

Application No: 13/5085N

Location: LAND TO THE EAST OF, BROUGHTON ROAD, CREWE

Proposal: The erection of 124 dwelling houses, including 44 affordable units, with associated highways and open amenity space, landscaping and ecological protection zone.

Applicant: WCE Properties Ltd

Expiry Date: 04-Mar-2014

SUMMARY RECOMMENDATION

REFUSE

MAIN ISSUES

Principle of Development

Housing Land Supply

Location of the Site

Affordable Housing

Highways Implications

Residential Amenity

Landscape

Trees and Hedgerows

Design & Layout

Public Open Space

Ecology

Education

Flood Risk and Drainage

REASON FOR REFERRAL

This application is referred to the Strategic Planning Board as it relates to a departure from the Development Plan.

1. DESCRIPTION OF SITE AND CONTEXT

The application site is located to the east of Broughton Road and to the northeast of the main built up area of Crewe. The site falls within the Open Countryside as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011.

The site measures approximately 6.4 hectares in size and is presently unmanaged agricultural pasture land. The majority of the site comprises of 2 relatively flat fields which are bound by traditional hedgerows and a number of trees. The site is bounded by open countryside to the north and east with Broughton Road and a linear pattern of housing to the west fronting Broughton Road.

Further towards the southeast, beyond Stoneley Road, there is the site referred to as Coppenhall East, which has approval for the erection of up to 650 houses.

2. DETAILS OF PROPOSAL

This is a full planning application for the erection of 124 dwellings. Access to the site would be taken from Broughton Road. Public Open Space would be provided within the southwestern corner of the site to the rear of some of the existing properties fronting Broughton Road.

3. RELEVANT HISTORY

None

4. POLICIES

National Planning Policy

National Planning Policy Framework

Local Plan policy

BE.1 – Amenity

BE.2 – Design Standards

BE.3 – Access and Parking

BE.4 – Drainage, Utilities and Resources

BE.5 – Infrastructure

BE.6 – Development on Potentially Contaminated Land

NE.2 – Open Countryside

NE.5 – Nature Conservation and Habitats

NE.9 – Protected Species

NE.17 – Pollution Control

NE.20 – Flood Prevention

RES.7 – Affordable Housing

RES.3 – Housing Densities

RT.3 – Provision of Recreational Open Space and Children’s Playspace in New Housing Developments

Cheshire East Local Plan Strategy – Submission Version

Paragraph 216 of the National Planning Policy Framework (NPPF) states that, Unless other material considerations indicate otherwise, decision-takers may give Weight to relevant policies in emerging plans according to:

- the stage of preparation of the emerging plan (the more advanced the preparation, the greater the weight that may be given);

- the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
- the degree of consistency of the relevant policies in the emerging plan to the policies in the NPPF (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

In view of the level of consultation already afforded to the plan-making process, together with the degree of consistency with national planning guidance, it is appropriate to attach enhanced weight to the Cheshire East Local Plan Strategy - Submission Version in the decision-making process.

At its meeting on the 28th March 2014, the Council resolved to approve the *Cheshire East Local Plan Strategy – Submission Version* for publication and submission to the Secretary of State. It was also resolved that this document be given weight as a material consideration for Development Management purposes with immediate effect.

Cheshire East Local Plan Strategy – Submission Version

PG2 – Settlement Hierarchy
 PG5 - Open Countryside
 PG6 – Spatial Distribution of Development
 SC4 – Residential Mix
 SC5 – Affordable Homes
 SD1 - Sustainable Development in Cheshire East
 SD2 - Sustainable Development Principles
 SE3 – Biodiversity and Geodiversity
 SE5 – Trees, Hedgerows and Woodland
 SE 1 - Design
 SE 2 - Efficient Use of Land
 SE 4 - The Landscape
 SE 5 - Trees, Hedgerows and Woodland
 SE 3 - Biodiversity and Geodiversity
 SE 13 - Flood Risk and Water Management
 SE 6 – Green Infrastructure
 IN1 – Infrastructure
 IN2 – Developer Contributions

Other Considerations

National Planning Policy Framework
 The EC Habitats Directive 1992
 Conservation of Habitats & Species Regulations 2010
 Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
 Interim Planning Statement Affordable Housing
 Interim Planning Statement Release of Housing Land
 Cheshire East Development Strategy
 Cheshire East SHLAA
 SHMA Update 2013

5. CONSULTATIONS (External to Planning)

Environment Agency:

No objection subject to conditions requiring SUDS / surface water management scheme and a scheme to manage the risk of flooding from overland flow.

