

Application No: 17/0145N
Location: Land Off, NEWTOWN ROAD, SOUND, NANTWICH, CHESHIRE
Proposal: Proposed housing development (21 homes), children's play area, nature reserve, access and external works
Applicant: TRU Pension Fund, As Above
Expiry Date: 07-May-2017

SUMMARY

The proposed development sought on the majority of the site would be contrary to Policy NE.2 and the development would result in a loss of Open Countryside. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites then the presumption in favour of sustainable development applies at paragraph 14. LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The development would provide social benefits in terms of delivery of housing and economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in the area.

The development would have a neutral impact upon education, subject to a commuted sum to offset the impact.

The adverse impacts of the development would be the loss of open countryside, the impact upon protected trees, the inappropriate design of the development comprising of its high density, urban layout and appearance not respecting the local character, the lack of information with regards to Best and Most Versatile Agricultural Land and highway safety and the unacceptability of the proposed affordable housing and open space provision.

In this case, it is considered that the adverse impacts of the development significantly and demonstrably outweigh the benefits.

RECOMMENDATION

REFUSE

REASON FOR REFERRAL

The application is referred to Southern Planning Committee as it proposes residential development of over 20 dwellings.

PROPOSAL

Full planning permission is sought for 21 dwellings.

The original submission was for 25 dwellings, but this number has been reduced by the applicant during the application process. In addition, the 'red edge' also been amended. A further re-consultation exercise was subsequently undertaken.

SITE DESCRIPTION

The application site relates to a parcel of land to the north of Newtown Road, Sound, Cheshire within the Open Countryside as defined by the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011.

The parcel of land measures 1.21 hectares in size and comprises of 3 linked greenfield sites. In the middle of the site, enclosed by the proposed development but not included within it, is Hazel Cottage and its associated curtilage.

RELEVANT HISTORY

None

LOCAL & NATIONAL POLICY

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), RT.9 (Footpaths and Bridleways), TRAN.3 (Pedestrians), TRAN.5 (Cycling)

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), 55 (Isolated dwellings in the countryside) and 56-68. (Requiring good design)

Emerging Cheshire East Local Plan Strategy (CELPS)

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

MP1 (Presumption in Favour of Sustainable Development), 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), SE1 (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) and IN2 (Developer Contributions)

CONSULTATIONS

Head of Strategic Infrastructure (HSI) – Object to the proposal due to the lack of information with regards to; visibilities, carriageway widths and pedestrian access to public transport

Environmental Protection – No objections, subject to a number of conditions including; the prior submission/approval of a Phase II contaminated land report and subsequent surveys; the prior submission/approval of soil verification report; the prior submission/approval of a piling method statement; the prior submission/approval of a construction phase environmental management plan; the provision of electric vehicle charging infrastructure; the prior submission/approval of a dust mitigation scheme and the prior submission/approval of a travel information pack.

PROW Officer – No objections, subject to the inclusion of an informative to remind the applicant of their responsibilities

Countryside Ranger Service (Cheshire East Council) - No comments received at time of report regarding the amended plans

Previous comments on the original plans - Concerned that the development would result in a decrease of the local water table and in turn, have an effect on the local hydrology, with a subsequent negative effect of the Sound Common SSSI

Natural England - No comments received at time of report regarding the amended plans

Previous comments on the original plans - Further Information Required

Housing (Cheshire East Council) – Object due to a lack of information and because the affordable housing provision proposed does not reflect the local need.

Education (Cheshire East Council) – No objections, subject to the following contributions to offset the impacts of the development;

- £57,578 towards secondary school provision (£49,028) and school transport (£8,550)

ANSA (Open Space) - Object to the proposal on the following grounds;

- The proposed play area is in a location of limited surveillance, away from the main development.
- The play element is located close to residential properties which could create amenity concerns
- Proposed planting of bulbs does not allow for children to play freely on the site all year round
- The proximity of the pond to the play area requires the provision of safety measures

United Utilities – No objections, subject to a number of conditions including; that all foul and surface water shall be drained on separate systems; the prior submission of a surface water drainage scheme and the prior submission of a sustainable drainage management and maintenance plan

Flood Risk Manager – No objections, subject to conditions

Sound and District Parish Council – No comments received at time of report regarding the amended plans

Object to the proposal on the following grounds on the original plans;

- Highway safety - Accesses are on narrow lanes, difficult for 2 cars to pass, will make traffic situation dangerous and unworkable
- Unsustainability of location
- Design - impact of the number of dwellings proposed on the village (spatial distribution)
- Drainage - impact of additional demand upon existing infrastructure
- Impact of the development upon the nearby SSSI

REPRESENTATIONS

Neighbour notification letters were sent to all adjacent occupants and a site notice was erected. In response, letters of representation have been received from approximately 34 residences. The main objections raised include;

- Principle of development
- Local Plan status
- Loss of Open Countryside
- Impact upon the landscape
- Lack of local jobs to sustain dwellings
- Impact upon / lack of local facilities e.g. – Schools, children's play space, medical centre, shops, public house
- Limited bus service
- Safety of proposed children's play space, how it will be maintained?
- Loss of Best and Most Versatile agricultural land
- The development would result in only limited economic gain

