

# **Southern Planning Committee**

## **Agenda**

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<b>Date:</b>	<b>Wednesday, 7th December, 2011</b>
<b>Time:</b>	<b>1.00 pm</b>
<b>Venue:</b>	<b>Council Chamber, Municipal Buildings, Earle Street, Crewe CW1 2BJ</b>

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**Members of the public are requested to check the Council's website the week the Southern Planning Committee meeting is due to take place as Officers produce updates for some or all of the applications prior to the commencement of the meeting and after the agenda has been published.**

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and at the foot of each report.

### **PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT**

**1. Apologies for Absence**

To receive apologies for absence.

**2. Declarations of Interest**

To provide an opportunity for Members and Officers to declare any personal and/or prejudicial interests and for Members to declare if they have pre-determined any item on the agenda.

**3. Minutes of Previous Meeting (Pages 1 - 14)**

To approve the minutes of the meeting held on 16 November 2011.

**4. Public Speaking**

A total period of 5 minutes is allocated for each of the planning applications for Ward Councillors who are not Members of the Planning Committee.

Please contact Julie Zientek on 01270 686466

E-Mail: [julie.zientek@cheshireeast.gov.uk](mailto:julie.zientek@cheshireeast.gov.uk) with any apologies, requests for further information or to arrange to speak at the meeting

A period of 3 minutes is allocated for each of the planning applications for the following individuals/groups:

- Members who are not members of the Planning Committee and are not the Ward Member
- The Relevant Town/Parish Council
- Local Representative Groups/Civic Society
- Objectors
- Supporters
- Applicants

5. **11/2317C Old Hall Hotel, High Street, Sandbach, Cheshire CW11 1AL: Retrospective Application for Perimeter Brick Wall and Timber Trellis Between Piers to Rear Boundary for Brunning and Price Ltd** (Pages 15 - 18)

To consider the above planning application.

6. **11/2320C Old Hall Hotel, High Street, Sandbach, Cheshire CW11 1AL: Retrospective Application for Perimeter Brick Wall with Timber Trellis Between Piers to Rear Boundary for Brunning and Price Ltd** (Pages 19 - 22)

To consider the above planning application.

7. **11/3695C Mossley House, Biddulph Road, Congleton CW12 3LQ: Development of Use Class C2 Residential Accommodation with Care Comprising 52 Apartments for Persons aged 60 and over, including Car Parking, Landscaping and Associated Works for Mr Kevin Edwards, Gladman Developments Ltd** (Pages 23 - 32)

To consider the above planning application.

8. **11/2999C Land South Of Portland Drive, Scholar Green, Stoke On Trent: Variation of Conditions 2,3,5,10 & 11 of Planning Permission 08/0712/FUL for Ben Bailey Homes(Part of Gladedale Group)** (Pages 33 - 40)

To consider the above planning application.

9. **11/3619C 66 & 68, Leek Road, Congleton, Cheshire CW12 3HU: Two Detached Dwellings including Access from Boundary Lane for VWB Architects -Mr P Bentley** (Pages 41 - 48)

To consider the above planning application.

10. **11/4000C Cledford Infant and Nursery School, Long Lane South, Middlewich, Cheshire CW10 0DB: Change of Use to Offices for Cheshire East Council Children and Family Services for Cheshire East Council** (Pages 49 - 54)

To consider the above planning application.

11. **11/1165N Station Yard, Wrenbury Road, Wrenbury CW5 8HA: Outline Planning Permission With All Matters Reserved For Sixteen Local Affordable Houses for Mr Trevor Bates** (Pages 55 - 82)

To consider the above planning application.

12. **11/3160N Warmingham Grange, Warmingham Grange Lane, Warmingham CW11 3LB: Conversion of Warmingham Grange into 3 Apartments and Demolition of Outbuildings and Replacement with 8 Houses and Erection of 3 Affordable Housing Units for Viscount Homes Limited** (Pages 83 - 88)

To consider the above planning application.

13. **11/3903N White House Farm, Hitchens Lane, Bulkeley SY14 8BX: Discharge of S106 Agreement in relation to P97/0749 (Demolition of Existing Barn and Erection of Outbuildings Comprising Garage and Stable Block) for Mr T Wallace** (Pages 89 - 94)

To consider the above planning application.

14. **11/3123N Land Adjoining White House Farm, Hitchens Lane, Bulkeley SY14 8BX: Change Of Use Of Existing Stables/Garage To A Single Dwelling for Mr Terry Wallace** (Pages 95 - 104)

To consider the above planning application.

15. **11/3608N Tesco Stores, Lockitt Street, Crewe CW1 7BB: Variation of Condition 2 of Planning Approval 10/3554N to Extend the Time Limit of Temporary Store to 17 June 2012 for Tesco Stores Ltd** (Pages 105 - 116)

To consider the above planning application.

16. **Planning Approval P03/0494 - 24 No. Dwellings at Hastings Road - Variation to S.106 Agreement relating to No.21 The Gatehouse** (Pages 117 - 120)

To consider proposed amendments to the wording of the Section 106 Agreement for the above development.

17. **Smallwood Storage** (Pages 121 - 130)

To consider proposed amendments to the Committee's resolution with respect to planning application 11/0627C for the Demolition of Existing Buildings and Erection of 15 Dwellings and Associated Infrastructure Works at Smallwood Storage Ltd, Moss End Farm, Moss End Lane, Smallwood.

18. **11/3879T Bottom Wood, Hatherton, Nantwich: Application To Fell 12 Protected Trees (Comprising Of Six Oak; Two Beech; Two Pine, One Larch And One Silver Birch) And Crown Lifting Of Other Protected Trees Adjacent To The Highway for Mr Peter Jackson, Peter Jackson Developments Ltd, Field House, 597 Etruria Road, Basford, Stoke on Trent, Staffs ST4 6HP** (Pages 131 - 142)

To consider an application for the felling of 12 trees and crown lifting of other trees adjacent to the highway within a woodland which is protected by the Nantwich Rural District Council (Hatherton) Tree Preservation Order 1973.

**THERE ARE NO PART 2 ITEMS**

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Southern Planning Committee**  
held on Wednesday, 16th November, 2011 at Council Chamber, Municipal  
Buildings, Earle Street, Crewe CW1 2BJ

**PRESENT**

Councillor G Merry (Chairman)  
Councillor M J Weatherill (Vice-Chairman)

Councillors P Butterill, J Clowes, W S Davies, L Gilbert, M Jones, S McGrory,  
D Marren, M A Martin, D Newton, M Sherratt and A Thwaite

**NON-COMMITTEE MEMBERS IN ATTENDANCE**

Councillors Rhoda Bailey and D Hough

**OFFICERS PRESENT**

Nigel Curtis (Principal Development Officer, Highway Development Control)  
Ben Haywood (Principal Planning Officer)  
Jadesh Jhamat (Planning Lawyer)  
David Malcolm (Southern Area Manager – Development Management)  
Julie Zientek (Democratic Services Officer)

**Apologies**

Councillor G Morris

**94 DECLARATIONS OF INTEREST**

Councillor L Gilbert declared a personal and prejudicial interest in respect of application number 11/2196N on the grounds that he had assisted with the acquisition of the neighbouring site and the owner was a personal friend. In accordance with the code of conduct, he withdrew from the meeting during consideration of this item.

Councillor L Gilbert declared a personal and prejudicial interest in respect of agenda item 16 (Section 106 Agreement for Demolition of Existing Buildings and Erection of New Buildings and Redevelopment of Existing Link House to Provide 35 Apartments and Two Retail Units with Associated Infrastructure on land at 2 & 4 Heathfield Avenue and 29, 29A & 31 Hightown, Crewe) on the grounds that he had been appointed as a Cheshire East Council representative on the Board of Wulvern Housing.

Councillor A Thwaite declared that he had expressed an opinion with respect to application number 11/3619C and therefore fettered his discretion. Councillor Thwaite exercised his separate speaking rights as a

Ward Councillor and withdrew from the meeting during consideration of this item.

Councillor S Davies declared that he had expressed an opinion with respect to application number 11/3076N and therefore fettered his discretion. Councillor Davies exercised his separate speaking rights as a Ward Councillor and withdrew from the meeting during consideration of this item.

Councillor P Butterill declared a personal interest in respect of application numbers 11/2886N, 11/2196N, 11/1536N, 11/1537N and agenda item 17 (Planning Approval P03/0494 - 24 No. Dwellings at Hastings Road - Variation to Section 106 Agreement relating to No.21 The Gatehouse) on the grounds that she was a member of Nantwich Town Council, which had been consulted on the proposed developments, and a member of Nantwich Civic Society. In accordance with the code of conduct, she remained in the meeting during consideration of these items.

Councillor P Butterill also declared that she had received correspondence from an objector regarding application number 11/2196N.

Councillor D Marren declared a personal interest in respect of application numbers 11/2886N, 11/2196N, 11/1536N, 11/1537N and agenda item 17 (Planning Approval P03/0494 - 24 No. Dwellings at Hastings Road - Variation to Section 106 Agreement relating to No.21 The Gatehouse) on the grounds that he was a member of Nantwich Town Council, which had been consulted on the proposed developments. In accordance with the code of conduct, he remained in the meeting during consideration of these items.

Councillor J Weatherill declared a personal interest in respect of application number 11/2196N on the grounds that the applicant was a close neighbour. In accordance with the code of conduct, she remained in the meeting during consideration of this item.

Councillor J Clowes declared that she had received correspondence from members of the public regarding applications on the agenda.

Councillor G Merry declared that she had received correspondence regarding application number 11/2999C.

All Members of the Committee who had attended the site inspection with respect to application number 11/2196N declared that they had received documentation from the applicant.

## **95 MINUTES OF PREVIOUS MEETING**

RESOLVED – That the minutes of the meeting held on 26 October 2011 be approved as a correct record and signed by the Chairman.

96 **11/2886N LAND OFF HASTINGS ROAD, NANTWICH, CHESHIRE:  
RESIDENTIAL DEVELOPMENT COMPRISING 21 DWELLINGS WITH  
ASSOCIATED ACCESS, PARKING, GARAGES, LANDSCAPING AND  
OPEN SPACE FOR MR D HOUGH, ARLEY HOMES NORTH WEST  
LIMITED**

Note: Mr A Palin and Mr B Moore (objectors) and Mr C Kershaw (on behalf of the applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application, a written update, an oral update and an oral report of the site inspection by the Principal Planning Officer.

RESOLVED – That the application be APPROVED subject to:

(a) the completion of a Section 106 agreement to secure

1. Provision of on-site affordable housing of 6 dwellings, including 4 units (3 x 2 bed and 1 x 3 bed) for rent and 2 units (2 x 3 bed) for intermediate tenure;
2. Provision of a financial contribution of £15,000 towards off site equipped play space;
3. Maintenance of areas of Public Open Space and Newt Mitigation Land

(b) the following conditions:

- 1) Commencement of Development (3 years)
- 2) Approved Plans
- 3) Materials to be submitted
- 4) Surfacing materials, including permeable driveways, to be submitted
- 5) Detailed Landscaping Scheme to be submitted
- 6) Landscaping Scheme Implementation
- 7) Tree protection measures to be submitted
- 8) Details of no dig technique and construction method to be submitted
- 9) Details of Boundary treatment to be submitted
- 10) Details of Pond to be provided on land to south of railway including construction methods
- 11) Details of boundary treatment to newt mitigation area to be submitted and retained
- 12) Details of newt holes in fence to be submitted and retained
- 13) Development to be carried out outside Bird Breeding Season (unless survey carried out)
- 14) Details of bird/bat enhancement measures
- 15) Parking to be available prior to occupation
- 16) Full detail of noise mitigation measures to be submitted including the position/design of any acoustic fencing

- 17) Hours of construction
- 18) Hours of pile driving
- 19) Hours of floor floating
- 20) Phase II Contaminated Land Survey
- 21) Removal of Permitted Development Rights for Extensions (Class A and B)
- 22) Details of foul and surface water drainage, including improvement/enhancement of existing water courses
- 23) Development to be carried out in compliance with the dust mitigation measures identified within Section 6 of the Air Quality Assessment prepared by SLR dated October 2011

**97 11/2196N K M D HIRE SERVICES, LONDON ROAD, NANTWICH CW5 6LU: EXTENSION AND NEW STORE FOR MR DAN MELLOR**

Note: Having declared a personal and prejudicial interest in this application, Councillor L Gilbert withdrew from the meeting during consideration of this item.

