

Application No: 14/0134C  
Location: Land south of Holmes Chapel Road, Congleton  
Proposal: Development of land for up to 70 dwellings and associated works  
Applicant: Marc Hourigan, Hourigan Connolly  
Expiry Date: 03-Apr-2014

## **SUMMARY RECOMMENDATION**

**Minded to Refuse**

### **MAIN ISSUES**

**Principle of the Development**  
**Housing Land Supply**  
**Location of the Site**  
**Landscape**  
**Affordable Housing**  
**Highway Implications**  
**Amenity**  
**Trees and Hedgerows**  
**Design**  
**Ecology**  
**Public Open Space**  
**Agricultural Land**  
**Education**  
**Flood Risk and Drainage**  
**Health**

## **REASON FOR REFERRAL**

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

The Applicant has appealed against non determination of this application so the decision on this application has been placed in the hands of the Secretary of State. The purpose of this report is to seek a resolution from the Board as to how the Council would wish to defend the appeal.

No date has been set for the appeal.

## **1. DESCRIPTION OF SITE AND CONTEXT**

This 3.9 hectare site is located close to the junction of Sandy Lane with Holmes Chapel Road within the Parish of Somerford. The Loach brook itself forms the western boundary, beyond which is the site of the open space and landscape features/ponds etc which were part of the Loachbrook Farm 200 housing unit development granted planning permission on appeal.

The site comprises 100% Best and Most versatile agricultural land.

The land is generally level with a gentle fall towards Loach Brook. A group of mature trees on a mounded landscape feature, previously a Scheduled Ancient Monument are prominent within the Loachbrook farm site adjoining when viewed from the Holmes Chapel Road frontage, which are covered by Tree Preservation Order. Hedgerows are prominent boundary features around the site with some hedgerow trees. Beyond the site to the south west lies Sandy Lane which has a pastoral landscape.

## **2. DETAILS OF PROPOSAL**

This is an outline application with all matters reserved except access for up to 70 dwellings.

The density is indicated at 30 dwellings per hectare in a mix of types of dwellings from 2-5 bedrooms. 30% affordable housing provision is proposed.

The indicative layout indicates 2 access points onto Holmes Chapel Road with three distinct blocks of development and 2 areas of open space, one of which has a balancing pond indicated and a smaller area more centrally located within the site has a LEAP.

## **3. RELEVANT HISTORY**

The site immediately adjoins the Loachbrook Farm Development which is relevant

Loachbrook Farm

11/0736C - Redevelopment of land for up to 200 dwellings, community facilities and associated infrastructure. Outline permission granted on appeal 16 August 2012

13/2604C-Reserved matters application for access/appearance/landscaping/layout and scale on outline application 11/0736C - Redevelopment of land for up to 200 dwellings, community facilities and associated infrastructure. Granted 18 October 2013

## **4. POLICIES**

### **National Policy**

National Planning Policy Framework

### **Local Plan policy**

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

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

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

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

### **National Policy**

National Planning Policy Framework

### **Other Material Policy Considerations**

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

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

Interim Planning Statement: Affordable Housing (Feb 2011)

Strategic Market Housing Assessment (SHMA)

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

### **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<sup>th</sup> 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.

### **Cheshire East Local Plan Strategy – Submission Version**

PG2 – Settlement Hierarchy  
PG5 - Open Countryside  
PG6 – Spatial Distribution of Development  
SC3 – Health and Wellbeing  
SC4 – Residential Mix  
SC5 – Affordable Homes  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
SE1 - Design  
SE2 - Efficient Use of Land  
SE3 – Biodiversity and Geodiversity  
SE4 - The Landscape  
SE5 – Trees, Hedgerows and Woodland  
SE9 –Energy Efficient Development  
IN1 - Infrastructure  
IN2 – Developer Contributions

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

**United Utilities:** No objection to the proposal providing that the following conditions are met:-

- Notwithstanding any indication on the approved plans, no development approved by this permission shall commence until a scheme for the disposal of foul and surface waters for the entire site has been submitted to and approved in writing by the Local Planning Authority. For the avoidance of doubt, surface water must drain separate from the foul and no surface water will be permitted to discharge directly or indirectly into existing sewerage systems. The development shall be completed, maintained and managed in accordance with the approved details.
- A public sewer crosses this site and we will not permit building over it. An access strip width of six metres, three metres either side of the centre line of the sewer which is in accordance with the minimum distances specified in the current issue of "Sewers for Adoption", for maintenance or replacement will be required.

United Utilities also advise that as a public sewer crosses the site, a modification of the site layout, or a diversion of the affected public sewer at the applicant's expense, may be necessary.

**Strategic Housing Manager :** No objection subject to the provision of 30% affordable housing in a 65%:35% split with a variety of unit sizes within each tenure

**Strategic Highways Manager:** Objects on grounds of insufficient information

**Sustrans :** Offer the following comments if permission is to be granted

1) The site abuts Holmes Chapel Road, a busy A road. Significant traffic management measures on Holmes Chapel Road, A54, along with crossings, and connections to adjacent existing and proposed residential areas will be required to promote walking and cycling for local journeys in line with the advice in the National Planning Policy Framework (NPPF) clauses 34, 35.

We would also like to see the design include a separate entry off Holmes Chapel Road for pedestrians/cyclists away from traffic, tied in with any crossings.

2) The design of the estate should restrict vehicle speeds to less than 20mph.

3) The design of any smaller properties without garages should include storage areas for residents' buggies, bikes.

4) We would like to see travel planning set up for the site with targets and monitoring and a sense of purpose following advice in NPPF clause 36.

**Jodrell Bank :** No objection subject to the use of features to shield Telescope from electromagnetic interference within the design of dwellings

**Environment Agency:** No objection in principle to the proposed development but we would request the following conditions

- The development hereby permitted shall not be commenced until such time as; a surface water drainage scheme for the site, based on sustainable drainage principles, has been submitted to and approved in writing by the local planning authority.

The development hereby permitted shall not be commenced until such time as; a scheme to manage the risk of flooding from overland flow of surface water, has been submitted to and approved in writing by the local planning authority.

No development shall take place until a scheme for the provision and management of an 8 metre wide undeveloped buffer zone alongside the waterbodies shall be submitted to and agreed in writing by the local planning authority. This undeveloped buffer zone should be measured from bank top, bank top is defined as the point at which the bank meets the level of the surrounding land. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority. The buffer zone scheme shall be free from built development including lighting, domestic gardens, footpaths, formal landscaping etc; and could form a vital part of green infrastructure provision. The schemes shall include:

- *plans showing the extent and layout of the undeveloped buffer zone. Including cross sections.*
- *details of any proposed planting scheme (for example, native species).*
- *details demonstrating how the undeveloped buffer zone will be protected during development and managed/maintained over the longer term including adequate financial provision and named body responsible for management plus production of detailed management plan.*
- *details of any proposed footpaths, fencing, lighting etc.*
- No development until a detailed method statement for removing or the long-term management / control of Himalayan balsam on the site shall be submitted to and approved in writing by the local planning authority. The method statement shall include measures that will be used to prevent the spread of Himalayan balsam during any operations e.g. mowing, strimming or soil movement. It shall also contain measures to ensure that any soils brought to the site are free of the seeds / root / stem of any invasive plant listed under the Wildlife and Countryside Act 1981, as amended. Development shall proceed in accordance with the approved method statement.

