

Application No: 13/2746C

Location: Land between Black Firs Lane, Chelford Road & Holmes Chapel Road,  
Somerford, Congleton, Cheshire

Proposal: Erection of up to 180 dwellings, public open space, green infrastructure  
and associated works

Applicant: Paul Campbell, Richborough Estates Partnership LLP

Expiry Date: 16-Dec-2013

#### **SUMMARY RECOMMENDATION**

- **APPROVE** subject to Section 106 Agreement and Conditions

#### **MAIN ISSUES**

**Planning Policy and Housing Land Supply**  
**Affordable Housing,**  
**Sustainability**  
**Highway Safety and Traffic Generation.**  
**Contaminated Land**  
**Air Quality**  
**Noise Impact**  
**Landscape Impact**  
**Hedge and Tree Matters**  
**Ecology,**  
**Design and Scale of Indicative Development**  
**Amenity**  
**Open Space**  
**Drainage and Flooding,**  
**Education**

#### **REFERRAL**

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

## **SITE DESCRIPTION**

The application site comprises approx 10.42 hectares in a roughly triangular shape is located within an area of ribbon development along Chelford Road, Black Firs Lane and Holmes Chapel Road. Opposite the site along Chelford Road there are a mix of detached houses and bungalows. Black Firs Lane marks the western edge of the Congleton Settlement. Adjoining the south-west part of the site is former farmstead of Green Tree Farm and to its south Goodwin's Pool, which is used by Congleton Anglers Society for fishing. The frontages of the site have wide grass verges, with many trees of differing levels of maturity, quality and height. The western side of Chelford Road is characterised by an existing ribbon of development, part of the southern boundary has ribbon development facing onto Holmes Chapel road and there is a section of ribbon development along southern part of the eastern, Black Firs Lane boundary. Ribbon development also extends further up the eastern side of Black Firs Lane.

The application is best and most versatile agricultural land and apart from the areas adjacent to existing dwellings, much of the boundary is characterised by hedgerows, wide grassed verges and mature trees to the Street frontages.

Black Firs nature reserve (SBI) sits along the southern part of the site and an area of woodland outside the site boundary on the junction of Holmes Chapel Road and Chelford Road.

## **2. DETAILS OF PROPOSAL**

The application is an outline application accompanied by an Environmental Impact Assessment for up to 180 dwellings, public open space, green infrastructure and associated works. All matters are reserved except for the three vehicle access points to Chelford Road and Black Firs Lane.

An Indicative Masterplan and Parameters Plan have been submitted that indicate the storey height of the dwellings that will front towards Chelford Road and Black Firs Lane (maximum 2.5 storey), and the standoff distance of the frontage of these dwellings from their respective site boundaries (approximately 15 metres).

The proposal splits the site into 6 character areas with their own indicative proposals :

Black Firs Lane – buildings set back a min. of 15m max. 2.5 storey height

Chelford Rd - buildings set back a min. of 15m max. 2.5 storey height

Black Firs Wood

Black Firs Park - close to the nature reserve; native planting and water courses to allow for expansion of nature reserve; central area of separation between development zones

Black Firs green – enclosed by existing development on Black Firs Lanes – pocket park

Goodwins Green – extreme southern part of the site – narrow belt of screen planting to merge into the adjoining nature reserve and to provide screening for adjoining property

The internal road layout is not being sought at this stage although two accesses via Black Firs lane and one access into the site via Chelford Road are being sought at this stage. The indicative plan shows a layout of 155 units in 2 zones interspersed with open land/amenity space, ponds with a further area of green space at the junction of Black Firs Lane and Chelford Road.

### **3. RELEVANT PLANNING HISTORY**

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

### **4. PLANNING POLICIES**

By virtue of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the application should be determined in accordance with the development plan unless material considerations indicate otherwise.

The Development Plan for Cheshire East currently comprises the saved policies from the Congleton Borough (January 2005), Crewe and Nantwich (February 2005) and Macclesfield Local Plans (January 2004).

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

PS3	Settlement Hierarchy
PS6	Settlements in Open Countryside
PS8	Open Countryside
GR1	New Development
GR2	Design
GR3	Residential Developments of More than 10 Dwellings
GR4	Landscaping
GR6&7	Amenity & Health
GR9	Accessibility, servicing and parking provision
GR10	Managing Travel Needs
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
GR22	Open Space Provision
GR23	Provision of Services and Facilities
H1 & H2	Provision of New Housing Development
H6	Residential Development in the Open Countryside
H14	Affordable Housing in Rural Parishes
NR1	Trees & Woodland
NR4	Nature Conservation (Non Statutory Sites)
NR5	Maximising opportunities to enhance nature conservation

#### **National Policy**

## National Planning Policy Framework

### Other Material Policy Considerations

SPG1	Provision of Public Open Space in New Residential Developments
SPG2	Provision of Private Open Space in New Residential Developments
SPD4	Sustainable Development
SPD6	Affordable Housing and Mixed Communities

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

Interim Planning Statement: Affordable Housing (Feb 2011)

Strategic Market Housing Assessment (SHMA)

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

North West Sustainability Checklist

Pre-Submission Core Strategy

## 5. OBSERVATIONS OF CONSULTEES

### Environment Agency

No objection in principle to the proposed development but we request that the following planning conditions are attached to any approval as set out below.

The development shall not be commenced until such time as; a scheme to limit the surface water runoff generated by the proposed development, has been submitted to and approved in writing by the local planning authority.

The development shall not be commenced until such time as; 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.

**United Utilities:** No objection subject to following conditions -

A public sewer crosses this site and we will not permit building over it. We will require an access strip width of 6 metres, 3 metres either side of the centre line of the sewer which is in accordance with the minimum distances specified in the current issue of "Sewers for Adoption", for maintenance or replacement.

This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the nearby watercourse as stated in the submitted Flood Risk Assessment. No surface water from this development should be allowed to discharge to the public sewer network either through direct or indirect means.

**Environmental Health:** No objection subject to conditions relating to construction hours, piling hours, dust mitigation, noise mitigation and a residential travel plan, scheme for car charging points.

**Education:** A development of 180 dwellings will generate 32 primary & 23 secondary school places. There is sufficient capacity within the secondary sector however, when combined with

other developments in the vicinity there will be a deficiency in the primary sector should this development proceed.

For all developments, either proposed or approved in the locality, this is calculated as being  $61 \times 11919 \times 0.91 = \text{£}661,623$ . This application comprises 25 % of the overall impact of all housing proposals in the vicinity, a contribution of  $\text{£}165,405$  is required towards primary education. However, if some of these other applications do not proceed then there would be a pro rata reduction in the mitigation required in this case

**Cheshire Fire & Rescue:** No objections subject to recommendations relating fire safety.

**Archaeology:** No objection subject to condition

**Strategic Highways Manager:** No objections subject to conditions and financial contributions towards nearby junction improvements.

**Housing Strategy & Needs Manager:** No objections subject to the provision of 30% affordable housing

**Public Open Space (Amenity Greenspace) and Children's Play Space:** The proposal will result in deficiency in provision locally. On site provision for both open space and play space to an adoptable standard will be required with associated commuted sum payments for future maintenance should this be adopted by the Council. The amount of open space indicated on the submitted plans is an over-provision

**Ecology:** No objection subject to conditions and mitigation for the loss of grassland habitat in the form of a financial contribution to the creation/enhancement of off site habitat

**Natural England:** No objections. This proposal is approximately 650 metres from River Dane Site of Special Scientific Interest (SSSI) and on basis of available information proposal will not affect Great Crested Newts.

**Cheshire Wildlife Trust:** We recommend that the Masterplan is amended to indicate a broad band of new woodland planting between the existing retained building and the southeast corner of the site, so that Black Firs Plantation is physically connected with existing woodland to the south of the site. We also recommend that a band of new woodland planting is provided along the short SW boundary of the site – again to create a strong physical link between two existing areas of woodland/green space outside the site boundary. New woodland planting in these locations would eventually form a linked woodland network across the site and would reduce the impact of the new proposals on existing houses adjacent to the site on its E and SW boundaries.

Additional recommendations include the a scheme for the retention and protection of important hedges (which are also important bat foraging routes), the provision of a bat-friendly external lighting scheme; and a scheme for the inclusion of 40 bat boxes/tiles and 10 bird boxes integral to the housing development. Recommendations are:

The use of native species of local provenance in woodland/ hedge/shrub/herbaceous planting throughout the site The creation of BAP quality grassland meadows in open areas of the site.

These and any other mitigation and/or biodiversity enhancement measures should be included in an Ecological Mitigation Plan, which should also provide for long-term management of the undeveloped parts of the site.

**Jodrell Bank:** No reply to date. Will be provided via Update Report

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

**Somerford Parish Council** - Object on grounds of :

The proposal is contrary to policies PS6 and PS3 of the Congleton Borough Local Plan First Review, policy CS6 of the draft Cheshire East Local Plan Development Strategy and Supplementary Planning Document 7 'Rural Development'. Somerford is defined as a settlement in the open countryside, where only limited infill would be appropriate, within the settlement boundary. The proposal lies outside the settlement boundary and proposes a level of development which is excessive in size, comprising some 180 dwellings in a village of only 143 dwellings. Furthermore, the site provides an important green lung between the urban area of Congleton and the countryside setting of the settlement of Somerford. If developed, the proposal would result in the merging of these two areas and the identity of Somerford would be irretrievably lost, consumed by Congleton. This would set a dangerous precedent for other similar locations, the cumulative effect of development which would represent significant and detrimental levels of urban sprawl.