- Drainage and flooding - already at capacity, where is run-off to be directed?
- Limited pedestrian routes
- Highway safety - Increase in traffic, pedestrian safety, limited public transport, proposed access is inadequate, inadequate parking provision, width of the access, danger to cyclists, some parts of the site have no highway access
- Amenity – noise and light pollution, water and land contamination, Loss of privacy/overlooking, loss of outlook
- Design – Layout - position of proposed play area (noise), too many dwellings (density) resulting impact upon local character, introduction of wider roads, appearance and layout not appropriate to local character (too suburban/urban, inclusion of flat roofs, materials), large detached dwellings not appropriate
- Impact upon ecology/protected species - Impact upon SSSI (Sound Common) and Local Nature Reserve, impact upon newts, mud snails, marsh violets, great crested newts
- Impact upon trees, loss of hedgerows
- Procedural matters - Inaccuracies within the submitted statement/s

Other issues have also been raised which are not material planning considerations such as; ownership issues and loss of views

In response to the re-consultation, to date, no further letters of representation have been received to date. A further written update to planning committee will be provided if additional consultation responses are received.

OFFICER APPRAISAL

The key issues are:

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

Principle of Development

The site lies largely in the Open Countryside as designated by the Borough of Crewe and Nantwich Replacement Local Plan 2011, where policy NE.2 states 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.

Local Plan / 5-year Housing Land Supply Update

On 13 December 2016 the Local Plan Inspector published a note which sets out his views on the further modifications needed to the Cheshire East Local Plan Strategy. This note follows 6 weeks of Examination hearings concluding on 20 October 2016.

This note confirms that his previous endorsement for the core policies on the plan still stand and that “*no new evidence or information has been presented to the examination which is sufficient to outweigh or alter my initial conclusions*”. This signals his agreement with central issues such as the ‘Duty to Cooperate’, the overall development strategy, the scale of housing and employment land, green belt policy, settlement hierarchy and distribution of development.

The Inspector goes on to support the Council’s approach to the allocation of development sites and of addressing housing supply. He commented that the Council:

“seems to have undertaken a comprehensive assessment of housing land supply, and established a realistic and deliverable means of meeting the objectively assessed housing need and addressing previous shortfalls in provision, including assessing the deliverability and viability of the proposed site allocations”

The Inspector went on to state that the development strategy for the main towns, villages and rural areas appeared to be “appropriate, justified, effective, deliverable and soundly based.” As a consequence there was no need to consider other possible development sites at this stage.

The Inspector’s recommendations on Main Modifications mean that under paragraph 216 of the Framework the emerging policies of the Cheshire East Local Plan Strategy can be attributed a greater degree of weight – as the Plan as revised is at an enhanced stage, objections are substantially resolved and policies are compliant with National advice.

The Inspector’s recommendations on housing land supply, his support for the Cheshire East approach to meeting past shortfalls (Sedgepool 8) indicate that a remedy is at hand to housing supply problems. The Council **still cannot demonstrate a 5 year supply of housing at this time** but it will be able to on the adoption of the Local Plan Strategy. This is highly relevant to the assessment of weight given to housing supply policies which are deemed out of date by the absence of a 5 year supply. Following the Court of Appeal decision on the *Richborough* case, the weight of an out of date policy is a matter for the decision maker and could be influenced by the extent of the shortfall, the action being taken to address it and the purpose of the particular policy. Given the solution to housing supply now at hand, correspondingly more weight can be attributed to these out of date policies.

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

The National Planning Policy Framework definition of sustainable development is:

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

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

The criteria contained within the North West Sustainability Checklist are also being used during the Sustainability Appraisal of the Cheshire East Local Plan Strategy and is referred to within the subtext to Policy SD2 (Sustainable Development Principles). 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 applicant has not completed a locational sustainability assessment as part of their Planning Statement. However, this assessment has been carried out below by the Planning Officer. This advises that the accessibility of the site shows that following facilities meet the minimum standard:

- Bus stop (500m) – 320m (Jnct of New Town Road and Wrenbury Heath Road)
- Local meeting place (1000m) – 99m (United Methodist Church)
- Public right of way (500m) – 43m
- Post Box (500m) – 154m (Newtown Road)
- Primary School (1000m) – 460m (Sound & District Primary School)
- Child care facility (1000m) – 460m (Sounds Active)

The following amenities/facilities fail the standard:

- Secondary School (2000m) – 5200m (Brine Lees School)
- Bank or Cash Machine (1000m) – 3600m (Wrenbury Village Store)
- Convenience Store (500m) – 3600m (Wrenbury Village Store)
- Leisure Facilities (Leisure Centre or Library) (1000m) – 5900m (Nantwich Leisure Centre)
- Public Park and Village Green (1000m) - 3600m (Wrenbury)
- Amenity open space (500m) – 3600m (Wrenbury)
- Children’s Playground (500m) – 3600m (Wrenbury Sports and Social Club)
- Outdoor Sports Facility – (1000m) – 3600m (Wrenbury Sports and Social Club)
- Medical Centre (1000m) – 3600m (Wrenbury Medical Centre)
- Public house (1000m) - 2600m (The Bhutpore Inn, Wrenbury)
- Supermarket (1000m) – 5500m (Morrisons)
- Railway station (2000m) – 4000m (Wrenbury Train Station)
- Post Office (1000m) - 3600m (Wrenbury Village Store)
- Pharmacy (1000m) – 5500m (Morrisons Pharmacy, Nantwich)

In summary, the site fails to comply with the majority of the standards advised by the NWDA toolkit and subtext of emerging Local Plan Strategy Policy SD2. Furthermore, there are no continuous footpaths from the site to many of the facilities that are within the recommended distances, including the bus stop. As such, the application site is considered to be locationally unsustainable.