**Environmental Health:** Conditions suggested in relation to environmental management plan, external lighting, noise mitigation measures (to protect future residents from noise from road traffic), travel plan, dust control and contaminated land (phase II report). In terms of air quality conditions are requested in terms of electric car charging points and travel planning.

**Public Open Space (amenity greenspace childrens playspace) :** No objection subject to the provision of on site amenity greenspace and a LEAP (minimum 5 pieces of equipment). – all of which to be maintained by private management company in future since the areas contain water features

### **Public Rights of Way (Countryside Improvement Team) :**

The Development Framework plan depicts a proposed 3m shared pedestrian/cycle path along Holmes Chapel Road. To be of use to new and existing residents, this would need to form part of a coherent network of pedestrian and cyclist routes between the site and town centre and other facilities. Contributions would be sought towards the improvement of this route for non-motorised users, including the continuation of the River Dane walkway between West Heath and the town centre.

The legal status of new routes would require agreement with the Council as Highway Authority and the routes would need to be maintained as part of the Open Space Management arrangements.

The transport assessment states that there is a continuous pavement along the northern side of the Holmes Chapel Road. The development is on the southern side and so pedestrians would need to cross this road, as would cyclists heading from the proposed shared use route on the southern side of the road into the town centre . Therefore the existing Puffin pedestrian crossing would need to be upgraded into a Toucan facility for use by both pedestrians and cyclists. The upgrade would cost £40k.

**Archaeologist :** No objection. Advises that a significant amount of archaeological mitigation has been carried out in connection with the consented housing development to the west of the Loach Brook. In particular, available areas of arable were subject to systematic fieldwalking with, it must be admitted, very limited results. In these circumstances, it is accepted that further archaeological work would be difficult to justify and no further archaeological mitigation is required

**Education:** No contribution to education is required in this case

## **6. VIEWS OF THE PARISH COUNCIL**

**Somerford Parish Council:** Objection on grounds that the Parish Council are very much against the erosion of Somerford any further. The houses are not wanted and yet again destroying open country side, the development will have a high environmental impact and the road safety issues will be severely affected. The design is unacceptable and has taken no consideration for the best use of space. In addition there are no provisions for heath care and schooling. The shortage of housing now should not apply after the SPB have passed the five year supply plus 20%.

Conleton Town Council: Objection on grounds of site not being included in the local plan for development. Support comments made by Somerford Parish Council

## **7. OTHER REPRESENTATIONS**

Circa 18 representation of objection from local addresses and a local residents group (SPRAG) have been received raising the following points:

### Principal of development

- The site is outside the settlement boundary

- The site is not identified for development in the Congleton Town Strategy
- The proposed development would not result in sustainable development
- Loss of Greenfield land
- The site is entirely outside the infill boundary line of the settlement
- Impact upon the rural landscape
- Housing would not blend in with the existing residential environment
- There is a greater than 5 year housing land supply
- Allowing the development would conflict with the localism agenda
- The proposal is contrary to the Congleton Local Plan
- The proposal is contrary to the emerging Plan
- The development of the site will jeopardise brownfield sites from being brought forward
- The proposal would harm the rural character of the site
- Adverse impact on landscape character and appearance
- The proposal is contrary to the NPPF
- Car reliant site, distances from facilities impractical for walking/cycling and public transport is poor
- The requirement for affordable housing within the whole of the Congleton Rural area has already been more than satisfied by the approved development at the adjacent Loach Brook Farm and the proposed development is too far from local services and facilities for this class of occupancy

#### Highways

- Increased traffic congestion
- Impact upon highway safety.
- Future residents would be dependent on the car
- Pedestrian safety
- Poor public transport service to site

#### Green Issues

- Loss of green land
- Increased flood risk
- The site is prone to flooding, which will be worsened by the proposed development
- Impact upon wildlife
- Impact upon protected species
- Impact upon local ecology
- The FRA is inadequate
- Loss of trees/hedgerows
- Loss of agricultural land (grade 2 and 3a)
- Loss of Hedgerows/ trees as an ecological issue
- Creation of ponds to assist drainage would risk the safety of potential residents and, particularly, children

#### Infrastructure

- Increased pressure on local schools
- The local schools are full
- Doctors are full
- The sewage system is overstretched
- There is little in terms of leisure facilities

- Adverse impact upon local drainage infrastructure

#### Amenity Issues

- Impact upon air quality
- Cumulative impact upon air quality with other developments
- Noise and disruption from construction of the dwellings
- Increased noise caused by vehicular movements from the site
- Increased light pollution

#### Other issues

- Insufficient information into geology in the area
- Lack of consultation
- Weight of opposition against the proposal is a material consideration
- Impact upon archaeology – Impact on Scheduled Ancient Monument on site adjacent
- The development would impair the efficiency of the radio telescope at Jodrell Bank
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An objection has been received from SPRAG which raises the same issues as outlined above and considers the proposal to be economically, environmentally and socially unsustainable.

The full content of the objections are available to view on the Councils Website.

## **8. APPLICANT'S SUPPORTING INFORMATION**

Reports covering the following:

- Transport Assessment
- Planning Statement
- Statement of Community Involvement
- Landscape and Visual Assessment
- Land Contamination Assessment
- Flood Risk Assessment
- Ecological Appraisal
- Desk based Archaeological Assessment
- Design and Access Statement
- Arboriculture Assessment
- Air Quality Assessment
- Agricultural land Assessment
- Archaeological Assessment
- Acoustic Report
- Socio-Economic Report
- Utilities Report
- S106 Heads of Terms

These reports can be viewed on the application file. In précis it is the Applicants case that the site is sustainable and the Inspector at Loachbrook Farm considered that site to be sustainable and this site being immediately adjacent displays the same issues as those found

to justify permission by the Loachbrook Farm Inspector. The Applicant does not consider the Council can demonstrate a 5 year housing land supply and therefore there is a presumption in favour of this development.

## **8. OFFICER APPRAISAL**

### **Main Issues**

Given that the application is submitted in outline, the main issues in the consideration of this application are the suitability of the site for residential development having regard to matters of planning policy and housing land supply, open countryside, affordable housing, highway safety and traffic generation, contaminated land, air quality, noise impact, landscape impact, hedge and tree matters, ecology, amenity, open space, drainage and flooding, sustainability and education and health provision.

### **Principle of Development.**

The site lies in the Open Countryside as designated in the Congleton Borough Local Plan First Review, where policies H6 and PS8, and PG5 within the Submission Version of the Local Plan Strategy state that, inter alia, only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.

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

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

### ***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.”*

Since the publication of the Housing Position Statement in February 2014 there have now been a number of principal appeal decisions which address housing land supply.

Each have concluded that the Council cannot demonstrate a five year supply of housing land, albeit for different reasons. Matters such as the housing requirement, the buffer and windfalls have all prompted varying conclusions to be made.