The proposal is unsustainable. This is a greenfield site. Once lost to residential development, this good quality and currently productive agricultural land (Grade 3A) will be lost forever as a resource. The parish of Somerford is located within the Rural Villages and Rural Areas in the emerging Cheshire East Local Plan and as such is an inappropriate location for major development. This is further demonstrated by the fact that the proposal fails to meet the NWDA Sustainability Toolkit criteria, which are mirrored in policy CS9 of the emerging Cheshire East Local Plan, on the majority of counts. The village contains very few local facilities or services of note, particularly within a reasonable distance of the site itself. As such it can hardly be considered a sustainable location for additional residential development.

The proposal, which is likely to generate significant travel needs, does not make provision for the development to be accessible by a choice of means of travel. Somerford is served by only limited bus services, which run at intervals that are not conducive for commuting any distance. As such it is an unsustainable location for the provision of additional significant residential development and is contrary to policy GR10 of the Congleton Borough Local Plan First Review and policy CO1 of the 'Shaping our Future – Policy Principles' document.

The proposal will exacerbate existing traffic congestion in Somerford and the local area or Congleton. The proposed development will more than double the number of houses in the settlement and this, in addition to other residential developments approved in the local area such as Loachbrook, will have an unacceptable impact on the scale of traffic, resulting in traffic problems reaching an unacceptable level. Specifically, we have concerns that the areas roads proposed as part of the development between Black Firs Road and Chelford Road will

become a rat run. In our opinion the proposal will be contrary to policy GR18 of the Congleton Borough Local Plan First Review.

The developer relates the development of this site to the deliverability of the link road. However Somerford Parish Council has its doubts about the ability for the link road to be delivered in the foreseeable future or indeed for the need for such a road. At such an early stage of the preparation of the emerging Local Plan it seems inappropriate to consider the deliverability of this road or any development associated with it as a material consideration.

The area surrounding the site has been subject to ground water flooding as recently as the end of 2012/ beginning of 2013 and the Parish Council has concerns that developing this site will have further exacerbate this existing problem. The Parish Council is further concerned that the drainage solutions accompanying the planning application will have an adverse effect on Goodwins Pool, which relies on run-off from the 'triangle'.

The Black Firs Nature Reserve is currently a quiet haven for wildlife. The Parish Council has concerns that if this development is permitted, the additional level of human activity which will result on and around the site will have an adverse effect on both flora and fauna and the quality of this landscape, to the detriment of the quality of the site and the Nature Reserve, contrary to policies SE3 and SE4 of the 'Shaping our Future – Policy Principles' document.

The site is poorly located for delivering sustainable affordable housing. Its lack of regular bus services and distance to facilities and services means that residents on low incomes, the elderly or those with children, would struggle to access employment and necessary services.

Design of the development- the parish council recommended 'ribbon style' development in their feedback for the Cheshire East local plan consultation. This proposed style of development is totally out of character for the area. It goes against CE policy to develop brownfield sites first and has an unacceptable high density of houses. The proposed development will have a massive visual impact on the open countryside. Houses on the development will be overlooking each other and there will be increased noise and disturbance. There will be a loss of privacy and also loss of existing views from neighbouring properties.

Chelford Road and Black Firs Road residents currently enjoy the benefits of dark skies at night, with no street lighting. We have concerns that the development will introduce light pollution into the area immediately surrounding the site, contrary to policy SE12 of the 'Shaping our Future – Policy Principles' document

**Congleton Town Council** – Recommend refusal on grounds that:

Site is in Open Countryside and as such fails to satisfy any of the policies set out in PS9 of the Local Plan as a development of up to 180 dwellings cannot be described as infilling.

It may be argued that it satisfies PS9(V) of the Local Plan, but, in this area it fails as It is contrary to H14 of the Local Plan in that it is not a small scheme and does not consist entirely of housing that will be retained as low cost in perpetuity.

The proposed development would be contrary to H6 of the Local Plan in that it fails to meet any of the criteria laid down and as such we recommend refusal.

Additionally, in the emerging Cheshire East Local Plan, the triangle of land in question is not identified as a potential development option, whilst it is a nonspecific blob at the moment; the CEBC Local Plan appears to identify land to the north of this area for housing allocation. If the application is viewed in the context of this Plan then the Town Council would be minded to recommend refusal.

## 6. OTHER REPRESENTATIONS

Local Residents Action Groups (Protect Congleton) and (Somersford Parish Residents Action Group) objection which includes a petition comprising 73 signatures on the following grounds

- 
- Site is outside settlement zone line and is of such a scale that it constitutes a new settlement when compared to the size of Somersford
- Loss of productive high quality agricultural land
- The area is designated as a settlement in the open countryside where only limited infilling is appropriate in the local plan. The site is outside of the infill boundary line entirely
- The proposal will impair the efficiency of the Jodrell Bank Telescope
- Development not any of those permitted under PS8
- The development will ruin the character of the surrounding area, detract from its environmental quality and be unsustainable
- Destruction of areas of woodland within the site
- The creation of ponds within the site would risk the safety of potential residents
- The development will neither protect or enhance the landscape character of the area
- The development will have a detrimental impact upon adjacent residential property, protected species Back Firs Nature reserve and Goodwins Pool
- Significant travel needs would be generated, owing to there being insufficient new employment for its residents in the area. Travel will undoubtedly be met by private car use owing to the site being poorly served by public transport and an impractical distance from facilities for most people to cycle
- Traffic generated, particularly the cumulative impact with Loachbrook farm will worsen existing traffic problems
- Site is prone to flooding, which will be worsened by the proposal. Its current clean run off water is the main source for Goodwins Pool, which would be contaminated by the development and could not survive without clean run off water
- The numbers of housing proposed in Somersford is more than in Congleton. Worse still Somersford is in the open countryside and should be the subject of limited development.
- Loachbrook decision has fully satisfied the affordable housing requirement for the whole of the Congleton Rural area. The proposed development is too far from local services and facilities for this class of occupancy. Further, it is part of a large development that is not appropriate to the locality
- Approval would result in the loss of the community facility afforded by the countryside to walkers, cyclists, horse riders and fishermen
- In the Settlement Hierarchy within the emerging Plan, Somersford is within the Rural Villages and rural Areas classification where no development would be permitted
- Permission should not be given under the 'presumption in favour of sustainable development;' owing to it being unsustainable



- Will result in the loss of best and most versatile agricultural land
- Site is outside that of the Preferred Strategic Sites currently defined in the emerging local plan.
- Given that some of the objectives of the Local Plan are for improved transport and highways options with a view to stimulating the local economy and job opportunities, then this application provides none of these things

Overall, there are over 160 Representations either from local residents, local groups or Professional Planning Agents representing local residents raising objection on grounds of -

### ***Principle***

Loss of green field

Loss of best and most versatile agricultural land

Will more than double the size of Somerford

Not in line with the interim policy on the release of housing land

The site is not as sustainable as the Application suggests

More than 5 years supply of housing exists

Not sustainable location

Build on the Brownfield land first

Affordable Housing - Somerford is in Congleton Rural SHLAA area and has a significantly smaller affordable housing requirement, this site is being used to cater for Congleton urban housing need

Contrary to Planning Policy in Local plan

Contrary to NPPF

### ***Highways***

Construction traffic will have to enter and exit from the town centre thereby creating more traffic problems for an extended period of time.

Additional Congestion

.The road network would not cope with the commensurate amount of traffic and there is no public transport network available. Local buses services have just been reduced in the West Heath area.

### ***Infrastructure***

Schools can not cope

Impact on health care provision

There is no employment in the Town and residents will work elsewhere

Increase in demand on drainage and sewage infrastructure in an area which has had problems

Increased surface water run off could lead to flooding

No infrastructure in Somerford to support large influx

### ***Loss of Open Countryside***

The land should be protected for future generations, once built upon it would be lost forever.

Valuable green area

Loss of trees and hedgerows

Loss of good agricultural land

### ***Amenity***

The development would have a negative impact on the quality of life of the existing populations

Overlooking from new houses to existing houses

Quality of life will be severely affected during construction

Impact of scheme on landscape character

Increase in the already excessive air pollution levels in the town, and in particular in the currently identified AQMA areas of West Road and Lower Heath as a result of proposal increase in dwellings

### ***Ecology***

The area is rich in ecology and protected species and other species such as frogs/toads/pheasants and partridges which are not protected but this area forms their habitat

There are bats, owls, badgers, polecats Bats and nesting birds which are protected.

Great Crested Newts are known to be within the general area. They could well be living in these fields as well. The Council should investigate this possibility.

Water starvation to Goodwins Pool

Impact on adjoining Goodwins Pool by run off and Black Firs Wood SBI

The area has established protected trees and hedgerows. They should be protected as part of the bio-diversity of the whole site - to cut a swathe of trees and hedgerows such as these would be a travesty.

### ***Drainage and Flooding***

Site has flooded in the past. How can the system cope with the addition demands to be placed upon it?