Landscape Impact

This is a full amended application for 21 dwellings on land off Newtown Road, Sound. The application site is located on land off Newtown Road, Sound, and is bound by Newtown Road to the south, an un-named road to the east and a small track to the north which currently provides access to Hazel Cottage; a small parcel of the application site is located to the northern side of this track. The application site is relatively flat agricultural land with some woodland cover, areas of scrub and a good network of hedges and hedgerow trees. There are a number of nearby residential dwellings nearby, including Holly Bush Corner to the east, Pritch House and Corner Cottage to the west, along with a number of dwellings to the east of Main Road. Hazel Cottage is located towards the central part of the application site and a number of dwellings are located to the north of the track that forms part of the northern site boundary.

As part of the application, a Landscape and Visual Assessment has been submitted, this states that it has been carried out with reference to the guidance found within the 'Guidelines for Landscape and Visual Assessment' Third Edition, 2013 (GLVIA). This assessment identifies the baseline landscape of the application site and surrounding area, these are the National Character Areas as identified by Natural England, and the East Lowland Plain, Ravensmoor Character Area (ELP1), as identified in the Cheshire Landscape Character Assessment 2008.

The submitted landscape assessment identifies the sensitivity, magnitude of effect and overall significance on the ELP1, East Lowland Plain Character Area, as well as on the existing site and surrounding land, indicating that the sensitivity of the site and surrounding land is Medium, that the magnitude of effect will be medium for the site and low for the surrounding area and that the significance of effect will be moderate for both the site and adjoin land. The visual assessment identifies 16 viewpoints, including road users, residential and footpath users; with the overall significance of effect ranging from Major/moderate for some nearby receptors such as Fittons Close, Newtown Road and the track along the northern boundary, to slight and negligible levels for a number of more distant receptors.

The Council's Landscape Officer has advised that he would broadly agree with the landscape and visual assessment that has been submitted. The amended proposals show that the number of dwellings has been reduced from 25 to 21, this is shown on drawing No:11003_L03 Revision P05.

The Landscape Officer advises that this change has offered opportunities to provide additional planting and also the retention of existing vegetation in a block of vegetation in the north western part of the site. Consequently, the Council's Landscape Officer has advised that his original concerns have been addressed and so would offer no objections to the proposals on landscape or visual grounds.

Agricultural Land Classification

Paragraph 26 of the Natural Environment NPPG advises that Local Planning Authorities should seek to use areas of poorer quality land in preference of higher quality land for development.

The Agricultural Land Classification system classifies land into five grades, with Grade 3 subdivided into Sub-grades 3a and 3b. The best and most versatile land is defined as Grades 1, 2 and 3a and is the land which is most flexible, productive and efficient in response to inputs and which can best deliver food and non food crops for future generations.

Policy NE12 (Agricultural Land) of the Local Plan advises that development on such land quality shall not be permitted unless; the need for the development is supported by the Local Plan, it can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality or, other sustainability considerations suggest that the use of higher quality agricultural land is preferable to the use of poorer quality agricultural land. This policy is largely reflective of the NPPF policy on the subject.

Paragraph 26 of the Natural Environment National Planning Policy Guidance advises that;

'The National Planning Policy Framework expects local planning authorities to take into account the economic and other benefits of the best and most versatile agricultural land. This is particularly important in plan making when decisions are made on which land should be allocated for development. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.'

The application has advised within paragraph 5.16 of their planning statement that the development *'...will not result in the loss of best and most fertile land.'* However, there appears to be no evidence to support this.

The Natural England Agricultural Land Classification Map of the Northwest Region (ALC002), accessible online, suggests that the application site is Grade 3 quality.

Grade 3 means that the land is 'good to moderate quality agricultural land'.

Grade 3 land is now subsequently subdivided as either Grade 3a or Grade 3b.

Grade 3a is *'Good quality agricultural land capable of producing moderate to high yields of a narrow range of arable crops or moderate yields of a wider range of crops.'*

Grade 3b is *'Moderate quality agricultural land capable of producing moderate yields of a narrow range of crops or lower yields of a wider range of crops.'*

Grade 3a would be 'best and most versatile' agricultural land and Grade 3b would not.

A distinction has not been made as no ALC report has been submitted with the application. As such, it cannot be definitively concluded if the scheme would result in the loss of this best and most versatile land is a material consideration weighing against the proposal.

Trees and Hedgerows

Selected individual trees, groups of trees and a woodland are afforded protection by the Crewe and Nantwich Borough Council (Newton, Sound) Tree Preservation Order (TPO) 2008 and is material consideration in this application.

The revised layout, whilst showing a reduction in the number of units still presents a significant impact existing protected tree cover.

The revised Arboricultural Impact Assessment (AIA) refers to the impact of tree loss within the site but still does not qualify the extent of tree loss. Whilst two units have been removed which were located within the protected woodland (W42/W1), the eastern edge of the woodland will still require removal to accommodate the proposed westernmost plot and access to the north of the site.

The Council's Tree Officer advises any justification and mitigation for the loss of protected woodland has to be compelling.

The revised scheme still proposes the removal of the protected Sycamore located on the Newtown Road frontage (T11/T5).