Note: Mr M Proudfoot (objector) and Mr D Mellor (applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application, a written update, an oral update and an oral report of the site inspection by the Principal Planning Officer.

RESOLVED – That the application be APPROVED subject to the following conditions:

- 1) Commencement of Development
- 2) Approved Plans
- 3) Materials to be submitted and approved
- 4) Car park to be made available prior to first use
- 5) Details of any areas of external storage to be submitted
- 6) Details of Boundary treatment to be submitted and approved
- 7) Construction Hours
- 8) Acoustic attenuation for proposed buildings
- 9) No external storage except for gas cylinders

**98 11/1536N RESIDENCE (NANTWICH) LTD, MILL STREET, NANTWICH CW5 5ST: HOTEL RECEPTION AND FUNCTION ROOM, 18 BEDROOMS, GARDEN, CAR PARK AND ACCESS FOR ALEXANDRA COUNTRYSIDE INVESTMENTS LTD**

Note: Councillor S McGrory arrived prior to consideration of this item.

Note: Mr L Sutton (objector) attended the meeting and addressed the Committee on this matter.



Note: Mr Atkin (objector) had not registered his intention to address the Committee. However, in accordance with paragraph 2.8 of the public speaking rights at Strategic Planning Board and Planning Committee meetings, the Committee agreed to allow Mr Atkin to speak.

The Committee considered a report regarding the above planning application, an oral update and an oral report of the site inspection by the Principal Planning Officer.

RESOLVED – That the application be APPROVED subject to:

(a) the prior signing of a Section 106 agreement to secure the provision of Commuted Sum Payment of £62550 to be used for the following:

- Bowling green remodelling £3300
- Guttering / soft fill (completion of) £3000
- Lighting to shelters £900
- Pathways around green for access (completion of ) £6400
- Floodlighting improvements (upgrades to existing) £5500
- Water sprinkler system £3300
- Pavillion / facilities £38500
- Bowling green surface improvements (completion of) £1650

(b) the following conditions:

1. Standard Time Limit
2. Plan References
3. Materials
4. Surfacing Materials
5. Landscaping Submitted
6. Landscaping Implemented
7. Drainage
8. Archaeology
9. No External Lighting, to include roof terrace
10. Hours of Delivery
11. Acoustic Attenuation
12. No Additional Windows
13. Double Doors
14. Odours/Fumes
15. Pile Driving
16. No Music
17. Window/Door Details
18. Railings
19. Dummy Windows
20. Details of Boundary Wall
21. Reveal Details
22. Sewer Diversion
23. Visibility Splays
24. Car Parking
25. Bin Storage Area

26. Contaminated Land Report
27. Access Details
28. Details of Footpath
29. Rainwater Goods
30. Construction Management Plan, to include hours of construction

99 **11/1537N RESIDENCE (NANTWICH) LTD, MILL STREET, NANTWICH CW5 5ST: HOTEL RECEPTION AND FUNCTION ROOM, 18 BEDROOMS, GARDEN, CAR PARK AND ACCESS (LISTED BUILDING APPLICATION) FOR ALEXANDRA COUNTRYSIDE INVESTMENTS LTD**

Note: Councillor D Newton was not in the room during consideration of this application.

The Committee considered a report regarding the above planning application.

RESOLVED – That the application be APPROVED subject to the following conditions:

1. Standard Time Limit
2. Plan References
3. Materials
4. Surfacing Materials
5. Window/Door to be Constructed out of Timber
6. Railings to be Painted Black
7. Details of Dummy Windows
8. Details of Boundary Wall
9. Reveal Details
10. Details of Bin Storage Area
11. Rainwater Goods

100 **11/2394C PACES GARAGE AND FAIRFIELDS, NEWCASTLE ROAD, ARCLID, CHESHIRE CW11 2UE: REDEVELOPMENT OF INDUSTRIAL/COMMERCIAL PREMISES AND TWO DETACHED GARAGES AND ERECTION OF 18 DWELLINGS (13 MARKET/5 AFFORDABLE), PROVISION OF PUBLIC OPEN SPACE AND FORMATION OF REPLACEMENT ACCESS FOR THE DWELLING FAIRFIELD FOR ROWLAND HOMES LTD AND MESSRS PACE**

Note: Councillor L Gilbert left the meeting prior to consideration of this application.

Note: Councillor M Sherratt left the meeting during consideration of this application.

Note: Councillor A Hollinshead (on behalf of Arclid Parish Council), Mr M Sloane and Mr A Jolley (objectors) and Mr P Emery (agent on behalf of the

Applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application, a written update, an oral update and an oral report of the site inspection by the Principal Planning Officer.

RESOLVED – That the application be APPROVED subject to:

- (a) the prior signing of a Section 106 agreement to secure
  - Affordable Housing comprising 3 social rented units and 2 intermediate tenure units.
  - Social rented units to be provide through an RSL
  - Financial contribution of £10,000 towards speed limit reduction from 50mph to 40mph around Arclid traffic lights.
  - A management company to maintain the green space on the site.
  - A LEAP play area on the site.
- (b) the following conditions:
  1. Standard
  2. Plans
  3. Submission of detailed construction plans for access
  4. Provision of footpaths to site frontage
  5. Scheme of foul drainage
  6. Contaminated land investigation
  7. Details of Sustainable Urban Drainage System
  8. Timing and method of pile driving
  9. Air Quality mitigation measures#
  10. Construction hours to be 0800 – 1800 Monday to Friday and 0800 to 1300 Saturday with no working on Sunday / bank holidays
  11. Removal of Petrol tanks
  12. Method of dealing with unforeseen contamination
  13. Electromagnetic screening measures
  14. Relocation of existing businesses elsewhere within the Borough
  15. Tree Protection
  16. No works within protected area
  17. Boundary Treatment, including protection for POS
  18. Landscaping
  19. Landscaping implementation
  20. Materials
  21. Obscured glazing to gable of Plot 14
  22. Protection of breeding birds
  23. Incorporation of features suitable for use by breeding birds
  24. Removal of Permitted Development rights for plots 14 – 18
  25. Noise and vibration mitigation measures

101 **11/2999C LAND SOUTH OF PORTLAND DRIVE, SCHOLAR GREEN, STOKE ON TRENT: VARIATION OF CONDITIONS 2,3,5,10 & 11 OF PLANNING PERMISSION 08/0712/FUL FOR BEN BAILEY HOMES (PART OF GLADEDALE GROUP)**

Note: Councillors M Martin and D Newton left the meeting prior to consideration of this application.

Note: Councillor Rhoda Bailey (Ward Councillor) and Ms A Freeman (agent on behalf of the Applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application, a written update and an oral update by the Southern Area Manager - Development Management.

RESOLVED – That the application be DEFERRED to enable officers to clarify the status of the Health Centre with the applicant.

102 **11/3076N LONG LANE FARM, LONG LANE, BRINDLEY, NANTWICH, CHESHIRE CW5 8NE: CHANGE OF USE OF AGRICULTURAL BUILDING TO JOINERY WORKSHOP. RESUBMISSION OF 11/1184N FOR MR N BULKELEY**

Note: Having exercised his separate speaking rights as a Ward Councillor, Councillor S Davies withdrew from the meeting during consideration of this item.

Note: Mrs M Perkin (on behalf of the Applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application and a written update.

RESOLVED – That, contrary to the planning officer's recommendation for refusal, the application be APPROVED, as the proposed development would encourage local employment in the rural area.

The approval to be subject to the following conditions:

1. Time limit
2. Materials
3. Noise mitigation
4. Occupation of workshop restricted to occupiers of Barn 1
5. Hours of operation
6. Details of any external lighting
7. No external storage
8. No direct sales
9. Approved plans

103 **11/3264N 198 - 200, EDLESTON ROAD, CREWE CW2 7EP:  
EXTENSION OF TIME FOR DEMOLITION OF REDUNDANT SNOOKER  
CLUB AND CARPET WAREHOUSE AND REDEVELOPMENT OF SITE  
TO PROVIDE THIRTEEN APARTMENTS AND PARKING, RETAIL  
UNITS AND OFFICE ACCOMMODATION FOR THE GAINSBOROUGH  
TRUST**

Note: Councillor M Jones left the meeting prior to consideration of this application.

Note: Councillor A Thwaite was not in the room during consideration of this application.

The Committee considered a report regarding the above planning application.

RESOLVED – That the application be APPROVED subject to the following conditions:

1. Standard 3 years
2. Materials
3. Window reveal to be 55mm
4. No new windows to be inserted
5. Details of Boundary treatment to be submitted and approved
6. Development to be carried out in accordance with the amended plans
7. Landscaping scheme to be submitted and approved
8. Landscaping implementation
9. Access to be constructed to CEC standard
10. Parking as shown on approved plans to be available prior to first use and retained
11. Details of covered secure Cycle Racks to be submitted and approved
12. Details of noise mitigation measures (for impact from Edleston Road) to be submitted and approved
13. Bin storage to be provided and made available
14. Detailed scheme for foul and surface water drainage to be submitted and approved
15. Demolition method statement to be submitted and approved
16. Office element to be B1 use only
17. Gates set back by 5.5m from edge of public highway

104 **11/3330C 20, BLADON CRESCENT, ALSAGER ST7 2BG: 1 1/2 OR 2  
STOREY DWELLING, ACCESS, TURNING, PARKING AND SINGLE  
GARAGE WITHIN CURTILAGE FOR MR/MRS DE CONINCK**

Note: Councillor D Hough (Ward Councillor), Mr M Bailey (objector) and Mr De Coninck (applicant) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application.

RESOLVED – That, contrary to the planning officer's recommendation for approval, the application be REFUSED for the following reason:

The proposed development is cramped, intrusive and unsympathetic to the character of the area, due to its size and relationship to neighbouring property, contrary to GR1 and GR2.

- 105 **11/3613C OAKLANDS MEDICAL CENTRE, ST ANNS WALK, NEWTONIA, MIDDLEWICH, CHESHIRE CW10 9FG: VARIATION OF CONDITIONS 2, 4, 6, 8, 9, 10, 26 AND 27 TO PLANNING APPROVAL 09/0481C FOR RELOCATION OF EXISTING FLOODLIT ALL WEATHER SPORTS FACILITY, DEMOLITION OF OAKLANDS MEDICAL CENTRE AND CONSTRUCTION OF 2 SEPARATE BUILDINGS COMPRISING A 2 STOREY DENTAL FACILITY AND 3 STOREY MEDICAL CENTRE WITH ASSOCIATED ACCESS AND PARKING FOR OAKAPPALE PRIMARY CARE DEVELOPMENTS LTD**

Councillor S McGrory declared a personal interest in respect of this application on the grounds that he was a member of Middlewich Town Council, which had been consulted on the proposed development. In accordance with the code of conduct, he remained in the meeting during consideration of this item.

Note: Councillor K Bagnall (on behalf of Middlewich Town Council) attended the meeting and addressed the Committee on this matter.

The Committee considered a report regarding the above planning application and a written update.

RESOLVED – That the application be APPROVED subject to the following conditions:

1. Commencement of development (3 years)
2. Development in accordance with approved/amended plans
3. Submission / Implementation of a Construction Method Statement prior to the commencement of development.
4. Prior to the commencement of any works on site a scheme for the phasing and timescales of the development shall be submitted to and approved in writing by the Local Planning Authority. The Pharmacy / medical centre buildings shall not be occupied until the new floodlit all weather sports facility (including surfacing, lighting and fencing) is constructed, completed and available for use, which will be within the first phase of development. The scheme shall be implemented in full accordance with the approved details.
5. Submission / approval and implementation of finished ground, floor and road levels, including cross sections and longitudinal sections.

