

Application No: 15/3979N

Location: HEATHCOTE, SANDY LANE, ASTON, CW5 8DG

Proposal: OUTLINE PLANNING APPLICATION FOR THE DEMOLITION OF EXISTING HOUSE AND THE CONSTRUCTION OF AN ACCESS ROAD WITH RESIDENTIAL DEVELOPMENT ON EXISTING GARDEN AREA AND Paddock LAND

Applicant: JOHN CARTER

Expiry Date: 29-Oct-2015

## **SUMMARY**

The site is within the Open Countryside where under Policy NE.2 there is a presumption against new residential development. It is however not considered that given the size, form and location of the site the impact on the character and appearance of the open countryside is significant. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development. The Council cannot demonstrate a 5 year supply of housing so this presumption applies. The principle of the development is therefore considered acceptable.

Whilst there are matters such as achieving a satisfactory layout with regards to the street scene and adjoining properties, together with protecting the important high value trees, these matters are capable of being addressed at the reserved matters stage. In all other respects, highways, ecology, noise/fumes/contaminated land and affordable housing the application is considered to comply with the relevant policies and as such considered acceptable.

## **RECOMMENDATION**

**Approve subject to the completion of a S106 Agreement and conditions**

## **REASON FOR DEFERRAL**

This report was deferred from Southern Planning Committee on the 30<sup>th</sup> March 2016 for a site visit.

## **PROPOSAL**

This outline application with all matters reserved, proposes the demolition of “Heathcote” a sizable detached property, and developing the site for residential use. The indicative layout shows 10 properties, with 3 affordable indicated in the application form.

Access would be from Sandy Lane close to the existing access.

## **SITE DESCRIPTION**

This 0.3 ha site on Sandy Lane in Aston, consists of a detached residential property with its sizable garden, and a small grassed paddock to the rear. The site is relatively flat and there are several trees especially to the boundaries. There are residential properties to the east and west fronting Sandy Lane, and a property “The Heathers” set behind properties to the east. Whilst there is some open land – a small field and an area of woodland adjoining the rear (paddock) part of the site, there is also a sizable factory/mill accessed off Wrenbury Road to the rear, very close to the site boundary.

The village of Aston has seen various phases of growth over many years, with the result that it has properties of a variety of ages and designs. It includes modern bungalows and houses as well as the older, original properties of the settlement. The village stands on the junction of the A530, Whitchurch Road, and Sheppenhall Lane/Wrenbury Road, although the majority of the village lies to the south of Whitchurch Road, including the more recent development on Sheppenhall Grove.

## **RELEVANT HISTORY**

None of relevance

## **POLICIES**

### **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.

50. Wide choice of quality homes

56-68. Requiring good design

### **Development Plan**

The Development Plan for this area is the Borough of Crewe and Nantwich Replacement Local Plan 2011, which allocates the site, under policy NE.2, as open countryside.

The relevant Saved Policies are:

NE.2 (Open countryside)

NE.5 (Nature Conservation and Habitats)

NE.9: (Protected Species)

NE.20 (Flood Prevention)

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)  
BE.4 (Drainage, Utilities and Resources)  
RES.5 (Housing in the Open Countryside)  
RES.7 (Affordable Housing)  
RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)  
TRAN.3 (Pedestrians)  
TRAN.5 (Cycling)

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

### **Other Considerations**

The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System  
Interim Planning Statement Affordable Housing

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

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

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

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

**United Utilities** – No objections, but recommend conditions relating to separate drainage for foul and surface water, and submission of a surface water drainage scheme.

**Head of Strategic Infrastructure (HSI)** - The revised plan (Rev A) shows satisfactory access and as such they raise no objections.

**Environmental Health** - Following the submission of the noise mitigation scheme, there are a series of recommendations made to protect future occupiers from traffic noise, and noise from the adjacent mill. This should be conditioned. Conditions relating to dust control, submission of a construction management plan and potential contaminated land are also recommended.

**CEC Strategic Housing Manager** - In line with policy (the IPS) 30% affordable housing should be provided on site – as proposed, and that the 3 units should be split 2 rented and 1 for intermediate sale.

**Education** - The development of 10 dwellings is expected to generate:

2 primary children (10 x 0.19)  
2 secondary children (10 x 0.15)  
0 SEN children (10 x 0.51 x 0.023%)

The development is forecast to increase an existing shortfall predicted for 2016 and beyond, for secondary provision in the immediate locality. Negotiated contributions are factored into forecasts and equations, however a shortfall still remains. The development is not forecast to impact primary provision or SEN.