Impact on Goodwins Pool – used by Anglers for fishing and wildlife

### ***Other matters***

Application Information is misleading and does not take into account other permission in the area, eg Loachbrook Farm

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

Environmental Impact Assessment and individual reports covering the following:

- Transport Assessment
- Planning Statement
- Statement of Community Involvement
- Landscape and Visual Assessment
- Land Contamination Assessment
- Flood Risk Assessment
- Ecological Appraisal
- Desk based Archaeological Assessment
- Design and Access Statement
- Arboriculture Assessment
- Air Quality Assessment- inc supplementary information
- Agricultural land Assessment

- Acoustic Report
- Socio-Economic Report
- S106 Heads of Terms

These reports can be viewed on the application file.

## **8. OFFICER APPRAISAL**

### **Main Issues**

Given that the application is submitted in outline, 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 and housing land supply, affordable housing, highway safety and traffic generation, contaminated land, air quality, noise impact, landscape impact, hedge and tree matters, ecology, amenity, open space, drainage and flooding, sustainability and education.

### **Principle of Development.**

#### ***Policy Position***

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 to outweigh the policy concerns.

#### ***Emerging Policy Position***

The application site is a preferred site for housing and commercial development (site SL 6 : Back Lane/ Radnor Park) within the Pre-submission Core Strategy Document. The strategy envisages:

Delivery of, or a contribution towards the Congleton Link Road.

Delivery of 500 new homes at approx density of 30 units per hectare

Delivery of 10 hectares of employment land

The retention and enhancement of Back Lane Playing Fields which has village green status

The delivery of a leisure hub of up to 10 hectares adjacent to Back Lane Village Green. including new sports and leisure facilities

Convenience retail for local use (up to n300 sq metres)

The provision of pedestrian and cycle links set in green infrastructure to new and existing employment, residential areas, shops, schools, health facilities and the town centre

The provision of a new primary school.

### **Site Specific Principles of Development**

1. Contributions towards complimentary highway measures on the existing highway network
2. The provision of a network of open spaces for nature conservation and recreation, including the enhancement of the River Dane Corridor
3. The timely provision of physical and social infrastructure to support development at this location.
4. The achievement of high quality design reflecting the prominent landscape location of the site and creating a vibrant destination and attractive public realm.
5. The design, layout and style of individual plots should be guided by appropriate master planning and design codes influenced by existing locational assets of the area and the surrounding. Development should integrate with the adjacent uses, particularly through sustainable transport, pedestrian and cycle links.
6. The delivery of appropriate public transport links to connect with employment, housing retail/leisure uses in the town.
7. The promotion of pedestrian and cycle routes to provide clear and safe links to surrounding communities.
8. A pre-determination area based archaeological assessment will be required for this strategic location
9. The strategic location will provide affordable housing in line with the policy requirements set out in Policy SC5 (Affordable Homes).

The justification for the allocation is provided at paragraph 15.208 – 15.221 of the emerging plan. It states:

*'The focus for Congleton over the Core Strategy period will be that of high quality employment led growth to accommodate the expansion of existing businesses and attract new investment... New housing is seen as important as part of a balanced and integrates portfolio of development to support the town centre, ensure balanced sustainable communities and deliver the Congleton Link Road.*

The Link Road will assist in meeting the objective of employment led growth as it will support:

- a) The economic, physical and social regeneration of the town
- b) The opening up of new development sites in particular improve access to Radnor Park Industrial Estate and Congleton Business Park;
- c) The reduction in existing town centre traffic and facilitate town centre regeneration
- d) The improvement of the strategic transport links across Borough
- e) The reduction in community severance along key town centre routes
- f) The reduction in traffic related pollutants within the town especially those declared Air Quality Management Areas...
- g) The layout and extent of the following strategic locations are dependent upon the preferred route of the link road. For the avoidance of doubt, the boundaries for the following strategic locations are indicative and will be defined in the Site Allocations and Development Policies document once the preferred route of the link road is confirmed.
- h) Back Lane and Radnor Park Strategic location

- i) Congleton Business Park Extension Strategic location
- j) Giantswood lane to Macclesfield Road Strategic location

## **Deliverability**

According to the emerging plan, indicative site delivery is 125 homes expected during the middle part of the plan period 2020-2025, and 375 homes expected during the end of the plan period 2025-2030.

## **Housing Land Supply and the NPPF**

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 requirement of 20,700 dwellings for Cheshire East as a whole, for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum. In February 2011, a full meeting of the Council resolved to maintain this housing requirement until such time that the new Local Plan was approved. In December 2012 the Cabinet agreed the Cheshire East Local Plan Development Strategy for consultation and gave approval for it to be used as a material consideration for Development Management purposes with immediate effect. This proposes a dwelling requirement of 27,000 dwellings for Cheshire East, for the period 2010 to 2030, following a phased approach, increasing from 1,150 dwellings each year to 1,500 dwellings.

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 recent decision at Hassall Road Alsager considered what buffer should be applied to housing land supply. The Inspector considered that

*....'From the evidence given at the Inquiry, it is clear that the deficiencies in the supply of housing are recent, explicable by the national economic downturn and that the Council has continued to grant planning permissions at a rate that would not hold up supply. For those reasons I take the view that a 5% buffer would comply with policy*

*Given that the uncertainties surrounding the setting of the housing target can only be taken in that uncertainty. For the purposes of this appeal therefore I take the 5 year housing requirement as falling within a range of between 6776 (based on RSS and Liverpool) and 8415 (based on Development Strategy average and Sedgefield)'....*

The recent appeal decisions illustrate that Inspectors have applied different buffers in comparable appeal decisions. This indicates that the question of the appropriate buffer is not yet settled. However, even with a 5% buffer, as is recommended, the Council can not currently demonstrate a 5 year supply of deliverable housing land.

## **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 zones 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**

This site is subject to Policy PS8 (Open Countryside) where there is a presumption against new residential development.

The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development unless:

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole;
- **or**
- specific policies in the Framework indicate development should be restricted.

Based upon the previous appeal decision Cheshire East currently has a housing land supply figure 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 and whether the adverse impacts significantly and demonstrably outweigh the benefits of the development when this proposal is assessed against the Framework as a whole.

## **Sustainability**

The National Planning Policy Framework definition of sustainable development is:

*“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. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”*

Accessibility is a key factor of sustainability that can be measured. One methodology for the assessment of walking distance is that of the North West Sustainability Checklist, backed by the Department for Communities and Local Government (DCLG) and World Wide Fund for Nature (WWF). The Checklist has been specifically designed for this region and can be used by both developers and architects to review good practice and demonstrate the sustainability performance of their proposed developments. Planners can also use it to assess a planning application and, through forward planning, compare the sustainability of different development site options.

The criteria contained within the North West Sustainability Checklist are also being used during the Sustainability Appraisal of the Cheshire East Local Plan. With respect to accessibility, the toolkit advises on the desired distances to local facilities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

The toolkit sets maximum distances between the development and local amenities. These comprise of everyday services that a future inhabitant would call upon on a regular basis, these are:

- a local shop (500m),
- post box (500m),
- playground / amenity area (500m),
- post office (1000m), bank / cash point (1000m),
- pharmacy (1000m),
- primary school (1000m),
- medical centre (1000m),



- leisure facilities (1000m),
- local meeting place / community centre (1000m),
- public house (1000m),
- public park / village green (1000m),
- child care facility (1000m),
- bus stop (500m)
- railway station (2000m).
- public right of way (500m)

In this case the development meets the standards in the following areas:

- post box (230m) - Chelford Road
- amenity open space (100m) - Black Firs Plantation
- public park / village green (1320m) - Quinta Park
- public open space - on site

A failure to meet minimum standard (with a significant failure being greater than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m) exists in respect of the following:

- post office (1490m), Martin McColl West Heath Shopping Centre
- leisure facilities (3300m), Congleton Library
- a local shop selling food or fresh groceries (1490m), Aldi West Heath Shopping Centre
- bank / cash point (1490m), Martin McColl West Heath Shopping Centre
- medical centre. Readesmoor Group Practice, West Street, CW12 1JN. (2900m)
- bus stop (750m) 160 Homes Chapel Road
- Pharmacy (1490m) – West Heath Shopping Centre
- Railway Station (4700m) (Park Lane Station)
- child care facility (1600m) (Somerford Kindergarten, Quinta School Grounds, Ullswater Road, CW12 4LX)
- primary school (1220m), (Black Firs Primary School, Longdown Road)
- local meeting place / community centre - 2240m (Danesford Community Centre, West Road, CW12 4EY).
- public house (1490m), The Unicorn adjacent West Heath Shopping Centre
- Public Right of Way Congleton FP1 (600m)

In summary, whilst the site does not comply with all of the standards advised by the NWDA toolkit, as stated previously, these are just guidelines and are not part of the development plan.

Clearly, this site is located on the western edge of Congleton and the same distances would apply to the existing residents in Somerford. The site is accessible to public transport. Holmes Chapel Road is a bus route for Service 42 (Congleton – Holmes Chapel – Middlewich – Leighton Hospital – Crewe). It has an hourly daytime Monday-Saturday service. Bus stops for this service in both directions are situated outside 160 Holmes Chapel Road to the immediately to the south of the site. Further to the east along Holmes Chapel Road (near Box Lane) there is a further bus stop where Service X38 can be accessed, running between Crewe and Biddulph and passing close to Congleton Railway Station.

West Heath Shopping Centre which has a range of services and facilities including two supermarkets (Co-Op and Aldi), a convenience store, post office, pharmacy, restaurants and hot food takeaways. Adjoining the shopping centre is the Unicorn public house.