6. Submission / approval and implementation of suite of detailed design drawings for the proposed access and parking layouts, to be approved by the LPA. Parking provision will be provided at the levels offered on the Jefferson Sheard Drawing: Ref 4051 No. 2010 Rev E, though with a fully accessible layout and retained thereafter.
7. Submission / approval and implementation of Scheme of Improvement works to be carried out to 'White Horse Alley' pursuant to condition no. 3.
8. Submission / approval / implementation of removable bollards / gates to prevent unauthorised access to parking areas outside centre opening hours
9. Submission / approval / implementation of design and position of cycle racks. Racks to be made available prior to first use of the medical and pharmacy buildings in accordance with the scheme of phasing to be agreed pursuant to condition no 3.
10. Submission / approval / implementation of any proposed CCTV installation
11. Submission / approval / implementation of details of landscaping to include replacement planting (Including replacements for 5 years and management method statement.
12. Submission / approval / implementation of scheme of tree protection measures during construction
13. Submission / approval / implementation of details of boundary treatments including gates and ball secure fencing, retaining walls.
14. Submission / approval / implementation of scheme for the acoustic enclosure of any fans, compressors or other equipment with the potential to create noise.
15. Submission / approval / implementation of scheme of flood lighting detailing positions, angle of lights, type of beam, and zero lux spillage unless any variation is agreed.
16. Submission / approval / implementation of materials samples including surfacing of hardstandings.
17. Submission / approval / implementation of Sustainable Urban Drainage System (SUDS).
18. Submission / approval / implementation of refuse storage facilities.
19. Site to be drained on a separate system with only foul drainage connected into foul sewer
20. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
21. Protection from noise during construction - hours of construction limited to:  
Monday – Friday 08:00 hrs 18:00 hrs  
Saturday 09:00 hrs 13:00 hrs  
With no Sunday or Bank Holiday working.
22. Protection from Pile Driving – hours limited to:

Monday – Friday 08:30 hrs – 17:30 hrs

Saturday 09:30 hrs – 12:30 hrs

With no Sunday or Bank Holiday working.

23. No deliveries shall be taken at or despatched from the site outside the hours of 9 am to 5 pm Monday to Friday and 9 am to 1 pm on a Saturday. Therefore prohibiting overnight parking and early morning deliveries so reducing any unnecessary disturbance.
24. Hours of operation for all weather pitch shall be restricted to 8am-10pm Monday to Friday and 9am to 6pm Saturday, Sunday and Bank Holidays
25. Submission / approval / implementation of details of bin/refuse storage. Implementation prior to first occupation of medical and pharmacy buildings.
26. Submission / approval / implementation of a Travel Plan prior to first use of medical and pharmacy building.
27. Access track used for maintenance vehicles serving the football pitch only.
28. Inspection of roof void of buildings to be removed for presence of bats

106 **11/3619C 66 & 68, LEEK ROAD, CONGLETON, CHESHIRE CW12 3HU:  
TWO DETACHED DWELLINGS INCLUDING ACCESS FROM  
BOUNDARY LANE FOR VWB ARCHITECTS - MR P BENTLEY**

Note: Having exercised his separate speaking rights as a Ward Councillor, Councillor A Thwaite withdrew from the meeting during consideration of this item.

The Committee considered a report regarding the above planning application and a written update.

RESOLVED – That the application be DEFERRED to allow the size and scale of the proposals to be reviewed with the applicant.

107 **SECTION 106 AGREEMENT FOR DEMOLITION OF EXISTING  
BUILDINGS AND ERECTION OF NEW BUILDINGS AND  
REDEVELOPMENT OF EXISTING LINK HOUSE TO PROVIDE 35  
APARTMENTS AND TWO RETAIL UNITS WITH ASSOCIATED  
INFRASTRUCTURE ON LAND AT 2 & 4 HEATHFIELD AVENUE AND  
29, 29A & 31 HIGHTOWN, CREWE**

Note: Councillor S McGrory left the meeting at this point in the proceedings and returned during the committee's debate on the application but did not take part in the debate or vote.

The Committee considered a report and a written update regarding proposed amendments to the terms of the above Section 106 Agreement.

The above development was approved by the Southern Planning Committee in July 2009, subject to the signing of a Section 106 Agreement



to provide 12 affordable units and a commuted sums payment in respect of public open space. An amendment to the terms of the Section 106 agreement, to enable the provision of 14 affordable units, was approved by the Committee in June 2010. The applicant was now seeking approval for further variations to the terms of the Section 106 Agreement in respect of the affordable housing.

RESOLVED – That the following amendments be made to the terms of the Section 106 agreement:

- (a) That the 'cascade' be amended to ensure that first priority is given to those in housing need who are resident in or who have connections to Crewe, followed by the whole of Cheshire East;
- (b) That Wulvern Housing be allowed to set 'affordable' rents up to 80% of the local market rental value.

108 **PLANNING APPROVAL P03/0494 - 24 NO. DWELLINGS AT HASTINGS ROAD - VARIATION TO SECTION 106 AGREEMENT RELATING TO NO.21 THE GATEHOUSE**

The Committee considered a report regarding proposed amendments to the wording of the signed section106 agreement relating to the construction of 24 Dwellings on land adjacent to London Road, Nantwich.

Members' attention was drawn to the fact that paragraph 2.1 of the report should read: 'To agree to the amendment to the wording of a S.106 agreement attached to the above to enable 100% staircasing to the property known as 21 The Gatehouse, Nantwich.'

The section106 agreement referred to three affordable units which were subject to a shared ownership lease, whereby the occupier acquired a percentage interest in the unit and a rent was payable to the Housing Association on the remainder of the unit. Occupiers of the affordable units in question had the right to acquire a greater interest in the unit by paying a percentage of the open market value of the property, but they were not permitted to staircase beyond acquiring a 90% share of that unit.

The joint owners of 21 The Gatehouse, Hastings Road, Nantwich had submitted an application to remove the 90% restriction on staircasing with respect to that property, thus allowing for outright ownership.

RESOLVED – That the application be DEFERRED to enable planning officers to provide further information regarding staircasing in shared ownership schemes.

The meeting commenced at 2.00 pm and concluded at 7.30 pm

Councillor G Merry (Chairman)

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Application No: 11/2317C

Location: OLD HALL HOTEL, HIGH STREET, SANDBACH, CHESHIRE, CW11 1AL

Proposal: Retrospective Application for Perimeter Brick Wall and Timber Trellis Between Piers to Rear Boundary

Applicant: Brunning and Price Ltd

Expiry Date: 02-Dec-2011

**SUMMARY RECOMMENDATION:** Approve**MAIN ISSUES:**

- Design
- Amenity

**REASON FOR REFERRAL**

This application has been called in by Councillor B Moran on the grounds that:

*"1. The design and build of the perimeter wall, which is not in accordance with the extant planning permission, has attracted attention and criticism from some of the residents in the neighbouring properties.*

*2. There is evidence that not all the residents in the neighbouring properties have been approached to give their views on the 'type and height of the wall prior to its construction'; the applicant's Heritage Statement, refers.*

*3. It is stated, as per the Heritage Statement, that the wall is 'necessary to provide a barrier between the pub [Old Hall] and the local residents to the rear of the premises'. However, the height of the wall [as measured by residents at its highest point is over 9 feet high] may be considered to dominate the street scene and also, may be detrimental to the residential amenity. A comparison should be made with the former wooden fence [as advised by residents to be some 6 feet high] and now replaced by the perimeter wall.*

*4. Furthermore, the design of the wall, including the piers and trellis works, along with the earth border, should be examined and assessed to ensure no impact on the Grade 1 listed building.*

*5. The plan of the wall on the CEC website, showing the final design and height, does not appear to be consistent with the completed wall."*

## DESCRIPTION AND SITE CONTEXT

The application site comprises a rear boundary wall which separated The Old Hall Hotel and Old Hall Cottages and Old Hall Gardens. The hotel is a Grade I Listed Building, that until the recent restoration and re-development was completed, was on the Buildings at Risk Register.

## DETAILS OF PROPOSAL

This application seeks retrospective approval for the erection of a perimeter wall to the rear of the Old Hall Hotel. As part of the previous permissions for the re-development of the site (10/1959C and 10/1960C), consent was granted for a boundary wall just less than 2m in height, which also incorporated a smoking shelter. Subsequently the wall that was constructed was not in accordance with the approved plans. The wall as constructed is approximately 2.3m high at the highest point and 2m at the lowest. In addition there are pillars with trellis in between; the pillars are between 2.3m and 2.6m in height.

## RELEVANT HISTORY

10/1959C                      2010    Approval for demolition of three single storey extension to the rear and side and the removal of some internal walls within the main Old Hall building. Construction of a single storey kitchen block extension with basement to the side and rear of the Old Hall main building, construction of a single storey Garden Lounge to the rear of the Old Hall building. External repairs, alteration and making good to site layout with detached single storey Smoking Shelter. Planting and landscaping including new pedestrian entrance gate.

10/1960C                      2010    Listed Building consent for the works listed above

## POLICIES

### National Guidance

PPS1                      Delivering Sustainable Development  
PPS5                      Planning for the Historic Environment

### Congleton Local Plan 2005

GR1                      New Development  
GR2                      Design  
GR4                      Landscaping  
GR6                      Amenity and Health  
GR9                      Parking and Access  
BH4                      Effect of Proposals on Listed Buildings  
BH9                      Conservation Areas

## OTHER MATERIAL CONSIDERATIONS

The Draft National Planning Policy Framework (July 2011), advises that Local Planning Authorities should *'support existing business sectors, taking account of whether they are expanding or contracting'*. In addition it states that *'In considering applications for planning permission, Local Planning Authorities should apply the presumption in favour of sustainable development and seek to find solutions to overcome any substantial planning objections where practical and consistent with the Framework.'*

## VIEWS OF TOWN/PARISH COUNCIL

In their original comments the Town Council had no objections. Subsequently the Town Council objects on the grounds that the plans do not accurately show what has been constructed.

### **OTHER REPRESENTATIONS**

Representations have been received from the occupiers of number 2 and 3 Old Hall Cottages, both fully in support of the application.

### **KEY ISSUES**

#### **Design**

The wall is constructed of brickwork, which is considered appropriate in the context of the surrounding brick buildings in close proximity to the wall. Its height, use of traditional bricks, coursing and mortar and incorporation of brick piers and copings with contrasting brickwork, all serve to make its presence in keeping with its historic setting. The lighting attached to the wall is also considered to be unobtrusive in design terms. There is no impact on the character of the street scene as the wall is not easily visible from High Street.

#### **Amenity**

The wall is sited to the north of Old Hall Gardens and Old Hall Cottages and the wall is approximately 2.3m in height at the highest point with the pillars being approximately 2.6m in height. Given the position of the wall in relation to the residential properties to the rear, it is considered that any loss of light or overshadowing to the gardens is not of such significance as to warrant refusal of the application. This is due to the fact that these properties are to the south of the wall.

The wall provides a good level of screening from the outdoor area of the public house, which is considered to be of benefit to the neighbouring residential properties. This view has been echoed by residents of two of the properties to the rear.

The proposal is therefore considered to be in compliance with Policy GR6 of the adopted local plan.

#### **Other Matters**

The Town Council and Ward Councillor have highlighted the fact that the plans submitted do not reflect what has been built. The plans show more of the lower level sections of the wall than are present on the ground, this was reported to the applicants and amended plans have been submitted to address this issue. This does not alter the principle and scope of the application but merely clarifies that what is being sought under this permission is to retain what has been built.

