

Application No: 15/5259C

Location: LAND TO THE NORTH OF, 24, CHURCH LANE, SANDBACH

Proposal: Erection of 12 dwellings

Applicant: Chelmere Homes Ltd

Expiry Date: 10-Mar-2016

## **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, there is a presumption against the proposal unless material considerations indicate otherwise.

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 that 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 consider 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 provide positive planning benefits such as; the provision of a market and affordable dwellings in a sustainable location and the knock-on minor local economic benefits such a development would bring.

Balanced against these benefits must be the dis-benefits, which in this case would be the loss of open countryside.

All other issues are considered to be mitigated against by the use of planning conditions or a S106 Agreement and as such, are considered to have a neutral impact.

**In this instance, is considered that the benefits of the scheme would outweigh the dis-benefits.**

**On the basis of the above, it is considered that the proposal represents sustainable development. Applying the tests within paragraph 14 it is considered that the adverse effects of the scheme are significantly and demonstrably outweighed by the benefits. Accordingly it is recommended for approval.**

### **RECOMMENDATION**

**APPROVE subject to a S106 agreement and conditions**

### **PROPOSAL**

Full planning permission is sought for the erection of 12 no. dwellings.

The application is a re-submission of 14/3624C which was refused by Cheshire East Council and subsequently dismissed at appeal.

The applicant has sought to address the outstanding concerns within the appeal decision by submitting an amended layout plan. The changes made to this plan in comparison to the refused scheme include;

- A reduction in the number of dwellings sought from 13 to 12
- The removal of the 2 pairs of semi-detached units in the northern corner of the site (including former plots 10-13) and the insertion of 1 detached dwelling in this corner with a different orientation
- A re-siting of the 4 on-site affordable dwellings
- The re-siting of the dwelling originally proposed on plot 1 (closest to Church Lane) further to the north and re-labelled as Plot 2
- Changes to the siting of the following dwellings: dwelling formerly on plot 3 further to the north-east, dwelling formerly on plot 2 further to the north and dwelling formerly on plot 6 further to the north
- Changes to the siting of parking
- Changes to the dwelling types/styles

### **SITE DESCRIPTION**

The application site comprises of a field measuring 0.5 ha situated to the north and east of Church Lane in Sandbach. The site is bound along its eastern boundary by the M6 motorway and to the south by 2 no. residential properties. The site is located in the Open Countryside as designated in the Congleton Borough Local Plan First Review.

### **RELEVANT HISTORY**

**14/3624C** - Erection of 13 dwellings (re-submission 13/5221C) – This application was refused by Cheshire East Council on the 24<sup>th</sup> October 2014 for the following reasons;

1. *The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies PS8 and H6 of the Congleton Borough Adopted Local Plan First Review 2005, 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 the proposed development creates harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework and consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.*
2. *The proposed residential use would be subject to unacceptable levels of noise generated from the M6 Motorway. The site is not suitable for residential development due to the inability to mitigate noise to a satisfactory level for outside living/amenity areas without significant mitigation. Such mitigation in the form of the proposed 4 metre high noise attenuation barrier would appear visually intrusive and prominent and would appear detrimental to the character and appearance of the site and the area. The approval of the development would be contrary to Policies GR1, GR2 and GR6 of the adopted Congleton Borough Local Plan First Review and SE1, SD1 and SD2 of the emerging Cheshire East Local Plan Strategy – Submission Version, thereby causing harm to the objectives of those policies.*

This application was appealed. The Council did not defend the Housing Land Supply (HLS) reason for refusal (Reason 1) at the appeal because between the date of the determination of the planning application and the appeal, it was established that Cheshire East Council could not demonstrate a 5-year HLS position.

The application was subsequently dismissed by the Planning Inspectorate on the 23<sup>rd</sup> June 2015.

The sole ground for refusal concerned the proximity of the acoustic fence and the orientation of the properties which the Inspector opined would have a detrimental impact upon the outlook and the amount of sunlight/daylight received by the front living rooms and gardens of plots 10 to 13.