This demonstrates that there is not a consistent approach to housing land supply. The Planning Minister in a letter dated 14 July, noted that “differing conclusions” had been reached on the issue and requested that the Inspector in the Gresty Road appeal (Inquiry commenced 22 July) pay “especial attention” to all the evidence and provide his “considered view” on the matter.

The Planning Minister clearly does not consider the housing land supply position to be settled – and neither do the Council.

Given that some Inspectors are opting to follow the emerging Local Plan, the Council considers it essential that the correct and up to date figures be used. These are 1180 homes pa for “objectively assessed need” – and a housing requirement of 1200 homes pa, rising to 1300 homes pa after 2015. In future, calculations will be made on this basis.

Following the Planning Minister’s letter and in the absence of a consistent and definitive view, the Council will continue to present a housing land supply case based on the most up to date information. On this basis it is considered a 5 year supply is capable of being demonstrated. This position is supplemented with the knowledge that the Council continues to boost its housing land supply position by supporting planned developments and utilising brownfield land wherever possible.

### Open Countryside Policy

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.

## **Landscape Impact**

The application site occupies an area of approximately 3.9 hectares and is located on the western edge of Congleton within land defined in successive Local Plans’ including the Submission Version of the Core Strategy as being Open Countryside.

The 200 house Loachbrook Farm development on the site to the north of the application site has commenced and it is in the context of the finished Loachbrook development that this assessment has been undertaken by the Council’s Landscape Architect.

However, it is also important to recognize that the area of built development within the Loachbrook Farm Development itself terminates some distance to the south of this site on the other side of the Loach Brook itself. The area of land within the Loachbrook Farm development site immediately adjacent to the application site is entirely open public space as designed within the Loachbrook Farm Development, which would be entirely open when viewed from Holmes Chapel Road.

The Loachbrook Inspector identified the (now de-designated ) Scheduled Ancient Monument as being important feature within the landscape. This feature is a well tree’d mound which within the context of the current proposals lies to the west of the proposed housing .

The submission includes a Landscape and Visual Assessment (LVA). The LVA states that the methodology used encompasses the ‘Guidelines for Landscape and Visual Impact Assessment’ (GLVIA) published by the Institute of Environmental Assessment and the Landscape Institute (2002) and ‘Landscape Character Assessment. Guidance for England and Scotland’ (LCA) published by the Countryside Agency and Scottish National Heritage 2002. The baseline conditions are based on Natural England’s Countryside Character Assessment defining the site as Character Area 61; Shropshire, Cheshire and Staffordshire Plain. The study also refers to the Cheshire Landscape Character Assessment (adopted in 2008) which identifies the site as being located in Landscape Type 10: Lower Farms and Woods, the site is also located within the Brereton Heath Character Area: LFW2.

The site description identifies that the surrounding landscape is predominantly pastoral with some areas of woodland, as well as the tree covered mound, formerly a Scheduled Ancient Monument, which is acknowledged to be ‘an important element in the landscape. Its distinctive form can be clearly seen from the surrounding area and forms part of the view upon arrival from Congleton from the west’.

The Councils Landscape Architect has considered the detail of the application Landscape and Visual Character Assessment.

The assessment identifies that there would be a moderate/major adverse effect upon the site's landscape character at the construction phase. The Landscape Architect agrees with this.

The assessment identifies that upon completion there would be a minor adverse landscape effect upon this localised part of the Brereton Character Area, this appears to be based on consideration of the already approved site to the south having an impact on the immediately surrounding landscape, and because the assessment considers that this landscape contains no significant features. I would disagree with this.

The assessment correctly identifies that 'the existing character of the site is dominated by its current use as agricultural farmland' and has also identified the former Scheduled Ancient Monument, a mound approximately 130m long and 25m wide, which 'forms an important element in the landscape. Its distinctive form can be clearly seen from the surrounding area and forms part of the view upon arrival into Congleton from the west'. This would appear to indicate that it is indeed a 'significant feature'. Nevertheless, the assessment notes that the overall significance of effects on the local landscape will be minor adverse, I feel that it would in fact be more adverse than this.

As part of the visual assessment a number of viewpoints have been identified (Viewpoints 1-11). At the construction phase the assessment identifies that there would be a moderate to major adverse visual effect. The Landscape Architect concurs with this assessment.

Upon completion the assessment identifies that for those residential receptors on Holmes Chapel Road that there would be a negligible/minor to moderate/major significance. The Visual effects table notes that this would reduce to Moderate Adverse.

It is accepted that here are a small number of properties on Holmes Chapel Road, the Councils Landscape Architect is of the opinion that the significance would be moderate/major for most of these properties and would remain so upon completion.

The assessment also identifies that the operation visual effect on public rights of way will be moderate adverse and will remain so, and will also be minor adverse, and remain so for users of vehicles along Holmes Chapel Road. It should be noted that there is a footway along Holmes Chapel Road, the visual effects for walkers along this route would be, and would remain greater than minor adverse. Similarly, Sandy Lane is assessed as having a moderate adverse visual effect, reducing to minor adverse. Sandy Lane is a recognised cycle route and the Landscape Architect considers that the visual effect would remain greater than minor adverse.

The submitted Landscape and Visual Impact assessment identifies that relevant policies in the Congleton Borough Local First review are Open Countryside PS8 and Landscape GR5. Policy PS8 identifies suitable developments and that they should preserve the openness of the countryside and maintain or enhance its local character (II).

The submitted Landscape and Visual Impact Assessment notes that the surrounding landscape is predominantly pastoral with some areas of woodland, as well as the tree covered mound, formerly a Scheduled Ancient Monument, which is acknowledged to be 'an important element in the landscape and also notes that the most significant changes arising to the site's landscape character during the construction process would result from the change in land use from agricultural to residential, and that this would 'cause a noticeable change upon entrance to the town'.

The assessment notes that there will be a moderate major adverse landscape effect at construction and that this will remain as minor adverse upon completion. The assessment notes that the development will have an adverse landscape effects and that this will remain adverse., also acknowledging the most significant change, that of agricultural land to residential. This is considered to be contrary to Policy PS8.

Policy GR5 notes that Development will be permitted only where it respects or enhances the landscape character of the area. Development will not be permitted which in the view of the Borough Council, would be likely to impact adversely on the landscape character of such areas or would unacceptably obscure views or unacceptably lessen the visual impact of significant landmarks or landscape features when viewed from areas generally accessible to the public, as a result of the location, design or landscaping of the proposal. Particular attention will be paid to the protection of features that contribute to the setting of urban areas.

The landscape effects have been described and as adverse which is considered to be contrary to Policy GR5. The Councils Landscape Architect also considers that notable features also appear to have been undervalued in the landscape assessment submitted.

In addition the visual assessment identifies that the visual effects will be moderate adverse and remain so for residential receptors along Holmes Chapel Road and also be moderate adverse, and remain so for users of the existing public footpath between Sandy Lane and Sandbach road and that there will also be adverse visual effects for users of Sandy Lane and of Holmes Chapel Road. Clearly the acknowledged adverse landscape character and adverse visual effect are also contrary to Policy GR5.

