

Application No: 15/3394C

Location: OAK FARM, CHURCH LANE, SANDBACH, CHESHIRE, CW11 4ST

Proposal: Demolition of existing buildings and erection of up to 5 no. residential dwellings with associated infrastructure and ancillary facilities in Outline with Access defined- resubmission of 14/3810C

Applicant: Paul Foden

Expiry Date: 17-Sep-2015

## **SUMMARY**

**The application site lies entirely within the Open Countryside as determined by the Congleton Borough Local Plan First Review 2005.**

**Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, it constitutes a “departure” from the development plan and there is a presumption against the proposal.**

**The proposal remains contrary to Open Countryside policy regardless of the Council’s 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. This consideration is made on the sustainability of the development.**

**Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development**

**It is therefore necessary to make a free-standing assessment as to whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).**

In this case, the development would bring positive planning benefits such as; the provision of a market dwellings, an affordable housing contribution, the provision of a public footpath and a minor boost to the local economy. It is also accepted that part of the site would represent 'previously developed land'.

Balanced against these benefits must be the dis-benefits, which in this case relate to the isolated location of the site with regards to its distance to public facilities and its physical isolation from Sandbach Heath. Furthermore, the proposal would have an adverse impact upon the setting of the nearby listed building.

In this instance, it is considered that these environmental dis-benefits outweigh the social and economic benefits of the scheme.

On the basis of the above, it is considered that the proposal represents unsustainable development and paragraph 14 is not engaged and therefore the proposal should be determined in accordance with the development plan.

Notwithstanding this point, even if it were engaged, it is considered that the adverse effects of the scheme significantly and demonstrably outweigh the benefits.

Accordingly the application is recommended for refusal.

**RECOMMENDATION**

**REFUSE**

## **REASON FOR REFERRAL AND DEFERRAL**

The application has been 'called-in' to Southern Planning Committee by Councillor J. Wray for the following reasons;

- *'There is considerable local support for the application as it is considered a brownfield site and the revised plan now gives a significant public benefit by the proposed footpath upgrade to include a cycleway allowing good access to the church.'*
- *New construction on the site, sympathetic to surroundings, would be far better than conversions of the old dilapidated structures.'*

The application was deferred by Southern Planning Committee on the 25<sup>th</sup> November 2015 in order for;

- Clarification of the footpath link, including location, cost, width and specification
- Re-consideration of the location of the access to serve the site and the impact upon trees

The applicant has subsequently changed the siting of part of the footpath between the nearby church and the motorway bridge from the southern to the northern side of the road. Details of the proposed footpath have been provided.

## **PROPOSAL**

This application seeks outline planning permission to demolish the existing buildings on site and erection up to 5 no. dwelling houses with ancillary facilities and associated infrastructure with access defined.

There is currently 1 large dwelling on site and a number of outbuildings. The proposal would provide a net increase in the number of dwellings on site of 4 units.

Approval of appearance, landscaping, layout and scale are not sought at this stage and are reserved for subsequent approval.

The application is a re-submission of 14/3810C which was refused on the following grounds;

- 1. The proposed residential development is unsustainable because it is located in an isolated location within the Open Countryside, contrary to Policies PS8 and H6 of the Congleton Borough Adopted Local Plan First Review 2005 and Policy SD2 of the Cheshire East Local Plan Strategy – Submission Version and the principles of the National Planning Policy Framework. These seek to ensure that residential development is directed to the right location where it will be expected to provide suitable access to a range of forms of public transport, open space and key services and amenities and to ensure that open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it creates harm to interests of acknowledged importance. The benefits of the scheme are substantially and demonstrably outweighed by the site's unsustainable, isolated location with regards to both its distance and accessibility to / from local public facilities and its physical isolation from the built environment, where specific policies of the Framework indicate development should be restricted. For these reasons, the proposal would not represent sustainable development in the context of the Framework's policies and consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.*

The applicant is proposing to address these concerns by offering the provision of a footpath link from the application site to Sandbach Heath along Church Lane.

## **SITE DESCRIPTION**

The site relates to Oak Farm, a detached, two-storey dwelling and its associated outbuildings / curtilage located on the eastern side of Church Lane, Sandbach within Open Countryside.

The application site lies in an elevated position in comparison to Church Lane. On the opposite side of the Road is St John's Church, a grade II listed building. Other than this church, the site is enclosed by fields.

## **RELEVANT HISTORY**

**14/3810C** - Demolition of existing buildings and erection of up to 5 no. residential dwellings with associated infrastructure and ancillary facilities in Outline with Access defined – Refused 17<sup>th</sup> February 2015

## **NATIONAL & LOCAL POLICY**

### **National Policy**

The National Planning Policy Framework establishes a presumption in favour of sustainable development. Of particular relevance are paragraphs:

- 14 - Presumption in favour of sustainable development
- 17 – Countryside
- 47-50 - Wide choice of quality homes
- 55 - Isolated dwellings in the countryside
- 56-68 - Requiring good design
- 126-141 - conserving and enhancing the historic environment

### **Development Plan**

The Development Plan for this area is the 2005 Congleton Borough Local Plan, which allocates the site, under Policy PS8, as Open Countryside.

The relevant Saved Policies are:

- PS8 - Open Countryside
- BH4 – Listed Buildings – Effect of Proposals
- GR1 New Development
- GR2 Design
- GR4 Landscaping
- GR6 Amenity and Health
- GR9 Accessibility, Servicing and Parking Provision – New development
- GR16 Footpath, Bridleway and Cycleway Networks
- GR20 Public Utilities
- GR21 Flood Prevention
- GR22 Open Space Provision
- NR1 Trees and Woodlands
- NR2 Wildlife and Nature Conservation – Statutory Sites
- H1 Provision of New Housing Development
- H6 Residential Development in the Open Countryside and the Green Belt
- H13 Affordable and low cost-housing.

