

Application No: 13/4911C
Location: LAND OFF MOSS LANE, SANDBACH
Proposal: Outline application for 13 new dwellings (Resubmission)
Applicant: Mr Peter Richardson
Expiry Date: 20-Feb-2014

SUMMARY RECOMMENDATION

REFUSE

MAIN ISSUES:

- Principle of the development
- Housing land supply
- The acceptability of the Layout, Scale, Appearance, Landscaping and Access
- Impact on adjoining residential amenities
- The impact upon ecology
- The provision of open space
- Provision of affordable housing
- The impact upon the Public Right of Way
- The impact upon trees and hedgerows

REASON FOR REFERRAL

This application is referred to the Southern Planning Committee as it involves a 'departure' from planning policy.

DESCRIPTION OF SITE AND CONTEXT

This application relates to an agricultural field located on the northern side of Moss Lane, Sandbach within the Open Countryside.

DETAILS OF PROPOSAL

Outline Planning Permission is sought for the erection of 13 new dwellings.

All matters are reserved. As such, the application seeks permission for the principle of the erection of 13 dwellings on this site.

This application is a like-for-like re-submission of application 13/2841C which was refused for the following reasons;

1. *The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies PS8 and H6 of the Congleton Borough Adopted Local Plan First Review 2005 and the principles of the National Planning Policy Framework which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it and creates harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework, consequently the application is premature to the emerging Development Strategy since there are no material circumstances to indicate that permission should be granted contrary to the development plan.*

RELEVANT HISTORY

13/2841C - Outline application for 13 new dwellings – Refused 19th September

POLICIES

National Policy

National Planning Policy Framework (NPPF)

Local Plan Policy

PS8 – Open Countryside

GR1 - General Criteria for Development

GR2 – Design

GR4 - Landscaping

GR6 - Amenity and Health

GR9 - Highways & Parking

GR16 – Footpath, Bridleway and Cycleway Networks

GR19 - Infrastructure

GR20 – Public Utilities

GR22 – Open Space Provision

H1 & H2 - Provision of New Housing Development

H6 – Residential development in the Open Countryside and the Green Belt

NR1 – Trees and Woodlands

NR2 – Wildlife and Nature Conservation – Statutory Sites

NR3 - Habitats

Other Material Planning Considerations

SPG2 - Provision of Private Amenity Space in New Residential Development

The EC Habitats Directive 1992

Conservation of Habitat & Species Regulations 2010

Circular 06/2005 - - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

Interim Affordable Housing Statement: Affordable Housing
Sandbach Town Strategy

CONSULTATIONS (External to Planning)

Strategic Highways Manager – No objections, subject to a condition requiring that the off-road parking standards adhere with the Draft Local Plan and an informative that the developer will enter into a S184 Agreement for the construction of the vehicular accesses.

Environmental Protection – No objections, subject to a number of conditions including: Hours of piling, the prior submission of a piling method statement, the prior submission of a construction phase Environmental Management Plan, hours of construction and a contaminated land informative.

United Utilities – No objections, subject to the site being drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the soakaway/watercourse/surface water sewer and may require the consent of the Local Authority. If surface water is allowed to be discharged to the public surface water sewerage system we may require the flow to be attenuated to a maximum discharge rate determined by United Utilities.

Canal & River Trust - No objections

Greenspace (Cheshire East Council) – Advise that there would be a deficiency in the quantity of provision of amenity Greenspace accessible in the area should the application be approved. As such a financial contribution is required towards enhancement of public open space/play provision within the vicinity of the proposed development. The contributions sought are;

Enhanced provision: £2,113.20

Maintenance: £4,730.00 (25 years)

With regards to Children and Young Person Play provision, the following contributions are sought;

Enhanced provision: £3,662.80

Maintenance: £11,940.00 (25 years)

Total: £22,446

Housing (Cheshire East Council) – Advise that the 4 units to be provided for social rent would be acceptable. Recommend that the affordable housing should be provided no later than the occupation of 50% of the open market dwellings.

Public Rights of Way – No objections, subject to an informative advising the land owner of their obligations.

Ramblers Association – Recommend that the developer show the position of the Public Footpath FP34 on their plans

VIEWS OF THE PARISH COUNCIL:

Sandbach Town Council – No objection, however concerns are raised about the increase in the volume of traffic on Moss Lane/London Road.