The Pre-Submission Core Strategy (November 2013) recognises in Policy SE4 the high quality of the built and natural environment is recognised as a significant characteristic of the Borough and that all development should conserve the landscape character and quality and where possible, enhance and effectively manage the historic, natural and man-made landscape features that contribute to local distinctiveness of both rural and urban landscapes.

The acknowledged adverse landscape and visual effects will also be contrary to policy SE4.

## **Sustainability**

To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a "Rule of Thumb" as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

The National Planning Policy Framework definition of sustainable development is:

*“Sustainable means ensuring that better lives for ourselves don’t mean worse lives for future generations. Development means growth. We must accommodate the new ways by which we will earn our living in a competitive world. We must house a rising population, which is living longer and wants to make new choices. We must respond to the changes that new technologies offer us. Our lives, and the places in which we live them, can be better, but they will certainly be worse if things stagnate. Sustainable development is about change for the better, and not only in our built environment”*

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

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

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

- a local shop (500m),
- post box (500m),
- playground / amenity area (500m),
- post office (1000m), bank / cash point (1000m),
- pharmacy (1000m),
- primary school (1000m),
- medical centre (1000m),
- leisure facilities (1000m),
- local meeting place / community centre (1000m),
- public house (1000m),
- public park / village green (1000m),
- child care facility (1000m),
- bus stop (500m)
- railway station (2000m).
- public right of way (500m)

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

- post box – (466m) 29 Longdown Road
- amenity open space (on site)
- public park / village green (965m) - Quinta Park
- public open space - on site
- bus stop (Holmes Chapel Rd)

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

- post office (1287m), Martin McColl West Heath Shopping Centre
- leisure facilities (3500m), Congleton Library
- medical centre. Readesmoor Group Practice, West Street, CW12 1JN. (2900m) .
- primary school (1287m) ( Quinta School Ullswater Road, CW12 4LX
- child care facility (1287m) (Somersford Kindergarten, Quinta School Grounds, Ullswater Road, CW12 4LX
- bank / cash point (1287m), Martin McColl West Heath Shopping Centre
- public house ( 1287m ( Heath farm Padgbury Lane)
- Pharmacy (1287m) – West Heath Shopping Centre
- Railway Station (4800m) (Park Lane Station)
- local meeting place / community centre - 2240m (Danesford Community Centre, West Road, CW12 4EY.
- a local shop selling food or fresh groceries (1287m), Martin McColl West Heath Shopping Centre

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

Owing to its position on the edge of Congleton, there are some amenities that are not within the ideal standards set within the toolkit and will not be as close to the development as existing dwellings which are more centrally positioned. Nevertheless this is not untypical for suburban dwellings and will be the same distances for the residential development in the vicinity of the application site. However, the majority of the services and amenities listed are accommodated within Congleton and are accessible to the proposed development on foot or via a short bus journey.. Accordingly, it is considered that this is a locationally sustainable site.

This is also the opinion of the Inspector who granted planning permission for the 200 dwellings at Loachbrook Farm – the site immediately to the south and south-east of this site who commented :

**..'Overall, the site is in a sustainable position with reasonable access to local services and facilities, with public transport available for those facilities located at a greater distance away. It would form a sustainable site for development in respect of policy contained within the Framework.**

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

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

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

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

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

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

### **Environmental role**

The site is a greenfield site and therefore not the first priority for development.

The site is within walking distance, subject to the provision of additional footways or through connections into the Loachbrook Farm development or a short bus journey from West Heath Shopping Centre (as noted by the Inspector at Loachbrook) This centre offers a wide range of essential facilities and means that occupiers of the development will not be overly reliant on the private car.

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

To the north of the West Heath Shopping Centre is the Radnor Park Industrial Estate and Green Field Farm Trading Estate, which are mixed B1, B2 and B8 sites accommodating a range of occupiers and employment opportunities. Employment opportunities are therefore available within reasonable walking distance or a short bus journey from the site

Paragraphs 96 and 97 of the Framework deal with decentralised and renewable energy supply. The aim is to secure a proportion of predicted energy requirements for new

developments from decentralised and renewable or low carbon sources. This could be dealt with by condition in the interests of sustainable development.

### **Economic Role**

The Framework includes a strong presumption in favour of economic growth.

Paragraph 19 states that:

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

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

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

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

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

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

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

Similarly, the NPPF makes it clear that:

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

According to paragraphs 19 to 21:

“Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy

fit for the 21st century. Investment in business should not be overburdened by the combined requirements of planning policy expectations.”

### **Social Role**

The final dimension to sustainable development is its social role. In this regard, the proposal will provide up to 70 new family homes, including 30% affordable homes, on site public open space and residents would use local education and health provision.

In summary, in terms of its location and accessibility the development does not meet all the criteria in terms of the Checklist. However, previous Inspectors have determined that accessibility is but one element of sustainable development and it is not synonymous with it. There are many other components of sustainability other than accessibility.

To conclude, the benefits include the need to provide people with places to live and 30% affordable housing, which is in great need, the economic benefit of new residents and the New Homes Bonus, revenue in terms of Council Tax to the Council and more spending in the local economy and some social benefit in terms of the limited medical provision, however, these do not outweigh the harm to the local environment by virtue of the loss of the open countryside and the adverse impact that the proposal will have upon the landscape character of the site and its surroundings.

### **Affordable Housing**

The site is located in the Congleton sub-area for the Strategic Housing Market Assessment Update 2013 (SHMA), which identified a net need for 58 new affordable homes each year made up of a net requirement for 27 x 1 beds, 10 x 3 beds, 46 x 4+ beds and 37 x 1 bed older persons units. This is a total need over the 5 years (2013/14 – 2017/18) of the SHMA of 290. The SHMA identified an oversupply of 49 x 2 bed properties and 12 x 2 bed older persons properties which is why the net total requirement is 58 new units per year.

In addition to this the number of applicants on Cheshire Homechoice have been considered. There are currently 610 applicants on the housing register who require social or affordable rented housing in Congleton, these applicants require 207 x 1 beds, 227 x 2 beds, 116 x 3 beds, 11 x 4 beds and 1 x 5 bed (48 applicants haven't specified how many bedrooms they require).

The Interim Planning Statement: Affordable Housing advises – *that for Windfall sites in settlements with a population of 3,000 or more the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or than 0.4 hectare in size. It also advises that the exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment.*

Therefore there should be provision of 30% of the total dwellings as affordable, with 65% provided as social rent (affordable rent is also acceptable at this site) and 35% intermediate. This is the preferred tenure split identified in the SHMA 2010 and highlighted in the Interim Planning Statement on Affordable Housing (IPS).

This equates to a requirement for 54 affordable dwellings on this site, with 35 provided as social or affordable rent and 19 provided as intermediate tenure (based on a maximum of 180 units with a pro rata reduction should overall density be reduced).

The Affordable Housing Interim Planning Statement requires that the affordable homes should be provided no later than occupation of 50% of the open market units, unless the development is phased and there is a high degree of pepper-potting in which case the maximum proportion of open market homes that may be provided before the provision of all the affordable units may be increased to 80%.

