

Application No: 14/0883M  
Location: Land Off, West Lane, High Legh, WA16 6NS  
Proposal: To demolish existing building and to erect 10 two storey dwellings, together with associated roads, footpaths, drainage and landscaping.  
Applicant: Lee Charnley, Property Alliance Group  
Expiry Date: 11-Jun-2014

**Date Report Prepared:** 15 July 2014

#### **SUMMARY RECOMMENDATION**

Approve, subject to conditions and the prior completion of a S106 agreement.

#### **MAIN ISSUES**

- The principle of the development;
- Impact on openness to this part of the Green Belt;
- Whether the site should be retained for employment purposes;
- Impact of the design and character and appearance of the street scene;
- Housing mix and the need for additional affordable housing in the area;
- Provision of public open space;
- Amenity issues;
- Highways safety, access, servicing and pedestrian safety;
- Arboricultural implications; and
- Other material planning considerations.

#### **REASON FOR REPORT**

The proposal is a major development as defined by The Town and Country Planning (Development Management Procedure) Order 2010. Under the Council's constitution such applications are required to be considered by Committee.

Subject to the recommended conditions, the proposal is considered to be acceptable for the reasons set out in the appraisal section of this report.

#### **DESCRIPTION OF SITE AND CONTEXT**

The site is some 0.8ha in extent. It consists of two distinct parts. The first is the warehouse building and its immediate curtilage which had been used for circulation, parking and outside storage. The second is a small area of woodland to the south of the building which is fenced off from it.

The warehouse building is a substantial full height brick building. The building is a steel framed structure, clad with brickwork, and has a concrete roof deck. It has external dimensions of some 55.5m by 31.4m. The building is flat roofed and has a height of some 7.6m. It provides some 1,663 sq m of internal floorspace.

There are two gated accesses to the warehouse. The first is off Beechtree Farm Close and is to the west of the main building. The other is off West Lane and is to the immediate east of the building. Both accesses operate unsafely because of restrictions on visibility.

There is a high metal palisade fence around the whole of the immediate curtilage of the building (other than the gateways). There are large areas of hardstanding to the east, north and west of the building. These were previously used for parking, circulation and outside storage. There is also an area to the south of the building within the fenced area. The wooded area to the south of the building contains several large oak trees along the frontage with Beechtree Farm Close.

To the north of the site, there is open land extending to the M56 motorway and beyond. The southern and western boundaries are formed by roads (Beechtree Farm Close and West Lane respectively). There is a farmhouse on the opposite side of West Lane and a further scatter of dwellings along West Lane towards High Legh.

The site has a very different developed character from the open countryside to the north, west and south from which it is separated by high fencing and trees. The warehouse is located some 500m to the north of the village of High Legh. It is connected by West Lane which forms part of the B5158. There is a footway running the full length of the road between the site and the village. The village contains a range of facilities, including a primary school, a community hall and a church. There is a bus stop within the village offering public transport services. It is some 800 metres walk away from the site.

## **DETAILS OF PROPOSAL**

This application seeks planning permission to redevelop the site for 10 four bedroomed houses. These houses would be laid out in a courtyard facing north. All the required car parking would be contained within the courtyard.

The houses would be sited wholly within the footprint of the existing building. In total the footprint would be significantly lesser footprint (932m<sup>2</sup>) than the existing (1727m<sup>2</sup>). The height of the houses to ridge would be the same as the existing building (7.6 metres) but significantly less to eaves (4.9 metres compared to 7.5 metres).

The existing accesses to the site would be closed and a new access formed close to its northern boundary. This would have highway safety benefits due to the provision of better visibility.

The existing trees and other vegetation within the site would be improved by additional planting and the introduction of hard and soft landscaping which would help blend the scheme with its surroundings. New tree and hedgerow planting is proposed within the site but particularly to the north and west where screening is currently more limited.

Most of the existing mature trees within the site would be retained. Three Beech trees would need to be removed close to the existing building to produce an effective layout. However these losses will be fully compensated for by new planting. Three trees within the highway verge to West Lane would need to be removed in order to provide safe visibility splays. However these trees already intrude into the visibility splay of the existing access and would require removal for safety reasons even if the proposal does not proceed.

## **RELEVANT HISTORY**

The building is now in a very poor state of repair.