The Arboricultural Impact Assessment does state at para 3.4 that provision for replacement planting for the loss of trees is shown on land to the north of the access track. In this regard, the Council's Tree Officer does not agree that this allocated land provides sufficient mitigation for the loss of the protected tree and woodland principally because the loss of amenity (with regard to the protected Sycamore) will impact upon the visual amenity of the character of Newtown Road which the planting of trees within the land to the north cannot provide. The proposed landscaping within the land to the north makes provision for amenity space, GCN mitigation and planting of individual trees; it does not provide for the planting of replacement woodland.

The Revised scheme still fails to address the relationship/social proximity of plots to the protected individual trees and protected group of the western section of the site. The AIA recognises that space for rear gardens and accommodation of the new build presents a problem and proposes pruning of these trees to accommodate the development.

The density and proximity of trees to the west and south boundary, clearly show plots will be subject to dense shade and restriction of daylight. The problems related to buildings and spaces around them having low daylight and sunlight levels is well known and has been the subject of specific guidance in; government circulars; Chartered Institute of Building Service Engineers (CIBSE), British Standards Institute (BSI) and Building Research Establishment (BRE) guidance and the legislation introduced in 2005 to resolve high hedges disputes. All the guidance as a whole points to the need to have sufficient daylight and sunlight both within and around buildings and that this should be part of the site planning for development, see also BS5837:2012 Section 5.3.4 (a).

Given the likely shade and lack of daylight/sunlight and the very close proximity of trees to the proposed plots, the Council's Tree Officer advises that the probability of pressure to have trees felled or severely pruned is considered to be very high. This is contrary to the issues raised in BS5837:2012 Section 5.3.4.

These issues were raised during the application process and have not been addressed. The Council's Tree Officer maintains the view that the design as presented is not sustainable from an arboricultural perspective.

Attention is drawn to the two Veteran Alder (T26 and T29/W) to the north of the site. Both trees possess sufficient attributes to record them as veteran trees. The AIA identifies a number of trees (para 3.7) where new surfaces are proposed within the Root Protection Area of trees. In this regard, the Council's Tree Officer advises that considerable reliance is placed by the AIA on the use of porous materials in order to achieve a sustainable solution. However, no mention is made of the underlying soils, which is a key issue in the suitability of this approach to installing hard surfaces within the RPA of a tree.

In the light of the above reasons, the Council's Tree Officer has advised due to; the loss of protected trees, the threat to protected trees and the social proximity of the proposed dwellings to protected trees, he cannot support the application. The application is therefore considered to be contrary to Policies NE.5, BE.1 and BE.2 of the Local Plan which relate to nature conservation, amenity and design respectively.

Ecology

Sound Common SSSI/Local Nature reserve

The application site falls within Natural England's SSSI impact risk zone (Sound Common) for rural residential development of over 10 units.

In response, Natural England advised that insufficient information had been submitted in order to effectively assess the impact of the proposal upon the SSSI. More specifically, there was insufficient information in relation to; Hydrological investigations and homeowner packs.

In response, further information was provided by way of homeowner packs, but not hydrological investigations. A written update to planning committee will be provided in response to this additional information submitted.

Woodland

There is an area of woodland within the application site which appears on the UK BAP inventory of priority habitats. Habitats of this type are a material consideration during the determination of this application. The woodland on site which forms part of a larger woodland network is also likely to meet the criteria for selection as a Local Wildlife Site. This woodland is also subject to a Tree Preservation order (TPO).

Under the original proposals, the existing woodland would have been lost as a result of the proposed development.

To compensate for the loss of woodland habitat the applicant's ecological consultant has recommended that additional planting takes place within the great crested newt mitigation/open space area.

The Council's Nature Conservation Officer advised that tree planting in this area is likely compromise the suitability of the proposed pond to support breeding great crested newts due to excessive shading.

Furthermore, the Council's Nature Conservation Officer advises that the proposed planting in the mitigation area is inadequate to compensate for the loss of existing woodland and advises that the current proposals would result in a significant loss of priority habitat. To avoid this impact, the Council's Nature Conservation Officer recommended that the proposals be amended to retain the existing area of woodland.

In response, the applicant updated their plans. The Council's Nature Conservation Officer's comments on these revisions will be provided to planning committee in the form of a written update.

Great Crested Newts

A small population of great crested newts has been identified at ponds within 250 metres of the proposed development and a great crested newt was observed on site during the reptile survey.

In the absence of mitigation the proposed development would have an adverse impact on this protected species as a result of the loss of terrestrial habitat and the risk of animals being killed or injured during the construction phase.

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

The UK implemented the EC Directive in the Conservation (natural habitats etc) regulations which contain two layers of protection:

- A licensing system administered by Natural England which repeats the above tests
- A requirement on local planning authorities ("Ipas") to have regard to the directive's requirements.

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

- The proposed development is in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment
- There is no satisfactory alternative

- There is no detriment to the maintenance of the species population at favourable conservation status in its natural range.

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

Overriding Public Interest

The provision of mitigation would assist with the continued presence of Great Crested Newts.

Alternatives

There is an alternative scenario that needs to be assessed, this is:

- No Development On The Site

Without any development, specialist mitigation for Great Crested Newts would not be provided which would be of benefit to the species.

The Council’s Nature Conservation Officer advised that to mitigate the risk that great crested newts would be killed or injured during the construction phase, the applicant is proposing to remove and exclude newts from the footprint of the proposed development using standard best practice methodologies under the terms of a Natural England license.