United Utilities:

No objection subject to site being drained on a separate system.

Strategic Highways Manager:

No comments received at the time of report preparation.

Environmental Health: No objection but suggest conditions in relation to air quality, contaminated land, noise mitigation measures, construction management plan and external lighting.

Brine Compensation Board

No objection

Education:

No objection subject to financial contributions. A development of 124 dwellings (all 2 bed or more) is expected to generate 22 primary and 16 secondary aged pupils.

Primary

There are already significant pressures on primary places in Crewe. A contribution for every primary aged pupil will be required which equates to £238,618 (22 x 11919 x 0.91).

Secondary

The local secondary schools to this site area also impacted on by applications with existing approvals (12/3564N, 12/0831N, 13/3102N, 11/1879N, 11/1643N) in light of this a contribution will also be needed for every secondary aged pupil expected as any surplus capacity has been considered with these developments. This equates to a sum of £261,483 (16 x 17959 x 0.91).

Public Open Space:

The proposal should provide an equipped children's play area. The equipped play area needs to cater for both young and older children - 6 pieces of equipment for young, plus 6 pieces for older children. A cantilever swing with basket seat would also be desirable, plus a ground-flush roundabout as these cater for less able-bodied children.

Natural England:

No objection subject to Natural England's Standing Advice and biodiversity enhancements.

6. VIEWS OF THE CREWE TOWN COUNCIL

No objection subject to the provision of sustainable transport connections for walking and cycling that link to routes into the Town Centre, that the estate is limited to 20mph from its inception and that all the buildings have adequate provision for cycle storage.

7. OTHER REPRESENTATIONS

Letters have been received from 9 addresses objecting to this proposal on the following grounds:

- Loss of open countryside
- This area has already taken its fair share of housing
- Drainage and flooding issues
- Traffic and congestion in the area is already heavy
- The highway network, nearby junctions and proposed access will not cope
- Pedestrian environment is dangerous
- There is already permission for many houses in the area
- Loss of wildlife / habitat
- Lack of existing parking
- Recently built houses in the area cannot be sold
- No more employment opportunities in Crewe
- Loss of agricultural land
- In the 1950s animal carcasses may have been buried there following 'foot and mouth'
- No capacity in local schools
- Loss of outlook and privacy
- Noise and disturbance during construction
- Development out of character with the area

8. APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents;

- Supporting Planning Statement
- Design and Access Statement
- Contaminated Land Assessment
- Transport Assessment
- Framework Travel Plan
- Landscape & Visual Impact Assessment
- Agricultural Land Report
- Affordable Housing Statement
- Ecological Assessment
- Flood Risk Assessment
- Additional Ecology Reports
- Tree Survey Report

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Principle of Development

The site lies in the Open Countryside as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policies NE.2 and RES.5 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. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages. Policy PG 5 of the Cheshire East Local Plan Submission Version supports this approach.

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

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

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.*”

Appeal decisions in October 2013 concluded that the Council could not conclusively demonstrate a five year supply of deliverable housing land. This was founded on information with a base date of 31 March 2012 selectively updated to 31 March 2013.

In response, in February 2014 the Council 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 Position Statement set out that the Borough’s five year housing land requirement as 8,311. This was calculated using the ‘Sedgefield’ method of apportioning the past shortfall in housing supply across the first five years. It included a 5% buffer, which was 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 was applied to most housing sites, unless more detailed site-specific information is available. Those considered deliverable within the five year supply were ‘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 emerging Local Plan, were also been taken on board.

Sources of supply included 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 accorded with the *National Planning Policy Framework*, existing guidance and the emerging *National Planning Policy Guidance* at that time.

A discount was 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 were identified and could contribute to the supply if required. However, these sites were not relied upon for the five year supply.

The current deliverable supply of housing was therefore 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* demonstrated that the Council has a 5.87 year housing land supply. If a 20% ‘buffer’ was applied, this reduced to 5.14 years supply.

Notwithstanding this, however, the recent appeal at Elworth Hall Farm, Sandbach (11 April 2014) determined that the Council had still not evidenced sufficiently the 5 year supply position, although the Inspector declined to indicate what he actually considered the actual supply figure to be.