The saved Local Plan policies are consistent with the NPPF and should be given full weight.

### **Cheshire East Local Plan Strategy – Submission Version (CELP)**

The following are considered relevant material considerations as indications of the emerging strategy:

MP1 - Presumption in favour of sustainable development  
PG1 - Overall Development Strategy  
PG5 - Open Countryside  
PG6 - Spatial Distribution of Development  
SD1 - Sustainable Development in Cheshire East  
SD2 - Sustainable Development Principles  
IN1 – Infrastructure  
IN2 - Developer contributions  
SC4 - Residential Mix  
SC5 - Affordable Homes  
SE1 – Design  
SE2 - Efficient use of land  
SE3 - Biodiversity and geodiversity  
SE4 - The Landscape  
SE5 - Trees, Hedgerows and Woodland  
SE6 - Green Infrastructure  
SE9 - Energy Efficient Development  
SE12 - Pollution, Land contamination and land instability  
SE13 - Flood risk and water management  
CO1 - Sustainable Travel and Transport  
CO4 - Travel plans and transport assessments.

### **Sandbach Neighbourhood Development Plan (Draft)**

H1 – Housing Growth  
H2 – Design and layout  
H3 – Housing Mix and type  
H4 – Preferred Locations  
PC2 – Landscape Character

### **Supplementary Planning Documents:**

Interim Planning Statement: Affordable Housing (Feb 2011)  
North West Sustainability Checklist

### **CONSULTATIONS**

**Head of Strategic Infrastructure (HSI)** - No objections, subject to a condition stating that the proposed access be completed prior to commencement of development and must be formed and graded to the specification of the Local Planning Authority. Furthermore, a condition stating that any hedgerow, foliage, fence/wall or other obstruction within the Church Lane boundary of the site and falling within or encroaching into the visibility should be cut back or removed to prevent obstruction or maintained at or not exceed 0.9 metre in height relative to the level of the site access is also sought.

An informative stating that the developer will be required to enter into section 278 agreement under the Highways Act 1980 with the Highway Authority for the proposed works, that are within the existing highway boundaries is also sought.

**Environmental Protection** - No objections subject to a number conditions relating to; pile foundations, noise mitigation, electric vehicle infrastructure and contaminated land.

**Housing (Cheshire East Council)** – No comments received at time of report

Comments on previous application;

No objections to the provision of an affordable housing contribution. Amount agreed is £83,395 (10<sup>th</sup> February 2015)

**Public Rights of Way** – No objections, subject to the applicant being reminded of their responsibilities. Provision of footpath would improve pedestrian safety

**Flood Risk Manager** – No comments received at time of report

Comments on previous application;

No objections subject to conditions relating to; the prior submission of a surface water drainage scheme and; that the surface water run-off should not exceed the run-off from the undeveloped land (23<sup>rd</sup> January 2015).

**United Utilities** – No objections, subject to a condition seeking the prior submission of a foul water drainage plans and a surface water drainage plan.

**Sandbach Town Council** – Object on the following grounds:

- development is unsustainable due to the isolated location of the site
- proposed pedestrian path is inadequate and unsafe due to speed of traffic
- poor access with limited visibility for entering/leaving site

## **REPRESENTATIONS**

Neighbour notification letters were sent to all adjacent occupants and a site notice was erected. To date, 4 letters of objection have been received, 1 of which is from a Local Neighbourhood Forum. The main areas of concern raised include;

- Principle of development – loss of Open Countryside, sustainability of the location, isolated nature of the site, site not in the SHLAA
- Design - Impact upon the setting of St John's church, impact of acoustic fencing on the streetscene
- Impact upon the landscape
- Attempt to 'buy' planning permission with the provision of a footpath
- Highway safety – Impact of creation of footpath on existing road, poor visibility, increase in traffic volume
- Impact upon nature conservation
- Alternative of barn conversions and new build – Would be financially viable

A large number of letters of support submitted by the applicant and letters from the local church, the other from the National Cycling Charity have also been received. These letters indicate their

support for the development primarily because of the benefits created by the provision of the proposed footpath link.

## **APPRAISAL**

The key issues are:

- The principle of the development
- The sustainability of the proposal, including its; Environmental, Economic and Social role
- CIL test
- Planning balance

### **Principle of Development**

The site lies entirely within the Open Countryside as designated in the Congleton Borough Local Plan First Review 2005 where policies PS8 and H6 state that only residential development which is required for a person engaged full-time in agriculture or forestry, the replacement of an existing dwelling, the conversion of an existing rural building, the change of use or re-development of an existing employment site, infill development or affordable housing shall be permitted.

The proposed development does not fall within any of these exceptions. 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 the development represents sustainable development and whether there are other material considerations associated with this proposal, which are a sufficient material consideration to outweigh the policy objection.

### Housing Land Supply

Paragraph 47 of the National Planning Policy Framework requires that Council’s identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements.

The calculation of Five Year Housing supply has two components – the housing requirement – and then the supply of housing sites that will help meet it. In the absence of an adopted Local Plan the National Planning Practice Guidance indicates that information provided in the latest full assessment of housing needs should be considered as the benchmark for the housing requirement.

Following the suspension of the Examination into the Local Plan Strategy and the Inspectors interim views that the previous objectively assessed need (OAN) was ‘too low’ further evidential work has now taken place and a fresh calculation made.

Taking account of the suggested rate of economic growth and following the methodology of the NPPG, the new calculation suggests that need for housing stands at 36,000 homes over the

period 2010 – 2030. Although yet to be fully examined this equates to some 1800 dwellings per year.

The 5 year supply target would amount to 9,000 dwellings without the addition of any buffer or allowance for backlog. The scale of the shortfall at this level will reinforce the suggestion that the Council should employ a buffer of 20% in its calculations – to take account ‘persistent under delivery’ of housing plus an allowance for the backlog.