OTHER REPRESENTATIONS:

Objections have been received from 7 neighbouring properties. The main areas of objection relate to;

- Development is in the Open Countryside
- Design
- Drainage concerns/capacity
- Loss of habitat / ecology
- Loss of hedgerow
- Highway Safety – Increase in traffic
- Loss of agricultural land
- Lack of facilities and jobs

Other issues raised which are not material considerations include; the proposal would set a precedent and there is no need for further housing.

SUPPORTING INFORMATION:

Design and Access Statement
Tree Report
Hedgerow Searches
Sustainability appraisal
Agricultural land classification

OFFICER APPRAISAL

Principle of Development

The site is designated as being within the Open Countryside where Policy PS8 (Open Countryside) of the Local Plan states that development will only be permitted if it falls within one of a number of categories including:

- Agriculture and Forestry
- Facilities for outdoor sport, recreation, tourism
- Other uses which preserve the openness of the open countryside and maintain or enhance its local character
- New dwellings in accordance with Policy H6
- Controlled infilling in accordance with Policy H6
- Affordable housing in compliance with Policy H14
- Development for employment purposes
- The re-use of rural buildings or;
- The re-use or redevelopment of existing employment sites

As the proposed development is for the erection of 13 new dwellings in the Open Countryside, it is subject to Policy H6.

Policy H6 of the Local Plan advises that residential development within the Open Countryside will not be permitted unless it falls within one of the following categories:

- An agricultural workers dwelling
- The replacement of an existing dwelling
- The conversion of a rural building
- The change of use or redevelopment of an existing employment site in accordance with Policy E10
- Limited infill for those settlements identified in Policy PS6 or;
- Affordable housing

The proposed development does not fall within any of the above categories 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.

Housing Land Supply

The National Planning Policy Framework (NPPF) confirms at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

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

The NPPF clearly states at paragraph 49 that:

“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

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

A number of recent appeal decisions have concluded that the Council has not conclusively demonstrated a five year supply of deliverable housing land, founded on information with a base date of 31 March 2012 selectively updated to 31 March 2013. However, the Council has recently published a 5 Year Supply Position Statement which seeks to bring evidence up to date to 31

December 2013. The approach taken to the Statement has been informed by policy requirements and by consultation with the Housing Market Partnership.

The Borough's five year housing land requirement is 8,311. This is calculated using the 'Sedgefield' method of apportioning the past shortfall in housing supply across the first five years. It includes a 5% buffer, which is considered appropriate in light of the Borough's past housing delivery performance and the historic imposition of a moratorium.

A standard formula of build rates and lead-in times has been applied to most housing sites, unless more detailed site-specific information is available. Those considered deliverable within the five year supply have been 'sense-checked' and assumptions altered to reflect the circumstances of the particular site. The Criticisms made of the yields from certain sites in the recent appeals, particularly those in the merging Local Plan, have also been taken on board.

Sources of supply include sites under construction; sites with full and outline planning permission; sites awaiting Section 106 Agreements; selected Strategic Sites which are included in the emerging Local Plan; sites in adopted Local Plans; and small sites. This approach accords with the *National Planning Policy Framework*, existing guidance and the emerging *National Planning Policy Guidance*.

A discount has been applied to small sites, and a windfall allowance included reflecting the applications which will come forward for delivery of small sites in years four and five.

A number of sites without planning permission have been identified and could contribute to the supply if required. However, these sites are not relied upon for the five year supply at present.

The current deliverable supply of housing is assessed as being some 9,757 homes. With a total annual requirement of 1,662 based on the 'Sedgefield' methodology and a 5% 'buffer', the *Five Year Housing Land Supply Position Statement* demonstrates that the Council has a 5.87 year housing land supply. If a 20% 'buffer' is applied, this reduces to 5.14 years supply.

In the light of the above the Council will demonstrate the objective of the framework to significantly boost the supply of housing is currently being met and accordingly there is no justification for a departure from Local Plan policies and policies within the Framework relating to housing land supply, settlement zone lines and open countryside in this area.

Additionally, the adverse impacts in terms of conflict of this proposal with the emerging draft strategy of releasing this site for housing development would, in the planning balance, outweigh the benefits of the proposal in terms of housing land supply, since the site is not relied upon with the emerging Core Strategy or the Assessed Housing land supply.

Therefore, the site is not required for the 5 year housing land supply plus buffer.