Members should note, however, that the Elworth Hall Farm inquiry took place shortly after the publication of the Position Statement with only very limited time available to evidence the case. Since that time, the housing figures have been continuously refined as part of the preparation of evidence for further public inquiries which have taken place during March and April 2014 and are scheduled to take place within the coming months and against the RSS target, Cheshire East

Council can now demonstrate a 5.94 year housing land supply with a 5% buffer or 5.2 year housing land supply with a 20% buffer.

Following the release of the Planning Practice Guidance (PPG), which now proposes that Council's include development which falls into the C2 Use Class category (i.e. care homes, halls of residence etc.) when considering housing land supply figures, the requirement provisionally drops to 6,496 (due to increased delivery in previous years) and the supply is elevated to 10,514. This equates to 8.09 years supply.

At the time of the Elworth Hall Farm inquiry the PPG was only in draft form, and although the Inspector gave consideration to the potential contribution of C2 accommodation to supply, the full implications of its inclusion were not known at that stage. The Inspector considered that the Council had a record of under-delivery and expressed the view that a 20% buffer would be appropriate. However, the inclusion of the C2 consents takes away the suggestion of persistent under supply.

The Elworth Hall Farm inspector also criticised assumptions which the Council had made around build rates and lead in times, which he considered to be overly optimistic. In response Officers have been reworking the supply figures using longer lead in times, and on build rates which do not assume that on large sites there will be two or more developers except where there is the actual site specific evidence. Whilst this clearly reduces the overall supply, this is balanced out by the inclusion of the C2 permissions, and (subject to confirmation) the most recent figures still indicate that the Council can demonstrate a 5 year supply of housing land.

In the light of the above the Council considers that 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/Goldfinch Close in Congleton and Crewe Road, Gresty Green are also significant for clarifying the status and intent of settlement zone line and countryside policies within the existing Plan.

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 the recent appeals in Cheshire East (mentioned above) have generally taken a different approach.

The recent appeal decisions consider this matter in some detail. It was noted by Inspectors decisions” 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 (Congleton Road and Sandbach Road North) 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 that occasion that identified harm, combined with the significant weight attributed to countryside policies, outweighed the benefits in terms of housing supply and notwithstanding the housing supply position previously identified by Inspector Major, the appeal was dismissed.

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”.

It is acknowledged that the Council has recently consented to judgement in a High Court challenge to the Sandbach Road decision and that accordingly that decision has been quashed on the grounds that the Inspector erred in law in concluding that Policies PS4, PS8 and H6 were not a relevant policy for the supply of housing within the meaning of paragraph 49 of the national Planning Policy framework to the extent that it seeks to restrict the supply of housing. This is consistent with other recent court cases such as South Northamptonshire v Secretary of State for Communities and Local Government and Barwood Land.

Whilst the implications of this judgement are still being considered, the Council’s current stance on this matter, as put at recent inquiries, such as Weston Lane, Shavington is that, countryside policies in existing local plans can be considered as consistent with NPPF and are not housing land supply policies in so far as their primary purpose is to protect the intrinsic value of the countryside in accordance with paragraph 17 of the NPPF– and thus are not of date, even if a 5 year supply is not in evidence. However, it is acknowledged that where the Council cannot

demonstrate a 5 year supply, they may be out of date in terms of their geographical extent, in that the effect of such policies is to restrict the supply of housing. 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 and a judgement must be made as to the value of the particular area of countryside in question and whether, in the event that a 5 year supply cannot be demonstrated, it is an area where the settlement boundary should be “flexed” in order to accommodate additional housing growth.

Emerging Policy

Whilst the current application site was considered as a development option as part of ‘Area B’ in the Crewe Town Strategy, subsequently, this site has not been considered as part of the Development Strategy.

The NPPF consistently underlines the importance of plan-led development. It also establishes as a key planning principle that local people should be empowered to shape their surroundings. Regrettably the Secretary of State has often chosen to give less weight to these factors within his own guidance – and comparatively more to that of housing supply.