While the definitive methodology for buffers and backlog will be resolved via the development plan process this would amount to an identified deliverable supply of around 11,300 dwellings.

This total exceeds the total deliverable supply that the Council is currently able to identify – and accordingly it remains unable to demonstrate a 5 year supply of housing land.

This is a material consideration.

### Open Countryside Policy

In the absence of a 5-year housing land supply we cannot rely on countryside protection policies to defend settlement boundaries and justify the refusal of development simply because it is outside of a settlement, but these policies can be used to help assess the impact of proposed development upon the countryside. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply. Policy PS8, seeks to protect the intrinsic character and beauty of the countryside.

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.

In order to assess the impact upon the Open Countryside, consideration is in part given to the impact the development would have upon the landscape which is considered within the environmental section below.

### **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 accessibility of the site shows that following facilities meet the minimum standard:

- Public house (1000m) - 400m
- Child care facility (1000m) – 700m
- Bus stop (500m) – 350m
- Public right of way (500m) – 50m
- Primary School (1000m) – 900m
- Outdoor Sports Facility – (1000m) – 600m
- Local meeting place (1000m) – 200m

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

- Amenity open space (500m) – 600m
- Children’s Play space (500m) – 600m
- Bank or Cash Machine (1000m) – 1100m

The following amenities/facilities fail the standard:

- Railway station (2000m) – 3800m
- Any transport node – 3800m
- Post Office (500m) – 1200m
- Convenience Store (500m) – 1100m
- Post Box (500m) – 1000m

- Pharmacy (1000m) – 2000m
- Medical Centre (1000m) – 2000m
- Supermarket (1000m) – 2900m
- Leisure Facilities (Leisure Centre or Library) (1000m) – 2575m
- Secondary School (1000m) – over 3000m

In summary, the site does not comply with the majority of the standards advised by the NWDA toolkit.

It was concluded as part of the previous application that because there were no footpaths leading from the site to any of the facilities listed other than the church on the opposite side of the road that this only resulted in the sites isolation from public facilities being increased.

In attempt to address this concern, the applicant now proposes to provide a public footpath from the application site along Church Lane to the boundary of Sandbach Heath.

Although this proposal would increase connectivity, the closest facilities (other than St John's primary school) are considered to be too far away from the application site for the to be considered to be locationally sustainable. Indeed it is likely that the applicant would have to rely on the use of the car in this location irrespective of the provision of a footpath link.

Although there is a bus stop within walking distance, given the lack of footpaths to the north, it is unlikely that future residents will walk to this stop to access sustainable transport.

As such, it is considered that even with the provision of the footpath link, the site remains locationally unsustainable with regards to its distance from public facilities.

In addition and potentially more importantly, to the isolated nature of the site with regards to its accessibility to public facilities, the application site is also physically removed from the Sandbach settlement. This impact is further demonstrated by the fact that there is no other built form close to the site other than the church across the road. There are fields on 3 sides of the application site which makes the site feel rural and isolated.

Paragraph 55 of the NPPF states that '*...Local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances...*'

These exceptional circumstances include; the provision of an agricultural workers dwelling; the use of a heritage asset, the re-use of a redundant or disused buildings or of the design is of an innovative nature.

It is not considered that the proposed development would fall into any of these acceptable categories and as such, it is considered that the proposal would be contrary to the NPPF in this regard.

Inspectors have determined that locational accessibility is but one element of sustainable development and it is not synonymous with it. The NPPF determines that sustainable development includes three dimensions: 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;

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

## **Environmental role**

### Landscape Impact

The site is located within Open Countryside and comprises a residential dwelling with associated barns in landscaped grounds. There are a significant number of trees present.

The main area of the site is positioned at a higher level than Church Lane with an intervening steep embankment to the west which continues for part of the northern boundary. The Council's Landscape Officer has advised that whilst the site appears to have the capacity to accommodate some development, she has concerns regarding the potential visual impact of a dwelling and garden in the proposed position of plot 5. In addition to the prominent siting of the dwelling, the noise report indicates a 1.8m high perimeter garden fence would be required for noise attenuation.

The Council's Landscape Officer has advised that whilst the additional planting would help to soften the impact of the development when viewed from Church Lane, it would not screen the development completely. As such, it is advised that in the event of approval, fully detailed landscape and boundary treatment proposals would be required.

Given that Landscape details have been reserved for subsequent approval, it is not considered that a condition is necessary in this instance. However, it is concluded that screen planting could overcome the localised landscape concerns with this development.

### Trees and Hedgerows

The Council's Tree Officer raises no objections to Option 1 access arrangements as the preferred option (SCP Plan Revision B dated 9/12/2015 provides details of the proposed site access with alterations made to footpath location).

The proposal also seeks the provision of a 1.2 metre wide footpath is for the northern side of Church Lane. The Arboricultural Assessment states that approximately 137 metres of hedgerow and 3 small trees will require removal to allow for the construction of the footpath.

Ongoing discussions have been held between the Council and the applicant's Arboricultural Consultant over the viability of translocation of parts of the hedge and retention of certain sections. Whilst translocation is an option, success can not always be fully guaranteed and the Council's Tree Officer considers that replanting with a new hedge with a greater native species diversity would in the long term, provide greater benefits from an ecological and amenity perspective.

The submitted Arboricultural Report has prepared a proposal for replacement hedgerow planting which shall form the basis of compensation/mitigation.

On the basis of the above, the Council's Tree Officer has raised no objections to the footpath proposal, subject to a condition that; the development shall be carried out in accordance with the Arboricultural Impact Assessment (Ascerta Revision C dated May 2014) including Option A Existing Vehicular Access to be retained and Tree Protection Drawing P.410.14.02 dated 24/4/2014).