This rusting is so extensive that in order to repair the steel it would be necessary to remove the masonry cladding, treat and repair the steel, and then re-clad. Furthermore there is extensive carbonation of the concrete roof deck. The structural report submitted with the application confirms that the extensive rusting of the steel frame and the perished concrete roof deck make the property unviable for refurbishment.

The building has now been vacant for nearly two years. Because of its poor state of repair, the applicant has stated that it has become increasingly difficult to find tenants

The last tenant (*Cosmo Graphis Ltd*) only occupied a third of the building, using the floorspace for the temporary storage of documents. They were only prepared to enter into a short-term licence agreement, and paid rent on a boxes stored basis. The Company had no employees based at the site. Since Cosmo Graphis Ltd vacated the site in April 2012, the premises have been fully marketed through professional agents. No prospective tenants have come forward.

Although there have been numerous historic planning application on the site, none are relevant to this current application for the redevelopment of the site.

## **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 Plan (January 2004).

### **Local Plan Policy:**

The application site lies within the Green Belt as defined by the Macclesfield Borough Local Plan (MLP), therefore the relevant Local Plan policies are considered to be: -

- Policy GC1: New Buildings in the Green Belt;
- Policy NE11: Nature Conservation;
- Policy NE7: Woodland;
- Policy BE1: Design Guidance;
- Policy RT5: Open Space Provision;

- Policy E1: Employment;
- Policy H1: Phasing Policy;
- Policy H2: Environmental Quality in Housing Developments;
- Policy H5: Windfall housing sites;
- Policy DC1: New Build;
- Policy DC3: Amenity;
- Policy DC6: Circulation and access;
- Policy DC8: Landscaping;
- Policy DC9: Tree Protection;
- Policy DC38: Space, Light & Privacy;
- Policy DC40: Children's Play Provision and Amenity Space;
- Policy T3: Pedestrians;
- Policy T4: Access for People with Restricted Mobility; and
- Policy T5: Provision for Cyclists.

### **Other Material Considerations**

The National Planning Policy Framework came into effect on 27 March 2012, and replaces the advice provided in Planning Policy Guidance Notes and Statements. The aim of this document is to make the planning system less complex and more accessible, to protect the environment and to promote sustainable growth. Local planning authorities are expected to “plan positively” and that there should be a presumption in favour of sustainable development.

Since the NPPF was published, the saved policies within the Macclesfield Borough Council Local Plan are still applicable but should be weighted according to their degree of consistency with the NPPF. The Local Plan policies outlined above are consistent with the NPPF and therefore should be given full weight. The relevant Sections include:-

### **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 28 February 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.

Policy CS3 outlines the intended Green Belt policy for the area. Policy CS3 repeats the purposes of including land within the Green Belt listed in the Framework and sets out that permission will not be granted for inappropriate development in accordance with national policy. It should be noted here that paragraph 5.95 of the CELP states that “to achieve sustainable development, over a period of several decades the council recognises that some development may be necessary within the Green Belt in both the north and south of the Borough, however a review of Green Belt also allows the potential of new Green Belt to be explored”.

Replacing MBLP policies NE1, NE2, NE11, BE1, BE3, BE4, H4, H13, E1, T2, T3 and T4 are (CELP) policies SE3, SE1, SD2, SE1, EG3 and CO1, which are summarised below: -

- Policy SE3: which seeks to protect and enhance biodiversity and geodiversity;
- Policy SE1: sets out requirements for design;
- Policy SE12: Pollution and Unstable Land ensures that development protects amenity;
- Policy SD2: sets out sustainable development principles;
- Policy EG3: updates the approach to be taken to existing employment sites; and
- Policy CO1: deals with sustainable travel and transport including public transport.

## **CONSULTATIONS (External to Planning)**

### **HIGHWAYS:**

No objections.

### **ENVIRONMENT AGENCY:**

No objections, subject to contaminated land conditions.

### **UNITED UTILITIES ASSET PROTECTION:**

No objections, although there are no known public sewers in the vicinity of the proposed development and a separate metered supply to each unit will be required.

### **ENVIRONMENTAL HEALTH:**

No objections, subject to the provision of the sound insulation specifications for all the dwellings across the site and the provision of acoustic fencing to mitigate road traffic noise to a satisfactory level. Conditions controlling the hours of construction, hours and method of pile foundations (if necessary), and submission of a scheme to minimise dust emissions are also suggested.

### **GREENSPACE:**

No on-site provision of public open space is proposed, therefore commuted sums will be required, in accordance with policies.

