

Application No: 15/4326C

Location: Croxtonbank, 36, CROXTON LANE, MIDDLEWICH, CHESHIRE, CW10 9EZ

Proposal: Outline application for development comprising the demolition of one existing dwelling (36 Croxton Bank) and construction of 27 residential units, including a new access, affordable housing provision and area of public space.

Applicant: Lizzie Smith, Renew Land Developments Ltd.

Expiry Date: 25-Dec-2015

## **SUMMARY:**

The application site lies entirely within the Open Countryside as determined by the Borough of Congleton Borough Local Plan. 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 Policies PS8 and H6. The proposed development does not fall within any of the listed categories. The proposal is 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.

The proposed development would result in the loss of a green space outside of the settlement boundary. However, the impact upon the wider landscape will not be significant and the development would serve to 'round-off' the existing settlement. A refusal on grounds of landscape impact / open countryside would not be sustainable and the proposal would offer a benefit by providing additional houses in a sustainable location.

The indicative layout demonstrates how a development of up to 27 dwellings could be accommodated on the site without causing material planning harm to neighbouring amenity, the character and appearance of the area (including the designated heritage assets) and matters relating to drainage and flooding. The proposed access and parking would not give rise to issues of highways safety and subject to conditions relating to trees, hedges, ecology, it is not considered that the proposed development would create any significant environmental concerns and as such on balance, is considered to be environmentally sustainable.

The proposal would bring positive planning benefits such as a boost to the local economy and a social benefit via the provision of the required affordable housing. In

addition the site is located in a sustainable location with regards to its physical relationship to existing built form and with regards to its distance from local amenities and facilities accommodated within Middlewich Town Centre. As such, this proposal would also satisfy the economic and social roles of sustainability.

Subject to the required Section 106 package, the proposed development would provide adequate public open space and the necessary affordable housing.

**RECOMMENDATION:**

APPROVE subject to conditions and S106 Agreement

**PROPOSAL:**

Outline planning permission is sought for the demolition of one existing dwelling (36 Croxton Bank) and the construction of 27 residential units, including a new access, affordable housing provision and area of public space. Details of access and landscaping have been provided with this application, with all other matters reserved for approval at a later stage.

**SITE DESCRIPTION:**

This application relates to a Greenfield site measuring approximately 1.1 ha in size located on the northern edge of Middlewich. The site also includes a single residential property and its domestic curtilage referred to as no. 36 Croxton Lane occupying party of the southwestern corner of the site.

The site is bound to the west by Croxton Lane, to the north by a paddock beyond which lies the 'Trent and Mersey Canal' and its conservation area which also follows the eastern boundary of the site and to the west on the opposite side of Croxton Lane there is further residential development.

There are a number of trees in and around the periphery of the site including a orchard to the north west boundary of the site. Public Footpath no. 13 Middlewich dissects the north eastern of the site

The south western corner of the site lies within the settlement zone line of Middlewich with the remaining part falling within open countryside as designated in the Congleton Borough Local Plan First Review (2005).

**RELEVANT HISTORY:**

None

**NATIONAL & LOCAL POLICY**

**National Policy:**

The National Planning Policy Framework establishes a presumption in favour of sustainable development.

Of particular relevance are paragraphs 7, 14, 17, 32, 34, 47, 49, 55, 132 and 173.

## **Development Plan:**

The Development Plan for this area is the adopted Congleton Borough Local Plan First Review (2005), which allocates the site within the settlement boundary of Congleton under Policy PS4.

The relevant Saved Policies are: -

PS4	Towns
GR1	New Development
GR2	Design
GR3	Residential Developments of More than 10 Dwellings
GR4	Landscaping
GR6&7	Amenity & Health
GR9	Accessibility, servicing and parking provision
GR10	Managing Travel Needs
GR14	Cycling Measures
GR17	Car Parking
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
GR22	Open Space Provision
H2	Provision of New Housing Development
H4	Residential Development in Towns
H13	Affordable and Low Cost Housing
NR1	Trees & Woodland
NR2	Wildlife & Nature Conservation
NR3	Habitats
NR4	Non-Statutory Sites
BH5	Impact of Proposals - Listed Buildings
BH9	Impact of Proposals – Conservation Areas
SPG1	Provision of Public Open Space in New Residential Developments
SPG2	Provision of Private Open Space in New Residential Developments

## **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 3 Biodiversity and Geodiversity  
Policy SE 5 Trees, Hedgerows and Woodland  
Policy SE 9 Energy Efficient Development  
Policy IN 1 Infrastructure  
Policy IN 2 Developer Contributions

Policy PG 1 Overall Development Strategy  
Policy PG 2 Settlement Hierarchy  
Policy SC 4 Residential Mix

**Supplementary Planning Documents:**

Interim Planning Statement: Affordable Housing (Feb 2011)

**CONSULTATIONS:**

**Environmental Protection Unit:** No objection subject to conditions requiring submission of an environmental management plan, a noise mitigation scheme, a phase II contaminated land investigation, a travel plan, electric vehicle charging points and informatives relating to hours of construction.