All the Affordable homes should be constructed in accordance with the Homes and Communities Agency's Design and Quality Standards (2007) and should achieve at least Level 3 of the Code for Sustainable Homes (2007). The Affordable Homes should also be integrated with the open market homes and therefore 'pepper-potted' and be tenure blind and also not be segregated in discrete or peripheral areas.

The application confirms that 30% affordable housing will be provided on this site. As this is an outline application the information about the affordable housing offer by the applicant is limited, if the application was approved the Strategic Housing Manager would like to see the details in an affordable housing scheme (including type of intermediate tenure to be provided) to be submitted at reserved matters stage and the scheme to meet the affordable housing requirements detailed above.

The Affordable Housing Statement highlights that the affordable housing will be provided as a mix of 2 and 3 bed houses, however the Strategic Housing Manager would like to see a broader range of types of and sizes of affordable housing discussed at reserved matters stage rather than merely the provision of 2 and 3 bedrooomed units.

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

## **Affordable Housing**

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

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

In addition to the information taken from the SHMA I have also checked the number of applicants on Cheshire Homechoice: -

There are currently 2 applicants on the housing register who require social or affordable rented housing have Somerford as their first choice, these applicants require 2 x 1 beds.

There are currently 564 applicants on the housing register who require social or affordable rented housing and have one of the Congleton re-housing areas as their first choice, these applicants require 333 x 1 beds, 167 x 2 beds, 56 x 3 beds and 7 x 4 beds.

The Interim Planning Statement: Affordable Housing (IPS) advises – ***that for Windfall sites in settlements with a population of 3,000 or more the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified ‘windfall’ sites of 15 dwellings or more or than 0.4 hectare in size.*** It also advises ***that the exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment.*** For sites in settlements with a population below 3,000 there is also a requirement for 30% affordable housing however the thresholds are 0.2 hectares or 3 dwellings or more.

Therefore there should be provision of 30% of the total dwellings as affordable, with 65% provided as social or affordable rent and 35% intermediate. This is the preferred tenure split identified in the SHMA and highlighted in the Interim Planning Statement on Affordable Housing (IPS). This equates to a requirement for up to 21 affordable dwellings on this site, with up to 14 provided as social or affordable rented dwellings and 7 provided as intermediate tenure. (pro rata)

The IPS requires that the affordable homes should be provided no later than occupation of 50% of the open market units, unless the development is phased and there is a high degree of pepper-potting in which case the maximum proportion of open market homes that may be provided before the provision of all the affordable units may be increased to 80%.

All the Affordable homes should be constructed in accordance with the Homes and Communities Agency Design and Quality Standards 2007 and should achieve at least Level 3 of the Code for Sustainable Homes (2007). The Affordable Homes should also be integrated with the open market homes and therefore ‘pepper-potted’ and be tenure blind and also not be segregated in discrete or peripheral areas.

The Affordable Housing Review and Statement submitted with the application confirms that 30% affordable housing will be provided on this site with a 65% Affordable Rent and 35% intermediate split which is acceptable.

The Affordable Housing Review and Statement (AHRs) gives an indicative breakdown of the sizes of affordable housing proposed. The Strategic Housing Manager welcomes the broad range of sizes of accommodation proposed but would also be looking for some accommodation to meet the needs of older people and would look for the intermediate units to be either 2 or 3 beds.

Further information would be required by providing details in an affordable housing scheme to be submitted at reserved matters stage and the scheme to meet the affordable housing requirements detailed above and in the Council's IPS. Including the following: -

- 30% of the total dwellings to be provided as affordable housing
- 65% of the affordable dwellings to be affordable or social rented, 35% to be intermediate
- The affordable dwellings to be pepper-potted across the site
- Affordable homes to meet CFSH Level 3 and to be built in accordance with the Homes & Communities Agency Design & Quality Standards. (This is required for intermediate units as well as rented units, the AHDP confirms that only the rented units will be built to the required standard)
- The affordable dwellings to be provided no later than occupation of 50% of the open market dwellings.

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

The Planning Statement submitted in support of the application states that the affordable units will be delivered by condition in the same way as the Loachbrook Farm site.

However, the Council's IPS requires affordable housing to be secured by of s106 agreement and as such a condition would not be in line with this policy. Accordingly it is recommended that this matter be the subject of S106 Agreement.

### **Highways Implications**

The Highways Department has previously produced a VISSIM micro simulation model of the corridor which demonstrates that any additional traffic on the corridor would have a severe impact on the highway network if improvements are not implemented. The applicant's highway consultant, as part of this application, has not provided junction modelling to assess the impact on the corridor; however, their traffic distribution calculations suggest that the majority (79.6%) of traffic generated by this development would use the A34 corridor.

Therefore, it is considered that the development would have a material impact on the already seriously congested A34 corridor, and the applicant should liaise with the Highways Department as to appropriate mitigation of this impact. Without such mitigation, the Highway Authority object to the proposals.

No such liaison or negotiations have taken place and the site was not the subject of any form of pre-application submission. As the Applicant has appealed, the determination is taken out of the hands of the Planning Authority

However, for the purposes of the appeal. There are matters of detail that are relevant at this stage, and information required before the Highway Authority could support this proposal :

The proposed junctions with the south-west (outside) side of the bend in Holmes Chapel Road would benefit from good visibility.

Two access junctions with Holmes Chapel Road are envisaged. Given the low traffic flows, and the potential benefits of a lower accident rate, a single junction should be investigated. Emergency access provision would be needed to be considered as part of reserved matters layout.

An analysis of the local traffic accident history should be included in the Traffic Assessment – it is not possible to assess the likely safety aspects of the proposed junctions without this information.

Concerns are expressed regarding poor vehicular visibility and consequent danger for vehicles exiting the residential driveways opposite the development site on the north-east (inside) side of the bend in Holmes Chapel Road.

As a pre-requisite to the Highway Authority potentially exercising its powers to trim planting on private land under S.154 of the Highways Act 1980, a speed survey of south-east bound traffic must be undertaken (at several points, given the transition from a 50mph. speed limit to 40mph.) and the results used to establish on a plan forward visibility for the bend and visibility splay lengths for the individual driveways. Any necessary works must be funded by the developer via S.106/278 agreements with CEC/Highway Authority.

Pedestrian access to the existing Holmes Chapel Road bus stops must be considered. On the south-west (development) side, the existing stop is established by a pole and sign in the grass verge, and therefore would require pedestrian access and upgraded facilities. Facilities are required for pedestrians to cross Holmes Chapel Road and use the west-bound bus stop, currently unmarked. Footway/cycle routes within the development would be assessed at the reserved matters stages.

The Strategic Highways Manager is concerned about the impact of the proposed development on the A34 corridor. Given the lack of information identified within the Transport Assessment and his concerns about the implications of the proposal for the A34 Corridor, the Highways Manager recommends refusal on grounds of lack of information.