### **HOUSING STRATEGY AND NEEDS MANAGER:**

A 30% proportion of the proposed dwellings would need to be affordable housing, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment. The

preferred tenure split for affordable housing identified in the SHMA 2010 was 65% social rented and 35% intermediate tenure.

As a rule, the Council would prefer to see affordable housing provided on-site. This is in line with Government guidance to encourage the development of sustainable and balanced communities. However, there may be physical or other circumstances where an on-site provision would not be practical or desirable. The proposal offers to make a financial contribution to the provision of affordable housing.

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

### **HIGH LEGH PARISH COUNCIL:**

High Legh Parish Council supported the principle of changing the use of this site to allow the building of a residential development. This support was predicated on the development retaining the footprint of the existing building (i.e. the one to be demolished). It also, however, expressed a number of concerns over the design or style of the proposed development, the residential mix proposed, and most strongly the access arrangements. While still expressing strong support for a residential development on this site and recognising that this new proposal is sited entirely within the footprint of the existing building, our concerns over the other issues remain. These are:

1. We do not consider the style and design of the proposed buildings to be suitable for the surrounding area;
1. The proposals for all 10 houses to be four bedroomed dwellings does nothing to maintain the sustainability of the High Legh community, and we would still prefer a slightly more varied residential mix; and
2. The major issue however is with the proposed entrance/exit which we as locals who use the B5158 (West Lane) on a regular basis believe to be dangerously placed. The B5158 is a derestricted rural road with at least 6,000 vehicles movements a day, as well as being a bus route. The proposed entrance/exit joins this road at a point which is not much more than 100m over a blind summit (M56 overbridge) for traffic heading south toward High Legh and partly hidden round a blind bend for traffic heading north toward Broomedge. Our previous response suggested that entry and exit to/from the development should be made via Beechtree Farm Close and an upgraded and well signposted four-way junction with West Lane and Peacock Lane. We consider this item to be so potentially dangerous that without a Cheshire East Highways report to the contrary, we would recommend that this application be refused. If you are still minded to approve the application with the proposed entrance/exit, we feel that it is vital that restrictive, well signposted speed limits are imposed on the B5158 and that these are supported by hazard signage in both directions.

## **REPRESENTATIONS**

The application has been advertised in accordance with the General Development Management Order 2010, in this case incorporating the following elements:-

- On site, by the means of a site notice on Beech Tree Farm Close making reference to major development;
- This site notice was posted on 25 March 2014 ;
- Notice was published in the local press (Knutsford Guardian) on 26 March 2014; and
- The closest residential property has also been written to directly.

The publicity period for this application expired on 16 April 2014.

Two letters of objection have been received from local residents and their objections can be summarised as follows: -

- Lack of reference to Diamond Cottage, the nearest residential property;
- Danger to highway safety at the access;
- 10 new residential units will increase the highway safety issue;
- Barn owls are present in the area;
- Loss of trees;
- Noise and disturbance during the construction phase of the development;
- Loss of privacy through overlooking;
- Potential light pollution;
- A more rural development would be more acceptable.

A full copy of all the comments made by the local residents toward this application as summarised above, can be viewed on the electronic file on the Council's public access website.

#### **APPLICANT'S SUPPORTING INFORMATION**

The applicant has submitted the following reports/documents in support of the application, details of which can be read on the electronic file on the Council's public access website.

- Design and Access Statement;
- A Flood Risk Assessment;
- A Transport Statement;
- An Arboricultural Impact Statement;
- An Ecological Statement;
- A Phase 1 Contamination Report; and
- A Building Condition Report.

#### **OFFICER APPRAISAL**

Having considered this application, it is the considered view that the main issues in this case are:

- The principle of the development and its impact on openness to this part of the Green Belt;
- Whether the site should be retained for employment purposes;
- Impact of the design and character and appearance of the street scene;
- Housing mix and the need for additional affordable housing in the area;
- Sustainability;
- Provision of public open space;
- Amenity issues;
- Highways safety, access, servicing and pedestrian safety;
- Arboricultural implications; and
- Other material planning considerations.

**The principle of the development (Green Belt):**

Policy GC1 of the Macclesfield Local Plan states that within the Green Belt approval will not be given, except in very special circumstances, for the construction of new buildings unless it is for a range of purposes including agriculture and forestry; essential facilities for outdoor sport and recreation; limited extension or alteration of existing dwellings; limited infilling within identified settlements; limited affordable housing for community needs; and development within major developed sites.