**Highways:** No objection. The site is located on the edge of a residential area with a reasonable level of accessibility although there is a requirement to link the site to the existing footpath network. The access design is of a suitable standard to serve a development consisting of 27 units, the visibility splays have been determined from speed surveys. The traffic impact is not considered to have a material impact on the local road network. There are no highway objections raised subject to conditions.

**Green Spaces (Ansa):** No objections subject to financial contributions.

The developer is proposing some POS in the North eastern area of site although the actual size of plot is not known. Having calculated the existing amount of accessible AGS within 800m of the site and the existing number of houses which use it, 27 new homes will generate a need for 800 sq m of new AGS based on the housing schedule. To maintain this area of AGS, the Council would need £9,460.00.

Having calculated the existing amount of accessible CYPP within 800m of the site and the existing number of houses which use it, 27 new homes (72 persons) will place extra demand on the facilities at the main town park at Fountain Fields. Given the size of site, new provision on site is not practical. For example a qualitative deficit can be improved at Fountain Fields to meet the needs of the new development by enhancing the quantity/quality thus increasing the sites capacity.

There are several aspects of Fountain Fields that could be improved such as a new DDA inclusive swing which would improve the quality and accessibility of the facility and encourage greater use of the area.

Applying the standards and formulae in the 2008 Guidance the Council would need £6,593.04 to upgrade Fountain Fields site. This would be spent on a DDA swing as mentioned above. The Council would also need a commuted sum of £21,492.00 to maintain the upgraded facilities over 25 years.

**Education:** No objection. No contributions required.

**Brine Compensation Board:** No objection. The site is within an area that has previously been affected by brine subsidence and future residual movements cannot be completely discounted. As such, the dwellings should be constructed on a concrete raft foundation.

**Canal and Rivers Trust:** No objection subject to the following comments:

The Trust would hope any application in future did not propose further development in this buffer area. The Trust would like assurances that the vegetation between the development site and the canal is supplemented and managed to ensure a sustainable visual barrier and a wildlife strip is maintained. The Trust also consider it appropriate to request some additional tree planting along the north western edge of the public open space as this will soften the visual impact of the proposed development from the canal corridor to the North.

**Flood Risk Officer:** No objection subject to conditions.

**Public Rights of Way:** No objection subject to conditions. The development, if granted consent, would affect Public Footpath No. 13 Middlewich, as recorded on the Definitive Map and Statement. However, it appears that the footpath would not require a diversion order as the plans show it has been accommodated on its current alignment within the development area.

**United Utilities:** No objection provided that the proposed development is drained on a separate system with only foul drainage connected to the main sewer.

## **VIEWS OF THE MIDDLEWICHTOWN COUNCIL**

No comments received.

## **REPRESENTATIONS:**

Representations have been received from 7 addresses objecting to the application on the following grounds:

- Loss of Greenfield site
- Anti social behaviour from proposed open space
- Motorists do not adhere to the speed limit
- Poor drainage
- Traffic impact and highway safety
- Local amenities and facilities cannot cope
- Trees and vegetation were felled prior to the application
- Trees and hedges should be retained
- Noise from construction
- Loss of wildlife
- Will lead to more housing
- Loss of views
- Brownfield sites should be built on first
- Impact on neighbouring amenity
- Loss of existing historic house

## **APPRAISAL:**

### **Principle of Development**

The site lies largely in the Open Countryside as designated by the Congleton Borough Local Plan 2005, where policies PS8 and H6 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 the development represents a sustainable form of development and whether there are other material considerations associated with this proposal, which are a sufficient to outweigh the conflict with the development plan.

## **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 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.

### **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, a key consideration is the impact that the development would have upon the landscape, which forms part of the assessment as to whether the proposal is a sustainable form of development.

### **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”.*

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 comprises of 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**

The application site is located adjacent to the existing residential development at Middlewich where the application site is within walking distance of the Town Centre. The application site is located in close proximity to a number of facilities including local primary schools, secondary school, convenience store, supermarket, various shops, public houses, a post office and public transport which are all readily accessible by foot. On the whole, these facilities and amenities are accessible to the proposed development. Given the factors above and the designation of Middlewich as a Key Service Centre, the proposed site it is considered to be locationally sustainable.