Open Countryside Policy

As well as assessing housing supply, the recent Appeal decisions at Sandbach Road North Congleton Road Sandbach, the Moorings Congleton and Crewe Road, Gresty Green 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. Therefore, the proposal remains contrary to Open Countryside policy regardless of the 5 year housing land supply position in evidence at any particular time.

Location of the site

To aid the assessment as to whether the application site is located within a sustainable location, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local 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 accessibility of the site shows that following facilities meet the minimum standard:

- Post box (500m) – 450m
- Amenity Open Space (500m) – 450m
- Children’s Play Space (500m) – 450m
- Primary School (1000m) – 750m
- Outdoor Sports Facility (500m) – 450m
- Local meeting place (1000m) – 750m
- Public House (1000m) – 270m
- Child Care Facility (nursery or crèche) (1000m) - 750m
- Bus Stop (500m) – 450m
- Public Right of Way (500m) – 50m
- Pharmacy (1000m) – 600m
- Railway station (2000m where geographically possible) – 550m
- Any transport node – 550m

Where the proposal fails to meet the standards, the facilities in question are still within a reasonable distance of those specified and are therefore accessible to the proposed development. Those facilities are:

- Bank or cash machine (1000m) – 1448m
- Bank or Cash machine (1000m) – 1100m
- Supermarket (1000m) – 1270m

The following amenities/facilities fail the standard:

- Secondary School (1000m) – 1960m
- Medical Centre (1000m) – 2310m
- Convenience Store (500m) – 1100m

In summary, the site does not comply with all of the standards advised by the NWDA toolkit. However, as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Sandabch, within the recommended standards for the majority of the amenities listed, it is considered that this site is a locationally sustainable site.

However, it is not considered that the locational sustainability of the site is outweighed by the loss of the open countryside, which when not required for the purpose of housing land supply, is inherently unsustainable.

Layout

The proposed development is for 13 new dwellings.

The submitted indicative layout plan shows that the proposed dwellings would be erected in a linear pattern fronting Moss Lane, following a similar building line to the existing dwellings to the east of the site.

The dwellings would be inset from Moss Lane between 4.5 and 10 metres. The plots would be elongated in nature and extend between 34 and 40 metres in depth. To the adjacent sides, the dwelling proposed to the far east of the site would be approximately 11.5 metres from the side elevation of No.32 Moss Lane. The dwelling proposed to the far west would be approximately 54 metres from the side elevation of Sunnyside.

Due to the linear pattern of development along this side of Moss Lane to the east and the regular building line that these properties have been constructed at, it is considered that the addition of the 13 dwellings along this frontage would respect the local character with regards to layout.

For the above reasons, it is considered that the indicative layout of the proposed development would be acceptable and would subsequently adhere to Policy GR2 of the Local Plan.

Access

The indicative layout plan shows that the proposed dwellings would be served by their own individual accesses onto Moss Lane which would lead to private driveways which are large enough to accommodate 200% parking.

The applicant has submitted a Highways Report in support of their proposal.

This report advises that due to the small number of units sought, the traffic generation would be low. The report quotes the NPPF in that because the impact would not be severe, there is no reason to refuse the application on highways grounds.

In response, the Council's Strategic Highways Manager (SHM) has concluded that the report's conclusions are correct and *'...on balance the SHM must advise that whilst the highway report does not present ideal information it would not be sustainable at inquiry to try to uphold a reason for refusal on highway grounds for this site.'*

The SHM recommends that a condition be added to the decision notice, should the application be approved, advising that the development will provide off-road parking in accordance with the emerging CEC draft parking standards as described in the new Draft Local Plan.

Given that the Local Plan is in a draft format at this time and therefore given limited weight, it is not considered that this condition would be enforceable. Furthermore, access is not sought for approval at this stage.

Notwithstanding this, it is considered that the proposed development would adhere with Policy GR9 of the Local Plan.

Appearance & Scale

Policy GR2 (Design) of the Local Plan states that the proposal should be sympathetic to the character, appearance and form of the site and the surrounding area in terms of: The height, scale, form and grouping of the building, choice of materials and external design features.

In terms of its form, the indicative layout plan indicates that the applicant seeks to erect 5 detached dwellings and 8 semi-detached dwellings on the northern side of Moss Lane, Sandbach.