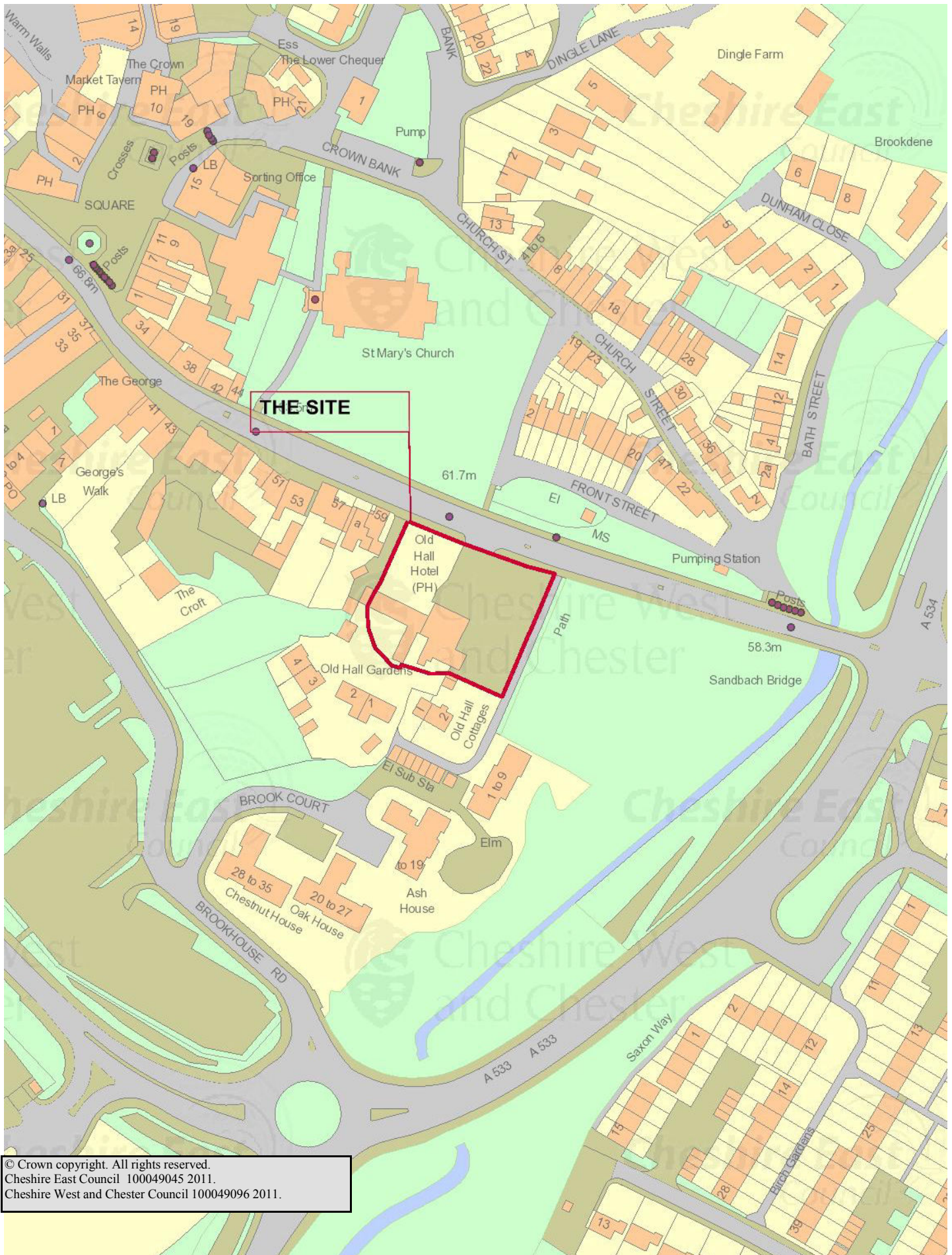
### **CONCLUSIONS**

In conclusion, it is considered that the wall is of a satisfactory design in keeping with the character of the Conservation Area and the Listed Building and does not have any significant adverse impacts on the residential amenities of neighbouring properties. The application is therefore recommended for approval

### **RECOMMENDATION:**

**Approve**





Application No: 11/2320C

Location: OLD HALL HOTEL, HIGH STREET, SANDBACH, CHESHIRE, CW11 1AL

Proposal: Retrospective Application for Perimeter Brick Wall with Timber Trellis Between Piers to Rear Boundary

Applicant: Brunning and Price Ltd

Expiry Date: 02-Dec-2011

**SUMMARY RECOMMENDATION:** Approve**MAIN ISSUES:**

- Impact on the Listed Building

**REASON FOR REFERRAL**

This application has been called in by Councillor B Moran on the grounds that:

*"1. The design and build of the perimeter wall, which is not in accordance with the extant planning permission, has attracted attention and criticism from some of the residents in the neighbouring properties.*

*2. There is evidence that not all the residents in the neighbouring properties have been approached to give their views on the 'type and height of the wall prior to its construction'; the applicant's Heritage Statement, refers.*

*3. It is stated, as per the Heritage Statement, that the wall is 'necessary to provide a barrier between the pub [Old Hall] and the local residents to the rear of the premises'. However, the height of the wall [as measured by residents at its highest point is over 9 feet high] may be considered to dominate the street scene and also, may be detrimental to the residential amenity. A comparison should be made with the former wooden fence [as advised by residents to be some 6 feet high] and now replaced by the perimeter wall.*

*4. Furthermore, the design of the wall, including the piers and trellis works, along with the earth border, should be examined and assessed to ensure no impact on the Grade 1 listed building.*

*5. The plan of the wall on the CEC website, showing the final design and height, does not appear to be consistent with the completed wall."*

**DESCRIPTION AND SITE CONTEXT**

The application site comprises a rear boundary wall which separated The Old Hall Hotel and Old Hall Cottages and Old Hall Gardens. The hotel is a Grade I Listed Building, that until the recent restoration and re-development was completed, was on the Buildings at Risk Register. The site is within the Sandbach Conservation Area.

### **DETAILS OF PROPOSAL**

This application seeks retrospective consent for the erection of a perimeter wall to the rear of the Old Hall Hotel. As part of the previous permissions for the re-development of the site (10/1959C and 10/1960C), consent was granted for a boundary wall just less than 2m in height, which also incorporated a smoking shelter. Subsequently the wall that was constructed was not in accordance with the approved plans. The wall as constructed is approximately 2.3m high at the highest point and 2m at the lowest. In addition there are pillars with trellis in between; the pillars are between 2.3m and 2.6m in height.

### **RELEVANT HISTORY**

10/1959C                      2010    Approval for demolition of three single storey extension to the rear and side and the removal of some internal walls within the main Old Hall building. Construction of a single storey kitchen block extension with basement to the side and rear of the Old Hall main building, construction of a single storey Garden Lounge to the rear of the Old Hall building. External repairs, alteration and making good to site layout with detached single storey Smoking Shelter. Planting and landscaping including new pedestrian entrance gate.

10/1960C                      2010    Listed Building consent for the works listed above

### **POLICIES**

#### **National Guidance**

PPS5                      Planning for the Historic Environment

#### **Congleton Local Plan 2005**

BH4                      Effect of Proposals on Listed Buildings

BH9                      Conservation Areas

### **OBSERVATIONS OF CONSULTEES**

None.

### **VIEWS OF TOWN/PARISH COUNCIL**

In their original comments the Town Council had no objections. Subsequently the Town Council objects on the grounds that the plans do not accurately show what has been constructed.

### **OTHER REPRESENTATIONS**

Representations have been received from the occupiers of number 2 and 3 Old Hall Cottages, both fully in support of the application.

### **KEY ISSUES**



**Impact on the Listed Building**

The wall is constructed of brickwork, which is considered appropriate in the context of the surrounding brick buildings in close proximity to the wall. Its height, use of traditional bricks, coursing and mortar and incorporation of brick piers and copings with contrasting brickwork, all serve to make its presence in keeping with its historic setting. The lighting attached to the wall is also considered to be unobtrusive and does not have any significant adverse impact on the character or historic fabric of the Listed Building.

**Other Matters**

The Town Council and Ward Councillor have highlighted the fact that the plans submitted do not reflect what has been built. The plans show more of the lower level sections of the wall than are present on the ground, this was reported to the applicants and amended plans have been submitted to address this issue.

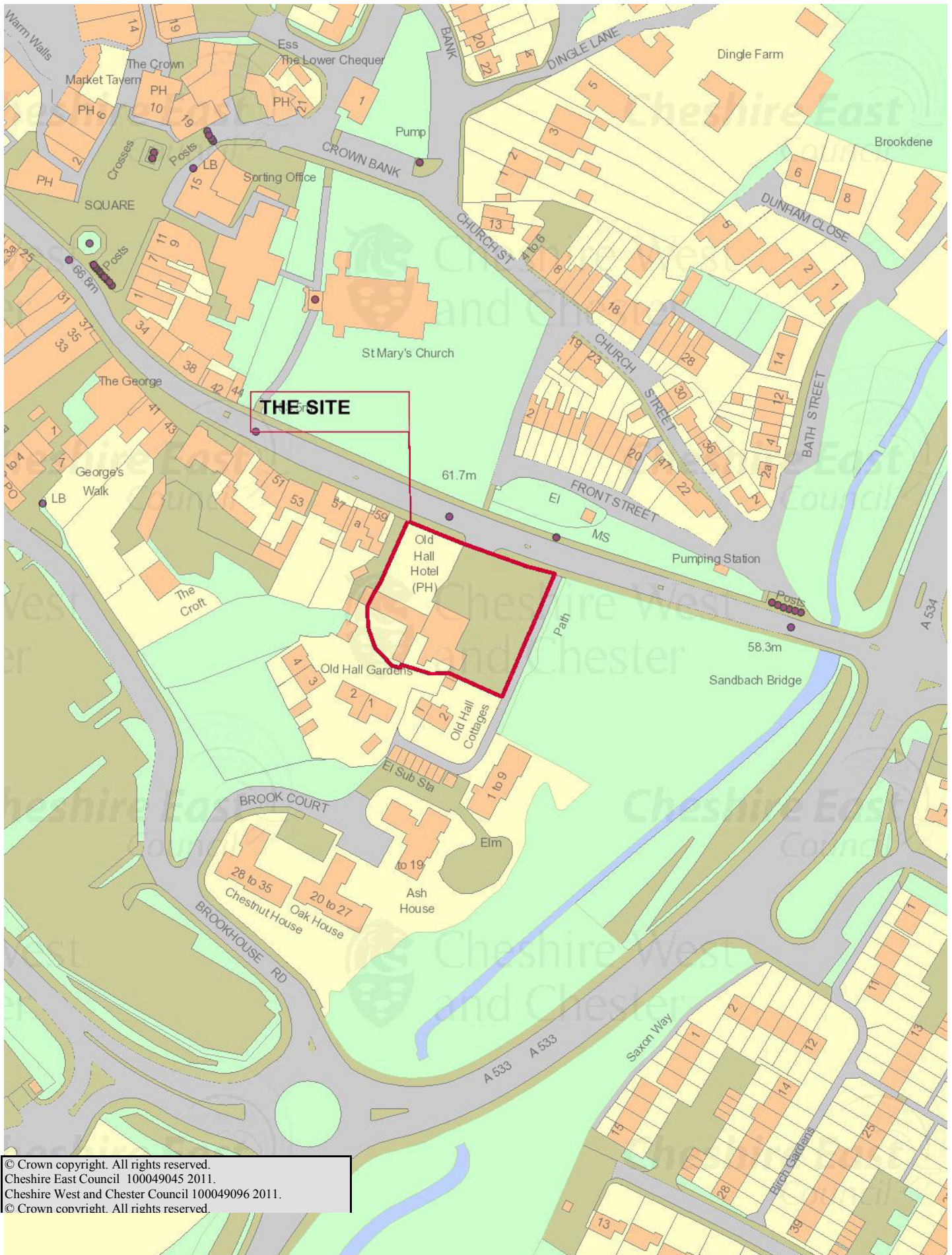
**CONCLUSIONS**

It is not considered that the development, has any significant detrimental impact upon the character and appearance of this Grade I Listed Building and therefore it is recommended that Listed Building consent is granted.

**RECOMMENDATION:**

**Approve Listed Building Consent**

:



Application No: 11/3695C

Location: MOSSLEY HOUSE, BIDDULPH ROAD, CONGLETON, CW12 3LQ

Proposal: Development of Use Class C2 Residential Accommodation with Care  
Comprising 52 Apartments for Persons aged 60 and over, including Car  
Parking, Landscaping and Associated Works

Applicant: Mr Kevin Edwards, GLADMAN DEVELOPMENTS LTD

Expiry Date: 15-Dec-2011

**SUMMARY RECOMMENDATION: Approve subject to completion of a Section 106 Agreement and conditions.**

**MAIN ISSUES:** Principle of the development, design and scale, amenity of neighbouring properties, impact on protected trees, impact on protected species and highway safety.

## **REASON FOR REFERRAL**

Major Development

## **DESCRIPTION AND SITE CONTEXT**

The site previously housed the dwelling known as Mossley House, which has now been demolished in line with the approval of the previous planning application. It is located on Biddulph Road approximately 2km from Congleton town centre. It has an irregular shape and total area of 0.78 ha.

The site contains many mature trees around the edge and to the front, as well as substantial hedgerows along the southern boundary. Some of these trees are protected by TPO and allow significant screening.

The current access is from Biddulph Road to the west of 'The Lodge' that is also in the ownership of the applicant but is not part of the application site. There are two other disused access points to the site off Biddulph Road and on the corner of Biddulph Road and Reades Lane respectively.

The site is located within a residential area, characterised mainly by detached single storey and two-storey family dwellings. The land slopes to the south and east with the neighbouring residential properties to the east being at a lower level than the application site.

## **DETAILS OF PROPOSAL**

The proposal seeks to erect a building to provide 52 apartments for Use Class C2 (Residential Institutions), for persons aged 60 and over, including car parking, landscaping and associated works. A previous approval was granted for a smaller scheme comprising 43 apartments in July 2010.

The development would provide 10No. one bed apartments, 39No. Two bed apartments and 3No. Three bed apartments. In addition there would be a communal lounge and bistro, office and facilities for 24 hour care, reception and small shop for residents, quiet lounge, hairdressers, activities and therapy suite, spa room/assisted bathroom, guest suite, car parking, internal 'buggy' store and amenity space and landscaping.