## **Landscape Impact**

Full details of landscaping have been submitted for consideration with this outline application, which includes a Landscape and Visual Appraisal. This indicates that it has been undertaken according to the Guidelines for landscape and Visual Impact (Third Edition) 2013. The appraisal identifies both the national and regional landscape character of the application site; this site is located within Landscape Character Type 13: River valleys, specifically R4: Lower Dane Character Area. The Cheshire Landscape Character Assessment (2009) identifies that part of the application site is located within the urban part of Middlewich.

The Council's Principal Landscape Officer broadly agrees with the appraisal, and considers that any potential landscape and visual impacts can be mitigated with appropriate design details and landscape proposals. This could be ensured through the reserved matters, appropriate conditions and the S106 agreement. The proposal would serve to 'round-off' the existing settlement and as such, the landscape impact would not be adverse.

## **Trees**



The proposal will necessitate the removal of a number of low (C) category trees including a previously topped Ash and Lombardy Poplar on the Croxton Lane frontage and an Ash and various fruit trees internally within the site. The Poplar and Ash are structurally poor exhibiting weak branch attachments decay points and past branch failures. Their removal is considered arboriculturally acceptable.

An old orchard located to the North West boundary of the site (Group G17) includes some 11 Apple trees and 5 Plum. Most are relatively recent plantings, with only two specimens of Apple in excess of 40+ years. All are in relatively poor structural and physiological condition and have limited life expectancy. Similarly a mature Pear (T19) within the centre of the site is in acute decline and has limited life expectancy. Their removal together with a linear group of 6 small Apple trees to accommodate the development does not present any significant arboricultural implications.

There is a mature protected Oak tree located to the north east boundary section to the south of footpath FP13 and is shown within an area of amenity space. Root Protection Areas (RPA) in respect of the proposed indicative turning head and indicative position of Plot 15 comply with BS5837:2012 Trees in Relation to Design, Demolition and Construction – Recommendations. In this regard, it is not anticipated that there would be any significant arboricultural implications.

The proposed internal access arrangements serving indicative plots 22-27 allow for the retention of part of the Holly hedge located along the Croxton Lane frontage which is welcomed, although it will be necessary to remove a section of Hawthorn hedge to accommodate the access. Any future reserved matters application must be supported by an Arboricultural Implication Study in accordance with BS5837:2012, which shall include full details of those trees for retention and removal and tree protection plan.

## **Ecology**

The application is supported by the relevant protected species surveys. There is a commitment by the applicant to establish satisfactory confidence levels if the building to be demolished (no. 36 Croxton Lane) supports an active bat roost. This will require additional surveys which cannot now be completed until spring 2016. A Natural England licence application may or may not be required dependent on the findings of the additional bat surveys. The Council cannot determine risk to European Protected Species, to satisfactory confidence levels, until updated surveys are completed.

Planning conditions should be set to ensure that 'Reasonable Avoidance Measures' for great crested newt and reptiles as set out in supporting ecology reports are implemented in full.

## **Design Considerations**

Policy GR2 of the development plan states that planning permission will only be granted where the proposal is sympathetic to the character and form of the site and the surrounding area in terms of the height, scale, form and grouping of buildings, and the visual, physical and functional relationship of the proposal to neighbouring properties, the street scene and to the locality generally.

Site layout is reserved for subsequent approval. However, an indicative layout has been submitted which shows a main spinal road taking access directly from Croxton Lane. The proposed access

would be offset to the left hand side of the site frontage and shows that units could be accommodated either side of the proposed access directly fronting Croxton Lane.

The indicative layout shows dwellings arranged around the spinal road which would terminate towards the rear of the site (eastern end) where there would be an area of open space which would accommodate the existing Middlewich FP13 public footpath and a mature protected Oak tree. This would also ease the transition between the built development and the Trent and Mersey Canal Conservation Area to the east.

It is considered that an appropriate design can be achieved, which will sit comfortably alongside the mix of existing development within the area and will sustain the provision of up to 27 units.

### **Impact on Heritage Assets**

To the east, the application site borders the 'Trent and Mersey Canal Conservation Area' and a grade II listed canal milepost. The boundary to these assets is only short as the site tapers off and narrows in this direction. Further, the indicative layout shows that this end of the site would be given over to open space and therefore the visual impact on the setting of both heritage assets would be minimised. The development would also be read in the context of the existing built development to the south and west and as such, subject to an appropriate detailed reserved matters application, the impact on the heritage assets would be acceptable.