However, since the publication of the Local Plan, the Framework has been published which supersedes existing policies within the Local Plan. The Framework provides additional circumstances where development is considered to be appropriate over and above those previously provided under policy GC1.

Paragraph 89 of the Framework now states that the limited infilling or partial and complete redevelopment of previously developed sites which would not have a greater impact on the openness of the Green Belt and the purposes of including development within it than the existing development would not be inappropriate development.

Paragraph 89 does not stipulate uses of land that are appropriate or inappropriate on previously developed land. As such, it is considered that the redevelopment of the warehouse building and its immediate curtilage for a residential redevelopment would be acceptable development in principle, so long as the proposed development would not have a greater impact on the openness of the Green Belt and the purpose of including land within it.

#### **Impact on openness to this part of the Green Belt:**

In terms of the existing development and as stated above, the warehouse building is a substantial full height brick building. It has external dimensions of some 55.5m by 31.4m. The building is flat roofed and has a height of some 7.6m. It provides some 1,663m<sup>2</sup> of internal floorspace (1,727m<sup>2</sup> external)

The houses have been specifically designed to be sited wholly within the footprint of the existing building.

None of the houses are proposed on parts of the site which are currently undeveloped.

The footprint of the proposed houses (923m<sup>2</sup>) would be significantly less than that of the existing building (1727m<sup>2</sup>). The height of the houses to ridge would be the same as the existing building (7.6 m) but significantly less to eaves (4.9m compared to 7.5m).

The curtilages of the proposed houses, including their gardens, would not extend beyond the immediate curtilage of the existing building, including the areas used for circulation, parking and storage. To the south, the proposed gardens would not extend beyond the line of the existing palisade security fence which separates the operational area around the warehouse from the adjoining woodland.

Taking all of the different factors into account it is considered that the proposed dwellings would have a comparable impact on the openness of the Green Belt when measured against the existing building on the site. The dwellings would not have a greater impact on the openness of the Green Belt. It is considered that the proposed development does not

threaten any of the purposes of including land within the Green Belt, particularly as it does not encroach beyond the existing site.

A new access would be created off West Lane, close to the northern boundary of the site. The two existing accesses off West Lane and Beech Tree Farm Close would be closed. This would allow a large area of existing hardstanding to be reinstated to soft landscaping. It could be argued that this would thereby increase openness around the site.

It is considered that the proposed development would not have a materially greater impact on the openness of the Green Belt than the development it would replace and that the proposal would comprise appropriate development in accordance with bullet point 6 of paragraph 89 of the NPPF.

#### **Whether the site should be retained for employment purposes:**

Local Plan Policy E1 seeks to retain employment land for employment purposes. However, Paragraph 22 of The Framework states that:

*“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”*

In this respect, the site is not specifically allocated or protected by the Local Plan for employment development. As such, the issue of whether there is a “reasonable prospect” of it being reused for employment purposes does not arise.

As stated above, the existing building is in a very poor state of repair. The steel frame is rusting extensively. This rusting is so extensive that in order to repair the steel it would be necessary to remove the masonry cladding, treat and repair the steel, and then re-clad. Furthermore there is extensive carbonation of the concrete roof deck. The structural report submitted with the application confirms that the extensive rusting of the steel frame and the perished concrete roof deck make the property unviable for refurbishment. The total cost of refurbishment would significantly exceed any economic return to the owner.

The lack of reasonable prospects of re-occupation by an employment user is confirmed by the fact that the site has been marketed for over 12 months and no potential occupier has come forward.

#### ***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 Position Statement set out that the Borough’s five year housing land requirement as 8,311. This is based on the former RSS housing target of 1150 homes pa – mindful that the latest ONS household projections currently stand at 1050 pa. This was also 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.

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.

Members will be aware that the Housing Supply Figure is the source of constant debate as different applicants seek to contend that the Council cannot demonstrate a five year supply. This has been the source of the many and on-going appeals as the Council’s defends its position against unplanned development. Despite the high number of appeals only a limited number of decisions have been determined at this time, but they in themselves demonstrate the apparent inconsistency of approach.

*Elworth Hall Farm, Sandbach (11 April 2014).* It was 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. 1150 dwellings pa was the agreed target figure. The Inspector accepted the use of windfalls but considered a 20% buffer should be employed

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 the last few months and more are scheduled to take place within the coming months and against the RSS target, Cheshire East Council can now demonstrate a 6.11 year housing land supply with a 5% buffer or 5.35 year housing land supply with a 20% buffer.