In the recent Secretary of State decision’s in Doncaster MBC it was found that a development was to be premature, even though the Development Plan was still under preparation. Important to this decision was the finding that a five year supply of housing land was available. There is nothing in national guidance to suggest prematurity and housing supply should be linked in this way, and logic might question how the two are interlinked, but this factor was evidently influential in this case. Given that the Council now has a 5 year supply of housing; it is considered that a prematurity case can be defended in this case.

However, the 5 year supply is a minimum provision and not a maximum and, given that there remains presumption in favour of sustainable development which according to the NPPF “*should be seen as a golden thread running through both plan-making and decision-taking*”, it is still necessary to consider whether the proposal would constitute sustainable development and whether there would be any significant adverse impacts arising from the proposal.

Conclusion

- The site is within the Open Countryside where under Policy NE.2 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:
 - n any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or
 - n specific policies in the Framework indicate development should be restricted.
- The Position Statement shows that the Borough has an identified deliverable housing supply over 5 years and therefore the presumption in favour of the proposal does not apply.

- The proposal does not accord with the emerging Development Strategy. Previous appeal decisions have given credence to such prematurity arguments where authorities can demonstrate a five year supply of housing land.
- However, the 5 year supply is a minimum requirement 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.

Location of the Site

The site is considered by the SHLAA to be sustainable in terms of location. The site is located on the northerly edge of Crewe. The area hosts a range of shops and local services including health care facilities, primary and secondary schools and also a range of public transport services serving the local and wider area. These include bus stops and the Crewe Rail Station. In terms of location, the site is deemed to be sustainable.

Affordable Housing

The Strategic Housing Market Assessment Update 2013 shows that for the sub-area of Crewe there is a need for 217 new affordable homes per year, made up of a need for 50 x 1 beds, 149 x 3 beds, 37 x 4+ beds, 12 x 1 bed older persons units and 20 x 2 bed older persons units. (There is an oversupply of 2-bed general needs accommodation).

There are currently 1725 applicants on our housing register applying for social rented housing who have selected one of the sub-areas of Crewe as their first choice, these applicants require 600 x 1 beds, 684 x 2 beds, 351 x 3 beds, 61 x 4 beds, 3 x 5 beds and 1 x 5+ beds (25 applicants haven't specified how many bedrooms they need).

Therefore as there is affordable housing need in Crewe there is a requirement for affordable housing to be provided at this site, between 30% and 35% of the total dwellings on site should be provided as affordable, this equates to up to 44 affordable homes and the tenure split of the affordable dwellings should be 65% social or affordable rent (up to 28 units) and 35% intermediate tenure (up to 16 units), the affordable housing should be provided on site.

According to the Planning Statement, the applicant is offering between 30% and 35% affordable housing at this site with a tenure split of 65% rented and 35% intermediate. All the affordable homes are 2 and 3 bed accommodation. The SHMA has been updated and it shows an oversupply of 2 bed accommodation with a large need for 1 bed accommodation. The Councils Housing Section has objected on this basis and therefore this will form a reason for refusal. The Housing Section has also objected on the basis that there are no details of where the affordable units will be. However, the degree of pepper potting could be secured by condition / legal agreement.

Highways Implications

The proposed development would be served off a single point of access positioned in a sizeable gap between the properties fronting Broughton Road (no.s 130 and 154). At the time of report preparation, the Strategic Highways Manger was still assessing the proposal and its impacts on the local highway network coupled with the cumulative impact from other extant permissions for housing in the area. This will be reported to Members by way of an update.

Residential Amenity

The main properties affected by the proposed development are those located on Broughton Road. The proposed layout would include some properties fronting Broughton Road, each side of the proposed access. Plots 11-7 would directly face no.s 117-119. However, the separation distance between each elevation would be in excess of 20 metres which is considered sufficient to ensure that no direct overlooking, loss of light or visual intrusion is caused.

Elsewhere, the proposal would meet with separation standards and would not result in material harm by reason of direct overlooking, loss of light or visual intrusion. Within the development itself, ample private amenity space would be provided and the relationship between the proposed plots would be reasonable enough to prevent any material harm to residential amenity for future occupiers.

Landscape

There are no landscape designations on or near the application site. There are a number of Public footpaths in close proximity to the application site; Footpath 16 Crewe Town runs along the southern boundary of the site and Footpath 17 Crewe Town runs along the eastern boundary of the site. Although the application (Design and Access Statement indicates that '*The site is not visible from any viewpoint with a designation or from anywhere beyond the immediate site*', the whole of the application site is actually visible from both these footpaths; these would normally be considered to be sensitive receptors.