To alleviate forecast pressures, the following contribution(s) would be required:

$2 \times £17,959 \times 0.91 = £32,685$  (secondary)  
Total education contribution: £32,685

Without a secured contribution of £32,685, Children's Services raise an objection to this application.

## **VIEWS OF THE PARISH COUNCIL**

**Newall Parish Council:** Makes the following statement -

- “- The Parish Council oppose the application for the following reasons;-
- Sandy Lane, which enters/exits the site is very narrow and already a congested lane for vehicular movement. Further traffic will make this dangerous and potential in passable.
  - The Parish Council consider the site would be overdeveloped with 10 dwellings and there should be a reduced number of dwellings proposed.
  - The development goes beyond the natural building line of Sandy Lane which currently sees all properties fronting the road in a virtual straight line.
  - There is no provision in the application for open recreational space.”

## **OTHER REPRESENTATIONS**

Six residents have objected to the application on the following grounds:

- Loss of a perfectly good older village property
- The village has few facilities and poor public transport
- No recreational facilities are proposed
- The development does not follow the established building line
- The development will overlook adjoining properties

- A pond south of Sandy Lane to the rear of “The Spinney” has not been surveyed
- There are localised drainage issues
- Highway and pedestrian safety concerns on Sandy Lane and the A530

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

## **OFFICER APPRAISAL**

### **Main Issues**

The main issues in the consideration of this application are the suitability of the site, for residential development having regard to matters of planning policy and housing land supply (including The Woodland appeal decision in September 2015), residential amenity/layout issues, affordable housing, highway safety and traffic generation, contaminated land, noise impact, tree matters, ecology, drainage and sustainability.

### **Principle of Development**

A sizable part of the site (the paddock to the rear) lies in the Open Countryside as designated in the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policies NE.2 and RES.5 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

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

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

### **Housing Land Supply**

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’ (CD 9.7) 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 Sedgfield 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.

### **Open Countryside Policy**

Countryside policies in existing local plans can be considered as consistent with NPPF and are not housing land supply policies in so far as their primary purpose is to protect the intrinsic value of the countryside in accordance with paragraph 17 of the NPPF— and thus are not out of date, even if a 5 year supply is not in evidence. However, it is acknowledged that where the Council cannot demonstrate a 5 year supply, they may be out of date in terms of their geographical extent, in that the effect of such policies is to restrict the supply of housing. They accordingly need to be played into the planning balance when decisions are made. Where appropriate conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Therefore, the proposal remains contrary to Open Countryside policy regardless of the 5 year housing land supply position in evidence at any particular time and a judgement must be made as to the value of the particular area of countryside in question and whether, in the event that a 5 year supply cannot be demonstrated, it is an area where the settlement boundary should be "flexed" in order to accommodate additional housing growth.

### **The Woodland appeal**

This appeal related to a site to the south of Aston off Whitchurch Road, and although it proposed 33 dwellings it is similar in character to this site being land behind a residential frontage but within the overall area of the village. Here the Inspector approved the

development considering that Open Countryside policies were out of date; it would bring much needed housing, including affordable housing; was locationally sustainable being only a short distance from Wrenbury which has a range of services; there was no harm to the character of the open countryside and there was no other harm to outweigh the presumption in favour of sustainable development.

## **Location of the Site**

Paragraph 34 of the NPPF states that decisions should ensure that developments that generate travel movement are located where the need to travel will be minimised and the use of sustainable transport modes can be maximised. In order to access services, it is unlikely that future residents and travel movement will be minimised and due to its location, the use of sustainable transport modes maximised.

Paragraph 55 of the NPPF refers to the promotion of sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities and Local Planning Authorities should avoid new isolated homes in the Countryside.

In addressing sustainability, members should be mindful of the key principles of the National Planning Policy Framework. This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

*“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.”*

In The Woodland appeal it was clear the site did not perform particularly well in terms of distances to local services, and that residents would have to travel to many services/facilities. However the Inspector considered the site locationally sustainable as a good range of services were available in Wrenbury which was accessible by bus.