### **Highways**

Policy 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 the adequate and safe provision for access and egress by vehicles, pedestrians and other road users to a public highway.

There is a single access proposed to serve the development with a carriageway measuring 5.5m wide and two 2.0m footways on either side of the access road. The applicant has submitted a priority junction design to serve the site and a speed survey has been undertaken to determine the approach vehicle speeds so that the appropriate visibility splays can be calculated.

The submitted traffic impact assessment has calculated that the trip generation arising from 27 units is low being 20 two way trips in the peak hours. This level of traffic generation will not give rise to capacity problems on Croxton Lane and is not considered to have 'severe' impact on the road network. Sufficient space within the development would allow adequate parking spaces to be provided as part of a future detailed layout scheme. The Head of Strategic Infrastructure (HSI – Highways) has confirmed that the proposed access strategy is acceptable.

### **Public Right of Way**

The Middlewich FP13 public footpath dissects the norther eastern corner of the site. The indicative layout shows that this could be accommodated within the layout of the site by incorporating within the proposed on site open space. This would allow it to be maintained without obstruction and without the need for diversion. On this basis, the Council's Public Rights of Way Unit (PROW) have confirmed that the scheme is acceptable in this regard. The incorporation of the public footpath into the scheme serves as a social benefit of the scheme also.

## **Flood Risk and Drainage**

The application site does not fall within a Flood Zone and is not of a scale which requires the submission of a Flood Risk Assessment. United Utilities and the Council's Flood Risk Team have reviewed the application and advised that they have no objections, subject to condition.

Taking the above into account, subject to further updated protected species surveys, the proposals are found to 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 Middlewich 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 considered that the proposed development would be economically sustainable.

## **SOCIAL ROLE**

The proposed development would provide new housing in a sustainable location including the provision of the requisite affordable units which would be to the benefit of the local area. It is considered that this offers social benefit in consideration of the sustainability of the application.

## **Affordable Housing**

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

The site falls within the Middlewich sub-area for the purposes of the Strategic Housing Market Assessment (SHMA) Update 2013. This identifies a need for 65 affordable homes per annum for the period 2013/14 – 2017/18. There is a requirement for 26 x 1 beds, 22 x 2 beds, 8 x 3 beds, 4 x 1 bed older persons accommodation and 4 x 2+ bed older persons units

In addition, information taken from Cheshire Homechoice, shows there are currently 184 live applicants who have selected one of the Middlewich lettings areas as their first choice. These applicants require 63 x 1 bed, 53 x 2 bed, 45 x 3 bed and 12 x 4+ bed accommodation (2 applicants did not specify how many bedrooms they require). Using this information there would be a preference for the affordable housing on this site to include 1 and 2 bedroom properties.

Therefore, there should be provision of 30% of the total dwellings as affordable, with 65% provided as social rent (affordable rent is also acceptable at this site) and 35% intermediate. This is the preferred tenure split identified in the SHMA 2010, SHMA Update 2013 and highlighted in the IPS. This equates

to a requirement for 8 affordable dwellings on this site, with 5 provided as social or affordable rent and 3 provided as intermediate tenure.

The IPS requires that the affordable homes should be provided no later than occupation of 50% of the open market units, unless the development is phased and there is a high degree of pepper-potting in which case the maximum proportion of open market homes that may be provided before the provision of all the affordable units may be increased to 80%. The Affordable Homes should also be integrated with the open market homes and therefore 'pepper-potted' and be tenure blind and also not be segregated in discrete or peripheral areas.

On the basis that the application will provide the requisite level of affordable housing, the Council's Strategic Housing Officer has confirmed that such provision is acceptable and in line with policy.

### **Public Open Space Provision**

The Greenspaces section (ANSA) has confirmed that the proposal would generate the need to provide both amenity greenspace and children's and young person's provision. This would equate to 800 m<sup>2</sup> of new Amenity Greenspace (AGS), which would be provided on site and an opportunity to contribute towards the upgrade and future maintenance of the main town park at Fountain Fields. To maintain the proposed area of AGS, the Council would need £9,460.00. To upgrade the Fountain Fields play area (Children and Young Person's Provision), £6,593.04 would be required to upgrade a DDA swing and £21,492.00 to maintain the upgraded facilities over 25 years. Subject to s106 legal agreement to secure the terms of the provision, the scheme is deemed to be acceptable in this regard at this stage.