As part of the submission a Landscape and Visual Appraisal has been submitted, this identifies both the National Character Area, as well as the regional character, as described in the Cheshire landscape Character Assessment 2009, namely the East Lowland Plain, Wimboldsley Character Area.

The appraisal identifies the landscape sensitivity as medium. The council's landscape officer agrees that the significance of impact would be slight/moderate. Provided the open space areas shown on the Landscape Masterplan are retained and existing landscape features retained within the scheme, and the remainder of the scheme is appropriately landscaped, the impact can be mitigated. This could be ensured through appropriate conditions and the S106 agreement.

Trees and Hedgerows

The application is supported by a Tree Survey Report (Ref 20400/R2/Rev1). The report indicates that the assessment has been carried out in accordance with the recommendations of British Standard BS5837:2012 Trees in relation to design, demolition and construction). The report has been carried out to assess the environmental and amenity values of all trees on or adjacent to the development area.

The proposed development site is formed by unmanaged agricultural pasture land, with limited numbers of trees and the remnants of hedges rows in the form of scattered hawthorn noted. The only mature tree aspect associated with the site is located on the boundary extremities which are formed by mature hedgerows.

One tree has been identified for removal (T11) on safety grounds irrespective of development. The tree presents an extensive area of decay established following historic fire damage. No objection is raised to its removal on landscape and tree grounds.

Ten of the fifteen trees identified within the report have been assigned a high value category A status. The Council's Tree Officer would consider this to be disproportionate and in most cases down grade to a Category B. A single Oak on the northern boundary has been omitted from the survey.

The site layout plan given the location of the identified trees retains the majority of the trees either within POS or as part of private gardens. The only element of concern relates to the Oak (T13) located on the eastern boundary, and the position of the access road which extends through the tree's RPA. Under an adoptable highway standard the tree would be materially damaged, and probably compromised. This could be addressed by the use of a no dig solution subject to highways agreement or the access is re-positioned outside the tree's RPA. The re-positioning could be achieved with the adjacent proposed properties presenting reasonably large rear gardens and small front aspects.

Reference is made in the Tree Survey Report to the protection of Important Hedgerows but existing hedgerows appear not to have been assessed. The majority of the hedge rows associated with the site is being retained with the exception of part of the Broughton Road aspect to facilitate the new access. Any part of the hedge which is being retained will then form part of a domestic garden curtilage negating the regulations. The said hedgerow is not considered to be important when assessed under the Hedgerow Regulations 1997 and therefore there could be no reasonable grounds to sustain a refusal of planning permission on tree or hedgerow grounds.

Design & Layout

Following an assessment of the proposal, it is considered that the design and layout of the scheme is unacceptable and would result in a poor quality development which fails to improve the character of the area and the way it functions. In this respect, there are three main concerns.

Firstly the highway layout, circulation spaces and car parking arrangements unduly dominate the scheme to the detriment of the built form and the appearance of the public realm within the site; something that is particularly evident in and around the area of the site entrance where the opportunity to deliver a focal point building and ensure a sense of arrival has been missed.

Secondly, the arrangement of corner plots would result in long stretches of blank boundary walls and unattractive service strips which contribute to the poor quality street scene and public realm environment within what would form prominent parts of the site. The house types are of poor architectural quality and the corner properties fail to address both highways with large blank flanking elevations with no articulation.

Thirdly, the overall site layout arrangement is poor. The scheme lacks any form of cohesion and legibility which has a significant detrimental impact upon the public realm and overall character and appearance of the development.

In summary, the design and layout is unacceptable and has missed the opportunities to deliver high quality development. It therefore fails to satisfy the requirements of NPPF, By Design,

Manual For Streets along with local plan policies BE.1 and policies SE 1 and SD 2 of the Cheshire East Local Plan Strategy – Submission Version which seek to deliver high quality design which make a positive contribution to its surroundings and to avoid development which fails to improve the character and quality of an area and the way it functions.

Public Open Space

Policy RT.3 states that where a development exceeds 20 dwellings the Local Planning Authority will seek POS on site. In this case the level would exceed the required level of amenity green space that is required with some of it serving as wildlife / ecological areas. In terms of children's play space, this would be provided on site and the applicant has indicated that they are willing to provide a LEAP with 12 pieces of equipment as requested by the Public Open Space Officer.