To the north-east of the West Heath Shopping Centre there is the large employment area comprising of the Radnor Park Industrial Estate and Green Field Farm Trading Estate, which are mixed B1, B2 and B8 sites accommodating a range of occupiers.

Congleton is a principal town in Core Strategy where we can expect development to occur on the periphery. As there are insufficient development sites in the Town Centre, it must be accepted that development in slightly less sustainable locations in the outlying areas of the town must occur.

It should also be recognised that the site forms part of a proposed local plan allocation in the Pre-submission Core Strategy and has been assessed as being a preferred zone for development.

There are, however, 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 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

**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

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

Inspectors have determined that locational accessibility is but one element of sustainable development and it is not synonymous with it. There are many other components of sustainability other than accessibility. These include, meeting general and affordable housing need, an environmental role in protecting and enhancing the natural environment, reducing energy consumption through sustainable design, and assisting economic growth and development. The proposal would also generate Government funding through the New Homes bonus.

## **Environmental role**

The site is a greenfield site and therefore not the first priority for development. However, it is acknowledged that the Council's Strategic Housing Land Availability Assessment (SHLAA) recognises that the land is capable of development for housing, and as noted above, the site is within the zone which is also a preferred site for housing/commercial development (site SL6 Back Lane/Radnor Park) within the Pre-submission Core Strategy Document.

The site is within walking distance along level terrain or a short bus journey from West Heath Shopping Centre. This centre offers a wide range of essential facilities and means that occupiers of the development will not be overly reliant on the private car.

Paragraph 38 of the Framework states that for larger scale residential developments, policies should promote a mix of uses in order to provide opportunities to undertake day to day activities including work on site, thereby minimising the need to travel.

To the north of the West Heath Shopping Centre is the Radnor Park Industrial Estate and Green Field Farm Trading Estate, which are mixed B1, B2 and B8 sites accommodating a range of occupiers and employment opportunities. The emerging strategy allocation SL6 also includes a significant amount of employment development at this location.

Paragraphs 96 and 97 of the Framework deal with decentralised and renewable energy supply. The aim is to secure a proportion of predicted energy requirements for new developments from decentralised and renewable or low carbon sources. This can be dealt with by condition in the interests of sustainable development.

This proposal will also provide commuted sum payments for off site habitat creation in lieu of the loss of species rich grassland in the site

### **Economic Role**

The Framework includes a strong presumption in favour of economic growth. Paragraph 19 states that:

'The Government is committed to ensuring that the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth'

Given the countryside location of the site, consideration must also be given to one of the core principles of the Framework, which identifies that planning should recognise:

'the intrinsic character and beauty of the countryside and supporting thriving rural communities within it'.

Specifically, in relation to the rural economy the Framework identifies that planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should:

'support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings'

The economic benefits of the development need to be balanced against the impact upon the open countryside and the loss of agricultural land.

In addition, the proposed development will help to maintain a flexible and responsive supply of land for housing, business and community uses as well as bringing direct and indirect economic benefits to the town including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain. The proposal will also deliver economic benefit in the form of the New Homes Bonus, which is a material consideration.

Similarly, the NPPF makes it clear that:

“the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.”

According to paragraphs 19 to 21:

“Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. Investment in business should not be overburdened by the combined requirements of planning policy expectations.”

### **Social Role**

The final dimension to sustainable development is its social role. In this regard, the proposal will provide up to 180 new family homes, including a significant amount of affordable homes, on site public open space and financial contributions towards education provision.

In summary, in terms of its location, and accessibility the development is relatively unsustainable. However, previous Inspectors have determined that accessibility is but one element of sustainable development and it is not synonymous with it. There are many other components of sustainability other than accessibility. These include, meeting general and affordable housing need, reducing energy consumption through sustainable design, and assisting economic growth and development, which this proposal will help to do.

Overall, the proposal is considered to be a sustainable form of development, for which there is a presumption in favour within the Framework. Whilst policies PS8 of the Local Plan restrict new development within the Open Countryside, the site is a preferred option in the emerging Core Strategy and whilst the weight afforded to emerging policies is limited this clearly represents an opportunity for planned development and growth. The development of the site is therefore considered to be acceptable in principle.

### **AFFORDABLE HOUSING**

The Interim Planning Statement: Affordable Housing states that for both allocated sites and windfall sites the Council will negotiate for the provision of a specific percentage of the total dwelling provision to be affordable homes. The desired target percentage for affordable

housing for all allocated sites will be a minimum of 30%, in accordance with the recommendations of the 2010 Strategic Housing Market Assessment. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing.

This site is located in the Somerford Parish, for the purposes of the Strategic Housing Market Assessment Update 2013 (SHMA) the Somerford Parish is included in the Congleton Rural sub-area. The site is also close to the boundary of Congleton town and Congleton sub-area (for SHMA purposes).

In the SHMA the Congleton Rural sub-area shows a need for 11 new affordable homes per year between 2013/14 and 2017/18 (1 x 1 beds, 1 x 2 beds, 4 x 3 beds, 2 x 4+ beds and 2 x 2+ beds older persons accommodation). For the same time period Congleton sub-area shows a net need of 58 new affordable per year (27 x 1 beds, 10 x 3 beds, 46 x 4+ beds and 37 x 1 beds older persons accommodation). (The SHMA identified an oversupply of 49 x 2 beds and 12 x 2+ beds older persons accommodation)

In addition to the information taken from the SHMA there are a number of applicants on Cheshire Homechoice, where 5 applicants on the housing register who require social or affordable rented housing have Somerford as their first choice, these applicants require 1 x 1 beds, 2 x 2 beds and 1 x 3 beds (applicant has not specified how many bedrooms they require).

There are currently 610 applicants on the housing register who require social or affordable rented housing and have one of the Congleton re-housing areas as their first choice, these applicants require 207 x 1 beds, 227 x 2 beds, 116 x 3 beds, 11 x 4 beds and 1 x 5 beds (48 applicants haven't specified how many bedrooms they require).

The Interim Planning Statement: Affordable Housing states that if the relevant planning application is in outline only, then the Council will require that the s106 Agreement must stipulate an acceptable range for the number, type, tenure and size of all affordable housing units.

The Interim Planning Statement: Affordable Housing states it is normally expected that affordable units will be provide no later than sale or let of 50% of the open market dwellings, however in schemes that provide for phased delivery and a high degree of pepper-potting of affordable homes, the maximum proportion of open market homes that may be completed before the provision of all affordable units may be increased to 80%.

The applicant, whilst offering 30% affordable house as part of the 180 units proposed across the site, is at this point not offering a tenure split as per the requirements of the Interim Planning Statement: Affordable Housing which equates to provision of up to 330 affordable dwellings across the site. The tenure split offered at present is 25% rented affordable dwellings (13 units) and 75% intermediate tenure dwellings (41 units).

If it were accepted that 10% affordable provision was appropriate, as originally put forward by the Applicant as a justification for the highways payment, the total number of affordable rented units would be 17 units.

The Strategic Housing Manager has accepted this provision in the circumstances of this application, although she is of the opinion that each application has to be treated on its own merits.

It is evident from the masterplan in the D&A statement that the proposal is for lower density housing to be provided to the outer of the site, with the density being approx 24 units per hectare. The development will be built in 2 phases. A proportion of affordable housing should be provided in each phase and the affordable housing should not be confined to the higher density areas of the proposal. This is in order to ensure that the affordable housing is distributed throughout the site to support the creation of a mixed and balanced community as per the requirements of the Interim Planning Statement: Affordable Housing. In addition to this it appears the majority of the higher density areas will be developed later in the programme therefore to confine affordable housing to these areas would mean that the affordable housing is not delivered periodically.

The s106 agreement will also need to secure 25% of the affordable housing to be bungalows, maisonettes or adaptable houses built to meet Lifetime Homes standards/older person's needs. This would help create balanced communities.

It is the preferred option of the Housing Strategy & Needs Manager that the developer undertakes to provide any social rented/affordable rented units through a Registered Provider of affordable housing.

However, the variation of the tenure of the affordable units is very much an on balance assessment by the Housing Strategy Manger, who considers that in all other respects the SPD should be fully complied with, the details of which are as follows:

- a) 30% of the total dwellings on site to be provided as affordable housing,.
- b) The tenure split of the affordable dwellings to be 25% social/affordable rented and 75% intermediate tenure,
- c) The required affordable dwellings to be provided on site.
- d) 25% of the affordable dwellings to be built to meet Lifetime Homes standards, and these properties should be bungalows, maisonettes or adaptable houses.
- e) Submission of affordable housing schemes with each reserved matters application.
- f) The affordable dwellings should be built to meet Code for Sustainable Homes Level 3.
- g) The affordable dwellings which are not required to be built to Lifetime Homes standard should be built in accordance with the standards adopted by the Homes & Communities Agency.
- h) Affordable dwellings are delivered periodically through the development with affordable housing provided on each phase of the development, ideally with 30% provided on each phase to ensure equal distribution of affordable dwellings across the site.
- i) Affordable dwellings pepper-potted within each phase of the development.
- j) All the affordable dwellings should be provided no later than occupation of 80% of the open market dwellings.

## **HIGHWAY SAFETY & TRAFFIC GENERATION**

Policy GR9 states that proposals for development requiring access, servicing or parking facilities will only be permitted where a number of criteria are satisfied. These include

adequate and safe provision for suitable access and egress by vehicles, pedestrians and other road users to a public highway.