*Dunnocksfold Road, Alsager (14 July 2014).* Inspector considered that the RSS figure was now historic and that the SHMA, SHLAA and populations forecasts were more recent along with the emerging Pre-Submission Core Strategy which proposes a target of 1350 dwellings pa. 1350 should therefore be the target (6750 as a 5 year supply figure). The Inspector also accepted the appellants' backlog figure but agreed that a 5% (not 20%) buffer should be applied. However the use of windfalls was rejected. This gave a five year requirement of 10146 dwellings or 2029 pa. This results in a supply figure of 3.62 years. Even using the Council's assessed supply figure of 9897 this only provided 4.8 years of supply.

Members should note that this Inquiry also took place just a few days after the introduction of the position statement when there was little or no time to prepare the full evidence case.

*Newcastle Road, Hough (14 July 2014).* In the absence of evidence to the contrary the Inspector accepted that the position statement and that the Council could demonstrate a five year supply - 5.95 years with 5% and 5.21 with a 20% buffer. It was also considered that the RSS figures of 1150 pa represented the most recent objectively assessed consideration of housing need.

There is hence little consistency over the treatment of key matters such as the Housing Requirement, the Buffer and use of windfalls.

This state of affairs has drawn the attention of the Planning Minister Nick Boles MP who has taken the unusual step of writing to the Inspector for the Gresty Oaks appeal (14 July 2014) highlighting that the Planning Inspectorate have come to differing conclusions on whether Cheshire East can identify a five year supply. While he acknowledges that decisions have been issued over a period of time and based upon evidence put forward by the various parties he asked that "especial attention" to the evidence on five supply is given in the subsequent report to the Secretary of State. It is therefore apparent that the Planning Minister does not consider the matter of housing land supply to be properly settled.

Taking account of the above views, the timing of appeals/decisions the Council remains of the view that it has and can demonstrate a five year supply based upon a target of 1150 dwellings per annum, which exceeds currently household projections. 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.

However, if the application were to be approved, it would relieve pressure on other edge of settlement sites and the Green Belt as part of the provision of housing and strengthen the Council's 5 year land supply position.

#### **Impact of the design and character and appearance of the street scene:**

The application site is located within the Green Belt, there is no landscape designation covering the application site, but the area is identified in the Cheshire Landscape Character Assessment, 2009 as being within Landscape Character 10 (LFW3) Arley Lower Farms and Woods with higher density blocks of woodland and standard trees within hedgerows.

The site is well screened to the south and north east by large trees and mature vegetation. This screening allows for limited and intermittent views of the building from the approaches to the site along the B5159.

Screening to the north and west is more limited although there are still a number of large mature trees which allow only partial views of the existing building. The existing landscaping will be supplemented by additional planting and the introduction of hard and soft landscaping which will help blend the scheme with its surroundings. New tree and hedgerow planting is proposed within the site but particularly to the north and west where screening is currently more limited.

The proposed site layout allows the new buildings to sit comfortably on the site and within the constraints of the existing building, with all car parking successfully screened from the road. There will be a 2.2m high closed-board acoustic timber fence behind a circa 1.5m high hedgerow fronting the Eastern and Southern site boundaries. A 2.8m high closed-board acoustic timber fence will enclose the site to the North and West. The boundary treatment plan and landscape plans have been discussed in detail and agreed with the Council's landscape architect.

The harsh and unattractive form of the existing building detracts from the rural character of the Green Belt location. The new building envelope is designed to reduce the visual impact to the surrounding rural setting. A palette of pastoral materials has been chosen to blend the buildings with their surrounding context. The design seeks to re-create a typical 'barn' typology using a masonry plinth with areas of lighter weight first floor cladding, double height gable ends and double height feature openings. The two units addressing the access road turn through 90° to act almost as a gatehouse type arrangement to the courtyard and 'slide' over the top of the masonry plinth. A projecting Flemish bond brick is suggested to break-up and articulate the façade whilst making a contemporary reference to the detailing of the surrounding period brick architecture.

Therefore, it is considered that proposed development would have an acceptable design and have a limited visual impact on the street scene compared to the existing structure.

#### **Housing mix and the need for additional affordable housing in the area:**

The proposal is for 10 four-bedroomed dwellings. Whilst the mix of dwellings is not ideal, it has been partly derived from the constraints imposed on siting the dwellings wholly within the footprint of the existing building. As such, it minimises the impact on openness.