Ecology

Great Crested newts (GCN)

There are historical records of numerous ponds around this site supporting great crested newts. The survey undertaken to inform this application identified a small population of great crested newts breeding at a pond recorded on site and a medium sized population some distance away.

In the absence of mitigation, the proposed development would result in the loss of an area of terrestrial habitat and pose a significant risk of animals being killed or injured during the construction phase. The development would consequently be likely to result in a medium to high impact on this protected species.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations. A license under the Habitats Regulations can only be granted when:

- **the development is of overriding public interest,**
- **there are no suitable alternatives and**
- **the favourable conservation status of the species will be maintained.**

To mitigate the potential impacts of the proposed development upon great crested newts, the applicant has proposed the retention of the on-site ponds together with the retention and enhancement of an area of terrestrial habitat. In addition a number of small ponds are also proposed. To avoid GCN from being killed or injured during the construction phase, newts will also be removed and excluded from the development footprint under the terms of a Natural England license. The Council's Nature Conservation Officer (NCO) has confirmed that the proposed mitigation and compensation is acceptable to maintain the favourable conservation.

However, it must be ensured that none of the retained or newly created ponds forms part of the drainage scheme for the site. This type of usage can have a significant impact upon their nature conservation value. This could be secured by condition. This is particularly important in this instance as the ponds have the potential to support rare and protected invertebrate species as discussed below.

Ponds and rare invertebrate species

Mud snail a Local Biodiversity Action Plan priority species and Lesser Silver Diving Beetle a protected species; have been recorded from a number of ponds in this locality. With lesser silver diving beetle being previously recorded 'Pond 2' on site. Both ponds on site will be retained meaning that the proposed development will not have a direct adverse impact upon these species. However, a change in management to the adjacent land as a result of the development may have an adverse impact upon the ponds suitability to support this species.

The NCO recommends that it is important that the retained ponds are managed appropriately for these species which may involve light cattle grazing. If planning consent is granted a condition requiring a 10 year habitat management plan will be required.

Reptiles

The desk survey undertaken to inform the submitted ecological assessment did not reveal any records of reptiles. However grass snakes are known to occur within 500m of the proposed development site. Consequently, there is a reasonable likelihood that grass snakes will occur on the development site on at least a transitory basis. The retention and enhancement of habitats proposed for great crested newts could also address the potential impacts of the development upon grass snakes.

Bats

A tree on site has been identified as having potential to support roosting bats; however, it appears feasible for this tree to be retained within the development. The development site is likely to support foraging and commuting bats, however, the proposed open space and retained areas of habitat are likely to be adequate to address any adverse impacts associated with the proposed development.

Hedgerows

Hedgerows are a Biodiversity Action Plan priority habitat and a material consideration. It is likely that the proposed development will result in the loss of sections of hedgerow to facilitate the site access. There appears to be opportunities to creation additional native species hedgerows in compensation for any losses and it must be ensured that this is included in any approved landscaping scheme.

Ditches

The ditches on site were for the most part dry during the survey of the site. However, as ephemeral waterbodies these habitats have the potential to support important invertebrates and so it is recommended that the as much of the existing ditches as possible be retained. The proposed new ponds will however compensate for any minor losses.

Breeding Birds

If planning consent is granted standard conditions will be required to safeguard breeding birds and to ensure additional provision is made for breeding birds and roosting bats as part of the development.

Biodiversity Offsetting

With the exception of the ponds and hedgerows and their potential to support the presence of protected species, the habitats on site are of low value and do not present a significant constraint

upon development. However, the development proposals may still result in an overall loss of biodiversity. It is therefore recommended that the applicant undertakes and submits an assessment of the residual ecological impacts of the proposed development using the Defra 'metric' methodology.

An assessment of this type would both quantify the residual ecological impacts of the development and calculate in 'units' the level of financial contribution which would be required to 'offset' the impacts of the development to enable the total ecological impacts of the development to be fully addressed in a robust and objective manner. Any commuted sum provided would be used to fund habitat creation/enhancement works locally. It is recommended that authority be delegated to the Planning and Place Shaping Manager to agree the sum of the contribution.