To compensate for the loss of terrestrial habitat to the scheme a new pond, and an area of wildflower grassland and hibernacula was proposed.

The Council's Nature Conservation Office advised that the proposed additional ponds will be of benefit for great crested newts. However, the Council's Nature Conservation Officer advised that in his view, the woodland habitats on site are likely to provide significant opportunities for great crested newts in terms of providing foraging and suitable sites for shelter and protection.

In order to further mitigate the potential impacts of the proposed development on great crested newts, the Nature Conservation Officer advised that the woodland habitats should be retained as part of the proposed development. The Officer advised that the woodland planting proposed in the mitigation area is likely to be detrimental to the pond and so should be removed from the submitted landscaping plan.

Footpaths were also proposed through the great crested newt mitigation area. The Council's Nature Conservation Officer advised that public access into this area would significantly increase the risk of interference with ponds, including the introduction of undesirable fish and the spread non-native plant species which is already present in this broad locality.

The Council's Nature Conservation Officer therefore advised that direct public access should be excluded from the great crested newt mitigation area.

In response to the above concerns, revised plans were submitted. A written update to planning committee will be provided in response to the changes proposed.

Grass snakes

Grass snakes were recorded as being present on site. The Nature's Conservation Officer advises that insufficient information is available to assess the significance of the population present, however it does appear that there is a good population of this species in Sound. The Council's Nature Conservation Officer advises that the proposed development would result in the loss of an area of suitable habitat for this species and also pose the risk of killing or injuring any animals present. The submitted ecological report includes an outline mitigation method statement to address the potential impacts of the proposed development upon this species. The Council's Nature Conservation Officer advises that this is acceptable.

If planning consent is granted, the Council's Nature Conservation Officer has advised that a condition is required to secure the submission of a detailed reptile mitigation method statement prior to the commencement of development.

Hedgerows

Hedgerows are a priority habitat and hence a material consideration. The proposed development will result in the loss of a number of sections of hedgerow to facilitate the site access. Additional native species hedgerows are proposed as part of the landscaping scheme for the site.

Nesting Birds

In the event that planning permission is granted, the Council's Nature Conservation Officer has advised that standard conditions will be required to safeguard nesting birds.

Assessment of residual loss of biodiversity

The Council's Nature Conservation Officer advises that the habitats on site, with the exception of the woodlands and hedgerows, are of low value and do not present a significant constraint upon development. The Council's Nature Conservation Officer advised that the development proposals however may still result in an overall loss of biodiversity. The Council's Nature Conservation Officer therefore recommended that the applicant undertook and submits an assessment of the residual ecological impacts of the proposed development using the Defra 'metric' methodology.

An assessment of this type would both quantify the residual ecological impacts of the development and calculate in 'units' the level of financial contribution which would be required to 'offset' the impacts of the development to enable the total ecological impacts of the development to be fully addressed in a robust and objective manner. Any commuted sum provided would be used to fund habitat creation/enhancement works locally.

In response, the applicant updated their ecological survey to include a section (para 5.7) in relation to residual loss of biodiversity.

Within this section, it is advised that the above methodology is currently being used. However, no detail has been provided. A written update on this matter will be provided to committee once revised comments from the Council's Nature Conservation Officer has been received.

Design

The revised proposed development is for 21 new dwellings.

The application seeks the erection of 21 dwellings spanning 3 interlinked greenfield sites. 18 dwellings are proposed on the parcel of land to the south. These dwellings would be accessed off Newtown Road which forms the southern boundary of the site, and extend northwards into the site. Six affordable terraced properties would lie on the Newtown Road site frontage in two banks of three. A further ten properties would lie to the rear, fronting each other (east-west) and overlook the proposed new access road. To the north of this parcel of land would be a pair of semi-detached properties and a turning head.

The greenfield site to the north-east would comprise of 3 detached properties fronting in a northerly direction, set back within generous plots. The final, northern parcel of land would comprise of an area of open space, children's play space and a Great Crested Newt mitigation pond.

It is considered that due to the site's location on the edge of the village of Sound, the density of the proposal, particularly the development proposed off Newtown Road to the south of the site, does not reflect the immediate prevailing character where development density generally thins out from the more densely developed centre further to the east of Newtown Road itself.

The closest properties to the application site comprise of large detached units on generous plots. The application proposal in the southern portion of the site proposes small terraced or semi-detached units on small, narrow plots.

In addition to the above, the formal, regimented layout of the street arrangements and the dwellings themselves would not reflect the relative informal arrangements of the village and closest dwellings to the application site. The prevailing character is typical for development on the edge of rural villages comprising of more informal characteristics such as differing orientations and positioning's of the dwellings within their plots.

The projection of the built form (comprising of the proposed affordable dwellings to the south of the site) much closer to the highway than both Pritch House and Holly Bush Corner, either side of the application site would also appear incongruous.

The appearances of the proposed units do not respect the prevailing simple vernacular of the properties of the village. Both the proposed layout and design appear to be more suited to an urban environment than a rural location. Furthermore, design features such as flat-roofed outriggers are not supported, again they are not characteristic of the area.

The siting of the proposed Open Space and Children's play space within the northern parcel of land does also not relate well to the proposed development and is afforded little natural surveillance.