In addition, it is recommended that a condition that the development shall be carried out in strict accordance with the submitted Hedgerow Impacts and Replacement Planting Drawing P.410.14.10 dated 14/1/2016, should also be imposed.

### Ecology

The nature conservation officer has commented on the application and has considered the submitted Ecological Report.

### *Bats*

There are four buildings present on site and also two trees have been identified as having potential to support roosting bats.

As a result of the surveys completed to date roosting bats were recorded within two of the buildings on site. These are; Building 3 (the barn) which appears likely to support a brown long eared bat feeding perch and possible a minor roost of this species together with potentially a minor roost of a second additional species. Building 4 (outbuilding) which based on the results of the internal inspection is thought likely to support a Pipistrelle maternity roost and is also likely to support a minor roost of a second bat species. These roosts will be lost as a result of the proposed development.

The Council's Nature Conservation Officer has advised that in the absence of mitigation, the proposed development would have a Moderate adverse impact upon bats.

Of the two trees on site identified as having potential to support roosting bats both were originally proposed for removal. Tree (T13) was covered by the bat activity survey and no roosting bats were recorded as being associated with it. The second tree (T15) now appears to be recommended for retention.

*EC Habitats Directive  
Conservation of Habitats and Species Regulations 2010  
ODPM Circular 06/2005*

The UK implemented the EC Directive in The Conservation (Natural Habitats etc) Regulations 1994 which contain two layers of protection:

- a licensing system administered by Natural England which repeats the above tests
- a requirement on Local Planning Authorities (“LPAs”) to have regard to the Directive’s requirements.

The Habitat Regulations 2010 require Local Authorities to have regard to three tests when considering applications that affect a European Protected Species. In broad terms the tests are that:

- the proposed development is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
- there is no satisfactory alternative
- there is no detriment to the maintenance of the species population at favourable conservation status in its natural range.

Current case law instructs that if it is considered clear or very likely that the requirements of the Directive cannot be met because there is a satisfactory alternative, or because there are no conceivable “other imperative reasons of overriding public interest”, then planning permission should be refused. Conversely, if it seems that the requirements are likely to be met, then there would be no impediment to planning permission be granted. If it is unclear whether the requirements would be met or not, a balanced view taking into account the particular circumstances of the application should be taken.

*Overriding Public Interest*

The proposed development would allow for the continued presence of bats on site via the provision of bat mitigation measures.

*Alternatives*

No development on site.

Given that the development proposes bat mitigation measures, it is considered that the provision of additional habitat would be of ecological benefit which would not be achieved should no development take place. Furthermore, the existing buildings could fall into disrepair and eventually collapse resulting in a loss of habitat.

The Council’s Nature Conservation Officer has concluded by advising that in the event that outline planning consent is granted, the proposed bat mitigation is adequate to ensure that the

favourable conservation status of the species of bat concerned would be likely to be maintained.

It is also recommended that a condition be attached to ensure that any future reserved matters application is supported by an updated bat survey and mitigation method statement.

### *Hedgehogs*

This priority species has been recorded in the broad locality of the proposed development. The submitted ecological assessment includes suitable measures to safeguard hedgehogs during the construction process. If planning consent is granted the Council's Nature Conservation Officer recommends that the following condition be attached:

*'Any garden or boundary fences erected as part of the development are to incorporate gaps to allow passage of hedgehogs. The gaps to be located at the base of the fence and be measure 10cm by 15cm. These gaps to be provided at least every 5m along each fence.'*

*Reason to safeguard protected species in accordance with the NPPF.'*

### Flood Risk and Drainage

The application site is located in an area of EA Flood Zone 1.

A Geo-environmental Report was submitted with the previous application which considered flood risk and drainage. This has not been included as part of this application.

This report advised that the nearest recorded watercourse system is Arclid Brook flowing west to east to the north of the site. This report concludes that ground conditions may well be suitable for soakaways.

The Council's Flood Officer was consulted and advised that whilst he had no objections in principle, no details of the proposed surface water drainage have been provided. However, subject to a surface water drainage condition, they would raise no objections.

United Utilities have advised that they have no objections subject to the addition of a foul water and a surface water drainage scheme and a number of informatives which refer to the provision of a separate metered supply for each unit and that all internal pipe work must comply with the current water supply regulations.

Given that this scheme alters little from the previous application on site (ref: 14/3810C), it is considered that the same conclusions can be drawn.

As such, subject to the implementation of these proposals via conditions and informatives, it is considered that the proposed development would adhere with Policies GR20 and GR21 of the Local Plan.

### Design

The indicative layout shows the provision of 5 new dwellings within the site. Two of the most southern dwellings are proposed largely within or partially forward of the footprint of the existing dwelling on site and would front in a southerly direction.

A third dwelling would be sited behind these dwellings, to the north and would front in a westerly direction. A fourth dwelling would be sited north of this again and would face in a south-westerly direction and a fifth dwelling would be located to the north-west of the site fronting in a southern direction.

The plan shows that these dwellings would be accessed via the existing driveway to the site which is at the southern end of the plot and a driveway would extend to the dwelling at the most northern point.

It is considered that the layout of these dwellings would largely reflect the layout of the existing built form on site other than the proposed 5<sup>th</sup> dwelling in the north-western corner of the site. This dwelling would extend closer to Church Lane than the existing on-site built form.

Notwithstanding the above, the submitted indicative layout demonstrates that the plot is large enough to accommodate up to 5 dwellings.

Matters of scale and appearance are also reserved for subsequent approval. However, the submitted indicative plans propose 5 detached dwellings, with a mixture of dual-pitched and hipped roofs, a mixture of detached and integral garages and single-storey rear outriggers. No particular objections are raised to these initial scales and appearance.

The indicative design of the development proposal is therefore considered to comply with Policy GR2 the Local Plan.