Education

The Education Department have stated that there is very little capacity in the local primary schools and that the local secondary schools are also impacted on having regard to the cumulative impact from other existing approvals (refs; 12/3564N, 12/0831N, 13/3102N, 11/1879N, 11/1643N). Given that the development would generate 22 primary school pupils 16 secondary school pupils, there would be a requirement for a developer's contribution of £238,618 and £261,483 respectively. This sum would be secured via a S106 Legal Agreement and the applicant has confirmed that this sum is acceptable.

Flood Risk and Drainage

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. This defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location.

The submitted Flood Risk Assessment (FRA) states that surface water arising from the development will be restricted to the existing Greenfield rate. Attenuation must be provided to cater for the 1 in 100 year + climate change event. The FRA states that surface water could be discharged in a number of ways. If it is discharged to the land drains on the boundary of the site it must be demonstrated that they are suitable for this purpose (capacity, where they discharge to). If the site discharges into the existing sewers in Broughton Rd, then they must agree this with the utility provider. An investigation into the suitability of SUDS on the site should be carried out. This could be secured by planning conditions and as such, the Environment Agency had no objection.

Agricultural Land Quality

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (Grades 1, 2 and 3A) will not be permitted subject to some exceptions. The National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. However, an agricultural land quality has assessment has been undertaken which identifies that 6.25 hectares of the land is grade 4. Grade 4 is 'poor quality agricultural land' with severe limitations which significantly restrict the range of crops and/or level of yields (in this case drainage). Consequently, the proposal would result in the loss of the best and most versatile land and is acceptable in this regard.

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 and secondary school places in the area and there is very limited spare capacity. In order to increase capacity of the local schools which would support the proposed development in addition to other developments recently approved, contributions towards education are required. This is considered to be necessary and fair and reasonable in relation to the development.

The biodiversity offsetting contributions (subject to amount) are necessary and fair and reasonable in relation to the development in principle given the findings and recommendations within the ecological assessments.

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

10. CONCLUSIONS

The site is within the Open Countryside where under Policy NE.2 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. However, the latest Position Statement on housing supply shows that the Borough has an identified deliverable housing supply in excess of 5 years and therefore the automatic presumption in favour of the proposal does not apply. This issue will form a reason for refusal.

The proposal does not accord with the emerging Development Strategy. Previous Appeal decisions have given credence to such arguments where authorities can demonstrate a five year supply of housing land.

It is considered that the design and layout of the scheme is unacceptable and would miss the opportunity to deliver high quality development which would be respectful to the character and appearance of the area.

In terms of Ecology, the development would not have a detrimental impact upon the conservation status of protected species subject to the proposed mitigation and further biodiversity offsetting.

There would be an adequate level of POS on site together with a LEAP.

The necessary requirement for affordable housing would not be provided insofar as there is a lack of 1 bed accommodation. This issue will form a reason for refusal.

The education impact can be mitigated through a contribution.

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 amenities and 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, these are considered to be insufficient to outweigh the harm that would be caused in terms of the impact on the open countryside and the lack of appropriate affordable housing and as a result, the proposal is considered to be unsustainable and contrary to policies NE. 2 and RES.7 of the local plan and the provisions of the NPPF in this regard.

11. RECOMMENDATIONS

REFUSE:

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy NE.2 (Open Countryside) and the principles of the National Planning Policy Framework and create 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. As such the application is also contrary to the emerging Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.**
- 2. The proposed design and layout is substandard and has missed the opportunities to deliver high quality development which makes a positive contribution to its surroundings. It therefore fails to satisfy the requirements of NPPF, By Design, Manual For Streets along with local plan policies BE.1 of the Crewe and Nantwich Local Plan and policies SE 1 and SD 2 of the Cheshire East Local Plan Strategy – Submission Version which seek to deliver high quality design and avoids development which fails to improve the character and quality of an area and the way it functions.**
- 3. The proposed development would not provide the required level of affordable housing. The proposal would therefore not create a sustainable, inclusive, mixed and balanced community. The benefits of allowing this development would be limited and would be outweighed by the significant and demonstrable adverse impact. Therefore the proposal is not considered to be an acceptable form of development as a departure from the development plan and would be contrary to the Interim Planning Policy on Affordable Housing and Policies RES.7 (Affordable Housing), BE.3 (Access and Parking) and BE.5 (Infrastructure) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the National Planning Policy Framework.**

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.