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 applicant has submitted a Transport Assessment (TA) in support of the application. The TA assesses traffic generation numbers and from this considers the traffic impact on the existing highway network.

Traffic generation from the site is calculated from vehicle trip rates derived from the TRICS database and these figures form the basis of the junction assessments provided within the TA.

The content of the TA looks at the access strategy for the site and the sustainable connectivity with regard to: walking, cycling, bus and train.

There are proposals within the area that the development can link into improving accessibility in terms of walking and cycling with local improvements which will connect the site to local cycle routes and connect pedestrian facilities to the existing infrastructure and to local bus stops.

In addition, the Strategic Highways Manager has the following requirements in terms of improving local provision:

Bus service provision/frequency and bus facilities to the local area.

Improvements to the A34 corridor through Congleton as it is heavily congested along its length. Despite the relatively low traffic impact from the traffic generation associated with 180 units on this site, the Strategic Highways Manager must consider the cumulative effect of increasing traffic burden on this corridor.

In this regard contributions are required towards improvement schemes at the West Street/A34 roundabout and approaches, given the cumulative effect of increasing traffic burden on this corridor.

As a result the Strategic Highways Manager considers that mitigation is required in the form of a Section 106 agreement attached to any permission which may be granted for this development proposal. This is an enhanced provision to fund wider improvements to the road network within the north of Congleton.

***Enhanced Contributions.***

Sum of £145,000 towards Quality Bus Stop Infrastructure and improvements to service frequency and the provision of additional bus service and frequency to serve this development and the local area.

Sum of £755,000 to be used as a contribution to

- for the widening of the West Road/A34 roundabout western arm
- for design fees associated with the widening of the West Rd roundabout western arm.
- for the upgrade and necessary alterations to the existing signalised pedestrian crossing on the western arm approach to the West Rd roundabout.
- Contribution to the provision of a MOVA system upgrade at the signalised junction at Rood Hill/A34.
- Or other measures as agreed that will provide similar congestion relief benefits to the A34 corridor through Congleton

These sums are set against the current estimated improvement schemes for the A34 corridor in Congleton and as such it is considered that the requirements comply with CIL regulations given the cumulative impact from this development proposal, upon this link in the A34 corridor, which is already operating at capacity at various times of the working day.

This development is offering sustainable link improvements in the form of cycle and pedestrian facilities to link this site to existing infrastructure. This will assist in sustainable travel movements. This will be secured via a Section 278 agreement under the Highways Act 1980.

The traffic impact from this development, whilst reasonable will have a cumulative impact on the central link in the A34 corridor through Congleton which is already under significant stress and which operates at capacity at various times throughout the working day. To this end the Strategic Highways Manager has identified funding against estimated design schemes for the improvement of this corridor which can be reasonably required from this development. These sums are considered to be compliant with the Community Infrastructure Levy and the emerging policy framework.

**Design and scale**

The supporting documentation submitted with the application does not provide any detailed information on sustainable design. This is not surprising as this is an outline application, with a masterplan that seeks to establish only broad development and design principles. However,



it is suggested that a sustainable design strategy/plan be required (by condition). This should set out the approach to delivering sustainable design objectives including:

- passive environmental opportunities,
- performance of fabric and reduction in carbon production and water consumption,
- the use of renewable/low carbon energy,
- the scheme's design response to climate change adaptation
- other soft environmental measures.

The Councils Design Officer is generally supportive of much of the Design Parameters of this proposal, but raised concern that the density is overly optimistic.

The indicative Masterplan shows a layout of 155 units whereas the maximum number of units would be this maximum number would result in a density and character of development that would be different to that illustrated and would undermine the potential character and design quality of a future detailed scheme. It could also pressurise the landscape infrastructure and potentially the adjacent ecological asset to the east of the site.

In terms of the ecological considerations, the proposed development should ensure that it successfully reconciles ecological requirements with sound masterplanning and design to achieve a cohesive and mutually beneficial approach.

The Applicant, however, considers that this site can sensitively achieve 180 units of differing sizes which can sit with the existing residential environment. However, the Design Officer has concerns about this scale and it is recommended that the upper limit of housing numbers on this site be capped at 170.

Overall, it is considered that the conditions relating to design recommended as part of the reserved matters can adequately safeguard the design quality of this environment.

### **Contaminated land**

The developer has submitted a Phase 1 desk study for contaminated land, the findings of which concludes:

An intrusive investigation is completed before commencement of any development works to assess the actual contaminative status of the ground, groundwater and surface water courses at the site. It is also considered essential that the intrusive investigation should determine the geotechnical parameters of the underlying ground conditions as part of the future development of the site.

The intrusive investigation is likely to comprise a series of boreholes and trial pits and should include the installation of gas monitoring standpipes, particularly in the vicinity of backfilled ponds. Selected soil and leachate samples recovered during the intrusive investigation would be tested for a general suite of determinants. Further research is also recommended to determine any risks associated with ground dissolution stability issues associated with the brine extraction. It is considered that the sinking of deep boreholes may be required across the site area to determine the presence saliferous deposits or voids that may pose a threat to any future development.

Based on the findings of the report the risk associated with soil and groundwater contamination by virtue of the farm and woodland use on site to human health and controlled waters receptors is considered to be low.

The report has been examined by the Councils Environmental Health officers, who have accepted its conclusions and raised no objection subject to the imposition of conditions requiring a Phase II report to assess the actual/potential contamination risks at the site to be submitted. Should the Phase II investigations indicate that remediation is necessary, a Remediation Statement to be submitted. The remedial scheme in the approved Remediation Statement must then be carried out and a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted prior to the first use or occupation of any part of the development.

### **Loss of Agricultural Land**

The applicant has submitted an agricultural land classification study which concludes that:

- The agricultural land on the site comprises a mixture of mainly 3a land.
- Whilst the agricultural land on this site does comprise a proportion of grade 3a and is “best and most versatile” land as defined in the NPPF, the loss such land on this site and the importance to be attached to it should be viewed within the context that the lack of the 5 year housing land supply is given weight in the planning balance by Inspectors.

Previous Inspectors have taken a similar approach to this issue at Appeal and determined that the need for housing land supply outweighs the loss of agricultural land.

This is supported by a decision made by the Secretary of State at Bishop’s Cleeve, Gloucestershire where two developments (one of up to 450 homes and another of up to 550 dwellings) were approved outside the settlement boundary with one being located on the best and most versatile agricultural land and the recent decision at Loachbrook Farm, Congleton which comprised a similar development area (over 10hectares) of Grade 2 and 3a land like the application site

At Loachbrook Farm, the Inspector considered that the 3500 additional houses to be provided in Congleton by 2030, as indicated the emerging Core Strategy (as being the Councils preferred sites for future development) and categorised as being developable by the SHLAA involved a preponderance of the best quality agricultural land in the area. The Inspector concluded that the loss of the agricultural land carried neutral weight, given that other preferred sites would involve a similar loss of the best agricultural land around the Congleton area. This site is one of those preferred sites.

### **Air Quality**

Congleton has Air Quality Management Areas within the Town Centre which operate above tolerances for contaminants. The developer has submitted an Air Quality Impact Assessment and further addendum report as part of the Environmental Impact Assessment which concludes as follows:

An assessment has been undertaken of the potential for fugitive dust that may arise during the earthworks and construction phases of the project, and from track-out from the access points, to impact nearby sensitive receptors through both soiling and human health effects. The assessment takes into account the size of the development and the sensitivity of the surrounding area. Through the incorporation of standard dust mitigation measures during the construction works no unacceptable impacts on human health, amenity or ecological receptors have been identified.

The air quality assessment has also incorporated an assessment of the potential impacts from additional vehicle exhaust emissions associated with the development upon the locality and the AQMA's. The assessment is based on traffic data generated in support of the transport assessment.

The assessment assumes completion of the development by 2018 and takes into account existing committed development within the area. No unacceptable impacts on human health, amenity or ecological receptors have been identified through the additional traffic associated with the development.

Overall the effects are not predicted to be significant.

The Environmental Health officer has examined the reports and considers the scale of the development is such that there is potential to increase traffic and also alter traffic congestion in the area. In particular, there are a number of Air Quality Management Areas within Congleton where levels of NO<sub>2</sub> exceed the objective at sensitive receptors.

There is also concern that the cumulative impact of developments in the area will lead to successive increases in pollution levels, thereby increased exposure.

The assessment uses ADMS Roads to model NO<sub>2</sub> and PM<sub>10</sub> impacts from the predicted additional road traffic associated with this development and the Loachbrook Farm proposals.

The report predicts that there will be negligible increases in NO<sub>2</sub> and PM<sub>10</sub> concentrations at all 70 receptors modelled. A number of these receptors are within the West Road AQMA, and as such, any increase in exposure is considered significant.

Poor air quality is detrimental to the health and wellbeing of the public, and also has a negative impact on the quality of life for sensitive individuals. As such, mitigation is outlined in the form of a Travel Plan to reduce the impact of traffic associated with this proposal is required relating to the submission of a scheme to minimise dust emissions during construction, car charging points for each dwelling. On this basis, the Environment Health Officer considers that this scheme will not have an adverse impact upon the air quality of the environment or the Congleton AQMA's.

## **Drainage and Flooding**

The applicant has submitted with the application, a detailed Flood Risk Assessment (FRA). The findings of the report can be summarised as follows:

The site is in Flood Zone 1 as defined in Table 3 in the Technical Guidance to the NPPF. This is the lowest probability flood zone.