The building would be sited centrally within the site on a similar footprint to that which was approved in 2010. The overall length of the building would be 72m and would have variable ridge heights ranging from 11.5m at the northern end, 12.3m in the central section and 13.5m at the southern end. In addition a central gable feature at the front entrance would be 15m high at the apex. The previous approval was for a building 12.25m high at the front, lowering to 11.05m at the rear, therefore there would be an increase in height of between 0.4m and 1.2m along the length of the building, the highest elements being at the front.

#### **RELEVANT HISTORY**

09/1127C                      2010                      Approval for the demolition of existing property (Mossley House) and the redevelopment of the land, including, 43No. 1, 2 and 3 bed use class C2 residential accommodation with care, car parking, landscaping and associated works.

08/0552/FUL                      2008                      Refusal for demolition of existing property and development of 37no. 1 and 2 bed. retirement apartments with associated access, car parking, landscaping and ancillary works

#### **POLICIES**

The site is not allocated in the Local Plan but the following policies apply:

PS4 – Towns

H1 & H2 – Provision of New Housing Development

H4 – Residential Development in Towns

H13 – Affordable and Low Cost Housing

GR1 – New Development

GR2 – Design

GR3 – Density, Housing Mix and Layout

GR4 – Landscaping

GR6 – Amenity and Health

GR7 – Pollution

GR9 - Accessibility, Servicing and Parking Provision

GR22 – Open Space Provision

NR1 – Trees and Woodlands

NR2 – Statutory Sites

NR3 - Habitats

SPG1 – Provision of Public Open Space in New Residential Development

SPG2 – Provision of Private Open Space in New Residential Developments

SPD14 – Trees and Development

## **CONSIDERATIONS (External to Planning)**

### **Environmental Protection:**

Recommend conditions relating to the hours of construction, piling and floor floating, in order to protect noise sensitive properties close to the site. In addition conditions are recommended relating to external lighting, hours of deliveries and the acoustic enclosure of equipment with the potential to create noise.

### **United Utilities**

Have not responded, however on the previous application they stated that the development would be adjacent to/include their electricity distribution equipment and the applicant must ensure that access rights are maintained and that the equipment is protected.

### **Highways:**

Initially the Strategic Highways Manager had some concerns over the application content and the explanation of the parking ratios against the intended use of the facility. These concerns were expressed and the developer has provided additional documentation and has evidenced similar facilities which operate safely with similar or lower parking provision than this proposal at Biddulph Road.

In addition the developer has offered to provide a Travel Plan for staff to evidence the aims to reduce single occupancy car journeys. Residents will have low car ownership rates, but a pool car for residents has been offered.

In the light of this revised evidence the S.H.M. has no further objection to the proposal and recommends that any permission which may be granted have the following conditions and informative attached:

**Condition:-** Prior to first occupation the developer will provide a Travel Plan Framework for the facility to the satisfaction of the LPA.

**Condition:-** Within 6 months of first occupation the developer will provide a Travel Plan for the facility, which will include for the provision of a pool car, to the satisfaction of the LPA.

**Informative:-** The developer will enter into and sign a Section 184 Agreement under the Highways Act 1980 with regard to the construction of both vehicular points of access.

**Informative:-** The developer will enter into a unilateral undertaking with the Highway Authority which will indemnify the Authority against Part 1 claims.

### **Streetscape:**

Have not responded, however on the previous application they stated that there was no requirement for financial contributions due to the nature of the proposal.

### **Natural England**

No objections.

### **Cheshire Wildlife Trust**



We commented briefly on the original application about 2 years ago, prior to demolition of the house in 2010. The current application includes copies of Phase One Habitat and protected species surveys carried out in 2007, and supplemented by further surveys in 2008. Since then a further Ecological Appraisal has been made by FPCR Environment and Design Ltd in 2011. This included a repeat of previously undertaken desk top studies as well as a site re-assessment of the original Phase One Habitat Survey from 2007, a bat-roost-potential survey of trees that will be affected by proposed development and a review (not including a new survey) of the ponds within and adjacent to the site. The latter concluded that 'it is highly unlikely that great crested newts would have colonised either of these ponds since the 2008 surveys'. One tree designated for removal (T98) was found to have 'potential for use by roosting bats' although no evidence of it having been used as a bat roost was observed during the survey.

Recommendations from the 2011 appraisal include:

- checking off T98 by a licensed bat worker immediately before removal.
- ensuring that permanent site lighting does not illuminate trees with bat boxes.
- Creation of new areas of grassland suitable for foraging badgers.
- Use of fruit- and nut-bearing species within the planting scheme.
- providing means of escape from deep excavations during construction.
- avoidance of vegetation clearance/removal/maintenance during the bird breeding season (March to September incl.)
- use of native species in new planting schemes.
- Erection of bird and bat boxes on retained trees throughout the site.

Recommendation from the 2008 Protected Species Surveys and Mitigation Recommendations (Solum Environmental) included:

- Badgers; provide badger gates and/or gaps in boundary fencing; provide fruit trees and shrubs (as above).
- **Bats:**
- erect bat boxes on mature trees, prior to demolition of the house. It is not clear from the FPCR report whether this action was taken. If not, it should be part of the current mitigation works and a scheme for bat box provision should be submitted for approval.
- provide bat bricks in the new building/s.
- retain mature trees.
- Plant insect-attracting shrubs in accordance with recommended species lists provided.
- Avoid illumination of bat boxes (as above).

The CWT endorses all the ecologists' recommendations from 2008 and 2011. In addition it is suggested that detailed proposals to show the provision, type and location of bat boxes are submitted for approval by CEC. If planning permission for the development is given CWT

recommends that all the mitigation requirements for protected species are covered by suitable conditions attached to the consent.

### **VIEWS OF TOWN/PARISH COUNCIL**

Recommend refusal on the following grounds:

- The property is out of keeping with the area
- The building is too large for the plot and too high
- Highway issues regarding increased traffic
- Insufficient parking

### **OTHER REPRESENTATIONS**

13 representations have been received relating to this application expressing concerns about the following issues:

- Loss of privacy
- Loss of light
- Overlooking
- Traffic generation and highway safety
- Inadequate parking provision
- Adverse implications for wildlife
- Disruption due to construction traffic and noise
- Design not in keeping with the character of the surrounding area
- The height and scale of the building
- Overdevelopment of the site
- Deciduous screening which will only be effective for part of the year
- Adverse impact on protected trees
- Potential danger to residents in the event of fire
- Loss of security to neighbouring properties

### **APPLICANT'S SUPPORTING INFORMATION**

- Design and Access Statement
- Transport Assessment
- Care Statement
- Planning Statement
- Air Quality Impact Assessment
- Construction Method Statement
- Phase1 (Desk Study) Investigation Report
- Phase 2 Geo Environmental Report
- Ecological Appraisal
- Arboricultural Report and Implications Assessment
- Draft s106 Planning Obligation
- Ecological Reports

### **OFFICER APPRAISAL**

#### **Principle of Development**

The site is within the Settlement Zone Line for Congleton and there is a presumption in favour of development within this settlement boundary under Policies PS4 and H6. There is an extant

permission in place for a similar development of 43 units on the site, which has commenced by virtue of site clearance and drainage works. The site is surrounded by residential development and is in close proximity to Congleton town centre and public transport facilities. The principle of residential development on the site is therefore considered to be acceptable and appropriate, subject to matters of scale and character being adequately addressed.

## **Design**

### Layout

The proposed layout follows a similar orientation to the dwelling that has now been demolished with the main elevation parallel to Biddulph Road and set away from it by approximately 40m. The layout will take up a great proportion of the developable space on site, with the result that special road and parking construction measures are required to address concerns for the integrity of the trees.

It should be taken into consideration that a large part of the site (approximately 50%) is unlikely to be available for development as a result of the TPO trees on site, which highlights the intensive use of the part of the site that can be developed.

### Scale and Massing

Policy GR2 provides the design criteria that new development will be expected to meet and covers issues such as ensuring that the design is sympathetic to the character, appearance and form of the site and surrounding area, the need for appropriate landscaping and the need for the proposal to respect existing features.

The site is surrounded by detached single residential properties of varying styles from single storey to 2-storey properties, in addition there are some 3-storey apartment blocks further to the west of the site on Hensall Hall Drive and opposite is a 3 storey building with a dormer window in the roof.

A previous application was refused on the grounds that the scale and massing was not sympathetic to the character of the site and the area. This proposal is for a taller building than that approved under application number 09/1127C, however an increase in height of between 0.4m at the rear and 1.2m at the front is not considered to be significant in the context of a building of this size.

### Appearance

The design of the proposal has been changed from the previously approved scheme and proposes a building that is constructed of red brick, white render and pitch faced stone, with a grey tiled roof. This is considered to be acceptable and in keeping with the character of buildings in the vicinity.

The front elevation would have a central gable feature to the roof with 2 projecting gable elements finished in render, to either side of the entrance and would be viewed as strong focal point and would be a clearly legible feature of the building. The sides of the building would be broken up by virtue of projecting elements and the use of the mixture of render, stone and red brick and the pattern of fenestration.



### **Affordable Housing**

The Affordable Housing Officer has put forward objections to the proposal due to a lack of affordable housing provision. However, this type of development has been the subject of several planning appeals, and subsequent decisions on these appeals have concluded that the level of care proposed in this type of development would fall under C2 Use Class, and that provided the occupancy of the units is controlled by a Section 106 Agreement, affordable housing provision is not required. It should also be noted that this scheme is identical in terms of use and provision to the previous approval when this was accepted. It is therefore considered that it would not be justified to insist on a level of affordable housing provision within the development.

### **Amenity**

Policy GR6 requires that planning permission for development adjoining or near to residential property should not result in a loss of privacy or sunlight and daylight and SPG2 lays down minimum distances, which should be maintained between residential buildings. The proposed building would exceed the minimum separation distances between dwellings, required by SPG2. Balconies have been included in this new design; however given the separation distances and the existing and proposed screening in the form of trees and shrubs, it is not considered that there would be significant adverse impact on the amenities of neighbouring residential properties. In addition the requirement to submit detailed landscaping proposals will allow the LPA to ensure that the building has adequate screening. These factors render the proposal in compliance with the requirements of SPG2 and it is not considered that there would be a loss of amenity in terms of loss of privacy or sunlight and daylight and is therefore considered to be in compliance with Policy GR6.

### **Highways**

The scheme proposes a one-way vehicle entrance and exit to the front with access road to residents parking on the north western side of the proposed building.

The application site is approximately 1.2 miles away from Congleton town centre by foot and within 0.5 mile there are shops, a post office, Congleton railway station and a church. There is a footpath alongside the carriageway that connects the site to these services. There are two bus stops within 400m of the site on either side of Biddulph Road and both have frequent buses. As mentioned above, Congleton railway station is less than 0.5 mile away with connections that include Manchester, Birmingham and Stoke-on-Trent. It is therefore considered that the site has good public transport infrastructure provision with good accessibility for pedestrians and cyclists.

Some objections have been raised to the proposed development on highway safety grounds, namely increase in traffic, lack of parking provision and disruption from construction traffic.

The highway engineer has done an assessment of the proposed access and egress, internal layout and transport assessment. His comments are listed in this report and he has concluded that the proposed access and egress is acceptable in principle and the proposed visibility details show satisfactory levels of visibility for traffic that will be generated by the development. In addition an assessment of similar facilities which have a similar or lower level of parking provision led the Strategic Highways Manager to conclude that the level of parking provision proposed would be adequate, and would not lead to displaced parking on the public highway. The proposal is therefore considered to be acceptable in highway safety terms.

### **Ecology - Protected Species & Nature Conservation**

The Nature Conservation Officer is satisfied that great crested newts and reptiles are unlikely to be affected by the proposed development.

#### Badgers

There was some evidence of badgers foraging on the site and it is recommended that the landscaping scheme for the site includes fruit trees around the site boundaries to provide an additional source of food to compensate for the loss of existing foraging opportunities.

#### Breeding Birds

The site is likely to support a number of breeding bird species including Biodiversity Action Plan priority species. If planning consent is granted it is recommended that the following conditions are attached:

Prior to undertaking any works between 1<sup>st</sup> March and 31<sup>st</sup> August in any year, a detailed survey is required to check for nesting birds. Where nests are found in any building, hedgerow, tree or scrub to be removed (or converted or demolished in the case of buildings), a 4m exclusion zone to be left around the nest until breeding is complete. Completion of nesting should be confirmed by a suitably qualified person and a report submitted to the Council.