It was in turn considered that this would have an unacceptable impact upon living conditions and be contrary to Policy GR1 of the Local Plan.

**13/5221C** - Erection of 13 dwellings – Withdrawn 18<sup>th</sup> March 2014

## **LOCAL & NATIONAL POLICY**

### **Sandbach Neighbourhood Plan (SNP)**

The Sandbach Neighbourhood Plan has been made on 12<sup>th</sup> April 2016 under 38A(4)(a) of the Planning and Compulsory Purchase Act 2004 and now forms part of the Development Plan for Cheshire East. The relevant Policies in the Neighbourhood Plan are:

PC1 (Areas of Separation) and H1 (Housing growth), H2 (Design and Layout), H3 (Housing mix and type), H4 (Housing and an Ageing Population) and H5 (Preferred Locations)

## **Congleton Borough Local 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, GR2 – Design, GR6 - Amenity and Health, GR9 - Highways & Parking, GR20 – Public Utilities, GR22 – Open Space Provision, NR3 – Habitats

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

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

Policy SD 1 Sustainable Development in Cheshire East, Policy SD 2 Sustainable Development Principles, Policy SE 1 Design, Policy SE 2 Efficient Use of Land, Policy SE 3 Biodiversity and Geodiversity, Policy SE 4 The Landscape, Policy SE 5 Trees, Hedgerows and Woodland, Policy SE 9 Energy Efficient Development, Policy SE 12 Pollution, Land Contamination and Land Instability, Policy IN 1 Infrastructure, Policy IN 2 Developer Contributions, Policy PG 1 Overall Development Strategy, Policy PG 2 Settlement Hierarchy, Policy PG 5 Open Countryside and Policy SC 4 Residential Mix

## **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 – Core planning principles, 47-50 - Wide choice of quality homes, 55 - Isolated dwellings in the countryside, 56-68 - Requiring good design, 69-78 - Promoting healthy communities

## **Supplementary Planning Documents:**

Interim Planning Statement: Affordable Housing (Feb 2011)  
North West Sustainability Checklist  
SPG2 - Provision of Private Amenity Space in New Residential Development  
The EC Habitats Directive 1992

## **CONSULTATIONS**

**Head of Strategic Infrastructure (HSI)** – No objections, subject to conditions

**Highways Agency** – No objection, subject to conditions

**Environmental Protection (Cheshire East Council)** – No objections, subject to a number of conditions including; the implementation of noise mitigation; the prior submission/approval of an

Environmental Management Plan; the prior approval of air quality mitigation measures; prior approval of a contaminated land works; the testing of soil or soil forming materials

**Flood Risk Manager (Cheshire East Council)** – No objections, subject to a condition requiring the prior approval of a Flood Risk Assessment

**United Utilities** – No objections, subject to a condition that the site be drained on a separate system and the prior approval of a surface water drainage scheme

**Housing (Cheshire East Council)** – No objections, subject to the 30% affordable housing provision (4 on-site units) being secured via a S106 Agreement

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

Enhanced provision: £2,166.03  
Maintenance: £4,848.25 (25 years)

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

Enhanced provision: £3,754.37  
Maintenance: £12,238.50 (25 years)

**Education (Cheshire East Council)** – Development will generate 2 primary and 2 secondary aged pupils. The development is forecast to increase an existing shortfall for secondary provision in the immediate locality, but no impact upon primary or Special Educational Needs provision.

In light of this the following contributions are required: Secondary = £32,685

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

- Amenity – Noise mitigation insufficient, overbearing impact of fence mitigation
- Landscape – Impact of fence on landscape

## **REPRESENTATIONS**

Neighbour notification letters were sent to all adjacent occupants, a site notice was erected and an advert placed in the local paper.