### **Amenity**

In terms of the surrounding residential properties, whilst there are a small number of dwelling adjoining the southern part of the site on Padgbury Lane. Between the nearby residential properties to the north, to the rear of the pub are a linear area of public open space, and a belt of trees. Due to these intervening features and the separation distances involved it is considered that a layout could be achieved that could comply with the separation distances as outlined in the Congleton SPD for residential layouts. Accordingly, there would be minimal impact upon residential amenity.

The Environmental Health Officer (amenity and contaminated land) has requested conditions in relation to an environmental management plan, external lighting, noise mitigation and contaminated land.

### **Air Quality**

The EHO considered the information and advises that the scale of the development is such that there is potential to increase traffic and also alter traffic congestion in the area. In particular, there are a number of Air Quality Management Areas (AQMA's) within Congleton where levels of Nitrogen Dioxide (NO<sub>2</sub>) presently exceed the tolerance at sensitive receptors.

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

The assessment uses ADMS-Roads to model NO<sub>2</sub> and PM<sub>10</sub> impacts from the additional road traffic associated with this proposal and other permitted developments.

The model predicts that the proposed residential development will be below the air quality objectives.

Regarding existing receptor impact, the assessment concludes that there will be a negligible increase in NO<sub>2</sub> and PM<sub>10</sub> exposure at all 8 receptors modelled.

Four of these receptors are within the Congleton AQMA's. It is this department's opinion that any increase of concentrations in an AQMA is considered significant as it is directly converse to our Local Air Quality Management objectives.

In addition, taking into account the uncertainties with modelling, the impacts of the development could be significantly worse

Poor air quality is detrimental to the health and wellbeing of the public, and also has a negative impact on the quality of life for sensitive individuals. It is therefore considered that mitigation should be sought in the form of direct measures to reduce the impact of traffic associated with the development.

Modern Ultra Low Emission Vehicle technology (such as electric vehicles) are expected to increase in use over the coming years (the Government expects most new vehicles in the UK will be ultra low emission). As such it is considered appropriate to create infrastructure to allow charging of electric vehicles, in new modern properties.

The EHO (Air Quality) would recommend the conditions be attached to any permission for the scheme concerning travel planning, Electric Vehicle infrastructure and dust control

## **Ecology**

The Councils ecologist has considered the Ecological report submitted with the application and raises no issues other than suggesting conditions for r breeding birds and the provision of an 8m buffer zone from bank top of the Loach Brook

## **Hedgerows**

Hedgerows are a Biodiversity Action Plan priority habitat and hence a material consideration. . Based upon the submitted indicative plan most of the existing hedgerows on site are likely to be retained, there also appears to be opportunities for suitable replacement planting to be incorporated into the proposed layout to compensate for any hedgerows lost.

Any losses of hedgerow must be compensated for through additional hedgerow planting as part of any detailed landscaping scheme produced for the site. Based on the submitted illustrative master plan it appears feasible that this could be achieved.

On this basis, the proposal is considered to be acceptable in ecological terms.

### **Trees and Hedgerows**

Policy NR1 of the Congleton Local Plan states that proposals for development will not be permitted where it is apparent that there would be an adverse effect on existing healthy trees of amenity value. Any permission given will include conditions for their protection during development where appropriate by requiring submission and implementation of detailed method statements for construction and arboricultural works.

Policy SE5 of the Local Plan Strategy Submission Version re-affirms this with the additional requirement that , in respect of trees, hedgerows and woodland, where adverse impacts are unavoidable, such impacts must satisfactorily demonstrate significant environmental gain by appropriate mitigation, compensation or offsetting.

An Illustrative Parameters Plan has been submitted in support of the application showing two new accesses onto Holmes Chapel Road a Play Area, Public Open Space, pedestrian and cycle links.

### **Supporting Arboricultural Information**

The site is located to the south of Holmes Chapel Road and is agricultural land with a mixed species hedge on the roadside and an off site hedge to the east. There are 4 mature trees on the northern boundary and trees off site to the south along the banks of Loach Brook.

The submission is supported by an Arboricultural Assessment dated December 2013. The reports states that the tree survey and assessment of existing trees have been undertaken in accordance with BS 5837:2012 Trees in relation to design, demolition and construction.

A total of eleven individual trees, four groups of trees and three sections of hedgerows were surveyed as part of the assessment. Four mature Beech trees adjacent to Holmes Chapel Road as the most notable arboricultural features of the site and describes the trees as being visually prominent. Trees adjacent to Loach Brook include Alder, Oak, Silver Birch, Hawthorn and Sycamore. An over-mature crack willow is identified outside of the site with the crown overhanging the site.

Hedgerows are reported to be formed of native species such as hawthorn, alder and oak and have been regularly maintained. The survey assesses the trees as 1 individual tree grade U, 1 tree group grade A, 7 individuals plus 3 groups grade B and 3 individuals and 3 groups grade C.

The prominent Beech Trees are all afforded Grade B in the survey. Nevertheless, the report indicates that 2 of these specimens, T1 & 3, are infected with Ganoderma fungus. Taking into account the risk factors associated with the fungus, the juxtaposition to the road and proposed future use of the site, in the survey further decay investigation is recommended for these trees.

An Arboricultural Impact Assessment has been based upon the Development Framework plan (drawing reference 5912-L-03 FPCR) and suggests that whilst there would be two sections of roadside hedge removed to allow access, there would be no tree losses to facilitate the layout illustrated because the residential development is accommodated centrally in the site with buffers to the margins.

The mature Beech trees are shown retained pending more detailed examination, with a comment to the effect that the roadside buffer would provide an opportunity to secure replacement planting to create a new tree lined approach to Congleton. The report recommends new tree planting as part of a landscape scheme for the site with protection measures for retained trees.

The full arboricultural implications of development of this site would only be realised with a detailed layout at reserved matters stage, although the impact of the proposed access points needs to be considered at this stage. Should the principle of development be accepted, the Council's Arborist considers it would be essential to maintain the character of a tree lined approach to Congleton, to secure the retention of the trees along Loach Brook corridor and to secure new tree planting to maintain tree cover and help integrate development into the landscape.

Nevertheless, taking into account the overall condition and maturity of the existing roadside Beech trees, it needs to be acknowledged that the specimens are unlikely to have a long safe life expectancy. Other trees of similar age and character in the vicinity have already failed.

However, the Arborist has raised concerns about the discrepancies within the Application plans. For instance, the position of the proposed eastern point of access varies on different plans. The access points on the Illustrative Masterplan and detailed plan ( Proposed access arrangement plan 3.2) within the transport assessment do not accord with those on the Development Framework plan 592-L-03 E and Tree retention plan 5912-A-03 or the various plans in the D&A statement.

Any implications for existing trees and the roadside hedge directly relating to the access and associated visibility splays can not be properly assessed and given that the Applicant has appealed on grounds of non-determination, the application is no longer in the hands of the Council to deal with. It appears that the eastern access would require the removal of one of the mature Beech trees.

Taking into account the indicative proposals, the Arborist considers the submitted Arboricultural Assessment presents an overly optimistic view in relation to the feasibility of retention of the existing hedgerow and trees on the Homes Chapel Road frontage.