A greater number of smaller dwellings would increase traffic generation, need a larger building footprint, and require more on-site parking. This would potentially have an adverse impact on trees on the site and the impact of the development on the wider area.

The proposal is within the small settlement of High Legh and for 10 units and therefore meets the threshold for a provision of affordable housing. The Affordable Housing Interim Planning Statement states that as a rule, the Council would prefer to see affordable housing provided on-site. This is in line with Government guidance to encourage the development of sustainable and balanced communities. However, there may be physical or other circumstances where an on-site provision would not be practical or desirable.

The proposal offers to make a financial contribution to the provision of affordable housing and the Council's Strategic Housing Section would support this proposal on this site. Due to site constraints and a requirement to maintain the footprint of the existing building the dwellings will be constructed in one block. It would not be suitable for the affordable dwellings to be in one complete block with the market units and management of the affordable units would be unfeasible due to this. Furthermore this constraint does not allow for the type and size of affordable housing required, which is smaller 1 and 2 beds. A financial contribution will allow the provision of more suitable affordable housing in the locality. A site visit by the Council's Strategic Housing Section also raised concerns about the suitability of this location for affordable housing provision with relatively poor access to services and facilities.

The applicant has agreed to provide the financial contribution for the proposed affordable housing units that would normally be required. Normally there would be a requirement for three affordable units on this site. As the need currently stands the Council would normally require two 2 bedroomed rented units and one 2 bedroomed intermediate tenure unit.

The Interim Planning Statement on Affordable Housing states that: *"Where a financial contribution is offered, the amount of such contribution will normally be expected to reflect the cost necessary to facilitate an equivalent amount of affordable housing as would have been provided on-site. The amount of any contribution will need to be agreed with the Council. Where off-site provision is made by the developer or as a result of any financial contribution, this should be in a location elsewhere within the Borough where there is an identified need."*

The required contribution to reflect the cost necessary to facilitate an equivalent amount of affordable housing within the area would be secured via a Section 106 legal agreement attached to any permission.

### **Sustainability:**

Local Plan Policy H5 provides criteria for the consideration of planning applications for housing development on un-allocated sites. The site is located in a rural area and it cannot be considered a sustainable site in terms of its location. That being said, the site is within walking distance of the services within High Legh which include a primary school, a church and other community facilities. It is also within walking distance of a bus stop offering a bus

service. It could also be argued that the proposal will help support High Legh Primary School where there are 30 vacant places according to information provided by the school.

In terms of the *social role* and *economic role* to sustainable development, the application proposal would provide a new form of housing that is not currently available within the area. With regard to the *environmental role* of sustainability, the proposal would involve the redevelopment of previously developed land, rather than Greenfield land.

Any deficiencies in this respect must be balanced against the benefits of the proposal in terms of taking pressure off other Greenfield sites, openness and improvements to visual amenity and highway safety.

### **Provision of public open space:**

The application triggers the requirement for the provision of both Public Open Space (children's play and amenity) and Recreation and Outdoor Sports facilities as identified in the Council's SPG on s106 Agreements as noted above.

10 open market family dwellings would generate need for £30,000 Public Open Space (POS) and £7,000 (£10k - £3k for the three affordable units) Recreational Open Space (ROS).

The commuted sum would be required by the Local Authority on commencement of development.

The POS contribution would be used for High Legh play areas and amenity spaces for additions, enhancements and improvements. The ROS would be used for High Legh playing field and open space for pitch and kickabout improvements.

It is considered that the mechanism for provision of open space, or the payment of a financial sum in lieu, should this be required, would be through a S106 agreement under the Town and Country Planning Act 1990.

The applicant's have agreed to pay the required contributions.

### **Amenity issues:**

The Noise Impact Assessment submitted with the application has identified that the key noise sources within the vicinity of the site are road traffic noise from the adjacent West Lane and the M56 motorway which lies approximately 150m to the north of the site.

The Local Planning Authority has given appropriate consideration towards the mitigation measures required to ensure a commensurate level of protection against noise for future occupants.

Mitigation proposed would be a 2.5m high acoustic grade barrier along the eastern and southern boundaries; a 2.8m high acoustic grade barrier along the northern and western boundaries; and alternative ventilation scheme for all dwellings (i.e. acoustic trickle-ventilators combined with a mechanical extract ventilators).