Approximately 17 letters of representation have been received objecting to the proposal and some of these have been forwarded on by Fiona Bruce MP. The main areas of objection are:

- Principle of development
- Impact upon Green Belt
- Loss of agricultural land

- Sustainability of the location
- Ecology – Impact upon protected species / wildlife
- Impact upon hedgerows
- Highway safety – Poor access, poor visibility, limited access for refuse and emergency vehicle access, no disabled parking, insufficient information
- Design – Character and scale
- Amenity – Loss of privacy / overlooking, light, visual intrusion, noise and dust, land contamination
- Inaccurate statements within documentation
- Impact upon schools
- No footpath links / pedestrian safety / cyclist safety
- No need for more housing / affordable housing in this location
- Flooding
- No waste disposal information
- Poor public transport links
- Future development pressures

1 letter of support has also been received.

## **APPRAISAL**

The key issues are:

- The principle of the development
- Sustainability including the proposal's Environmental, Economic and Social role
- Planning Balance

### **Principle of Development**

The NPPG advises that where the Local Planning Authority (LPA) cannot demonstrate a five-year supply of deliverable housing sites, decision makers may still give weight to relevant policies in neighbourhood plans, even though these policies should not be considered up-to-date.

As such, although weight that can be given to the SNP, at present due to the Council's Housing Land Supply position, this weight is limited and this feeds into the overall planning balance of the proposal.

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

As the proposed development is for the erection of 12 new dwellings in the Open Countryside, it is subject to Policy H6 of the Congleton Local Plan and Policy PG5 of the emerging Cheshire East Local Plan Strategy – Submission Version.

Policies H6 and PG5 advise that residential development within the Open Countryside will not be permitted unless it falls within a number of categories.

The proposed development does not fall within any of the categories listed within Policies PS8 and H6 relating to development within the open countryside. As a result, it constitutes a “departure” from the development plan and emerging plan and as such, there is a presumption against the proposal.

The application does not fall within an Area of Separation as defined by the SNP, but is sited outside of the settlement boundary. In such locations, Policy H1 permits housing development to meet the housing requirement established in the Cheshire East Council Local Plan through existing commitments, sites identified in the Cheshire East Local Plan (Strategy and Allocations Documents) and windfalls.

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. These are considered below.

### Housing Land Supply

Following the receipt of the Further Interim Views in December 2015, the Council has now prepared proposed changes to the Local Plan Strategy (LPS), alongside new and amended strategic site allocations, with all the necessary supporting evidence. The proposed changes have been approved at a Full Council meeting held on the 26 February 2016 for a period of 6 weeks public consultation which commenced on Friday 4 March 2016.

The information presented to Full Council as part of the LPS proposed changes included the Council's 'Housing Supply and Delivery Topic Paper' of February 2016.

This topic paper sets out various methodologies and the preferred approach with regard to the calculation of the Council's five year housing land supply. From this document the Council's latest position indicates that during the plan period at least 36,000 homes are required. In order to account for the historic under-delivery of housing, the Council have applied a 20% buffer as recommended by the Local Plan Inspector. The topic paper explored two main methodologies in calculating supply and delivery of housing. These included the Liverpool and Sedgefield approaches.

The paper concludes that going forward the preferred methodology would be the 'Sedgepool' approach. This relies on an 8 year + 20% buffer approach which requires an annualised delivery rate of 2923 dwellings.

The 5 year supply requirement has been calculated at 14617, this total would exceed the total deliverable supply that the Council is currently able to identify. The Council currently has a total shortfall of 5,089 dwellings (as at 30 September 2015). Given the current supply set out in the Housing Topic Paper as being at 11,189 dwellings (based on those commitments as at 30 September 2015) the Council remains unable to demonstrate a 5 year supply of housing land. However, the Council through the Housing Supply and Delivery Topic paper has proposed a mechanism to achieve a five year supply through the Development Plan process.

National Planning Policy Guidance (NPPG) indicates at 3-031 that deliverable sites for housing can include those that are allocated for housing in the development plan (unless there is clear evidence that schemes will not be implemented within five years).

Accordingly the Local Plan provides a means of delivering the 5 year supply with a spread of sites that better reflect the pattern of housing need however at the current time, the Council cannot demonstrate a 5 year supply of housing.