Whilst the proposal to provide a landscape buffer to Holmes Chapel Road is welcomed, the buffer as indicated does not appear to encompass the full root protection area of the mature Beech trees, it gives the impression that the existing hedge could be retained, and yet shows a proposed shared 3m wide footway/cycle adjoining Holmes Chapel Road and would also need to afford space to accommodate trees of species which at maturity, replicated the stature and character of the existing trees. It is questionable how successfully this could be achieved.

## **Hedgerows**

It is not clear from the submission to what extent the roadside hedge would be impacted by the proposed access points and associated visibility splays on Holmes Chapel Road.

Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'Important'.

The Regulations require assessment on various criteria including ecological and historic value. Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the application. Hedgerows are also a habitat subject of a Biodiversity Action Plan.

The submission includes an ecological assessment which suggests that the hedge does not meet the ecological criteria in the Regulations. There appears to be no assessment of historic criteria although having viewed the historic maps in the Archaeological Assessment, the Arborist anticipates the northern hedge line may be judged to have historic importance.

Given the issues raised by the Landscape Architect, together with these concerns of the Arborist, the lack of and the conflicting information in relation to trees and hedgerows on site, this is considered to represent a reason to be minded to refuse this application.

## **Urban Design**

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

*“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”*

The site is a rural edge to Congleton and there is a necessity to create a townscape/landscape transition between urban and rural.

There are also established landscape features that are extremely important to the character of the site, not least the strong t hedge lined frontage to Holmes Chapel Road and the fringe landscape along the west of the site, Whilst peripheral hedging is indicated for retention some hedging subdividing the sites is being lost.

The application has been submitted for 'up to 70' units at an average net density of 30 per hectare with a mix of dwelling types of 2-5 bedroom units, which are indicated as being mainly 2 storey but with focal point buildings within the street scene that are referred to as being 2.5 storeys. In this case there is no testing layout.

This raises the potential that the numbers of units that this site could achieve, whilst also being in keeping with the prevailing residential density in the locality

From a design perspective, the information submitted provides a decent basis on which to develop detailed design proposals. The following issues have been highlighted by the Urban Design Officer, which would be for reserved matters if permission were granted-

- There is a pinch point in relation to separation from Loach Brook, to the west of the area of open space and LEAP, which could be exacerbated by the site topography. In urban design terms it is suggested that a more generous separation between the Brook and the building line would be appropriate at detailed stage (this would require a modest reduction in plots)
- The street alignment of the Avenue along the northern frontage is a little contrived, this creates the potential for awkwardly positioned plots and visible gables to buildings not really intended in public view. It could also lead to odd shaped areas of landscaping. It would be better to reflect the linearity presented by Holmes Chapel Road and the linear arrangement of the established properties opposite. This linearity would allow the avenue planting to be completed to the south of the street, even if it is as part of the boundary planting of plots
- There are more focal building opportunities than are shown in the DAS The corner to the south east of the play open space is one such location (there could be others)
- The north western tip of the site should be defined by a bespoke plot responding to the site's shape and relationship to the open space. This and the focal/landmark building opportunities should be exploited to provide genuinely legible features within the scheme
- Is there scope for a further pedestrian route alongside Loach Brook? (see comment above about the pinch point)
- The reference to self build plots within the Design and Access Statement (DAS) is welcomed in urban design terms
- Some of the precedent images in the DAS are uninspiring. Character should be drawn from positive local examples, as opposed to more recent development that hasn't responded to local sense of place or context
- Visitor parking should be designed into streets where possible – to provide for occasional parking and as part of the traffic calming
- Locally responsive materials/landscape should underpin both the materiality of the dwellings but also landscape and boundary solutions
- The sustainable design section doesn't commit to a significant amount although it is positive that it is at least discussed. There need to be much firmer arrangements in place (see comments in relation to conditions below)
- In terms of Building for Life it is very hard to properly evaluate at this level of detail. The comments identified above flag up certain potential issues for the detailed design stage and therefore I think that saying the application achieves 12 greens at present is a little presumptuous...the devil is in the detail.

The Urban Designer advises that a design coding condition should be attached to any outline permission requiring the design detail to be developed in conjunction with the Reserved Matters stage (i.e. not relying on the Reserved Matters alone) should permission be granted

### **Public Open Space (Amenity Greenspace)**

Following an assessment of the existing provision of Amenity Greenspace accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

Based on 70 dwellings the quantity of Amenity Greenspace required would be 1680m<sup>2</sup>. Two areas of Open space are identified on the masterplan (page 41 of the Design and Access Statement) but the size of the areas are not quantified.

The open space to the North of the site contains an attenuation pond. Whilst it is appreciated this promotes bio-diversity and due to regulatory requirements to comply with SUD's it has never been the Council's policy to take transfer of areas of POS that have water bodies located in, around or running through them due to the additional liabilities and maintenance implications associated with such areas. Therefore it is recommended that any areas of this type should be transferred to a residents management company or other competent body.

### **Children and Young Persons Provision**

Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development. The Masterplan (Page 41 of the D&A Statement) shows a green open space with a LEAP. This should include at least 5 items of equipment, using play companies approved by the Council. We would request that the final layout and choice of play equipment be agreed with CEC, the construction should be to the Council's satisfaction. Full plans must be submitted prior to the play area being installed and these must be approved in writing prior to the commencement of any works. A buffer zone of at least 20m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site.

As with the Amenity Greenspace it is recommended that future maintenance and management of the play area be transferred to a management company. However, subject to these conditions, that could form part of reserved matters no objection is raised to the provision of the public open space

### **Loss of Agricultural Land**

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. Policy SE2 of the Submission Version of the Local Plan concerns the efficient use of land and states that development should safeguard natural resources including agricultural land.

In addition, the National Planning Policy Framework, states that:

*“where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality”.*

A survey has been provided to by the applicant which indicates that the entire 3.9 hectares of the site is Best and Most Versatile Agricultural land. Previous Appeal decisions make it clear that in situations where authorities have been unable to demonstrate a 5 year supply of

housing, the need for housing land outweighs the loss of agricultural land. However, given that Cheshire East has a greater than 5 year supply of housing, it is considered that this argument does not apply and that the loss of the agricultural land makes the scheme less sustainable since it results in a loss of such land in the open countryside when there is no necessity to do so in housing land supply terms.

The proposal is therefore considered to be contrary to policy SE2 of the and the provisions of the NPPF in respect of loss of agricultural land.

### **Flood Risk and Drainage**

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

The Council's Flood Risk Manager has also been consulted and is aware of existing local off site flooding problems associated with non main river (ordinary) watercourse tributary systems of Loach Brook, surface water runoff and/or potential ground water flooding in the locality and is currently investigating and considering options on how these risks can be addressed.

### **Infrastructure**

Policy GR19 of the Local Plan advises that the Local Planning Authority may impose conditions and/or seek to negotiate with developers to make adequate provision for any access or other infrastructure requirements and/or community facilities, the need for which arises directly as a consequence of that development. It is advised that such provision may include on site facilities, off site facilities or the payment of a commuted sum.

Policy IN1 of the emerging Cheshire East Local Plan Strategy – Submission Version, advises that the Local Planning Authority should work in a co-ordinated manner to secure funding and delivery of physical, social, community, environmental and any other infrastructure required to support development and regeneration.