### Setting of Listed Building

Policy BH4 of the Local Plan advises that Planning Permission for proposals affecting the setting of a listed building will only be granted where (amongst other points); the proposal would not adversely affect the setting of the listed building.

On the opposite side of Church Lane to this dwelling is St John's Church, a grade II listed building.

The Council's Heritage Officer has reviewed the proposal and considered the impact of this development upon the setting of this building.

The Heritage Officer has advised;

*'At present the site is characterised by its farmstead character situated adjacent to the Church, which in essence is within open countryside; the farm and the church being the only two buildings. The barns to the farm are roughly positioned in parallel with the church on an east-west axis and are located toward the centre of the site.'*

*The key heritage issue from my perspective is the impact of proposed development upon the setting of the listed church. Setting is often much more than the immediate curtilage of the heritage asset and is defined in national policy and best practice as:*

*“The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.” (Annex 2: Glossary, National Planning Policy Framework, Department of Communities and Local Government, 2012)*

*and*

*“The surroundings in which a place is experienced, its local context, embracing present and past relationships to the adjacent landscape.” (Conservation Principles, English Heritage, 2008, p72)*

*In this context, the setting of the church is extensive and is relatively unaltered from the time of its construction in 1861 (aside from the degree of maturity of the local landscape). This is evidenced in the historic maps of the area, with the farm buildings evident on all OS maps and pre-dating the Church on the Tithe Map of 1836. The church’s surroundings maintain their sense of openness and rurality, a key landmark within this rural landscape.*

*The second heritage issue is the loss of the farm buildings themselves. These pre-date the Church and are evident on the Tithe map. They would therefore be considered to be non-designated heritage assets, albeit the farmhouse has been substantially altered and extended. The proposals will result in their loss.*

*The proposal is an outline application for 5 dwellings encompassing the entire farmstead site and entailing the demolition of the farm. Parameters information is included with the application in the form of a plan, identifying the developable area and the design and access statement (DAS), follows the CABE template for defining key development characteristics including the scale being 2 storey and it being low density “It is also accepted that within this **urban fringe setting** a lower density solution is more appropriate.” (DAS p3). The proposals also require acoustic fencing to protect gardens from noise nuisance, which will be close boarded fencing, adding to the potentially suburban characteristics of new development.*

*The reason I have highlighted the reference to urban fringe is that this site is clearly part of the open countryside, not the urban fringe, and this is important in considering the impact of the development on the rural and generally open setting of the church.*

*The general intensification of development in an area characterised by its rurality and openness will irreversibly alter the setting of the heritage asset, which will not be experienced in the same way should development proceed. In particular, the plot in the northern part of the site has a more direct relationship to the Church, notwithstanding the landscape along the roadside. This change in relationship will be evident in views from Congleton Road, and potentially within Church Lane itself, particularly during the winter months. Views from the churchyard across the site would also alter. Based upon the details submitted, albeit this is outline, there is the likelihood of a sense of suburbanisation and erosion of the Church’s rural setting. This would result in harm to the heritage asset.*

*The NPPF requires any harm to a designated heritage asset (including its setting) to be justified and weighed against the public benefit. However a number of appeal and judicial decisions, most notably the Barnwell Manor case reinforce the statutory requirements of section 66 of the Listed Buildings and Conservation Areas Act 1990. The Barnwell Manor Court of Appeal decision stated that ‘decision makers should give “considerable importance and weight” to the desirability of preserving the setting of listed buildings’ when carrying out the balancing exercise’.*

*Therefore in determining this application considerable importance and weight should be given to the desirability of preserving the setting of St John’s Church, which it is considered would be adversely affected by the development proposed on the opposite side of Church Lane.*

*In regard to the local value of the buildings proposed to be demolished, the development would lead to their total loss and therefore result in harm to non-designated heritage assets. This harm needs to be weighed against the public benefits of the scheme, as set out in para 134 of the NPPF.’*

The applicant subsequently submitted a detailed Heritage response to this objection. In response, the Council’s Heritage Officer has concluded that she stands by her original comments. She considers that this further statement downplays the significance of at least 1 of the barns. The Council’s Heritage Officer has advised that;

*‘The rural/agricultural location is a part of the setting of the church. It has evidential and visual value to the significance of the church. A house has been on that site since before the church was built and I believe the larger barn pre-dates the church, although it has been altered. The relatively unusual setting of the church of this scale in this purposely semi isolated location is part of the history of the church and therefore its significance. The fact that the house is residential and not agricultural does not alter from the fact that its layout retains the agricultural/rural residential feel, the barns and large open garden are an essential part of that. The 1856 map shows the site as being Oak House rather than farm so perhaps it wasn’t a farm originally but a house set within its own land with ancillary buildings.*

*Both David [Hallam – Principal Heritage Officer] and I consider the barn to be a non designated heritage asset as it seems to be in evidence on the tithe maps and evidence in the design/materials of the current building. I believe it to be worthy of retention and believe it could be converted to a dwelling.*

*As I stated previously the local character and distinctiveness is a rural one. The proposed ‘indicative’ layout shows an urban layout/design which is not in keeping with the local character and history or the identity and sense of the place. Therefore I fail to see how it will make as positive contribution to the area as per NPPF 131.*

*The heritage report dismisses the importance of ‘less than substantial harm’ and argues that the benefits of the scheme outweigh any perceived harm. Less than substantial harm is still harm and has weight in the sustainability argument as defined by the NPPF 132 and 134. What public benefits of the proposal will outweigh this harm? On a sustainability level I fail to see how this outline proposal will preserve or enhance the natural, built or historic environment that surrounds it (NPPF7) and therefore fails on sustainability grounds.*

*I disagree that the proposed development will only impact on the listed building from a distance. As stated previously setting is about more than views, although those will be impacted at close range by the fences, houses, roads and layout of the indicative scheme too. The scheme faces directly onto the Lychgate which is a part of the listing as a curtilage structure and also a war memorial to WW2. The proposed 1.8m high close boarded acoustic fences will all be roughly parallel with the church (and the motorway behind it).*

*The church was designed by George Gilbert Scott who also designed the vicarage, the restoration of St Mary's Church in Sandbach, Sandbach School, Sandbach Literary Institution and the Almshouses on Newcastle Road. This was under that patronage of John Armitstead of Cranage Hall. The Armitstead family were vicars of Sandbach from 1828 until 1941 and had a profound influence on running the Town. Therefore this church has significance for the history of Sandbach as well as the immediate locality.'*

As a result of this assessment, it is considered that the proposed development would fail to adhere with Policy BH4 of the Local Plan.