This view is considered to be similar with two recent appeal decisions which were refused on sustainability grounds but allowed at appeal and considered sustainable in the context of the three strands of sustainability referred to in the NPPF:

- At 4 Audlem Road, Hankelow an application for 10 dwellings (12/2309N) was refused by Southern Planning Committee on 29th August 2012 for sustainability reasons. In allowing the appeal the Inspector found that ‘The Council has used the North West Sustainability Checklist as a guide to assessing accessibility, albeit that this relates to policies in the now defunct RSS. Nevertheless, this gives a number of useful guidelines, many of which are met. The village has a pub, a church, a village green and a post box and there is a golf club close to the appeal site open to both members and nonmembers. However, the village has no shop or school. Audlem, which has a greater range of facilities, is only a short distance away. The appeal site has good access to 2 bus routes, which serve a number of local destinations. There are footways on both sides of the road linking the site to the village centre and other public rights of way close by. Audlem Road here forms part of the national cycle network. Therefore, whilst the use of the car is likely to predominate, there are viable alternative modes of transport. In locational terms, the appeal site appears to me to be reasonably accessible for a rural settlement’.

- At land adjacent to Rose Cottages, Holmes Chapel Road, Somerford an application for 25 dwellings (12/3807C) was refused by Southern Planning Committee on 12th December 2012 for sustainability reasons. In allowing the appeal the Inspector found that 'it is inevitable that many trips would be undertaken by car as happens in most rural areas. However in this case many such trips for leisure, employment, shopping, medical services and education have the potential to be relatively short. A survey of the existing population undertaken by the Parish Council confirmed that the majority use the car for most journeys. Its results should though be treated with some caution in view of the response rate of only 44%. The survey does not seem to have asked questions about car sharing or linked trips, both of which can reduce the overall mileage travelled. It is interesting to note that use of the school bus was a relatively popular choice for respondents. A few also used the bus and train for work journeys. It also should not be forgotten that more people are now working from home at least for part of the week, which reduces the number of employment related journeys. Shopping trips are also curtailed by the popularity of internet purchasing and most major supermarkets offer a delivery service. The evidence also suggests that the locality is well served by home deliveries from smaller enterprises of various kinds

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

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

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

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. There are many other components of sustainability other than accessibility. These include, meeting general and affordable housing need, an environmental role in protecting and enhancing the natural environment, reducing energy consumption through sustainable design, and assisting economic growth and development. The proposal would also generate Government funding through the New Homes bonus from the 10 units.

## **SOCIAL SUSTAINABILITY**

### **Residential amenity**



The application is in outline with all matters reserved so these issues would largely need to be addressed at the Reserved Matters Stage. Whilst there is an indicative layout that demonstrates 10 units could be accommodated on the site approval is not sought for this, and in this case it should not be approved in any event as a better layout could be achieved. What it does however demonstrate is that a satisfactory layout could be achieved to address issues of overlooking and design/street scene considerations. As approval is not sought for a particular number of units the development should be conditioned to “up to 10” units although clearly ultimately it could be less.

### **Contaminated Land**

Although evidence suggests the site has a low risk of being contaminated, the Environmental Health Officer has requested a condition requiring confirmation that no contamination was found on the site, and that no material was imported unless it was tested beforehand.

### **Affordable Housing**

The proposal indicates there could be 10 units provided, therefore there would be a requirement for 3 affordable units, and that the 3 units should be split 2 rented and 1 for intermediate sale.

The site falls within the Audlem sub area for the purposes of the Strategic Housing Market Update (SHMA) 2013. This identified a net requirement for 22 affordable units per annum for the period 2013/14 – 2017/18. Broken down this is a requirement for 4 x 1 bed, 16 x 3 bed, 4 x 4 bed general needs units and 3 x 2 bed older persons accommodation. The SHMA showed an over-supply of 2 bed units.

In addition to this, information taken from Cheshire Home choice shows there is currently one applicant who has selected the Newhall lettings area as their first choice, this applicant requires a 1 bed unit.

The exact details of the affordable housing will be provided at reserved matters stage. This will be secured as part of a S106 Agreement.

### **Public Open Space**

Policy RT.3 of the Replacement Local Plan refers to developments of 20 dwellings or more. As this development would only accommodate up to 10 dwellings it is applicable, and as such there is no requirement to provide POS on site or contribute towards provision off site.

### **Education**

To date already approved development in Nantwich has an expected increase of 422 additional primary children and 312 additional secondary children. Of these, 335 primary children and 86 secondary children have required a developer contribution to mitigate against the impact on local education in the area.