In the context of the SNP, the NPPG advises that where the Local Planning Authority (LPA) cannot demonstrate a five-year supply of deliverable housing sites, decision makers may still give weight to relevant policies in the emerging neighbourhood plan, even though these policies should not be considered up-to-date.

As such, although weight that can be given to this SNP, at present due to the Council's Housing Land Supply position, this weight is limited and this feeds into the overall planning balance of the proposal.

This matter is further emphasised in light of the Richborough Court of Appeal decision. The judges concluded that paragraph 49 refers to all policies 'affecting' housing land supply in its widest context – this includes any policy which is capable of preventing land from being developed for housing. As such all such housing policies could be considered to be out of date.

However, whereas previously 'out of date' policies have been given little or any weight, it was clear that they are not irrelevant and should be given weight. The judges were clear that it is for the decision maker to consider what weight to give to the competing issues in arriving at a decision.

## **Sustainability**

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”*

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 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;

**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

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

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. These are considered below.

## **Environmental role**

### Locational 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.

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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. Furthermore, there are no footpaths currently leading from the site in any to any of the facilities within the recommended distances other than the church on the opposite side of the road.

Church Lane appears to be a well used busy road and it seems likely that any future residents of the proposed houses would use private transport to access any services, facilities or local workplaces.

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

Accordingly, it was considered as part of the previous application that this site is not located in a sustainable location with regards to its distance from public facilities.

Notwithstanding the above, the Inspector as part of the dismissed appeal concluded that the site was in a sustainable location.

As such, the application site is considered to be locationally sustainable.

## **Environmental role**

### **Landscape**

The application proposes a 4 metre high acoustic barrier along the entire eastern boundary of the site with the M6 motorway and a section of the north-western boundary.

Concerns were originally raised by the Council to the impact that this feature would have on the wider landscape.

However, within paragraph 17 of the Inspector's decision to the previous application with specific reference to the 4 metre fence, the Planning Inspector advised;

*'Given the density and maturity of existing screening on the boundaries of the site, there would only be limited glimpses of the fence from vantage points outside the site to the west. From the footpath on the bridge over the M6, from the M6 itself and from Reynolds Lane to the east of the motorway there would be restricted views of the fence limited to about 1m above the top of the existing hedge. It is not unusual for drivers and passengers in vehicles on a motorway to see fencing of various heights along its boundary. Thus, given that pedestrians on the surrounding roads and drivers/passengers would have very limited and fleeting views of the fence, it would not adversely affect the character and appearance of the wider area.'*

In light of this Inspector conclusion, no objections to the 4 metre fence are raised in landscape terms, subject to landscaping conditions.

### **Trees and Hedgerows**

There is off-site tree cover to west adjoining Church Lane with some trees overhanging the site boundary and trees to the east adjacent to the motorway. Tree cover within the site is mainly to the north. There are hedges to the northwest and eastern boundaries.

An updated Tree report and Arboricultural Impact Assessment (AIA) and Method Statement has been received during the application process.

This survey concludes that 4 trees are identified for removal, 3 grade B and 1 grade C. A further Grade B tree would be retained on plot 1 but would need pruning to accommodate construction works and an off site Grade C tree would have to be pruned to accommodate the acoustic fence on the same plot. I consider there would be likely to be threat of removal of the Grade B tree on plot 1 in the future due to the social proximity with the dwelling.

The loss of Grade B trees and a significant length of hedgerow is a material consideration.

The Council's Tree Officer has advised that this strip may be an 'Important Hedgerow' and as such, it's loss needs to be weighed in the planning balance.

The Council's Tree Officer has advised that should the vegetation impacts be accepted in the overall planning balance, it would be essential to secure planting in mitigation of losses. In the event of approval, arboricultural conditions would be appropriate requiring that the submitted tree and hedge protection measures and arboricultural method statement should be adhered to. A condition requiring details of all service routes to be submitted and agreed is also suggested.

