundary treatment to be submitted with reserved matters**
- 8. Breeding Bird Survey for works in nesting season**
- 9. Bats and bird boxes**
- 10. Updated protected species survey and method statement prior to commencement**
- 11. Submission of a scheme to limit the surface water run-off generated by the proposed development,**
- 12. Reserved matters to make provision for containing any such flooding within the site, to ensure that existing and new buildings are not affected and that safe access and egress is provided.**
- 13. Submission of a scheme of Sustainable Urban Drainage**
- 14. Submission of a scheme to manage the risk of flooding from overland flow of surface water, has been submitted to and approved in writing by the Local Planning Authority.**
- 15. This site must be drained on a total separate system, with only foul drainage connected into the public foul sewerage system.**
- 16. The hours of construction of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil**

17. **Should there be a requirement to undertake foundation or other piling on site it is recommended that these operations are restricted to: Monday – Friday 08:30 – 17:30 hrs Saturday 09:30 – 13:00 hrs Sunday and Public Holidays Nil**
18. **Submission of scheme to minimise dust emissions arising from construction activities on the site**
19. **Submission of Construction Management Plan**
20. **Reserved Matters to include details of bin storage.**
21. **Details of improvements to public footpath**
22. **Arboricultural Impact Assessment and Tree Protection Plan to form part of the reserved matters**
23. **Implementation of a programme of archaeological work in accordance with a written scheme of investigation**
24. **Reserved matters to incorporate existing and proposed levels and boundary treatments**
25. **Submission of a Phase I contaminated land survey**

**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 Interim 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 Interim 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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