The Council's Environmental Health department have reviewed the application and have raise no objections to the scheme subject to conditions to secure the noise mitigation as suggested above.

The separation distances proposed within the residential complex are considered acceptable as the scheme has been designed in a holistic manner. The nearest elevation of the proposed dwellings would be over 60 metres away from Diamond Cottages.

### **Highways safety, access, servicing and pedestrian safety:**

As stated above, the existing accesses to the site would be closed and a new access formed close to its northern boundary.

At the proposed access, visibility to the left would be very marginally sub-standard, but clearly acceptable. To the right (looking south), the proposed visibility splay is only 102m long compared to the 160m required to safely accommodate the 50 mph speed of approaching vehicles. Essentially the access/egress position as suggested by the application is in the optimum position and offers the maximum betterment from the existing access/egress points both in terms of position, but also vehicle classification use (i.e. no HGV's). Having considered all the options it is considered that there is no better position and although visibility is not ideal, the land is previously developed land with existing accesses with poorer viability.

The proposed access and amendments to existing accesses must be by an agreement with the Highway Authority under S184 of the Highways Act 1980. Also, the intention not to seek adoption of the internal roads requires an Advance Payment Code notice to be served. Redundant vehicular accesses should be reinstated to verge and this would be secured via a condition.

As the houses would have 4 bedrooms, the policy requirement would be for 3 parking spaces each (30 in total). It is proposed that 23 car parking spaces will be provided on the site utilising the existing areas of hard standing. The arrangement of the parking areas has been sensitively designed in order to ensure that there will be minimal impact on the existing landscape, including the trees which are covered by TPO's. All houses have 200% parking including two dedicated car parking spaces per dwelling located adjacent to the front door. There are three separate parking spaces for visitors. It is considered that this level of parking is acceptable given the negative design implications of providing further parking.

There are no objections in principle to these proposals from the Strategic Highways and Transportation Manager as the traffic generation on the highway network would be minimal from 10 dwellings, especially given the potential use from an unrestricted employment site.

### **Arboricultural implications:**

Selected trees within the site are afforded protection by the Macclesfield Borough Council (High-Legh - Former CEGB Store) Tree Preservation Order 2005. The application is supported by an Arboricultural Impact Assessment which has informed the layout design. The application also includes a plan showing protected trees for retention/removal. The application

is also supported by a Landscape Planting Plan which shows proposals for replacement planting in mitigation for trees proposed for removal.

Three 'A' Category protected trees (all Copper Beech) along the southern sections of the site will require removal to accommodate the proposed development. The trees are mature specimens in good condition with high life expectancy. Along the southern boundary adjacent to Beechtree Farm Lane stand five mature Oak which are shown for retention

The Planning Statement also identifies that three Oak trees on the highway verge on the B5159 will need to be removed to provide safe visibility splays. The statement goes on to say that these trees already intrude into the visibility splay of the existing access and would require removal in any event.

Two further unprotected trees, a mature 'A' category Elm and a semi mature 'B' category Beech located close to the front of the existing building are to be removed.

The submitted landscape scheme provides for four replacement trees (3 Beech and 1 Oak) on the B5159 frontage and 17 new trees (6 Beech, 5 Oak 3 Cherry and 3 Field Maple) to the north east of the site. Indicative areas of native shrub planting are also shown along the southern boundary sections of the site

Local Plan Policy DC9 states that development that would result in the direct loss of trees or woodland which are subject of a Tree Preservation Order will not be allowed except in exceptional circumstances. The exceptional circumstances stated in sub paragraph (a) and (b) do not apply here. Sub paragraph (c) states exceptionally where mitigation provides an identifiable net environmental gain.

The loss of three protected Copper Beech trees would result in a moderate impact to the visual amenity of the immediate area around Beechtree Farm Close. Nevertheless the proposed planting in mitigation for the loss of these trees in terms of numbers would likely provide the identifiable net environmental gain as required by Policy DC9 in the longer term, which requires consideration as part of the balancing exercise. Given the existing landscape character however, any long term benefit in landscape terms would be better served by planting predominantly Oak trees.

#### **Other material planning considerations:**

##### **ENVIRONMENTAL HEALTH:**

Whilst other legislation exists to restrict the noise impact from construction and demolition activities, this is not adequate to control all construction noise, which may have a detrimental impact on residential amenity in the area. Therefore, a condition is suggested to control hours of demolition and construction works in the interest of residential amenity. A condition has also been suggested by the Council's Environmental Health Section in the event that piled foundations are used. A condition to control dust from the construction is suggested to reduce the impacts of dust disturbance from the site on the local environment. Details of waste and refuse provision would also be conditioned.