Prior to the commencement of development the applicant will submit detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including house sparrow and swifts. These proposals shall be agreed in writing by the LPA. The proposals shall be permanently installed in accordance with approved details.

### **Legal Agreement – Heads of Terms**

The legal agreement will relate to the age and care requirements of the occupants of the units. It will require the 'Approved Occupiers' to be over 60 years of age and to complete a written assessment to identify their care and support needs. This will ensure that the units do not become open market properties that would have required an element of affordable housing to be provided. (This will reflect the terms of the legal agreement on the previous approval)

### **CONCLUSIONS AND REASONS FOR THE DECISION**

The proposed development is within the Settlement Zone of Congleton and will not utilise a site which is allocated or committed for any other purpose in the Local Plan.

The ecology of the site has been considered and sufficient mitigation is possible to ensure habitats can be retained and enhanced. Due to the need to protect the future integrity of protected trees on the site, specialist construction methods and tree protection measures must be submitted by the developer and if acceptable, must be adhered to with strict supervision in place during construction.

The accessibility of the site is considered to be good and contributes to the sustainability of the site and the level of parking provision is considered acceptable for this type of facility.

The amendments to the design and scale of the previously approved scheme are considered to be appropriate to the character and appearance of the site and the surrounding area and would not have any significant adverse impacts on the amenities of neighbouring residential properties.

**RECOMMENDATION:** Approve subject the developers completing a Section 106 Agreement limiting the occupancy of the units, and to the following conditions:

1. Standard time limit.
2. Compliance with the approved plans.
3. Submission of materials for approval.
4. Submission and implementation of a tree protection scheme.
5. Submission and implementation of an updated specialist construction scheme with accompanying detailed plan.
6. Submission and implementation of drainage scheme.
7. Submission and implementation of landscaping scheme.
8. Submission and implementation of boundary treatment scheme.
9. Submission of details of any fans compressors and other equipment with the potential to generate noise.
10. Submission and implementation of details of any external lighting.
11. Hours of construction (including deliveries) limited to 0800 to 1800 Monday to Friday, 0800 to 1300 Saturday with no working on Sundays or Bank Holidays.
12. Hours for any floor floating work limited to 0800 to 1800 Monday to Friday, 0800 to 1300 Saturday with no working on Sundays or Bank Holidays.
13. Submission of details of the method, timing and duration of any pile driving operations.
14. Deliveries to and from the site limited to 08.00 to 18.00 Monday to Friday, 08.00 to 13.00 Saturday with no deliveries on Sundays or Bank Holidays.
15. Compliance with recommendations in the submitted ecology reports.
16. Protection measures for breeding birds.
17. Submission and implementation of details for the incorporation of features suitable for use by breeding birds.
18. Prior to first occupation, submission of a Travel Plan Framework.
19. Within 6 months of first occupation, submission of a Travel Plan including the provision of a pool car.



<b>Planning Reference No:</b>	11/2999C
<b>Application Address:</b>	Land South of Portland Drive, Scholar Green, Stoke-On-Trent
<b>Proposal:</b>	Variation of conditions 2, 3, 5, 10, 10 and 11 of Planning Permission 08/0712/FUL
<b>Applicant:</b>	Ben Bailey Homes (Part of Gladedale Group)
<b>Application Type:</b>	Full Planning Permission
<b>Ward:</b>	Congleton Rural
<b>Registration Date:</b>	9-August-2011
<b>Earliest Determination Date:</b>	12-October-2011
<b>Expiry Date:</b>	4-October-2011
<b>Date report Prepared</b>	4-November-2011
<b>Constraints:</b>	None

**SUMMARY RECOMMENDATION:**

APPROVE

**MAIN ISSUES:**

- Principle of Development
- S106 Agreement
- Conditions
- Other Issues Raised by Representation

**1. REASON FOR REFERRAL**

Cllr Rhoda Bailey has called this application in for determination by the Southern Planning Committee for the following reasons:

"The permission originally granted was ".to provide a much needed healthcare centre as well as affordable and low cost housing. The proposal would accord with the policies of the adopted Congleton Borough Local Plan First Review and with PPS1 and PPS3," to quote from the decision notice dated 30th July, 2009.

The basic premise of the grant of permission was for the provision of the surgery before that of the houses. The present proposal turns that basis on its head; it is not in the interests of the community for the application to be dealt with under delegated powers and the arguments should be placed before the planning committee."

**2. PREVIOUS MEETING**



At the 16<sup>th</sup> November 2011 Southern Planning Committee, Members resolved to defer the planning application pending the receipt of further information from the applicants over the requirement and status for the delivery of the Health Centre. This update report therefore deals with the additional information and the report should be read in conjunction with the original committee report below.

In response, the applicant's agent has submitted additional information to support the commitment to deliver the approved health centre. This information comprises of a letter from the agent, a response from the PCT's Primary Care Project Manager and Chief Executive, a letter from Scholar Green Surgery and a letter from the developer charged with delivering the Health Centre (Oakapple Primary Care).

The PCT have confirmed that the financing relating to the health centre is in place including detailed plans and specifications for the building itself. It is anticipated that contracts are due to be exchanged imminently. This position is corroborated by Oakapple who state that contracts are due to be exchanged week commencing 28<sup>th</sup> November.

This demonstrates a commitment towards the delivery of the health centre. Nonetheless, legal contracts and the construction, completion and the fit-out of the medical building will take at least 12 months and therefore the applicant still requires the variations sought to allow the dwellings to be commenced and delivered first as per the original report below.

### **3. DESCRIPTION AND SITE CONTEXT**

The application site comprises a vacant farmhouse and its associated farm buildings that include a barn and single storey outbuildings and open fields. The outbuildings have a very low level of use and the fields are used for grazing and the buildings generally present a poor appearance of neglect and decay. The site covers an area of approximately 1.85 hectares and is bounded to the north by Portland Drive and a row of terraced properties in the North West corner, to the east by open fields beyond which lies the Macclesfield Canal which, in this location lies within a deep cutting. To the south and west the site is bounded by residential development. The site generally slopes up towards the Canal which lies in a deep cutting in this location. Current access to the site is from Congleton Road North. Boundary treatment is generally made up of hedging.

### **4. DETAILS OF PROPOSAL**

Planning permission was granted in October 2008 for the erection of a new health care centre and residential development comprising of 56 residential units with a dedicated access off Portland Drive. This application seeks to vary condition numbers 2, 3, 5, 10 & 11 of this approval under Section 73 of the Town and Country Planning Act 1990 and also seeks to vary the terms of the section 106 legal agreement.

The applicant wishes to vary these conditions and the legal agreement so that work can proceed on commencing development on the residential element of the approved scheme before commencing the approved health care centre.

### **5. RELEVANT HISTORY**

- 08/0712/FUL – Demolition of dwelling & erection of new health care centre & residential development comprising 39no. open market units & 17no. affordable housing units with associated means of access, landscaping & alterations to Portland Drive, including parking bay & dedicated residents' car park (resubmission of 06/1146/FUL) - Amended Plans – Approved 07.10.2011
- 06/1146/FUL - Demolition of dwelling and erection of new Health Care Centre and enabling residential development comprising 39 No. open market units and 17 No. affordable units with associated means of access, landscaping and alterations to Portland Drive, including parking bay and dedicated residents' car park. Amended Plans - re-plan of south end of site; additional financial and legal info; tree survey; habitat survey. – Withdrawn - 17.04.2011

## 6. POLICIES

### Local Plan Policy

PS5	Villages in the Open Countryside and Inset in the Green Belt
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
GR18	Traffic Generation
GR19	Infrastructure
GR20	Public Utilities
GR21	Flood Prevention
GR22	Open Space Provision
H1 & H2	Provision of New Housing Development
H4	Residential Development in Towns
H13	H13 Affordable and Low Cost Housing
NR1	Trees & Woodland
NR2	Wildlife & Nature Conservation
SPG1	Provision of Public Open Space in New Residential Developments
SPG2	Provision of Private Open Space in New Residential Developments
SPD4	Sustainable Development
SPD6	Affordable Housing and Mixed Communities

### Other Material Considerations

Interim Policy on the Release of Housing Land  
 Interim Planning Statement on Affordable Housing  
 Planning for Growth' Ministerial Statement

Circulars of most relevance include: ODPM 05/2005 Planning Obligations; and 11/95 'The use of Conditions in Planning Permissions'.

## 7. CONSIDERATIONS (External to Planning)

## **Environmental Health:**

No objection

## **8. VIEWS OF ODD RODE PARISH COUNCIL**

No objections provided that the new wording of the conditions does not prejudice the proper commencement and completion of the Heath Centre.

## **9. OTHER REPRESENTATIONS**

Letters from 27 properties have been received objecting to this application on the following grounds:

- The new Doctor's surgery should be built and occupied before the new homes are built
- This flies in the face of the council's initial decision
- This is not a minor change
- If the Health Centre isn't delivered, will more houses be built on the site
- Scholar Green needs a new health centre not houses.
- There is no demand for houses in Scholar Green
- If extra houses included in this development on the village edge against the Macclesfield Canal will ruin the area's rural character.
- Portland Drive is unsuitable to accommodate any increase in traffic resulting from this scheme.
- The area is a commuter area.
- Local Amenities and public transport are lacking and any further house will make this worse
- Lack of publicity
- If funding is an issue, why is this not being sought elsewhere

## **10. APPLICANT'S SUPPORTING INFORMATION**

The applicant has submitted a letter in response to concerns expressed during the consultation period.

## **11. OFFICER APPRAISAL**

### **Principle of Development**

The previous approval established the acceptability in principle of the proposed new health care centre as well as the construction of 56 residential units on the site. As a result, this application does not present an opportunity to re-examine those matters. The main issues in the consideration of this application are the acceptability of building the approved dwellings before commencing work on the approved health care centre and the variation of the relevant conditions to enable information for the health care centre to be submitted at a later date without preventing development from commencing on the dwellings.

### **S106 Agreement**



When the application was originally considered, local residents were concerned about the release of this green field site for housing and also the delivery of the proposed health care centre. To give local residents some comfort, the applicant decided to include within the s106 a requirement for the new health care centre to be complete and ready for use prior to the commencement of development of the housing scheme. Whilst it would be beneficial to deliver the health care centre as soon as possible, there is no policy requirement to do so and as such it is considered that it would be unreasonable to require the developer/applicant to commit to such.

Due to the current economic climate, the applicant has experienced delays in securing the funding to build out the health care centre which has in turn prevented the delivery of the housing element of the scheme. Given that there is no policy justification for delivering the health care centre part of the scheme before the residential element it is recommended that the terms of the s106 be varied to this requirement by way of a formal deed of variation. Taking this into account, condition numbers 2, 3, 5, 10 and 11 would need to be varied to reflect this.

### **Conditions**

Condition number 2 requires details of the materials to be submitted and approved prior to the commencement of development. The applicant wishes to vary this condition to allow details of the health care centre and the housing to be submitted separately to reflect the phasing of development. The same request is made for condition number 3, which relates to landscaping. The variation of these conditions would still meet with the tests of the conditions circular 11/95.

Condition number 5 deals with drainage. The health care centre and the housing development will be drained on separate systems and therefore the application also seeks to vary this condition in order to differentiate between the two systems. Such variation is considered to be acceptable and in accordance with the conditions circular.

Condition number 10 and 11 require the submission of a Crime Prevention Plan and a scheme for the acoustic enclosure of fans and compressors prior to the commencement of development. These conditions are aimed specifically at the health care centre and are not required for the housing element. As such, it is proposed that this condition be reworded to make specific reference to the commencement of development on the health care centre so that it does not preclude the development from commencing on the housing scheme. Such variation would accord with the tests of the conditions circular.

### **Other Issues Raised by Representation**

With respect to other issues raised by representation, these deal with the principle of the development, which has already been accepted by the original approval. With respect to funding, this is not a material planning consideration.