The indicative streetscene plan shows that all 13 dwellings would be two-storey in nature, consist of dual-pitched roofs and include dual-pitched-fronted features such as half-dormers, porches or gables. 7 of the 13 units would include subordinate, two-storey side outriggers which would include integral garages. 2 of the units would include detached garages.

It is detailed within paragraph 3.6 of the submitted Design and Access Statement that *'The scale and appearance of the proposed properties will be in keeping with the surrounding properties using facing brickwork and tile roofs.'*

Given that the majority of the surrounding properties are two-storey, detached or semi-detached with open brick finishes and dual-pitched tiled roofs, it is considered that the form and appearance of the proposed scheme would respect the local character.

With regards to scale, the indicative streetscene plan shows that the proposed dwellings would range between 7.8 and 8.2 metres in height. These heights would reflect the heights of the surrounding two-storey properties, as would the proposed footprints. As such, it is not considered that the height of the proposed dwellings would appear incongruous.

As a result, it is considered that the proposed development would adhere with Policies GR1 and GR2 of the Local Plan.

Amenity

Policy GR6 (Amenity and Health) of the Local Plan, requires that new development should not have an unduly detrimental effect on the amenities of nearby residential properties in terms of loss of privacy, loss of sunlight or daylight, visual intrusion, environmental disturbance or pollution and traffic generation access and parking. Supplementary Planning Document 2 (Private Open Space) sets out the separation distances that should be maintained between dwellings and the amount of usable residential amenity space that should be provided for new dwellings.

Having regard to this proposal, the residential amenity space minimum standard stated within SPG2 is 65 square metres. The space provided for all of the proposed new dwellings would adhere to this standard.

In terms of the separation distances, between the new dwellings themselves, all 13 units would lie parallel to each other.

No details regarding the position of openings are proposed on the side elevations of these units have been provided as this application seeks outline permission only.

In order to be deemed as acceptable, the dwellings will need to conform with the separation standards listed in Supplementary Planning Note 2: Provision of Private Open Space in New Residential Developments. These standards include a 21.3 metre gap between main windows of

directly facing dwellings across both the front and rear gardens and a 13.8 metre gap between the main windows of dwellings directly facing the flank walls of an adjacent dwelling.

In relation to the impact upon the neighbouring dwellings outside of the development site, the closest units are; No.32 Moss Lane to the north-east, Sunnyside to the southwest and the properties on the opposite side of Moss Lane to the development.

The gap between the dwelling proposed closest to No.32 and the side elevation of No.32 would be approximately 11.5 metres.

On the relevant side elevation of this neighbouring property there is a first-floor side window which serves a landing.

Given that this opening does not serve a principal habitable room, subject to their not being any openings on a relevant side elevation of the proposed closest dwelling which would represent a sole window to a principal room, it is not considered that the development would create any loss of privacy, light or be visually intrusive for this neighbour.

Sunnyside would be positioned approximately 54 metres to the southwest of the closest property proposed on the site. Given this large separation distance, it is not considered that the proposal would result in a loss of privacy, light or visual intrusion for this neighbour.

On the opposite side of Moss Lane, the properties would be over approximately 25 metres away. Again, as a result of this large separation distance, it is not considered that the development would create any amenity issues for the occupiers of these properties.

The Council's Environmental Health team have advised that they have no objections to the proposed development subject to the provision of a number of conditions. These suggested conditions include; including: Hours of piling, the prior submission of a piling method statement, the prior submission of a construction phase environmental management plan, hours of construction and a contaminated land informative.

As such, subject to the above conditions, it is considered that the proposed development would adhere with Policy GR6 of the Local Plan.

Ecology

The Council's Nature Conservation Officer has advised that the application will result in the loss of hedgerow along Moss Lane. As hedgerows are Biodiversity Action Plan priority habitats, they are a material consideration.

It is recommended that the loss of these hedgerows be compensated for by creating new native species hedgerows as garden boundaries for the proposed houses.

Furthermore, should the application be approved, it is recommended that a condition to safeguard breeding birds and a condition for the prior submission for details for the incorporation of features into the scheme suitable for breeding birds be imposed.

Subject to the above conditions, it is considered that the development would adhere with Policy NR2 of the Local Plan.

Open Space

No open space is to be provided as part of the scheme.

The Council's Greenspace team, have broken down the assessment of what is required into Amenity Greenspace and Children's and Young Persons Play provision.