### Design

Generally, the proposed layout would introduce a linear pattern running parallel with the rear boundary of the site with the M6 motorway. This would then terminate towards the northern end of the site where the development would be arranged around a cul-de-sac. 4 units would be sited closer to Church Lane, 3 of which would front Church Lane itself to the west and a 4<sup>th</sup> would lie side-on to Church Lane and front in a south-westerly direction.

With respect to the design and external appearance of the development, the units would be generous sized two storey dwellings, some with accommodation within the roof space to provide a third storey. Whilst the area is characterised by bungalow style properties, this site is generally detached from such properties and would achieve sufficient separation so as to not dominate them in visual terms. The bulk of the properties would be positioned towards the rear of the site reducing their intrusiveness.

Given the mix in character of properties in the area, and having regard to the fact that the site would be slightly detached, the design of the dwellings would not appear out of keeping with the area.

With respect to the general impact that the scheme would have, the proposal would require the provision of a noise attenuation barrier along the boundary with the M6 motorway. The proposed fence would provide sound reduction to the houses and their garden areas to try and mitigate the noise from the motorway.

As advised within the Landscaping section of this report, the Planning Inspector did not consider that this feature would adversely affect the character and appearance of the wider area.

The proposal is therefore considered to adhere with Policy H2 of the SNP and GR2 of the Local Plan.

### Highway Safety

Policy IFT1 of the SNP advises that development should be located in an acceptable location in relation to the existing network with good accessibility.

GR9 states that proposals for development requiring access, servicing or parking facilities will only be permitted where a number of criteria are satisfied. These include adequate and safe provision for suitable access and egress by vehicles, pedestrians and other road users to a public highway.

The proposed site would be served by an access directly off Church Lane. The access would be located towards the southerly part of the site frontage adjacent to the side boundary shared with no. 24 Church Lane.

The application has been reviewed by the Highways Agency and the Council's Head of Strategic Infrastructure (HSI).

This Highways Agency have advised that they have no objections to the proposed development, subject to the following conditions; that there should be no direct vehicular or pedestrian access between the site and the adjacent M6 motorway/ to this end, a close boarded fence or similar solid barrier of an appropriate height shall be erected and thereafter retained along the boundary of the site to the satisfaction of the LPA. The fence shall be erected and retained behind the existing motorway boundary fence on the developer's land and be independent of existing fencing; There shall be no development on, or adjacent to, any motorway embankment that shall put an embankment or earthworks at risk; No drainage system from the proposed development shall run off into the motorway drainage system, nor shall any such new development adversely affect any motorway drainage. It is recommended that these be added as informatives.

The original Highways response sent 22/01/16 recommended refusal due to inadequate site access visibility.

Since the response, further information has been submitted detailing that the visibility splay falls within the applicants land or within the adopted highway.

As a result of the additional information received, no objections are raised by the Council's Head of Strategic Infrastructure (HSI), subject to the following conditions;

- Any obstructions within the visibility splay shown on plan CH/24S/DL9AA-C should be removed before commencement of development.
- A construction management plan detailing construction vehicle parking and contractor car parking should be submitted and approved prior to commencement of development.

The Council's HSI has also advised that the 30mph zone should be extended further northwards via a Traffic Regulation Order to provide these off-site mitigation works and this should be secured by a S106 Agreement.

As this matter 30mph issue was not raised by the HSI on the last 2 applications on this site and the HSI raised no objections on highway safety grounds subject to conditions on these previous applications, it is not considered that this S106 is necessary or reasonable to make the development acceptable in this instance and as such, should not be sought as it would be contrary to CIL regulations.

Subject to the conditions requested only, it is considered that the proposal would not create any significant highway safety concerns and adhere with Policy IFT1 of the SNP and Policy GR9 of the Local Plan.

### Flood Risk and Drainage

The application site does not fall within a Flood Risk Zone and is not of a scale that requires the submission of a Flood Risk Assessment (FRA).