#### Previously Developed Land

The applicant considers that the application site represents previously developed land or Brownfield land. Indeed a Certificate of Lawful Existing Use is currently under consideration by the Council.

Paragraph 111 of the NPPF states that *"Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value."*

Annex 2 of the NPPF defines "Previously developed land" as:

*'Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.*

*This excludes: land that is or has been occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill purposes where provision for restoration has been made through development control procedures; land in built-up areas such as private residential gardens, parks, recreation grounds and allotments; and land that was previously-developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape in the process of time.'*

Notwithstanding the outcome of the Certificate assessment, it is accepted that part of the site can be classed as previously developed land. This would include the land on which the dwellinghouse sits and the land on which the detached garage, to the rear sits.

However, it is considered unlikely that the land on which the large 2 barns to the rear of the site lie would fall into this category. This is because they would likely be classified as *'land that has been occupied by agricultural or forestry buildings'*. This is further supported by the fact that the application site is Oak 'Farm'.

As such, it is not accepted that the entire site can be classified as 'previously developed land' in line with the NPPF definition.

### Access

It is proposed that the site is accessed via the existing access to the site from Church Lane. The proposed scheme shall provide a shared drive access.

The Council's HSI has advised that the proposals for access are satisfactory and off-street parking provision is in accordance with Cheshire East Council minimum parking standards for residential dwellings with four or more bedrooms.

Furthermore, it is advised that the commuter peak hour and daily traffic generation associated with the development of five dwellings will not have a material impact on the operation of the adjacent or wider highway network.

No issues with regards to the proposed footpath link are raised.

Accordingly, the Head of Strategic Infrastructure has no objection in relation to the above planning application, subject to a number of conditions including; that the proposed access be completed prior to commencement of development and must be formed and graded to the specification of the Local Planning Authority. Furthermore, a condition stating that any hedgerow, foliage, fence/wall or other obstruction within the Church Lane boundary of the site and falling within or encroaching into the visibility should be cut back or removed to prevent obstruction or maintained at or not exceed 0.9 metre in height relative to the level of the site access is also sought.

An informative stating that the developer will be required to enter into section 278 agreement under the Highways Act 1980 with the Highway Authority for the proposed works (including the footpath link), that are within the existing highway boundaries is also sought.

As such, it is considered that the access to the site is acceptable and would adhere with Policy GR9 of the Local Plan.

### Conclusion

It is not considered that the proposed development would create any significant environmental impacts with regards to; the landscape, protected species, highway safety, design, flooding and drainage. It is also accepted that only part of the site can be classified as 'previously developed land'.

However, given the isolated nature of the application site due to the considerable gap between the application site and the existing, established Sandbach Settlement Zone Line to the west, and the limited presence of surrounding built form, it is considered that the proposed development would represent '*isolated homes in the countryside*', which would be contrary to Paragraph 55 of the NPPF. As such, it is not considered that the Settlement Boundary should be flexed in this instance to accommodate the development and the proposed development would remain contrary to Open Countryside policy.

In addition, it is considered that the proposed development would have a detrimental effect upon the setting of the adjacent Grade II Listed Building.

As a result of the above reasons, it is not considered that the proposed development would be environmentally sustainable.

### **Economic Role**

It is accepted that the construction of a housing development of this size would bring the usual economic benefit to the closest shops in Sandbach for the duration of the construction, and would potentially provide local employment opportunities in construction and the wider economic benefits to the construction industry supply chain. There would be some economic and social benefit by virtue of new resident's spending money in the area and using local services.

It is advised within the submission that the development should secure payment of up to £71,961 for the 'New Homes Bonus' over a 6-year term to contribute towards infrastructure and community facilities. This money could assist the Council in delivering a wide range of infrastructure improvements. The additional council tax provision, according to the submitted application would generate an additional £11,988.65 per annum.

As such, it is considered that the proposed development would be economically sustainable.

### **Social Role**

The proposed development would provide open market housing which in itself, would be a social benefit.

#### Affordable Housing

The Council's Interim Planning Statement for Affordable Housing states that we will seek provision of 30% on-site affordable housing on sites over 0.4 hectares within settlements of 3000 or more. Furthermore we will seek a tenure split of 65% affordable or social rent and 35% intermediate tenure.

For the provision of 5 dwellings on site, there would be an affordable housing requirement of 1.5 units.

Whilst the provision of this on site would be preferable, the Housing Officer has advised that the applicant's offer of an affordable housing contribution of £83,395 would be acceptable. The applicant has agreed to this contribution which would be secured via a S106 Agreement should the application be approved.

This would be a social benefit to the scheme.

#### Footpath link

The applicant proposes a footpath link along Church Lane from the site to the edge of Sandbach Heath. It is proposed that this provision be provided directly by the applicant. This can be secured via condition.

The Council's Strategic Highways Manager has reviewed this proposal and advised that he has no objections to this aspect of the proposal, subject to the developer enter into section 278 agreement under the Highways Act 1980 with the Highway Authority for the proposed works, that are within the existing highway boundaries.

If provided, this would offer another social benefit to the scheme.

### Amenity

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

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

In terms of the separation distances, there are no neighbouring dwellings within 300 metres of the application site. As such, no amenity issues would be created outside of the application site by the proposed development.