## **12. CONCLUSIONS AND REASONS FOR THE DECISION**

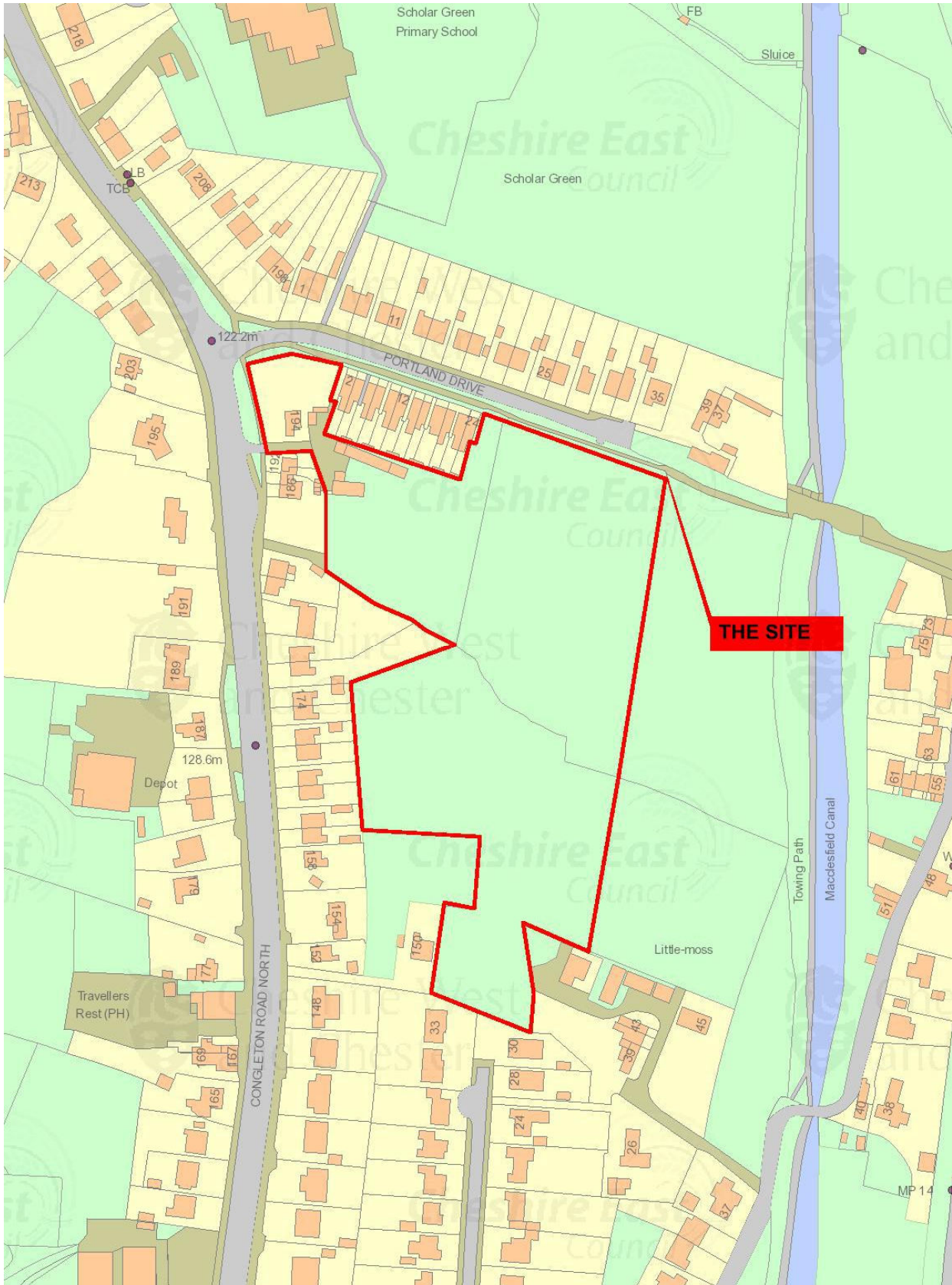
The principle of the development has already been accepted. The terms of the existing S106 legal agreement will need to be varied, as currently there is a clause which prevents the new dwellings from being occupied until the new health care centre has been delivered. This and the wording of condition numbers 2, 3, 5, 10 and 11 is precluding the delivery of much needed housing in the borough. The variation of such conditions would continue to meet the tests outlined

within Circular 11/95 and as such the proposal is deemed to be acceptable and is recommended for approval.

**RECOMMENDATION:**

**APPROVE** the formal deed of variation on the S106 Legal Agreement and permit the variation of condition numbers 2, 3, 5, 10 and 11 to allow the development to commence on the housing scheme prior to the delivery of the health care centre subject to the following conditions:

1. Development to commence within 3 years
2. Details of materials to be submitted and approved in 2 phases
3. Details of landscaping to be submitted in 2 phases
4. Submission of Tree protection measures for retained trees
5. Details of foul and surface water drainage to be submitted in 2 phases
6. Hours of construction limited
7. Further gas monitoring shall be carried out
8. Protected species – details of bat boxes to be submitted
9. No work to be carried out with the bird breeding season
10. Details of CCTV to be submitted prior to commencement on the new health care centre
11. Scheme for acoustic enclosure of fans/compressors etc. to be submitted prior to commencement on the new health care centre
12. No burning of materials associated with demolition
13. Management regime for hedgerows to be submitted and approved prior to commencement
14. Hours of operation limited
15. Submission of details of levels for rear gardens
16. Submission of details of levels for rear gardens



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Application No: 11/3619C  
Location: 66 & 68, LEEK ROAD, CONGLETON, CHESHIRE, CW12 3HU  
Proposal: Two Detached Dwellings including Access from Boundary Lane  
Applicant: VWB Architects -Mr P Bentley  
Expiry Date: 18-Nov-2011

**SUMMARY RECOMMENDATION**

**APPROVE** subject to conditions

**MAIN ISSUES:**

- Principle of the development
- Housing land supply
- The acceptability of the layout, scale and access
- The impact upon neighbouring amenity

**REASON FOR REFERRAL**

Councillor A. Thwaite has called in this application to Southern Planning Committee for the following reasons:

*'The proposed application in the grounds of 66 Leek Road is contrary to GR6 Of the Congleton Borough Local Plan and will have a detrimental effect on the amenities of the adjacent property no.1G Boundary Lane. The development will be overbearing, unneighbourly and will result in a significant loss of sunlight and daylight to the rear of 1G.'*

**PREVIOUS MEETING**

At the previous Southern Planning Committee held on the 16<sup>th</sup> November 2011, this planning application was deferred *'to consider revisions to size/scale of proposals'*

The Committee had concerns specifically about the extent to which the rear building line of the proposed properties protruded and wanted to give the applicant an opportunity to amend the plans.

The applicant has subsequently submitted revised plans and has cut off the northeast rear corner off the dwelling to the west, reducing the proposal's impact upon the closest neighbour, No.1G Orchard House.

**DESCRIPTION OF SITE AND CONTEXT**

This application relates to the rear gardens of 66 and 68 Leek Road, Congleton, Cheshire within the Congleton Settlement Zone Line.

## **DETAILS OF PROPOSAL**

Outline Planning Permission is sought for the erection of two detached dwellings within the rear gardens of No.66 and No.68 Leek Road respectively.

Approval for matters of access, layout and scale is sought as part of this application and landscaping and appearance are reserved for subsequent approval. As such, this proposal seeks to establish the principle of residential development, the layout, the scale and the acceptability of the access off Boundary Lane.

## **RELEVANT HISTORY**

None

## **POLICIES**

### **National Policy**

PPS1 Delivering Sustainable Development

### **Local Plan Policy**

PS4 - Towns

GR1 - General Criteria for Development

GR2 - Design

GR6 - Amenity and Health

GR9 - Highways & Parking

H1 & H2 - Provision of New Housing Development

H4 - Housing Development in Towns

SPG2 - Provision of Private Amenity Space in New Residential Development

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

**Highways** – No comments received at time of report

**Environmental Health** – No objections, subject to conditions relating to hours of construction, pilling and contaminated land

## **VIEWS OF THE TOWN COUNCIL:**

**Congleton Town Council** – No objections

## **OTHER REPRESENTATIONS:**

3 neighbouring letters of objection were received to this application. The issues raised by these neighbours related to;

- Loss of light

- Loss of view
- Separation distances
- Building lines
- Traffic and parking issues
- Drainage
- Site of proposed dwellings

## **SUPPORTING INFORMATION:**

Design and Access Statement

## **OFFICER APPRAISAL**

### **Principle of Development**

The site is designated as being within the Settlement Zone Line of Congleton where Policy PS4 (Towns) states that there is a presumption in favour of development provided it is in keeping with the local character and scale and does not conflict with other policies of the local plan.

National policy guidance (PPS3) states that Local Authorities should manage their housing provision to provide a five year supply. It is acknowledged that the Council does not currently have a five year housing land supply and, accordingly, in the light of the advice contained in PPS3 it should consider favourably suitable planning applications for housing. Therefore, the proposal would assist the Council to meet its housing land requirements and would ease pressure on large previously undeveloped greenfield sites elsewhere within the Borough.

### **Layout**

The proposal is for two dwellings in the form of two detached units.

The plot for the proposed dwelling to the west measures approximately 30.2 metres in length and 8.8 metres in width. The dwelling proposed for this garden plot would be positioned approximately 6.2 metres in from Boundary Lane at its closest point (integral garage) and would be approximately 10 metres in from the rear boundary. To either side, the dwelling would stand between 0.9 and 1 metre in from the respective boundaries.

The plot for the proposed dwelling to the east measures approximately 31.4 metres in length and 9 metres in width. The dwelling proposed for this garden plot would be positioned approximately 6.5 metres in from Boundary Lane at its closest point (integral garage) and would be approximately 11.2 metres in from the rear boundary. To either side, the dwelling would stand between 0.9 and 1 metre in from the respective boundaries.

The position of the proposed two dwellings would be stepped with the dwelling to the west set further back in the plot and the dwelling to the east further forward. This building line would mirror the angle of Boundary Lane which travels from a north westerly position to a south easterly position.

The neighbouring properties are either detached or semi-detached in nature, so the form of the proposals would respect the form of the local area. The dwellings have been positioned in order to avoid overlooking and overdomination of neighbouring properties and adhere to recommended spacing standards.

As a result of the above, it is considered that the layout of the proposals is acceptable.

### **Scale**

It is advised within the application that the height of the proposed dwellings would be between 8.5 metres and 9 metres to the ridge.

Policy GR2 of the Local Plan advises that proposals should be *'sympathetic to the character, appearance and form of the site and the surrounding area in terms of; The height, scale, form and grouping of the building(s).'*

The neighbouring dwelling closest to the proposal is Orchard House, No.1G Boundary Lane which would be positioned approximately 1.7 metres away from the proposed dwelling to the west. This neighbouring dwelling was approved in May 1990 and the approved plans show that this dwelling is approximately 7.3 metres in height to the ridge.

To the other side of the proposal, to the rear of No.72 Leek Road, planning permission was granted for a detached dwelling in October 2008 (07/1422/FUL) and this permission was extended in December 2010 (10/4066C). The height of this dwelling will be 8.3 metres tall.

If this development was built in accordance with the proposed plans, the new dwellings would be 8.5 to 9 metres in height. This height would not be sympathetic to the character, appearance and form of the surrounding area as they would be taller than the neighbouring dwellings. As such, it is proposed that the height of the proposed dwellings be conditioned to between 7.3 and 8.3 metres should the application be approved.

In terms of footprint, the footprints of the proposed dwellings would each be approximately 80.88 square metres. The footprint of the closest adjacent proposed dwelling, Orchard House is approximately 62.05 metres squared (excluding the conservatory). No.28 Boundary Lane, the detached dwelling across the road from the proposal, has a footprint of approximately 95 metres squared. No.30 Boundary Lane, a semi-detached dwelling, also across the road, has a footprint of approximately 90 metres squared. The approved new dwelling to the east of the development site will have a footprint of approximately 77 metres squared. This shows that a footprint of approximately 80.88 metres squared would not be unreasonable within the area especially considering the adequate amount of amenity space that would be provided.

As a result of the above, once the height is conditioned, it is considered that the scale of the proposed dwellings would be acceptable and would be in accordance with policy GR2 of the Local Plan.

### **Access**

The proposed dwellings would be accessed via 2 new accesses from Boundary Lane. There is currently no vehicle access to the site. As Boundary Lane is an unclassified road, this access could be created without planning permission and as such, it is not considered the



proposal would create any issues from a highway safety perspective. The proposed driveways could potentially accommodate 2 cars each and a garage for each is also proposed. As a result of the above, it is considered that the proposal would be acceptable from an Access and Parking perspective (BE.3).

## **Amenity**

Policy GR6 (Amenity and Health) of the Local Plan, requires that new development should not have an unduly detrimental effect on the amenities of nearby residential properties via loss of privacy, loss of sunlight or daylight, visual intrusion, environmental disturbance or pollution and traffic generation access and parking.

Supplementary Planning Document 2 (Private Open Space) sets out the separation distances that should be maintained between dwellings and the amount of usable residential amenity space that should be provided for new dwellings. It states that 21.3 metres should be maintained between 2 principal elevations and 13.7 metres should be allowed between a principal and flank elevation.