With regards to Amenity Greenspace, it is advised that if the development were to be granted planning permission, there would be a deficiency in the quantity of provision, having regards to the local standards set out in the Council's Open Space Study.

As such, the Council would request a sum of money in order to provide enhanced provision and maintenance of local space (£6,843.20).

In terms of Young Persons Play provision, again, should planning permission be granted, there would be a deficiency in the quantity of provision and a financial contribution would be sought to account for this deficiency (£15,602.80).

As such, subject to a commuted sum being agreed and secured via legal agreement, it is considered that the proposal would adhere with Policy GR22 of the Local Plan.

Affordable Housing

The application allocates the provision of 4 of the 13 dwellings to be affordable dwellings which meets the requirements of the Interim Planning Statement on Affordable Housing.

The Interim Planning Statement advises that there should be a 30% on-site affordable housing requirement on sites over 0.4 hectares within settlements of 3000 or more. Furthermore, a tenure split of 65% affordable or social rent and 35% intermediate tenure should be sought.

The Council's Strategic Housing Development Officer has advised that the site falls within the Sandbach sub area in the 2013 SHMA update.

Within this area the update illustrated an affordable housing requirement of 94 units between 2013/14 and 2017/18.

Cheshire Homechoice, the Council's Choice-based lettings systems shows that there are currently 174 live applicants who have selected one of the Sandbach letting areas as their first choice.

The 4 units proposed adhere with the 30% requirement figure; however the tenure split does not. The applicant proposes that all 4 units shall be social rented.

Notwithstanding this, the Council's Housing Officer has concluded that *'...we would be willing to accept this on site.'*

It is further advised that the 4 units should be pepper-potted throughout the site and be tenure blind. Furthermore, it is recommended that the affordable housing should be provided no later than the occupation of 50% of the open market dwellings.

A legal agreement will be required to secure the delivery of this housing and trigger its release.

As a result of the above information and comments, it is considered that the affordable housing provision proposed would be acceptable.

Footpaths / Public Right of Way

The proposed would not directly impact an existing public right of way. However, there is an existing footpath to the west of the site (Public Footpath no.34).

The Council's Public Rights of Way Officer has advised that they have no objections to the proposed development but recommend an informative be added to the decision notice, should the application be approved, in order to remind the applicants of their responsibilities.

As the Council's Public Rights of Way Officer is satisfied with proposal, it is considered that the development would adhere with Policy GR15 of the Local Plan.

Landscape

The proposed development is enclosed on the southern (front), eastern (side) and western (side) boundaries by hedgerow.

There are no protected trees on the site.

The application is supported by a Tree Survey, Arboricultural Impact Report and a Landscape Assessment

Visual

The application site is an elongated shaped area covering one field. To the north and west, the site is bounded by further fields, to the south by Moss Lane and to the west be residential development.

The site is relatively flat-grassed land with both hedgerow and fenced boundaries.

The applicant has advised that *'The existing hedgerow would be retained and punctured only by new drive gateways. The development does not project into the open field system beyond. A new hedge will be planted to continue along from the rear of the existing properties on the north side of Moss Lane.'*

The development would only be visible from the distant viewpoint to the north, when it will be seen against the backdrop of the new housing on the former Foden site.

The land is flat, and with the proposed housing level with the existing properties in Moss Lane or the new houses opposite, it would have no significant visual impact on the setting. The proposed site completes a natural boundary to the existing houses to the north of Moss Lane and is part of the built-up residential nature of Moss Lane. The new houses proposed would be appropriate and a natural continuation of the linear form of development along Moss Lane.'

In response, the Council's Landscape Officer has advised that; *'There are no landscape designations on the site but the site is located within open countryside outside the settlement zone line as identified in the relevant Local Plan. In the Cheshire Landscape Character Assessment the site is located on the edge of the East Lowland Plan Landscape Character Type in ELP 5 Wimboldsley Character Area. The site has several of the key characteristics of the character type.'*

It is further advised that *'No landscape appraisal or visual impact assessment has been provided however, I consider encroachment of built development into the open countryside would at this location would be regrettable.'*

This adds weight to the concerns expressed above in respect of loss of Open Countryside, which should be protected for its own sake.

Trees

The report advises that there are 2 Category A trees along Moss Lane. It is advised within the report that these features merit retention and the design of the individual driveways can be configured to utilise existing gaps in hedgerow and laid out to allow the retention of these 2 trees.