Both United Utilities and the Council's Flood Risk Officer has reviewed the submission and advised that he has no objections, subject to conditions.

### Ecology

The application is supported by an Extended Phase 1 Habitat Survey.

#### *Badgers*

An updated badger survey has been submitted. No evidence of badgers was recorded and the Council's Nature Conservation Officer therefore advises that this species is not likely to be affected by the proposed development.

#### *Grasslands*

The Council's Nature Conservation Officer has advised that the grassland habitats on site are of relatively low value and do not present a significant constraint upon the development of this site. The development proposals however may still result in an overall loss of biodiversity. The Council's Nature Conservation Officer therefore recommends that the residual impacts of the development be off-set by means of a commuted sum that could be utilised to fund off site habitat creation/enhancement potentially within the Meres and Mosses Nature Improvement.

The following method of calculating an appropriate commuted sum has been provided. This is based on the Defra report 'Costing potential actions to offset the impact of development on biodiversity – Final Report 3rd March 2011'):

The loss of habitat (Semi improved grassland) amounting to roughly 0.5ha.

• Cost of creation of Lowland Grassland 0.5ha x £11,293.00 (cost per ha) = £5646.50 (Source UK BAP habitat creation/restoration costing + admin costs)

#### *Hedgerows*

Hedgerows are a UK BAP priority habitat and hence a material consideration. The proposed development will require the removal of a section of species poor defunct hedgerow to facilitate the site entrance. The Council's Nature Conservation Officer has recommended that if planning consent is granted it must be ensured that this loss is compensated for through the enhancement of the remaining hedgerows on site and the planting of additional hedgerows as part of the detailed landscaping of the site.

The Council's Nature Conservation Officer has advised that the existing tall hedgerows on site have potential to support foraging and commuting and foraging bats and consequently recommends that the hedgerows are maintained in their current form as part of the landscaping scheme for the site.

#### *Breeding birds*

If planning consent is granted the conditions are required to safeguard breeding birds and to ensure some additional provision is made for nesting birds and roosting bats.

Subject to the above, it is considered that the development would adhere with Policy PC4 of the SNP, Policy NR2 of the Local Plan and Policy SE3 of the emerging Cheshire East Local Plan Strategy – Submission Version.

### Environmental Conclusion

The proposed revised development would be of an acceptable design that would not create any significant issues in relation to; landscape, trees, highway safety, drainage or flooding and ecology. As such, it is considered that the proposed development would be environmentally neutral.

### Other economic considerations

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.

As such, it is not considered that the proposed development would be economically sustainable.

### Other social considerations

#### *Open Space*

Whilst no open space is to be provided as part of the scheme, the application site is located approximately 100 metres distance away from an area of Public Open Space which also accommodates some children's play space.

There is a deficiency in the quantity of provision of amenity Greenspace accessible in the area should the application be approved. As such a financial contribution is required towards enhancement of public open space/play provision within the vicinity of the proposed development (Church Lane). The contributions sought are;

Enhanced provision: £2,166.03

Maintenance: £4,848.25 (25 years)

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

Enhanced provision: £3,754.37

Maintenance: £12,238.50 (25 years)

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

#### *Affordable Housing*

This is a proposed development of 12 dwellings on a site which according to the submitted application form measures 0.54ha, therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 4 dwellings to be provided as affordable dwellings. The SHMA 2013 shows the majority of the demand in Sandbach is for 2 bedroom dwellings. The majority of the demand on Cheshire Homechoice is for 1 and 2 bedroom dwellings therefore the type of units provided on this site would be acceptable.

The Council's Housing Officer has advised that 3 of the units should be provided as Affordable rent and 1 unit as Intermediate tenure.

The affordable housing provision would be secured as part of a S106 Agreement.

### *Education*

The Council's Education Officer has advised that the development will generate 2 primary and 2 secondary aged pupils. The development is forecast to increase an existing shortfall for secondary provision in the immediate locality, but would have no impact upon primary or Special Educational Needs provision. In light of this the following contributions are sought towards secondary school provision - £32,685

Subject to this, the scheme would be in compliance with the development plan and Policy IN1 of the Cheshire East Local Plan Strategy – Submission Version.