Surface water runoff from the site is currently managed through a series of land drains and a pond in the south western corner of the site. Ultimately surface water is discharged from the site into the angling pond and from there outfalls to the Loach Brook.

A conceptual drainage strategy is outlined that comprises SUDS attenuation measures provided within the proposed development site to restrict the discharge of surface water runoff to greenfield runoff rates for events up to the 1% annual probability (1 in 100 year) plus 30% as an allowance for climate change.

For events greater than the 1 in 100 year plus climate change storm, consideration will be given at the detailed design stage to plot levels and ground levels to ensure that surface water runoff is managed on site and directed away from properties.

The FRA confirms that the proposed development is an appropriate use for the site on the basis of flood risk. Furthermore, it is demonstrated that suitable flood risk mitigation measures and a surface water management strategy can be incorporated into the scheme to ensure that the proposed development does not result in an adverse impact on flood risk elsewhere.

The Environment Agency and United Utilities have accepted these findings and on that basis this proposal is not considered to be likely to result in any detrimental impact upon the site or its surroundings.

### **Amenity**

It is generally considered that in New Residential Developments, a distance of 21m between principal windows and 13m between a principal window and a flank elevation is required to maintain an adequate standard of privacy and amenity between residential properties. A minimum private amenity space of 65sq.m is usually considered to be appropriate for new family housing.

The layout and design of the site are reserved matters and it is considered that the dwellings could be accommodated on the site, whilst maintaining these minimum distances between existing and proposed dwellings. It is also considered that the same standards can be achieved between proposed dwellings within the new estate and adequate amenity space could be provided for each new dwelling.

It is therefore concluded that the proposed development would be acceptable in amenity terms and would comply with the requirements of Policy GR1 of the Local Plan.

### **Countryside and Landscape Impact**

One of the Core Planning Principles of the NPPF is to “take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”.

The application site is located on the western edge of Congleton and covers an area of 10.42 hectares in a roughly triangular area of land that is defined by Chelford Road to the west, Black Firs Lane to the east located and further to the south by Holmes Chapel Road (A54). The western side of Chelford Road is characterised by an existing ribbon of development, part of the southern boundary has ribbon development facing onto Holmes Chapel road and there is a section of ribbon development along southern part of the eastern, Black Firs Lane boundary. Ribbon development also extends further up the eastern side of Black Firs Lane.

The application is agricultural land and apart from the areas adjacent to existing dwellings, much of the boundary is characterised by hedgerows, wide grassed verges and mature trees. There is a nature reserve along the southern part of the site and an area of woodland outside the site boundary on the junction of Holmes Chapel Road and Chelford Road.

As part of the application a Landscape and Visual appraisal has been submitted, this refers to the National Character Area, Area 61 – Shropshire, Cheshire and Staffordshire Plain/Cheshire Sandstone Ridge, as well as the Cheshire Landscape Character Assessment 2009, which identifies the area as being in the Lower Farms and Woods character type 10, and more specifically the Brereton Heath Character Area (LFW2). The appraisal also refers to the Congleton Landscape Character Assessment 1999. The Congleton Landscape Character Assessment identifies this as Cheshire Plain; the application site displays many of the characteristics of these character types.

The assessment refers to the saved policies of Congleton Borough, specifically the designation and boundary of the Area of Special County Value – Dane Valley, to the north of the application site. This landscape designation remains in place and has been retained as a landscape designation in Cheshire East, now renamed Local Landscape Designation – Dane Valley. This application site is not located within the boundary of this locally designated landscape.

The assessment identifies the baseline landscape and visual characteristics of the application site and identifies a number of viewpoints around the application site, these are generally representative and I would broadly agree with the visual summary and landscape and visual analysis; I would also broadly agree with the constraints and opportunities.

Clearly, by virtue of the loss of an open field, the proposal will result in the loss of intrinsic countryside character, however, this has to be seen against the existing urban back drop of most viewpoints into the site. The Design and Access Statement offers an Illustrative Masterplan as well as a Parameters Plan, and provided the open space areas shown on the Framework Plan are retained within the scheme, and appropriately landscaped, the impact could be mitigated. This could be ensured through the reserved matters, appropriate conditions and the S106 agreement.

### **Forestry**

There are currently two Tree Preservation Orders (TPO) that afford protection to trees immediately adjacent to the application site. There are currently no TPOs protecting any trees within the application site.

The Congleton Borough Council (Black Firs Lane, Congleton) TPO 1980 affords protection to a Woodland (scheduled as W1 of the Order) located to the north of 21 Black Firs Lane and

described within the Order as deciduous woodland comprising of mainly Birch. An Area of trees described within the Order as several Sycamore, Birch and Rowan (A4 of the Order) is located offsite to the south between 144 Holmes Chapel Road and 1 Black Firs Lane is unaffected by the proposal.

A second TPO cited as the Congleton Borough Council (Holmes Chapel Road/Chelford Road, Somerford) TPO 1993 affords protection to a woodland (W1 of the Order) located offsite at the corner of Holmes Chapel Road and Chelford Road. Again, this woodland is unaffected by the proposal

The application is supported by a Tree Survey which incorporates a draft Tree Retention and Removal Plan (Midland Forestry Ref MF/6622) dated 1st November 2012 and states that trees were assessed in accordance with BS5837:2012 - Trees in Relation to Design, Demolition and Construction - Recommendations (the Standard).

The Survey has identified and assessed 13 individual trees and twelve groups (para 4.2.1) and two hedgerows within the site. These have been categorised in accordance with Table 1 of the Standard into High (A) category; Moderate (B) category; Low (C) category and trees unsuitable for retention (U).

All High and Moderate category trees should be regarded as principle landscape assets and there should be a presumption for their retention unless there is an overriding justification for their removal; that there can be mitigation for avoidance of the harm or if this is unavoidable that such losses can be substantially mitigated.

The Survey states that 58% of the trees surveyed within the site fall within the High (A) or Moderate (B) category with two hedgerows falling within the Moderate (B) category. Two individual trees and two groups are categorised as low category and 3 groups of trees (TG5 Birch; TG8 Birch and TG12 offsite Birch) are shown as in poor condition and unsuitable for retention.

### **Hedgerows**

Policy NR 3 of the CBC Local Plan refers to Important 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.

On this site there would be hedgerow loss in order to create the three new accesses on Black Firs Lane and Chelford Road. The Records Office confirm that the hedgerows are not of historic significance, whilst there would be a net loss of hedgerow, this can be mitigated by replacement planting and would not impact on the historic field pattern of the exiting hedge line to the Crewe Road frontage. On this basis Policy NR3 is complied with.

The site is approximately 10.4ha in size, triangular in shape, generally flat pasture land with some small field enclosures to the south of the site. A well maintained hedgerow forms the boundaries of Chelford Road and Black Firs Lane to the north of the site. The Hedgerows

have been identified as Important under the Hedgerow Regulations 1997 in the supporting Hedgerow Assessment in that they fulfill criterion 5 of the Regulations; that they form an integral part of a field system pre-dating the Enclosure Acts. These hedgerows are proposed to be located within open space provision as defined on the illustrative masterplan and therefore unlikely to be significantly affected.

A number of scattered individual early mature and mature trees comprising of various Oak, Sycamore Norway Maple stand on the grass verge along both Chelford Road and Black Firs Lane, the most notable being an over mature Oak (T1) north of Green Tree Farm, three Hybrid Black Poplar (T4-T6) on the northern section of Black Firs Lane.

These trees are indicated for retention however the indicative layout shows proposed domestic gardens facing these trees. Adequate separation distances to these trees (taking into account their future size and growth potential) will be required at detailed application stage to address issues of adequate provision for private amenity space, shading, daylight and sunlight to gardens and habitable rooms

Two (B) moderate category mature Oak (T10 and T12) located within the central southern section of the site located on the outer edges of a copse of declining low category Birch group (TG8) are likely to be required to be removed in order to accommodate the layout as illustrated. The two Oak are not protected by the Tree Preservation Order. The report identifies that one tree (T10) has a large open cavity at the base, but only localised decay, the second has asymmetric form due to the presence of the adjacent tree group (TG8). It is anticipated that there is probably sufficient scope within the illustrated layout for both trees to be adequately mitigated by replacement planting within open space provision.

A protected Birch woodland (Black Firs Plantation) stands offsite adjacent to the central eastern boundary section of the site. It should be noted that the submitted Tree Survey does not make any particular reference to this woodland. Notwithstanding that the woodland lies outside the development site boundary, the British Standard (BS5837) states that any tree survey should include all trees, including those offsite which may have an impact upon the development (para 4.4.2). The survey does make reference to offsite trees within the rear gardens of Nos 15-21 Black Firs Lane and therefore I would also expect that all offsite edge trees along the western boundary of the woodland be surveyed as a minimum requirement.

Two mature (A) category mature Oak (T6 and T7), one standing on the verge to the back of the highway on Black Firs Lane; the second standing on the edge of the protected woodland (W1 of the Black Firs Lane TPO) are located close to the proposed access into the site. It is unclear from the submissions as to the extent of the impact of the proposed access on the root protection area (RPA) of two Oak trees and the impact of proposed visibility splays on woodland edge trees fronting Black Firs Lane. Trees adjacent to the Chelford Road may similarly be affected. Further detail is therefore requested in respect of these matters.