As a result of these circumstances, as set out above, Education would object to the application unless a financial contribution of some £32,685 is made towards secondary

education. No contribution is required towards primary or SEN. This matter can be addressed through a financial contribution via a Section 106 Agreement.

## **ENVIRONMENTAL SUSTAINABILITY**

### **Highways**

Policy BE3 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.

Highways have requested amendments to the indicative layout drawing, with improvements to the visibility splays onto Sandy Lane and following the receipt of an amended drawing now raise no objections to the proposals. Development of up to 10 dwellings is not going to cause a severe traffic impact, as stated in paragraph 32 of the NPPF: "Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe."

### **Trees/Hedgerows**

There are numerous trees on the site, and hedgerows to some boundaries. The tree report has indicated that some of the trees, especially some to the rear should be retained as part of any development. The Tree Officer feels that development can be accommodated on the site, retaining the significant trees, but that the illustrative layout would need to be changed and it may result in less dwellings on the site.

### **Design**

As this is an outline application, with all matters reserved, approval of layout and design is not sought at this stage. That said the illustrative layout demonstrates that up to 10 units could be accommodated on the site respecting normal separation distances and achieving a satisfactory layout. There are however concerns about the impact on trees as stated above, and the frontage to Sandy Lane will need further thought to ensure a good relationship with the street and as such the layout at the reserved matters stage is likely to change. This could result in the loss of some units from the site.

It is however considered that the outline development is capable of complying with Policy BE.2 (Design Standards) and the NPPF.

### **Ecology**

The Ecology Officer has raised no objections subject to more detailed/updated surveys at the reserved matters stage. This can be conditioned.

### **Flood Risk and Drainage**

The site falls within Flood Zone 1 at low risk from flooding and there are no evidence of any issues on the site. United Utilities have suggested conditions with regards to drainage.

## **ECONOMIC SUSTAINABILITY**

No economic benefit analysis has been provided as part of the application. However, it is accepted that the construction of housing development would bring the usual economic benefit to the closest shops 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 and as a result of the New Homes Bonus. Affordable housing is also a social benefit and the new residents would utilise medical and education facilities thereby sustaining the overall numbers within the catchment.

To conclude, the benefits include the provision of affordable housing and continuing housing delivery and the monies spent in the local economy.

## **CONCLUSIONS**

The site is within the Open Countryside where under Policy NE.2 there is a presumption against new residential development. It is however not considered that given the size, form and location of the site the impact on the character and appearance of the open countryside is significant. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development. The Council cannot demonstrate a 5 year supply of housing so this presumption applies. The principle of the development is therefore considered acceptable.

Whilst there are matters such as achieving a satisfactory layout with regards to the street scene and adjoining properties, together with protecting the important high value trees, these matters are capable of being addressed at the reserved matters stage. In all other respects, highways, ecology, noise/fumes/contaminated land and affordable housing the application is considered to comply with the relevant policies and as such considered acceptable.

## **RECOMMENDATIONS**

**Approve subject to the signing of a Section 106 Agreement with the following Heads of Terms:**

### **S106 Heads of Terms:**

- 1. A scheme for the provision of 30% affordable housing – split 2 rented and 1 for intermediate sale based on 10 units. The scheme shall include:**
  - The numbers, type, tenure and location on the site of the affordable housing provision**
  - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
  - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**

- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
2. An education contribution of £32,685 towards secondary education in Nantwich.

And the following suggested conditions.

1. Commencement of development (3 years) or 2 from the date of approval of reserved matters.
2. Reserved matters to be approved.
3. Approved plans (to include the revised access but NOT the illustrative layout)
4. Tree retention/protection in accordance with agreed scheme
5. Further ecological surveys to be submitted as part of the reserved matters application
6. Surface water drainage
7. Separate systems for drainage
8. Contaminated land verification report
9. Construction management plan including dust control
10. Noise mitigation

In order to give proper effect to the Board's/Committee's intentions and without changing the substance of the decision, authority is delegated to the Head of Planning (Regulation), in consultation with the Chair (or in her absence the Vice Chair) of 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, the following Heads of Terms should be secured as part of any S106 Agreement:

1. A scheme for the provision of 30% affordable housing – split 2 rented and 1 for intermediate sale based on 10 units. The scheme shall include:
  - The numbers, type, tenure and location on the site of the affordable housing provision
  - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
  - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
  - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
  - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
2. An education contribution of £32,685 towards secondary education in Nantwich.