### *Residential Amenity*

According to Policy GR6 of the Local Plan advises planning permission for any development adjoining or near to residential property or sensitive uses will only be permitted where the proposal would not have an unduly detrimental effect on their amenity due to loss of privacy, loss of sunlight and daylight, visual intrusion, and noise.

Supplementary Planning Guidance Note 2 advises on the minimum separation distances between dwellings. The distance between main principal elevations (those containing main windows) should be 21.3 metres with this reducing to 13.8 metres between flanking and principal elevations.

With respect to the existing properties, the nearest dwelling is number 24 Church Lane to the south. This neighbouring dwelling would be sited within the above distances to the closest of the proposed dwellings (Plot 5), but would almost be completely offset.

Consequently, the proposal would not cause material harm to the residential amenity afforded to the nearest neighbouring properties either by reason of loss of privacy, loss of light or visual intrusion. The proposed dwellings would comply with the separation distances.

With regards to noise impacts, the development is in close proximity to the M6 and is subject to high levels of road traffic noise.

The Council's Environmental Protection Officer (EPO) considers that noise levels, whilst far from ideal, could be mitigated to a level which is considered adequate. Mitigation included specialist

glazing and ventilation to protect internal areas, and an acoustic fence to protect external amenity areas.

The applicant has updated the acoustic report in this application to confirm that the revisions achieve the same level of noise protection. As such, the EPO has advised that if the committee is minded to approve the application then conditions should be attached relating to acoustic fencing, and glazing of the proposed dwellings.

The EPO has advised that due to the proximity of the development to other residential properties, there is a need to protect the amenity of nearby residential properties during the construction phase of the development, as such a condition seeking the prior submission of an Environmental Management Plan.

With regards to Air Quality, an Air Quality Report has been submitted by Miller Goodall Environmental Services reference: 101211 dated 9<sup>th</sup> November 2015. The report considers the impact of existing air quality on the proposed development due to its close proximity adjacent to the M6 motorway.

During the application process, further evidence has been presented to further validate the findings of the initial report. Furthermore, the applicant has provided supportive evidence that the smart M6 motorway scheme (proposed) will not cause any breaches of the Air Quality Objectives at the new development.

As such the report is accepted with respect to this application by the Council's EPO. As per the air quality report, it is advised that conditions should be applied to any approval relating to ventilation of the proposed dwellings.

With regards to contaminated land, the EPO has raised no objections, subject to the following conditions; prior submission / approval of a scope of works addressing the risks posed by land contamination; the submission / approval of a validation report in accordance with the approved remediation strategy and the submission of relevant evidence and verification info of any soil or soil forming materials brought into the site for use in the garden areas of for soft landscaping. In addition, a contaminated land informative is also proposed.

As such, subject to the above conditions, it is considered that the proposal would not create any significant amenity concerns.

### **Levy (CIL) Regulations**

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

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

The proposed commuted sum for ecology is considered necessary, fair and reasonable and given that the proposal will result in the loss of an existing greenfield and the potential habitat that this offers.

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

The education contribution is necessary having regard to the oversubscription of local secondary schools and the demand that this proposal would add.

The proposal will trigger the requirement of needed affordable housing in the area.

The above requirements are considered to be necessary, fair and reasonable in relation to the development. The S106 recommendation is compliant with the CIL Regulations 2010.

## **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, there is a presumption against the proposal unless material considerations indicate otherwise.

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 that 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 consider 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 provide positive planning benefits such as; the provision of a market and affordable dwellings in a sustainable location and the knock-on minor local economic benefits such a development would bring.

Balanced against these benefits must be the dis-benefits, which in this case would be the loss of open countryside.

All other issues are considered to be mitigated against by the use of planning conditions or a S106 Agreement and as such, are considered to have a neutral impact.

In this instance, it is considered that the benefits of the scheme would outweigh the dis-benefits.