The illustrative layout shows a number of properties and their rear gardens facing east towards Black Firs plantation. Adequate distances to the offsite woodland will be required at detailed application stage to address issues of adequate provision for private amenity space, shading, daylight and sunlight to gardens and habitable rooms to ensure viability of the woodland.

Similar layout design issues are also apparent along the southern boundaries of the site in respect of offsite trees (Groups TG7 and TG12) located within adjacent properties. The layout as indicated on the submitted masterplan indicates 155 units – based on 10% affordable housing provision as originally submitted. A proposal for 180 units, the maximum applied for, with 30% affordable housing, will have potentially greater impact upon the trees. As the layout is a reserved matter, it is important to emphasise that there are potential overdevelopment issues associated with these impacts which would need to be carefully considered at reserved matters stage.

A copse of moderate Birch and Alder (TG10) located centrally within the site has been identified as a significant landscape feature and is shown to be retained within open space on the illustrative plan. The retention of this copse is to be welcomed.

Overall subject to conditions the Tree Officer considers that the Important trees both within the site and adjacent can be adequately safeguarded.

### **Education**

The Council's Education Officer has examined the application and concluded that a development of 180 dwellings will generate 32 primary aged pupils and 23 secondary aged pupils.

The secondary schools have sufficient places to accommodate this development. However, there is a requirement for payments in lieu of primary provision.

A development of 180 dwellings will generate 32 primary & 23 secondary school places. There is sufficient capacity within the secondary sector however, when combined with other developments in the vicinity there will be a deficiency in the primary sector should this development proceed.

For all developments, either proposed or approved in the locality, this is calculated as being  $61 \times 11919 \times 0.91 = \text{£}661,623$ . This application comprises 25 % of the overall impact of all housing proposals in the vicinity, a contribution of  $\text{£}165,405$  is required towards primary education. However, if some of these other applications do not proceed then there would be a pro rata reduction in the mitigation required in this case.

### **Open space**

The Greenspace Manager advises that there would be a deficiency in the quantity of provision of Amenity Green Space as a result of 180 units

The amount of Public Open Space (POS) that would be expected in respect of the new population would equate to 4,320sqm, this is in accordance with Interim Policy Note on Public Open Space.

The indicative proposals within the supporting documentation, puts forward some 21,400sqm, a significant over provision, however this is made up of a variety of open space typologies such as meadowland, woodland, village green and pocket parks including water bodies.



It should be noted that the area of water would not be classed as useable open space and should therefore be deducted from the total area of Amenity Greenspace that is being offered up on site and the play facilities should be an additional calculation.

The existing landscape such as woodland, hedgerows, boundaries and wetland appear to have been taken into account and where possible enhancements are proposed. Areas of wetland, ponds and swales appear throughout the site. This is appreciated, increasing biodiversity and contributing to the ecology of the site plus due to regulatory requirements to comply with SUD's however it has never been the Council's policy to take transfer of areas of POS that have water bodies located in, around or running through them due to the additional liabilities and maintenance implications associated with such areas. Therefore these areas of POS would have to be transferred to a suitably competent residents management company along with any surrounding woodland areas.

A pocket park and surrounding amenity greenspace is proposed to the north of the site, the indicative planting shown in this area should be reduced to allow informal kick about areas for small children to enjoy. The Council could maintain this area along with the equipped play facility and a commuted sum for maintenance for 25 years will be required. As this is an outline application, no details are available of size of area or landscaping therefore figures are not able to be calculated at this stage and will be offered at the full/reserved matters application.

A full landscaping plan should be submitted along with a proposed maintenance schedule at the full/reserved matters application. This could be controlled by condition.

### **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 adopted local standards set out in the Council's Open Space Study for Children and Young Persons Provision.

Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development

The plan indicates a pocket park to the north of the site. Although the location is not ideal as preference would be more centrally located, it is accepted that this is due to the constraints of the site.

The pocket park should be to a LEAP standard and contain at least 5 items of equipment, some of which should be DDA inclusive and targeted at 8 years and under age range. Three separate play companies should be approached for designs. The final layout and choice of play equipment would need to be agreed and the construction should be to BSEN standards.

Full plans must be submitted prior to the play area being installed and these must be approved, in writing prior to the commencement of any works. A buffer zone of a least 30m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site.

It is the Applicant preference for the ongoing maintenance of the provision to be dealt with by a resident's management company.

## **Ecology**

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places

(a) in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment, and provided that there is

(b) no satisfactory alternative and

(c) no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Local Plan Policy NE.9 states that development will not be permitted which would have an adverse impact upon species specially protected under Schedules 1, 5 or 8 of the Wildlife and Countryside Act 1981 (as amended), or their habitats. Where development is permitted that would affect these species, or their places of shelter or breeding, conditions and/or planning obligations will be used to:

- facilitate the survival of individual Members of the species
- Reduce disturbance to a minimum
- Provide adequate alternative habitats to sustain the current levels of population.

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. "This may potentially justify a refusal of planning permission."

The NPPF advises LPAs to conserve and enhance biodiversity: if significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: if unlikely, then the LPA should refuse permission: if likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

In this case specific advice has been sought from the Council's Ecologist has commented as follows:

### **Protected/Priority Species**

#### *Designated sites*

The submitted ecological assessment has failed to identify Black Firs Wood located adjacent to the proposed development as being designated as a Site of Biological Importance, although it is acknowledged that the site is a Cheshire Wildlife trust reserve. The submitted indicative layout shows open space proposed around the northern half of the woodland and a 10m buffer is provided to the south. This approach is acceptable to mitigate any potential adverse impacts on the SBI

#### *Grasslands*

The submitted phase one survey states that the grassland on site is heavily improved and is classified as poor semi-improved grassland, however the submitted report recorded Knapweed as being present which is a species indicative of higher quality grassland habitats.

The grassland habitats on site do not pose a significant constraint on development their loss would still result some loss of biodiversity value. The ecologist considers that this loss of biodiversity be off-sett by means of a commuted sum which could be utilised to fund off-site habitat creation/enhancement.

The following method of calculating an appropriate commuted sum is considered appropriate. This is based on the Defra report 'Costing potential actions to offset the impact of development on biodiversity – Final Report 3rd March 2011':

The loss of habitat (Semi improved grassland) amounting to roughly 5ha.

Cost of land purchase for habitat creation - including admin, management planning and transactional costs (5 x £17,298 cost per ha) = £86490.00 (Source RICS rural land market survey H1 2010)

Cost of creation of Lowland Grassland 5ha x £4,946 (cost per ha) = £24730.00 (Source UK BAP habitat creation/restoration costing + admin costs)

Cost of land acquisition and habitat creation would therefore be £111,220.00.

The above calculation would be for the creation of species rich UK BAP grassland, however the habitat lost is relatively species poor and so the impacts of this loss of obviously less, the ecologist considered half of this figure would be appropriate mitigation which would result in a commuted sum of £55,610.00.

There are a number of suitable sites within an appropriate distance in ecological terms that are either in the ownership of the Council or the Wildlife Trust that have areas that would be appropriate for such mitigation, either in whole or in part. These are;

- Black Firs Wood Local Wildlife Site – Cheshire Wildlife Trust reserve - adjacent the application site.

- Dane in Shaw Pasture SSSI – Cheshire East land – western edge of Congleton Town – 4.4km.
- Bagmere SSSI – Cheshire Wildlife Trust – 3.2km to the west of the application site.
- Swettenham Meadows Local Wildlife Site – Cheshire Wildlife Trust reserve – 4.5km away .
- Brereton Heath – Local Nature Reserve – Cheshire east ownership – 3.2km away.

The Applicant has confirmed that they are in agreement to this mitigation package.

### **Hedgerows**

Hedgerows are a UK BAP priority habitat and hence a material consideration. In addition hedgerows on the eastern and western boundaries of the site have been identified as being Important under the Hedgerow Regulations. I recommend that the existing hedgerows be retained and enhanced as part of any detailed landscaping scheme produced for the site.

The submitted indicative layout for the site suggests that it should be feasible to retain the majority of hedgerows on site, however it likely that sections may require removal to facilitate the 3 site entrances as applied for.

### **Breeding Birds**

The proposed development site is likely to support breeding birds including the more widespread Biodiversity Action Plan priority species which are a material consideration for planning. If planning consent is granted standard conditions will be required to safeguard breeding birds.

### **Woodlands**

The submitted indicative layout shows a loss of woodland to the south of the site. Most semi-natural woodland habitats now qualify for selection as Local Wildlife Site.

I therefore advise that the submitted illustrative layout must be amended to show the retention of this area of woodland.

### **Badgers**

Evidence of badger foraging activity has been recorded on site however the proposed development will not have an adverse impact upon any identified badger sett. The provision of open space within the development will at least partially mitigate for the loss of badger foraging habitat and the incorporation of fruit trees into any detailed landscaping scheme for the site would provide an alternative seasonal food source.

The submitted ecological mitigation strategy recommends the provision of a 10m wildlife corridor down the eastern boundary of the site to allow badgers to continue to access foraging habitat to the south. I advise that the submitted mitigation is acceptable however advise that any future reserved matters application should be supported by an updated badger survey and mitigation strategy.

### **Bats**

A number of bat species have been recorded on site. The proposed development will lead to the localised loss of bat foraging habitat on site. This impact can be partially mitigated for

through the careful landscaping of the site and the development of a sensitive lighting scheme. A significant proportion of bat activity on site was associated with Black Firs Wood. The open space buffer zone around the wood described above would also assist greatly in mitigating the potential impacts of the development upon foraging bats.