As such, subject to the appropriate tree protection conditions to protected these 2 trees, it is not considered that the proposed development would have a detrimental impact upon trees.

Hedgerows

If the hedgerow fronting Moss Lane is over 30 years old, it should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'important'. If they are deemed to be 'important', this would be a material consideration.

In response to the above the applicant provided a letter from the 'Cheshire Archive and Local Studies Service' who confirmed that the south side of the site boundary, directly fronting Moss Lane is considered to be an 'important' hedgerow.

Policy NR3 (Habitats) of the adopted Congleton Borough Local Plan First Review, states that proposals for development that would result in the loss or damage to important hedgerows will only be allowed if there are overriding reasons for allowing the development, and where the likely effects can be mitigated or the habitat successfully recreated on or adjacent to the site and there are no suitable alternatives. In order to comply with the policy, all of these criteria must be met.

In response to this policy, given that this 'important' hedgerow would be retained, but punctuated in order to provide individual domestic accesses, the historical line of the hedge would remain unchanged. Therefore, the impact upon the landscape is considered to be limited. This line is further supported in the landscape by the orientation of Moss Lane itself which lies parallel to this hedgerow. As a result of this, in addition to the fact that the Cheshire Archaeology Service have raised no objections to the proposal, subject to protection conditions, it is considered that the proposed impact upon this 'important' hedgerow would be acceptable in this instance.

Flood Risk and Drainage

The site does not lie within a flood zone and as such, flooding is not a consideration in this instance.

United Utilities were consulted with regards to drainage. UU have subsequently advised that they have no objections, subject to the site being drained on a separate system with only foul drainage connected to the foul sewer and that the surface water should discharge to the soakaway/watercourse/surface water sewer. Furthermore, it is advised that a separate metered supply must be provided for each unit.

As such, subject to the implementation of these proposals via informatives, it is considered that the proposed development would adhere with Policy BE.4 of the Local Plan.

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 a deficiency in the quantity of provision of public open space within the area. In order to offset this loss, a contribution towards of site enhancement and maintenance is required. This is considered to be necessary, fair and reasonable in relation to the development. The commuted sum sought is £6,842.20.

The development would also result in a deficiency in the quantity of provision of children's space within the area. In order to offset this loss, a contribution towards of site enhancement and maintenance is required. This is considered to be necessary, fair and reasonable in relation to the development. The commuted sum sought is £15,602.80.

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

CONCLUSIONS

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

The Council can demonstrate a 5 year supply of housing land and therefore there is no over-riding need to release this Open Countryside site. Furthermore, the proposal would cause harm to the character and appearance of the Open Countryside contrary to Policy PS8 which is considered to be up-to-date and in accordance with the NPPF.

As such, it is considered that the proposed development would be unacceptable in principle.

Notwithstanding the above, in terms of Ecology, it is not considered that the development would have a significant impact upon ecology or protected species, subject to conditions to protect and support breeding birds.

Following the successful negotiation of a suitable Section 106 package, the proposed development would provide an adequate contribution towards off-site public open space and children's play space on site and the necessary affordable housing requirements.

The proposal is considered to be acceptable in terms of its impact upon residential amenity and drainage/flooding. 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 facilities advised in the North West Sustainability toolkit, there is not a significant failure to meet these and all such facilities are accessible to the site. The development is therefore deemed to be locationally sustainable.

However, as the proposal is for new dwellings in the Open Countryside and does not adhere to the housing policies within this designation, it is considered that the proposed application should be recommended for refusal.

RECOMMENDATION:

REFUSE

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies PS8 and H6 of the Congleton Borough Adopted Local Plan First Review 2005 and the principles of the National Planning Policy Framework which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it and creates harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework and consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.**

This report is predicated on the basis that SPB approve the position statement.

In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning and Place Shaping Manager has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.

Should this application be the subject of an appeal, authority be delegated to the Planning and Place Shaping Manager in consultation with the Chairman of the Strategic Planning Board to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

Heads of terms;

1. A commuted payment of £6,842.20 towards off-site Public Open Space enhancement and maintenance
2. A commuted payment of £15,602.80 towards off-site Children's Play Space enhancement and maintenance
3. 30% Affordable Housing provision – All 4 units to be socially rented. Pepper-potted and tenure blind, provided no later than 50% occupation. Transferred to registered provider.

Crow Nest

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