##### **CONTAMINATED LAND:**

The application area has a history of use as a depot and therefore the land may be contaminated. This site is within 250m of a known landfill site or area of ground that has the potential to create gas. The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. The phase I report submitted in support of the application recommends that further intrusive investigations are required. The Council's Land Contamination Team has no objection to the application provided that a condition is imposed to secure the required intrusive investigation. These views are shared by the Environment Agency.

#### ECOLOGY:

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places.

In the UK, the Habitats Directive is transposed as The Conservation of Habitats and Species Regulations 2010. This requires the local planning authority to have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of those functions.

It should be noted that no European Protected Species have been recorded on site. Therefore the planning authority do not have to consider the three tests in respect of the Habitats Directive, i.e. (i) that there is no satisfactory alternative, (ii) maintenance of the favourable conservation status of the species and (iii) that the development is of overriding public interest.

A number of Oak trees have been identified on site which have potential to support roosting bats however these will be retained as part of the proposed development. The Council's Ecologist has therefore advised that with the exception of the possible disturbance of breeding birds, there are unlikely to be any significant ecological issues associated with the proposed development. If planning consent is granted the Council's Ecologist has recommend that conditions be attached to safeguard breeding birds and ensure some additional provision is made for birds and roosting bats.

#### DRAINAGE:

The site is not at risk of flooding as it is within Flood Risk Zone 1. There are no known public sewers in the vicinity of the proposed development. A water supply can be provided and a separate metered supply to each unit will be required. United utilities have raised no objection to the application subject to foul and surface water details being secured via condition.

#### **CONCLUSIONS AND REASON(S) FOR THE DECISION**

In summary and to conclude, the issues raised in the representations have been addressed and all the issues raised have been borne in mind. In respect of the guidance in the NPPF the proposed redevelopment of a brownfield site is an appropriate form of development within the Green Belt, hence, the proposed development is acceptable in principle. The proposed

development is considered not to have a greater impact on the openness of the Green Belt than the existing and not to threaten the purposes of including land within the Green Belt.

## **HEADS OF TERMS**

- Commuted sums of £37k in lieu of onsite public open space provision; and
- Provide a financial contribution for the proposed affordable housing units that would normally be required (30%).

### **Community Infrastructure 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;
- (a) Directly related to the development; and
- (b) Fairly and reasonably related in scale and kind to the development.

The commuted sum in lieu of recreation / outdoor sport facilities is necessary, fair and reasonable, as the proposed development will provide 10 dwellings, the occupiers of which will use local facilities, and there is a necessity to upgrade/enhance existing facilities. The contribution is in accordance with the Council's Supplementary Planning Guidance.

The provision of 30% affordable housing is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

All elements are necessary, directly relate to the development and are fair and reasonable in scale and kind to the development.

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*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 Enforcement Manager has delegated authority to do so in consultation with the Chairman of the Northern Planning Committee, 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 shall be delegated to the Planning and Enforcement Manager in consultation with the Chairman of the Northern Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.*

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Application for Full Planning

RECOMMENDATION: Approve subject to a Section 106 Agreement and the following conditions

1. A03FP - Commencement of development (3 years)
2. A01AP - Development in accord with approved plans
3. A23MC - Details of ground levels to be submitted
4. A02EX - Submission of samples of building materials
5. A13HA - Construction of junction/highways
6. A12HA - Closure of access/removal of dropped kerbs
7. A01LS - Landscaping - submission of details
8. A04LS - Landscaping (implementation)
9. A12LS - Landscaping to include details of boundary treatment
10. A01TR - Tree retention
11. A02TR - Tree protection
12. A04TR - Tree pruning / felling specification
13. A05TR - Arboricultural method statement
14. A08MC - Lighting details to be approved
15. A07TR - Service / drainage layout
16. A19MC - Refuse storage facilities to be approved
17. A04HP - Provision of cycle parking
18. A17MC - Decontamination of land
19. A04NC - Details of drainage
20. A22GR - Protection from noise during construction (hours of construction)
21. A23GR - Pile Driving
22. A32HA\_1 - A scheme to minimise dust emissions
23. A32HA - Construction Management Plan
24. A01MC - Noise insulation
25. NPPF Informative
26. Contamination Informative

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