### ***Polecat***

This UK BAP priority species has been recorded in Black Firs Wood. I advise that the proposed development is unlikely to have a significant adverse impact upon this species.

### ***Ponds***

The incorporation of a number of ponds into the site layout is supported as if designed carefully the proposed ponds could have significant nature conservation value.

In ecological terms the site has some broad nature conservation value in the very local context. The Council's Ecologist recommends that the potential residual adverse impacts associated with the scheme includes the loss of; hedgerows, semi-improved grassland can be off-set by means of a commuted sum secured by means of a section 106 agreement. The commuted sum could be used to deliver habitat creations within Black Firs Wood SBI which is located to the immediately adjacent to the of the proposed development site.

## **LEVY (CIL) REGULATIONS**

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010, it is now necessary for planning applications with legal agreements to consider the issue of whether the requirements within the S106 satisfy the following:

- (a) necessary to make the development acceptable in planning terms;
- (b) directly related to the development; and
- (c) fairly and reasonably related in scale and kind to the development.

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

It is considered that a strategic transport contribution of £900,000 would adequately mitigate the impact of the development on the Strategic Highways network is justified.

As explained within the main report, the amount of traffic added to the local network will add cumulatively to junctions and areas that are already congested and operating at capacity and the required mitigation is directly related to the development and is fair and reasonable. The contribution to quality bus service will be to cater for the additional residents in the area who will have an impact upon public transport

The ecological mitigation payment will compensate for the loss of habitat by enhancing off site ecological interest in the vicinity. The level is fairly and reasonably related to the development.

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

## 9. CONCLUSIONS

The site is within the Open Countryside where, under Policy PS8, there is a presumption against new residential development.

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.”*

Following conclusion of the on-going negotiation of a suitable Section 106 package, the proposed development would provide adequate public open space and enhanced contributions towards highway improvements linked to the northern relief road and additional bus provision to serve the site. The proposal will also mitigation for the impact upon future provision of primary school education and to compensate for the loss of grassland habitat via the off site enhancement.

It would also provide the policy compliant level of affordable housing provision (30%), although this has to be tempered against the fact that the tenure mix is not as indicated as being appropriate within the Affordable Housing SPD with a total of 75% intermediate provision as opposed to 35%, this differing tenure will ensure a enhanced payment for highways, specifically for the northern relief road.

The proposal is considered to be acceptable, subject to appropriate conditions, in terms of its impact upon residential amenity, contaminated land, air quality, noise impact, layout and design, built heritage, ecology, adjoining areas of nature conservation interest, forestry, drainage/flooding and it therefore complies with the relevant local plan policy requirements for residential environments

Whilst the site does not meet all the minimum distances to local amenities and facilities advised in the North West Sustainability toolkit, there is not a significant failure to meet these, and these are distances already in existence for the existing residential community adjoining the site. The development will contribute to the economy and social strands of sustainability and the proposal overall is deemed to be sustainable.

Whilst the proposal will result in the loss of some of the best and most versatile agricultural land, in accordance with recent Appeal decisions on the matter, it is considered that the benefits of the delivering the site for much needed housing would outweigh this loss.

On the negative side, the housing will be built on open countryside and result in the loss of best and most versatile agricultural land contrary to the provisions of Policy PS8 of the Local Plan and the NPPF, and whilst the proposal will have an impact upon on the landscape character of the area, this character is already significantly affected by the existing houses/urban back drop on Black Firs Lane, Chelford Road and Holmes Chapel Road

With regard to ecology, including the impact on Black Firs Wood SBI adjacent, protected species and other habitats, the Councils Ecologist and Natural England are satisfied that any effects can be adequately mitigated.

Overall, it is considered that the adverse impacts of the development – in terms of conflict with the development plan on Countryside and affordable housing issues are outweighed by the benefits of the proposal in terms of the residential provision and the enhanced highways contributions.

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 – and so accordingly the application is recommended for approval, subject to a Section 106 Agreement and appropriate conditions.

## 10. RECOMMENDATION

**APPROVE** subject to a Section 106 Legal Agreement to Secure:

- 30% of the dwellings to be affordable.
- The tenure split of the affordable housing required is 25% social or affordable rent, 75% intermediate tenure.
- Affordable Homes should be pepper-potted (in clusters is acceptable)  
25% of the affordable dwellings to be built to meet Lifetime Homes standards, and these properties should be bungalows, maisonettes or adaptable houses. The affordable dwellings should be built to meet Code for Sustainable Homes Level 3.
- The affordable homes to be provided no later than occupation of 50% of the market dwellings unless the development is phased, in which case 80% of the market dwellings can be occupied.
- Provision of a LEAP with 5 pieces of equipment specification to be submitted and agreed and in accordance with that set out in the Greenspaces Officer consultation response.  
Management plan for all open space in perpetuity (including, inter alia, the LEAP, allotments if provided, woodland, general amenity openspace, village green, nature conservation area, drainage areas, ponds and any other areas of incidental open space not within private gardens or the adopted highway).
- Commuted sum of £55,610 to be used to deliver off-site habitat creation/enhancement as per the report  
Committed sum of £165,405 in lieu of primary education  
Committed Sum of £145,000 towards Quality Bus Stop Infrastructure and improvements to service frequency and the provision of additional bus service and frequency to serve this development and the local area.

Commuted Sum of £755,000 -

- for the widening of the West Road/A34 roundabout western arm
  - for design fees associated with the widening of the West Rd roundabout western arm.
  - for the upgrade and necessary alterations to the existing signalised pedestrian crossing on the western arm approach to the West Rd roundabout.
- Contribution to the provision of a MOVA system upgrade at the signalised junction at Rood Hill/A34.
- Or other measures that will provide similar congestion relief benefits to the A34 corridor through Congleton

And the following conditions

1. Standard Outline
2. Submission of reserved matters – all except access
3. Plans
4. Development to be in accordance with Parameters Plan (p49 Design and Access Statement)
5. Submission of design and construction plans for the internal road infrastructure of the development. The plans will inform the Section 38 agreement for formal adoption
6. Submission of design and construction plans for all off site highways works.
7. 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
8. Reserved matters to include retention of area of woodland to south of site
9. Submission of construction details for access / roads
10. All Piling operations shall be undertaken using best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties. All piling operations shall be restricted to: Monday – Friday 09:00 – 17:30 hrs; Saturday 09:00 – 13:00 hrs; Sunday and Public Holidays Nil
11. Submission of a Contaminated Land Phase II investigation.
12. Submission of Construction and Environmental Management Plan
13. Reserved Matters to include details of bin storage.
14. Reserved matters to include 10% renewable provision
15. Updated badger survey and revised ecological mitigation strategy to be submitted with reserved matters application.
16. Detailed design of ponds to be submitted with reserved matter application
17. Archaeological programme of works
18. Details of all street lighting
19. Car charging point for each residential unit
20. Each Phase of development to include travel plan
21. Reserved Matters to include Arboricultural Implication Study (AIS) in accordance with para 5.4 of BS5837:2012 Trees in Relation to Design, Demolition and Construction - Recommendations , Constraints and Tree Protection Plan and Arboricultural Method Statement
22. Submission / approval and implementation of boundary treatment
23. Submission / approval of landscaping



24. Implementation of landscaping
25. Important hedgerows and trees to be retained and to be incorporated within reserved matters layout
26. Submission of tree and hedgerow protection measures
27. Implementation of tree and hedgerow protection measure
28. Reserved Matters to include details of bin storage.
29. Breeding Bird Survey for works in nesting season
30. Provision of 40 bird/bat boxes throughout site
31. Submission / approval and implementation of Construction management plan
32. Scheme to limit surface water runoff and overland flow
33. Provision and implementation of Travel Plan
34. Sewer easement as detailed in United Utilities response
35. Buffer zone of 20m between houses and play space
36. All the affordable dwellings should be provided no later than occupation of 80% of the open market dwellings
37. Development to be in accordance with principles set out in Design and Access Statement
38. Submission of Statement Design principles to take into account, the Master Plan and the Parameters Plan and to include the principles for:
  - determining the design, form, heights and general arrangement of external architectural features of buildings including the roofs, chimneys, porches and fenestration;
  - determining the hierarchy for roads and public spaces;
  - determining the colour, texture and quality of external materials and facings for the walls and roofing of buildings and structures;
  - the design of the public realm to include the colour, texture and quality of surfacing of footpaths, cycleways, streets, parking areas, courtyards and other shared surfaces;
  - the design and layout of street furniture and level of external illumination;
  - the laying out of the green infrastructure including the access, location and general arrangements of the children's play areas, open space within the site
  - sustainable design including the incorporation of decentralised and renewable or low carbon energy resources as an integral part of the development
  - ensuring that there is appropriate access to buildings and public spaces for the disabled and physically impaired.
  - scale parameters for 2.5 storey buildings on key parts of the site
  - SUDS details to be submitted
  - provision of locally relevant boundaries in hedging and stone
39. Maximum no of units to be 170

In the event of any changes being needed to the wording of the committee's decision (such as to delete, vary or addition conditions / informatives / planning obligations or reasons for approval / refusal) prior to the decision being issued, the Planning and Place Shaping

Manager , in consultation with the Chair of the Strategic Planning Board is delegated the authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.