Within the site itself, the indicative layout plan shows that the proposed dwellings would largely adhere with the minimum separation standards, detailed within SPD2 which demonstrates that the site is large enough to accommodate 5 dwellings without creating any amenity issue with regards to loss of privacy, light or visual intrusion (subject to the positioning of windows).

The Council's Environmental Health team have advised that they have no objections to the proposed development subject to the provision of a number of conditions. These suggested conditions include; including: Hours of piling, the prior submission of a piling method statement, the implementation of noise mitigation measures, the provision of electric vehicle infrastructure, a contaminated land condition and an hours of construction and a contaminated land informative.

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

### Public Rights of Way

A Public Footpath lies just outside of the site boundary but follows to eastern boundary.

The Countryside Access officer has reviewed the proposal and advised that they have no objections, subject to the inclusion of an informative reminding the applicant of their responsibilities. They have also confirmed that the provision of a public footpath would improve pedestrian safety.

As such, subject to the recommended informative, it is not considered that the proposal would create any issues with regards to public footpaths.

### Social Conclusion

As a result of the provision of market housing and an affordable housing financial provision and the provision of a footpath provision, it is considered that the proposed development would be socially sustainable.

### **Other Material Considerations**

#### Draft Sandbach Neighbourhood Plan

The Neighbourhood Plan is a material consideration which must be weighed in the planning balance taking account of the stage that the neighbourhood plan is currently at and the context, location and scale of the proposed development relative to the Sandbach area.

Policy H1 within the Neighbourhood Plan states that future housing will be delivered predominantly on small scale sites of up to 30 houses and designed to meet identified need and achieved at a sustainable “organic” growth rate.

Policy H5 refers to the preferred locations of development. Within the policy it is advised that the redevelopment of brownfield sites will be supported in favour of greenfield locations.

It is accepted that the application proposal would represent a smaller development site generally adhering with Policy H1. However, as advised, it is not accepted that the entire application site (with particular reference to the land on which the 2 on-site barns are located and the private garden) represents brownfield development as insufficient information has been provided to demonstrate this at the time of assessment. As such, it is considered that the proposal is contrary to Policy H5 of the Neighbourhood Plan as it would be providing housing not in a preferred location.

#### Viability

The applicant has submitted a viability study with the application. This concludes that; *‘The cost of upgrading and rehabilitation of the existing dwelling house, together with the cost of re-constructing the barns to a modern and sustainable standard would exceed the cost of five new building houses at the development.’*

It is advised that the conversion of the existing site would cost between £142,128 and £309,213 more than the erection of 5 new units.

In response, although it may well be more expensive to consider upgrading the exiting site, no indication of the likely profits of the development have been provided in order to demonstrate that the upgrade of the existing site would not be a viable alternative.

As such, no firm conclusions can be drawn from this study other than one option for the site's re-development would be more expensive than the other.

### Other application sites / appeals

The applicant has drawn reference to various other appeal sites which he believes are comparable. Below is a brief description as to why these other sites are not considered to be comparable;

- Land of Sandbach Road, Church Lawton (14/2351C) – No decision has been finalised on this application as it is awaiting a S106 Agreement. However, this is an application for a rural exceptions site for 100% affordable housing. Such a proposal is permitted in principle by Local Plan policy. Furthermore, rural exception sites are often isolated by their nature. This application site is also enclosed by development on 3 sides compared to the application site which other than a church on the opposite side of the road, is enclosed by fields. As such, it is not considered that this application or site is comparable to the application proposal.
- Land at New House Farm, Haslington, Crewe (15/2391N) – This application has now been refused.
- Higher House Farm, Knutsford, Cranage (12/4771C) – Approved. This application relates to a previously developed site or brownfield land relating to a former business. Such a proposal, in principle would accord to planning policy. It is not accepted that all of the application site where development is proposed as part of this application can be classified as previously developed land. As such, it is not considered that this application is comparable.

A number of other examples have also been put forward by the applicant in order to justify the application proposal. However, as can be taken from the examples above, each scheme is considered on its own merits as different circumstances apply.

It should also be noted that the Council are aware of appeal decisions which support the application proposal, such as APP/R0660/A/14/2218286 which was dismissed at appeal.

### **CIL Regulations**

In order to comply with the Community Infrastructure Regulations 2010 it is necessary for planning applications with planning obligations to consider the issue of whether the requirements within the S106 satisfy the following:

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

The proposal would make a contribution towards affordable housing of £83,395. The commuted sum to be paid to the Council to spend on affordable housing in the area where there is an identified need.

On this basis the requirements of the s106 agreement are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development.

## **Planning Balance**

The application site lies entirely within the Open Countryside as determined by the Congleton Borough Local Plan First Review 2005.

Within such locations, there is a presumption against development, unless the development falls into one of a number of categories as detailed by Local Plan Policy H6. The proposed development does not fall within any of the listed categories and as such, it constitutes a “departure” from the development plan and there is a presumption against the proposal.

The proposal remains contrary to Open Countryside policy regardless of the Council’s 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. This consideration is made on the sustainability of the development.

Paragraph 49 of the NPPF states that relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites and where this is the case housing applications should be considered in the context of the presumption in favour of sustainable development

It is therefore necessary to make a free-standing assessment as to whether the proposal constitutes “sustainable development” in order to establish whether it benefits from the presumption under paragraph 14 by evaluating the three aspects of sustainable development described by the framework (economic, social and environmental).

In this case, the development would bring positive planning benefits such as; the provision of a market dwellings, an affordable housing contribution, the provision of a public footpath and a minor boost to the local economy. It is also accepted that part of the site would represent ‘previously developed land’.

Balanced against these benefits must be the dis-benefits, which in this case relate to the isolated location of the site with regards to its distance to public facilities and its physical isolation from Sandbach Heath. Furthermore, the proposal would have an adverse impact upon the setting of the nearby listed building.