For the above reasons, it is considered that the revised submitted layout, in conjunction with the proposed elevation detail shows that the proposed development would take the form of an overly urban layout which would not respect the layout, form, density or appearance of this rural area. The development is therefore considered to be contrary to Policy BE.2 of the Local Plan, Policies SE1 and SD2 of the emerging Cheshire East Local Plan Strategy and the NPPF.

Access

This is a full application for 21 dwellings in Sound, with off-road parking.

During the application process further information was requested in relation to visibilities of existing and proposed accesses, carriageway widths, parking, and pedestrian access to public transport.

Further information has since been submitted. The Council's Head of Strategic Infrastructure (HSI) has advised that the off-road parking detail submitted is sufficient but none of the other matters have been replied to.

As such, insufficient information has been received in order to demonstrate that access to the site is both safe and suitable. The application is therefore considered to be contrary to Policy BE.3 of the Local Plan and SD1 of the emerging Local Plan Strategy.

Flood Risk and Drainage

The application is supported by a Flood Risk and Drainage Strategy.

The Council's Flood Risk Manager has reviewed the proposal and advised that they have no objections, subject to a condition that the development be carried out in strict accordance with the above-mentioned strategy and a condition seeking the prior submission/approval of a detailed surface water drainage design and associated management plan.

With regards to drainage, United Utilities have advised that they have no objections, subject to a number of conditions including; that all foul and surface water shall be drained on separate systems; the prior submission of a surface water drainage scheme and the prior submission of a sustainable drainage management and maintenance plan.

Environmental Conclusion

The proposed development would result in the loss of a parcel of Open Countryside, proposed residential development in an unsustainable location, would have an impact upon protected trees (including future pressures) and would be of a density, layout and design that would not respect the local rural character.

In addition, insufficient information has been provided in order to assess whether there would be a loss of Best and Most Versatile Agricultural Land and whether the proposed access arrangements would be safe.

No specific issues with regards to landscape, flooding or drainage would be created, subject to conditions where necessary. A further update to planning committee will be provided in relation to ecological matters.

As a result of the above reasons, it is considered that the proposal would be environmentally un-sustainable however, the degree of unsustainability remains unclear due to a lack of information being provided.

Economic Role

It is accepted that the construction of a housing development of this size would bring the usual economic benefit to the closest facilities in Wrenbury and Nantwich 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 marginally economically sustainable, predominantly during the construction phase.

Social Role

The proposed development would provide open market housing which in itself, would be a social benefit given the Council's 5-year housing land supply position.

Affordable Housing

The Council's Interim Planning Statement: Affordable Housing (IPS) states in Settlements with a population of less than 3,000 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 10 dwellings or more or larger than 1000sqm's in total floor size including garages. The desired target percentage for affordable housing for all allocated sites will be a minimum of 30%, in accordance with the recommendations of the Strategic Housing Market Assessment carried out in 2013. This percentage relates to the provision of both social rented and/or intermediate housing, as appropriate. Normally the Council would expect a ratio of 65/35 between social rented and intermediate housing.

This is a proposed development of 21 dwellings therefore in order to meet the Council's Policy on Affordable Housing there is a requirement for 6.3 dwellings to be provided as affordable dwellings.

The SHMA 2013 shows the majority of the demand in the ward of Audlem up until 2018 is for 4x1 bedroom, 16x3 bedroom and 4x4 bedroom dwellings for General need and also 3x2 bedroom dwellings for older persons. The majority of the demand on Cheshire Homechoice is for 4x1 bedroom, 5x2 bedroom, 3x3 bedroom and 1x5 bedroom dwellings therefore, the

Council's Housing Officer has advised that 1, 2 and 3 bedroom units on this site would be acceptable.

4 units should be provided as Affordable rent and 2 units as Intermediate tenure. The Application Form and the Design and Access Statement are advising the development is to provide 30% Affordable Houses as 6 x 2 or 3 bedroom units at 87m² per unit. This is meeting the IPS requirement of 30% Affordable Houses and the House are meeting the HQI Standards.

The Affordable housing should be split to 4 Affordable/Social rent and 2 Intermediate Tenure.

There is no current up to date Rural Housing Needs survey available for the Sound area and this site is not adjacent to a settlement boundary.

The SHMA and Homechoice are both showing a need for 1, 2 and 3 bedroom houses with the 2 bedroom dwellings being for older persons. The revised site layout plan and associated Design and Access Statement is showing that 6x 2 or 3 bedroom dwellings are to be provided as affordable. As this is a full application, the Council would expect to see an Affordable Housing scheme showing which units are 2 and which are 3 bedroom dwellings and which tenures are for which dwelling. Furthermore, as the 2-bedroom need is for the elderly, the proposed units do not appear designed to meet this particular need.

Due to the lack of information and clarity on this matter and the unsuitability of the proposed units in relation to need, the Council's Housing Officer objects to the proposed development.

Amenity

Policy BE.1 of the Local Plan advises that development shall only be permitted when the proposal would not have a detrimental impact upon neighbouring amenity in terms of overlooking, overshadowing, visual intrusion or environmental disturbance.

According to the submitted layout plan, the closest neighbouring properties to the application site would be; the occupiers of the properties on the southern side of Wrenbury Heath Road to the north; the occupiers of the properties on the Newtown Road that forms the eastern barrier to the site (including Fittons Close), the occupiers of Hazel Cottage to the middle of the site and the occupiers of the properties on the northern side of Newtown Road to the south of the site.

The Development on Backland and Gardens SPD states within paragraph 3.9 that as a general indication, there should ideally be a distance of 21m between principal elevations and 13.5m between a principal elevation with windows to habitable rooms and blank elevations.