The Council's Education Officer, in response to a consultation to ascertain the impact of the proposed development on nearby schools has advised that '*...no contribution will be required from this development.*'

NHS England advice on recent applications submitted in the area is that existing health infrastructure in Congleton is already operating above capacity and cannot absorb the planned developments in the Emerging Strategy. This site is not one of the planning sites. Another 70 dwellings in the area will therefore have an impact.

However, at the time of writing the report, the exact financial contribution required by NHSE has yet to be received and will be the subject of an update report

### **LEVY (CIL) REGULATIONS**

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

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

As explained within the main report, the ecological mitigation, POS and children's play space is a requirement of the Local Plan Policy. It necessary to secure these works and a scheme of management for the open space and children's play space is needed to maintain these areas in perpetuity.

The proposal would have an impact upon capacity of the local road network which would require an engineered solution in the form of highways improvements. By appealing on the grounds of non-determination, the Applicant has not allowed Highways Officers the ability to negotiate upon highways improvements that may mitigate for the impact of this development in this area.

However, for the purposes of the appeal it is considered that any financial contribution to address the capacity issues within the local road network would be fairly and reasonably be related to the impact of this development, as is a contribution to replace the existing puffin on Holmes Chapel Road with a toucan to allow for greater use by cyclists and residents from the development .

On this basis S106 financial contributions to Health Infrastructure, and highways mitigation is compliant with the CIL Regulations 2010.

## **10. CONCLUSIONS**

The proposal involves the erection of a new residential development in the open countryside, which is contrary to established local plan policies. The Planning Acts state that development must be in accordance with the development plan unless material considerations indicate otherwise.

The site is within the Open Countryside where under Policy PS8 and H6 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. The Council can demonstrate a 5 year housing land supply and as a result the principle of development is not considered to be acceptable and the development would be contrary to Policy PS8.

Notwithstanding recent appeal decisions, the Council considers that it has a 5 year housing land supply, however, regardless of the housing land supply position, it is considered that open countryside policy remains up-to-date and in accordance with the NPPF.

Furthermore, the proposal would result in the loss of best and most versatile agricultural land. even though at 3.9 hectares this is not significant. However, in the absence of a need to

develop the site in order to meet housing land supply requirements, it is considered that the benefits of development would not outweigh the loss of agricultural land

The proposed development has a cumulative impact upon highways congestion in the area, and it is considered that the application cannot be considered in isolation from the other committed schemes in the area. No pre-application discussions took place and the information submitted in support of this application is lacking in terms of safety and congestion matters. In addition the Strategic Highways manager considers the Transport Assessment to be lacking in detail.

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

It is considered that the development is acceptable in terms of affordable housing provision. Matters of contaminated land, air quality and noise impact can also be adequately addressed through the use of conditions.

With regard to ecological impacts, the Council's ecologist is satisfied with the proposed mitigation/compensation measures for protected species can be secured.

Policy requirements in respect of public open space provision can be met within the site. A contribution has been secured to enhance primary school provision in the area to mitigate the proposed development.

However, these matters are considered to be insufficient to outweigh the harm that would be caused in terms of the impact on the open countryside and the loss of agricultural land and adverse landscape impact of the proposals and the lack of and conflicting information submitted with regard to trees and hedgerows, and the implications of this within the landscape . As a result the proposal is considered to be unsustainable and contrary to Policies H6, PS8, GC1 NR3 and NR4, GR5, GR3 of the local plan, Policy PG5, SE3, SE5 SE4,SE5 and SE6 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of the NPPF in this regard.

## **11. RECOMMENDATIONS**

**MINDED TO REFUSE** for the following reasons:

- 1 The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy PS8 and H6 of the Congleton Borough Local Plan First Review 2005, Policy PG5 of the emerging Cheshire East Local Plan Strategy - Submission Version and the principles of the National Planning Policy Framework, which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it and creates harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land in accordance with the National Planning Policy Framework and consequently, there are no material circumstances to indicate that permission**

should be granted contrary to the development plan, to the emerging Development Strategy and the principles of the National Planning Policy since there are no material circumstances to indicate that permission should be granted contrary to the development plan.

2. The proposal would result in loss of the best and most versatile agricultural land and given that the Authority can demonstrate a housing land supply in excess of 5 years, the applicant has failed to demonstrate that there is a need for the development, which could not be accommodated elsewhere. The use of the best and most versatile agricultural land is inefficient and contrary to Policy SE2 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of the National Planning Policy Framework.
3. The proposed residential development, by virtue of the adverse impact that the proposals would have on the local landscape character thereby failing to recognise the intrinsic character and beauty of this site and the contribution to the wider landscape setting is contrary to Policies GR5, GR3 of the Congleton Borough Adopted Local Plan First Review 2005 and policies SE4, SE5 and SE6 of the emerging Cheshire East Local Plan Strategy - Submission Version and the provisions of Paragraph 17 of the National Planning Policy Framework
4. Insufficient information has been submitted to demonstrate that the proposal will have an acceptable impact upon the operation of the highway network in the vicinity in terms of safety and congestion impacts and lack of data in the Transport Assessment contrary to Policies GR9 and GR10 of the Congleton Borough Adopted Local Plan First Review 2005
5. Insufficient information has been submitted to demonstrate that the scheme would provide for the retention and protection of existing trees of amenity value and no assessment of historic hedgerows has been provided therefore the applicant has failed to demonstrate that the proposal complies with Policies GR1 and NR1 of the adopted Congleton Borough Local Plan First Review 2005 and policy SE3 and SE5 of the emerging Cheshire East local Plan and the provisions of 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 Principal Planning 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 Principal Planning 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 to secure:-

- **Affordable housing:**
  - 30% of all dwellings to be affordable (65% social or affordable rented and 35% intermediate tenure)
  - A mix of 1, 2 , 3 bedroom and other sized properties to be determined at reserved matters
  - units to be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration.
  - constructed in accordance with the Homes and Communities Agency Design and Quality Standards (2007) and should achieve at least Level 3 of the Code for Sustainable Homes (2007).
  - no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided, with the exception that the percentage of open market dwellings that can be occupied can be increased to 80% if the affordable housing has a high degree of pepper-potting and the development is phased.
  - developer undertakes to provide the social or affordable rented units through a Registered Provider who are registered with the Homes and Communities Agency to provide social housing.
  
- Provision of minimum of 1680m<sup>2</sup> sqm and of shared recreational open space and children's play space to include a LEAP with 5 pieces of equipment
- Private residents management company to maintain all on-site open space, including footpaths and habitat creation area in perpetuity
- Commuted Sum (to be negotiated) towards improvement of the Waggon and Horses Junction and the improvements at Barn Road roundabout or other measures that will provide similar congestion relief benefits to the A34 corridor through Congleton – amount to be confirmed
- Commuted sum of £40000 to upgrade existing Puffin Crossing to Toucan Crossing
- Commuted Sum payment in lieu of health related provision in accordance with the NHS Health Delivery Plan for Congleton- amount to be confirmed

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