### **Residential Amenity**

In respect of the residential amenities afforded to neighbouring properties, the closest of which are to the south (Waterside Way), the proposals would broadly achieve the minimum interface distances advised within SPG2. Subject to a detailed layout and elevations to show the precise positions of windows, the scheme would not give rise to any direct overlooking or significant loss of sunlight or daylight to neighbouring properties.

With regard to the amenities of the occupiers of the proposed units, the dwellings could be configured and arranged so as to ensure that there is no direct overlooking of principal windows, overshadowing, or visual intrusion. Each dwelling unit would benefit from its own rear garden and it is considered that the amenity space provided as part of the development would be acceptable for the size of units proposed as indicated on the indicative plan.

### **Noise**

The applicant will need to ensure that the future occupants of the proposed dwellings are not adversely affected by noise from the A530 Croxton Lane. The Environmental Protection Unit is satisfied that this can be adequately mitigated through appropriate insulation, glazing and ventilation. Such mitigation will need to be confirmed at the reserved matters stage.

### **S106 contributions Levy (CIL) Regulations:**

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

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

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 provision of Public Open Space and the requisite level of affordable housing are necessary to make the development acceptable in planning terms and are directly related to the scale of development in order to offset its impacts on these matters. As such, they meet the above tests.

## **Planning Balance & Conclusions**

The application site lies entirely within the Open Countryside as determined by the Borough of Congleton Borough Local Plan. 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 Policies PS8 and 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.

Whilst the proposed development would result in the loss of a green space outside of the settlement boundary, the Council’s Landscape Officer has advised that its impact upon the wider landscape will not be significant and the development would serve to ‘round-off’ the existing settlement. Owing to the size, shape and characteristics of the site, subject to appropriate landscaping (which would be secured by condition), a refusal on grounds of landscape impact / open countryside would not be sustainable.

The indicative layout demonstrates how a development of up to 27 dwellings could be accommodated on the site without causing material planning harm to neighbouring amenity, the character and appearance of the area (including the designated heritage assets) and matters relating to drainage and flooding. The proposed access and parking would not give rise to issues of highways

safety and subject to conditions relating to trees, hedges, ecology and materials, it is not considered that the proposed development would create any significant environmental concerns and as such on balance, is considered to be environmentally sustainable.

The proposal would bring positive planning benefits such as a boost to the local economy and a social benefit via the provision of the required affordable housing. In addition the site is located in a sustainable location with regards to its physical relationship to existing built form and with regards to its distance from local amenities and facilities accommodated within Middlewich Town Centre. With respect to fulfilling the environmental role, this proposal will safeguard the natural, built and historic environment.

This proposal would also satisfy the economic and social roles by providing for much needed housing adjoining to an existing settlement where there is existing infrastructure and amenities. The boost to housing supply is considered to be an important benefit – and this application achieves this in the context of a deliverable, sustainable housing land release.

Subject to the required Section 106 package, the proposed development would provide adequate public open space and the necessary affordable housing.

## **RECOMMENDATION**

**APPROVE subject S106 Agreement making provision for:**

**Affordable Housing comprising:**

- **8 units on site 5 for social / affordable rent and 3 for shared ownership**

**Public Open Space comprising of:**

- **800m2 of new Amenity Greenspace on site and commuted sum of £9,460.00. towards future maintenance**
- **£6,593.04 required to upgrade a DDA swing at Fountain Fields and £21,492.00 to maintain the upgraded facilities over 25 years.**

**And the following conditions:**

- 1. Standard Outline Time limit – 3 years**
- 2. Submission of Reserved Matters**
- 3. Accordance with Approved Plans**
- 4. Submission of an Environmental Management Plan**
- 5. Details of pile driving operations to be limited**
- 6. Details of drainage (SUDS) to be submitted**
- 7. Only foul drainage to be connected to sewer**
- 8. Submission of landscaping scheme**
- 9. Implementation of landscaping scheme**
- 10. Retention of important trees**
- 11. Tree and hedgerow protection measures**
- 12. Arboricultural Specification/Method statement**

13. Timing of the works and details of mitigation measures to ensure that the development would not have a detrimental impact upon breeding birds.
14. Submission of update protected species surveys with reserved matters application
15. Submission of noise mitigation scheme with reserved matters
16. Accordance with approved access and constructed prior to first occupation
17. Electric Vehicle charging points for each dwelling
18. Scheme for connection into public right of way
19. Phase II contaminated land investigation to be submitted

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 and Enforcement Manager, in consultation with the Chair (or in his 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 this application be the subject of an appeal, authority be delegated to the Planning and Enforcement Manager in consultation with the Chairman of the Southern Planning Committee to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