In this instance, it is considered that these environmental dis-benefits outweigh the social and economic benefits of the scheme.

On the basis of the above, it is considered that the proposal represents unsustainable development and paragraph 14 is not engaged and therefore the proposal should be determined in accordance with the development plan.

Notwithstanding this point, even if it were engaged, it is considered that the adverse effects of the scheme significantly and demonstrably outweigh the benefits.

Accordingly the application is recommended for refusal.

## **RECOMMENDATION**

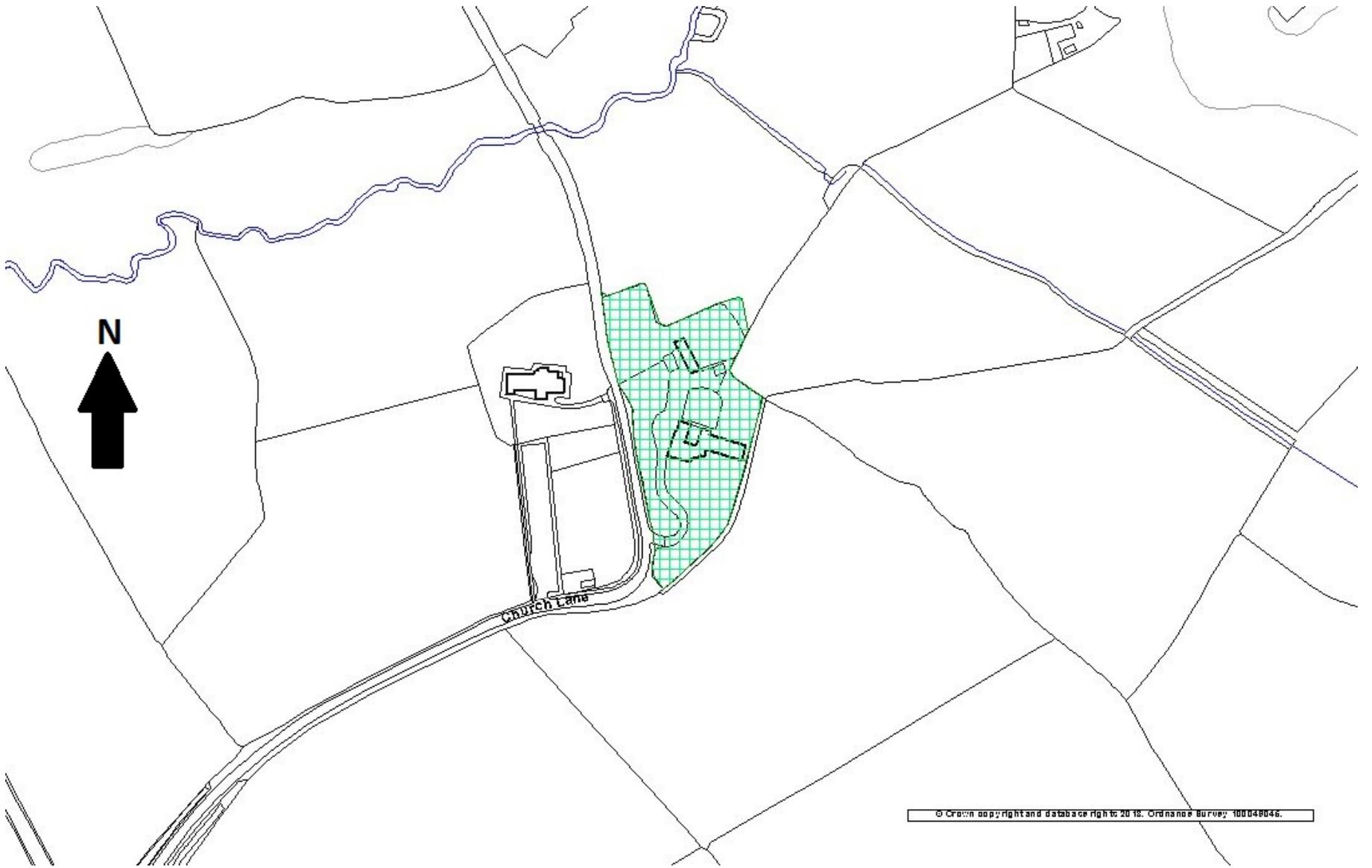
### **REFUSE**

- 1. The proposed development would represent inappropriate development in the Open Countryside and would be contrary to Policies H6 (Residential Development in the Open Countryside and the Green Belt) and PS8 (Open Countryside) of the Congleton Borough Local Plan First Review 2005. The proposal would also be contrary to Policy PG5 (Open Countryside) of the emerging Cheshire East Local Plan Strategy – Submission Version (CELP) and the NPPF.**
- 2. The proposed development would have an adverse impact upon the setting of St John’s Church, a Grade II listed building. The proposal would therefore be contrary to Policy BH4 (Listed Buildings – Effect of Proposal) of the Congleton Borough Local Plan First Review 2005.**
- 3. The proposed development would be located in an isolated location away from public services and other built form resulting in the development being both environmentally and socially unsustainable. It is considered that this dis-benefit in conjunction with the impact of the proposal upon the setting of a grade II listed building outweighs the social and economic benefits of the scheme. As such, the proposal is not considered to represent sustainable development and would therefore be contrary to the NPPF.**

**In order to give proper effect to the Committee’s intentions and without changing the substance of the decision, authority is delegated to the Planning Manager (Regulation) in consultation with the Chair (or in their absence the Vice Chair) of the Southern Planning Committee, to correct any technical slip or omission in the wording of the resolution, between approval of the minutes and issue of the decision notice.**

**Heads of terms;**

- 1. A commuted payment of £83,395 towards off-site affordable housing**



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