On the basis of the above, it is considered that the proposal represents sustainable development. Applying the tests within paragraph 14 it is considered that the adverse effects of the scheme are significantly and demonstrably outweighed by the benefits. Accordingly it is recommended for approval.

## **RECOMMENDATION**

**APPROVE** subject to a S106 Agreement to secure;

- 1. £5,646.50 to be utilised to fund off site habitat creation/enhancement within the Meres and Mosses Nature Improvement Area. Prior to commencement of development**
- 2. £23,007.15 towards Public Open Space provision and maintenance (AGS - £2,166.03 - Enhanced provision: £2,166.03 and Maintenance: £4,848.25 (25 years) and CYPP - Enhanced provision: £3,754.37 and Maintenance: £12,238.50 (25 years))**
- 3. Provision of 4 on-site affordable dwellings - 3 provided as affordable rent and 1 unit as Intermediate tenure. The affordable units should be tenure blind and be provided no later than occupation of 50% of the open market dwellings.**
- 4. £32,685 towards education Secondary school education provision**

**And conditions;**

- 1. Time – 3 years**
- 2. In accordance with approved plans**
- 3. Materials – Prior submission/approval**
- 4. Any obstructions within the visibility splay shown on plan CH/24S/DL9AA/-C should be removed before commencement of development.**
- 5. Construction Management Plan – Prior submission/approval**
- 6. Flood Risk Assessment – Prior submission/approval**
- 7. Site to be drained on a separate system**
- 8. Surface water drainage scheme – Prior submission/approval**
- 9. Landscaping – Prior submission/approval – To include further hedgerow planting**
- 10. Landscaping – Implementation**
- 11. Boundary treatment – Prior submission/approval**
- 12. Nesting birds - Prior submission/approval**
- 13. Breeding birds and roosting bat features – Prior submission/approval**
- 14. Installation of acoustic fence as detailed in the updated noise report P15-019-R02v1. The fence shall be constructed of 20mm minimum thickness solid timber, with no holes or gaps – Prior to occupation & shall be maintained in perpetuity**
- 15. Installation of the acoustic glazing and ventilation systems as detailed in the updated noise report P15-019-R02v1 - Prior to first occupation**
- 16. Scheme of mechanical ventilation to the properties closest to the M6 - Prior submission/approval. The scheme shall show air drawn from the “clean” façade (furthest from the M6). Shall be installed prior to occupation and shall not be capable of being disabled by the end user (except in emergency, for maintenance or repair). Shall be maintained in perpetuity.**
- 17. Environmental Management Plan – Prior submission/approval**

- 18.Scope of works for addressing the risks posed by Land contamination – Prior submission/approval**
- 19.Validation report – contaminated land – Prior submission/approval**
- 20.Evidence and verification report of imported soil and soil forming materials – Prior submission/approval**
- 21.Tree and hedgerow protection scheme – Implementation**
- 22.Arboricultural Method Statement – Implementation**
- 23.Details of all service routes e.g. pipelines – Prior approval (trees)**
- 24.Acoustic Fence to be dark brown or stained dark brown – Prior submission/approval**

**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.**

**Should the application be subject to an appeal approval is given to enter into a S106 Agreement to secure the following Heads of Terms:**

- 1. £5,646.50 to be utilised to fund off site habitat creation/enhancement within the Meres and Mosses Nature Improvement Area. Prior to commencement of development**
- 2. £23,007.15 towards Public Open Space provision and maintenance (AGS - £2,166.03 - Enhanced provision: £2,166.03 and Maintenance: £4,848.25 (25 years) and CYPP - Enhanced provision: £3,754.37 and Maintenance: £12,238.50 (25 years))**
- 3. Provision of 4 on-site affordable dwellings - 3 provided as affordable rent and 1 unit as Intermediate tenure. The affordable units should be tenure blind and be provided no later than occupation of 50% of the open market dwellings.**
- 4. £32,685 towards education Secondary school education provision**



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