It is advised that if these standards are adhered to, there should be sufficient space to ensure that the privacy and amenity of neighbouring properties are not detrimentally affected.

The proposed dwellings would adhere to the relevant above minimum standards with regards to their relationship between the dwellings on Wrenbury Heath Road to the north, the

properties on the narrow north-south cut through between Wrenbury Heath Road and Newtown Road to the east and the properties on Newtown Road to the south.

As such, it is not considered that the proposed dwellings would have a detrimental impact upon the amenities of the occupiers of these neighbouring properties with regards to loss of privacy, light or visual intrusion.

Although Hazel Cottage in the middle of the application site would be enclosed by the proposed residential development, the proposed dwellings have been positioned to ensure that there are either no direct parallel relationships to this neighbour, or where there are, it would adhere with the above standards. As such, it is not considered that the proposed dwellings would have a detrimental impact upon the amenities of this neighbouring property with regards to loss of privacy, light or visual intrusion.

The Council's Environmental Protection Team have advised that they have no objections, subject to a number of conditions including; the prior submission/approval of a Phase II contaminated land report and subsequent surveys; the prior submission/approval of soil verification report; the prior submission/approval of a piling method statement; the prior submission/approval of a construction phase environmental management plan; the provision of electric vehicle charging infrastructure; the prior submission/approval of a dust mitigation scheme and the prior submission/approval of a travel information pack.

With regards to the amenities of the future occupiers of the proposed dwellings themselves, the revised layout submitted shows that all of the proposed houses would adhere to the recommended minimum standards.

Sufficient private amenity space would be provided for each dwelling.

As such, subject to the above conditions, it is considered that the proposed development would adhere with Policy BE.1 of the Local Plan.

Education

The Local Plan is expected to deliver 36,000 houses in Cheshire East; which is expected to create an additional 6,840 primary aged children and 5,400 secondary aged children. 422 children within this forecast are expected to have a special educational need.

The development of 21 dwellings is expected to generate:

4 primary children (21 x 0.19)

3 secondary children (21 x 0.15)

0 SEN children (21 x 0.51 x 0.023%)

The development is expected to impact on secondary school places in the immediate locality. Contributions which have been negotiated on other developments are factored into the forecasts both in terms of the increased pupil numbers and the increased capacity at schools in the area as a result of agreed financial contributions. The analysis undertaken has identified that a shortfall of school places still remains.

To alleviate forecast pressures, the following contributions would be required:

$3 \times £17,959 \times 0.91 = £49,028$ (secondary)

Furthermore, there will be an associated cost for school transport. As such, the following contributions would be required;

£8,550 = 3 children at £3 per day for 190 days per year (school year) for 5 years (secondary school period).

Total education contribution: £57,578

This requirement would be secured via a S106 Agreement should the application be approved.

Open Space

Policy RT3 of the Local Plan requires a combined area of shared recreational open space and shared children's play space of 35sqm per dwelling equating this development to a minimum of 735sqm. This area should be of a size that it will form a viable attractive and functional area of play space which can be easily maintained.

The Council's Open Space Officer originally advised that the soft landscaping plan 11003_PL03 Rev PL02 dated 4/5/16 showed the open space in the north of the site away from the main development therefore natural surveillance was limited. The play element was located towards the rear of the site and concerns were raised that this may cause nuisance for the existing residents. Bulb planting was also proposed within the POS which whilst makes the area attractive, it was advised it does not allow for children to play freely at certain times of the year. A pond was proposed within the woodland which created concerns due to its proximity to the play space.

In response to these concerns, the applicant submitted an updated soft landscaping plan which includes a revised design to the proposed open space.

The Council's Open Space Officer has reviewed the changes but still concludes that the department's concerns in relation to both the proximity of the facility to residential properties and the limited surveillance offered remain. It is further noted that a shared surface turning head does not reflect good design. In general terms the site is in a poor location and of an unsatisfactory design for play.

As a result of the above reasons, the application is considered to be contrary to Policy RT3 of the Local Plan and Policy SC3 of the emerging Local Plan.

Public Right of Way (PROW)

The application proposal would be adjacent to or close to Public Footpaths No. 15, 13 and 11 as recorded on the Definitive Map and Statement. However, the Council's Public Rights of Way Officer has advised that the proposal would unlikely affect the PROW.

As such, no objections are raised, subject to the applicant being informed for their responsibilities via an informative.

Social Conclusion

The provision of market housing would represent a social planning benefit. The applicant agrees to provide a commuted sum towards education provision to offset the impact of the development upon local school's. No issues with regards to public rights of way or amenity would be created (other than in relation to trees).

However, the affordable housing and the on-site open space proposed would not be appropriate to either meet local need or be functional.

As a result of the above reasons, the application proposal is considered to be socially unsustainable.

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 education contribution is necessary having regard to the oversubscription of local secondary schools and the demand that this proposal would add, in addition to the additional burden of school transport.

Although the development would result in a requirement for both affordable housing and on-site open space, the provision offered for both is not considered to be policy compliant.

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 proposed development sought would be contrary to Policy NE.2 and the development would result in a loss of Open Countryside. However as Cheshire East cannot demonstrate a 5 year supply of deliverable housing sites then the presumption in favour of sustainable development applies at paragraph 14. LPA's should grant permission unless any adverse impact of doing so would significantly and demonstrably outweigh the benefits from it, when assessed against the Framework as a whole; or specific policies in the Framework indicate development should be restricted.

The benefits in this case are:

- The development would help in the Councils delivery of 5 year housing land supply.

- The development would provide economic benefits through the provision of employment during the construction phase, new homes and benefits for local businesses in the area

The development would have a neutral impact upon the following subject to mitigation:

- The impact upon education infrastructure would be neutral as the additional impact would be mitigated by the provision of a commuted sum

The adverse impacts of the development would be:

- The loss of Open Countryside
- The isolated location of the proposed dwellings
- Insufficient information has been provided to demonstrate that the land to be lost to development would not be 'Best and Most Versatile' (Grades 1, 2 or 3a). As such, it is considered that the proposed development would be contrary to the NPPF.
- The on-site Children's play space provision is both un-functional and is positioned in a location where natural surveillance is limited
- The proposed affordable housing provision does not meet local need with regards to the bedroom numbers provided and the form of dwellings not being suitable for the elderly
- The loss of and impact upon protected trees
- The density, layout and appearance of the development (design)
- Insufficient information has been provided to demonstrate that safe and suitable access can be provided to and from the site

The development is contrary to both the Borough of Crewe and Nantwich Local Plan and the emerging Cheshire East Local Plan Strategy with regards to Open Countryside policies. However, these policies are considered to be out of date, a presumption in favour applies. However, with reference to the *Richborough* Court of Appeal weight can be given to those policies.

There is now a solution to the housing supply in hand through the forthcoming adoption of the Local Plan. As a consequence of the Inspectors most recent comments in December increased weight can be afforded to these 'out of date' policies. In addition given the progression of emerging policies towards adoption it is considered that greater weight can now be given to those emerging policies. Further factors that weigh against the scheme are detailed above.

Therefore taking a balance of the overall benefits, the current policy position and the scale of harm, it is considered that the presumption in favour is outweighed in this case and a recommendation of refusal is made.

RECOMMENDATION

REFUSE for the following reasons;

- 1. The proposed residential development is unacceptable because it is located within the Open Countryside, contrary to Policies; NE.2 (Open Countryside) and RES.5 (Housing in Open Countryside) of the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011; Policy PG5 (Open Countryside) of the**

emerging Cheshire East Local Plan Strategy and the principles of the National Planning Policy Framework and create harm to interests of acknowledged importance. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.

2. The proposal would be contrary to the spatial strategy for the future development of the Borough due to the scale of the proposed development having regard to Policies PG2 (Settlement Hierarchy) and PG6 (Spatial Distribution of Development) in the emerging Cheshire East Local Plan Strategy Version
3. Insufficient information has been provided to demonstrate that the land to be lost to development would not be 'Best and Most Versatile' (Grades 1, 2 or 3a). As such, it is considered that the proposed development would be contrary to Policy NE12 (Agricultural Land Quality) of the Borough of Crewe and Nantwich Adopted Replacement Local Plan, Policy SE2 (Efficient Use of Land) of the emerging Cheshire East Local Plan, and the NPPF.
4. The proposed development would result in the unacceptable loss of protected trees, a threat to protected trees and would create amenity concerns resulting in future pressures to fell protected trees due to the social proximity of the proposed dwellings to protected trees. The application is therefore considered to be contrary to Policies NE.5 (Nature Conservation), BE.1 (Amenity) and BE.2 (Design Standards) of the Borough of Crewe and Nantwich Adopted Replacement Local Plan First Review 2011, Policy SE.5 (Trees, Hedgerows and Woodland) of the emerging Cheshire East Local Plan Strategy (CELP) and the NPPF.
5. The proposed development by reason of its high density, urban design and layout would be harmful to the character and appearance of this rural area. As a result the proposed development would be contrary to Policy BE.2 (Design Standards) of the Borough of Crewe and Nantwich Adopted Replacement Local Plan, Policy SE.1 (Design) of the emerging Cheshire East Local Plan Strategy (CELP) and the NPPF.
6. Insufficient information has been provided to demonstrate that safe and suitable access will be provided. As such, it is considered that the proposed development would be contrary to Policy BE.3 (Access and Parking) of the Borough of Crewe and Nantwich Adopted Replacement Local Plan, Policy SD1 (Sustainable Development in Cheshire East) of the emerging Cheshire East Local Plan, and the NPPF.
7. Insufficient information has been provided to demonstrate that the policy required affordable housing provision required to account for local need triggered by the application proposal shall be provided. Furthermore, the proposed 2-bedroom units would not be suitable for the elderly where the need for 2-bedroom property lies. The development would therefore be contrary to Policy SC5 (Affordable Homes) of the emerging Cheshire East Local Plan Strategy.
8. The location and design of the proposed open space will result in a provision that would create both functional and natural surveillance issues with regards to the included Children's Play Space. The development is therefore considered to be

contrary to Policy RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments) of the Borough of Crewe and Nantwich Adopted Replacement Local Plan and Policy SC3 (Health and Well-being) of the emerging Cheshire East Local Plan Strategy.

In order to give proper effect to the 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 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 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 – 65% to be provided as social rent/affordable rent with 35% intermediate tenure.**
- 2. A management plan for the maintenance of the on-site Open Space and Children's Play facility by either a private management company or the Council for a fee to be agreed.**
- 3. £57,578 towards secondary school provision (£49,028) and school transport (£8,550)**