The closest neighbour to the proposed development would be Orchard House, No.1G Boundary Lane which would be positioned approximately 1.7 metres to the west of the closest proposed dwelling at its closest point. Concerns have been raised by this neighbour and the local Councillor about the proposal's impact on this neighbouring dwelling's light and visual amenity.

Orchard House does not include any windows on its side elevation and the front of the proposed dwellings would be level with the existing building line. Therefore there would be no loss of light to the principal windows in the front elevation. To the rear, Orchard House benefits from a conservatory.

The proposed houses would extend by approximately 2.2 metres beyond the main rear elevation of Orchard House (excluding the conservatory). Including the conservatory, the rear elevations would follow a similar building line.

There are 4 openings on the main rear elevation. These consist of 2 upstairs windows the closest of which to the development serves a bedroom and the furthest a bathroom. Downstairs, there are also 2 openings, the closest of which is a set of patio doors which serve a dining room, the other which serves a kitchen.

A guide to help assess the impact of loss of light is the 45° rule. This involves drawing a line from the middle of the closest impacted openings which serve habitable rooms at a 45° angle towards the development. If the development crosses this line, it is considered to have an unacceptable loss of light on that neighbour. When this imaginary line is drawn from the closest bedroom and dining room openings towards the development, the development does not cross this line, suggesting that the impact is not considered significant enough as to warrant refusal of the application.

In relation to the conservatory and visual amenity, one side of this glazed structure originally would have been facing a blank wall of the closest proposed dwelling, however, revised plans show that the applicant has agreed to cut-off the northwestern rear corner of the closest dwelling to this side reducing its impact upon the conservatory. With regards to loss of light, as

Orchard House is to the west, overshadowing and loss of light would be created for this neighbour in the mornings. However, due to the conservatory being predominantly glazed, and because the revised design shows that the closest corner aspect of this development has now been cut-off, it is not considered that the impact of the development, to just one side of this glazed structure would be significant enough as to warrant refusal of this application on amenity grounds.

To the south of the proposed dwellings would be the properties on the opposite side of Boundary Lane. It is not considered that the proposed development would create any issues to this side as a separation distance between habitable rooms of 21.3 metres is achieved. Similarly this is the case with the dwellings to the rear, No.66 and No.68 Leek Road.

With regards to private amenity space, the dwelling to the east would have a rear garden length of approximately 10 metres and a width of 8.8 metres and the adjacent dwelling would have a length of 11.2 metres and a width of 9 metres. SPG2 recommends a depth of 10.7 metres and a minimum area of 65 metres squared, so in general terms, it is considered that the rear garden plots are adequate. A similarly adequate area of amenity will also be retained for the existing dwellings at No.66 and No.68 Leek Road.

Subject to these conditions, the proposal is considered to be acceptable in terms of residential amenity and in compliance with Policy GR6 of the Local Plan.

### **Other Matters**

In response to those issues raised by objectors which have not been considered within the report, the right to a view and the level of space remaining for maintenance cannot be considered as part of the application as they are not material considerations.

### **CONCLUSIONS**

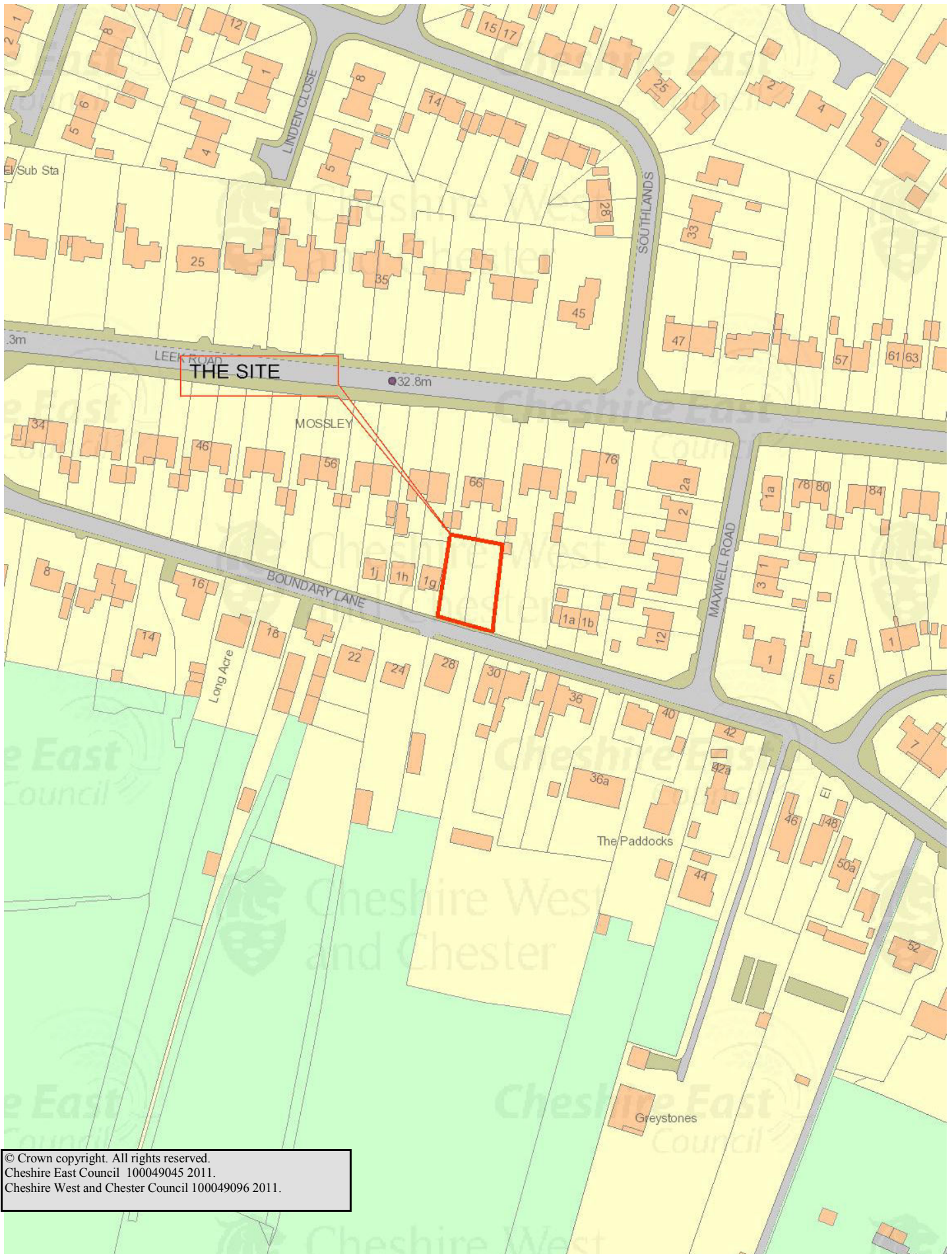
In conclusion, the proposed development complies with the relevant policies contained within the adopted local plan, in relation to housing, design, amenity and highway safety. It is therefore considered that the proposal adheres with Policies PS4 (Towns), GR1 (General Criteria for Development), GR2 (Design), GR6 (Amenity and Health), GR9 (Highways & Parking), H1 & H2 (Provision of New Housing Development), H4 (Housing Development in Towns) of the Congleton Borough of Local Plan Review 2005 and SPG2 - Provision of Private Amenity Space in New Residential Development.

### **RECOMMENDATION:**

**Approve** subject to the following conditions:

1. Time Limit (Outline)
2. Submission of reserved matters
3. Reserved Matters application made within 3 years
4. Development in accordance with approved plans
5. Details of materials to be submitted
6. The height of the dwellings shall be between 7.3 and 8.3 metres tall
7. PD removal (A-E)
8. Hours of construction

- 9. Hours of piling
- 10. Contaminated land
- 11. Boundary treatment



Application No: 11/4000C

Location: CLEDFORD INFANT AND NURSERY SCHOOL, LONG LANE SOUTH, MIDDLEWICH, CHESHIRE, CW10 0DB

Proposal: Change of Use to Offices for Cheshire East Council Children and Family Services

Applicant: Cheshire East Council

Expiry Date: 29-Dec-2011

Date Report Prepared: 24<sup>th</sup> November 2011

**SUMMARY RECOMMENDATION**

Approve subject to conditions

**MAIN ISSUES**

Principle

Design

Amenity

Highways

**REASON FOR REFERRAL**

The application has been referred to the Southern Planning Committee as the proposal is a Cheshire East Council scheme with floorspace over 1000sqm.

**DESCRIPTION OF SITE AND CONTEXT**

The application site relates to the former Cledford Infant and Nursery School, Long Lane South, Middlewich. The school is situated at the junction of Long Lane South / Sutton Lane and adjacent to the main Cledford Primary School. The infant school and junior school was recently amalgamated with associated extensions to form one combined primary school at the site situated along George VI Avenue. As a result of the amalgamation, the former infant school is currently redundant and an alternative use is sought by Cheshire East Council. To the south of the application site are playing fields which have been retained for use by Cledford Primary School and are not impacted upon by the current application. The surrounding land use is predominantly residential.

**DETAILS OF PROPOSAL**

The application seeks a change of use from a school (D1) to offices (B1) for Cheshire East Council's Children and Family Services i.e. adoption, safeguarding etc. The application also includes additional parking provision within the site and would include a new internal road to

the side of the building and pedestrian entrance / pathway. Minor alterations are proposed to the external elevations of the existing building and would include: (i) replace a door with full height window (ii) general replacement of doors (iii) new entrance doors with screen (iv) 1.8 metre high green weld mesh fencing to southern playing field boundary.

## **RELEVANT HISTORY**

09/2718W CLEDFORD COUNTY JUNIOR SCHOOL, GEORGE VI AVENUE, MIDDLEWICH, CHESHIRE, CW10 0DD EXTENSION TO THE NORTH AND SOUTH OF CLEDFORD JUNIOR SCHOOL TO ACCOMMODATE THE AMALGAMATION OF CLEDFORD INFANTS AND JUNIOR SCHOOL, TO PROVIDE A SINGLE SITE PRIMARY SCHOOL AND AN ON SITE NURSERY, ASSOCIATED EXTERNAL WORKS, LANDSCAPING AND CAR PARKING (Approved with conditions 18<sup>th</sup> November 2009).

## **POLICIES**

### **Regional Spatial Strategy (NW)**

Policy DP4 Make the Best Use of Existing Resources and Infrastructure  
Policy DP7 Promote Environmental Quality  
Policy RT2 Managing Travel Demand

### **Congleton Borough Local Plan First Review 2005**

GR1 (New Development)  
GR2 (Design)  
GR6 (Amenity and Health)  
GR9 (Access, Servicing and Parking Provision)  
RC2 (Protected Area of Open Space)

### **Other Material Considerations**

PPS1 Delivering Sustainable Development

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

### **Highways:**

The Strategic Highways Manager has raised no objection to the application.

## **VIEWS OF MIDDLEWICH TOWN COUNCIL**

No comments received at time of report preparation.

## **OTHER REPRESENTATIONS**

No representations received at time of report preparation.

## **OFFICER APPRAISAL**

## **Principle of Development**

As a former school, the application site is designated as an area of protected open space under Local Plan policy RC2 (Protected Areas of Open Space). The policy however, does allow for the redevelopment of built up areas of redundant sites such as school buildings. Furthermore the conversion of existing buildings is also encouraged in Regional Spatial Strategy (NW) policy DP4 (Make the Best Use of Existing Resources and Infrastructure) through the sequential approach. As the site is situated within the Settlement Zone Line there is a presumption on favour of development, provided that it accords with Local Plan policies GR1 (New Development), GR2 (Design), GR6 (Amenity and Health), GR9 (Access, Servicing and Parking Provision) and RC2 (Protected Area of Open Space).

## **RC2 (Protected Areas of Open Space)**

The application site is designated as an area of protected open space under Local Plan policy RC2 (Protected Areas of Open Space) which is commonplace for school sites. The policy does however allow for the redevelopment of built up areas of redundant sites such as school buildings and as such there would be no conflict with this policy.

## **Highways**

The application proposes to increase the amount of parking provision on site to 39 spaces. The Regional Spatial Strategy (NW) policy RT2 Managing Travel Demand provides parking standards for Office development (B1) being 1 space per 35 sqm. Whilst the level of provision proposed is slightly over this standard, the applicant was advised during pre-application discussions (and in consultation with the Highways Authority) to increase the number of spaces due to the level of proposed staff being based at the site and potential for on-street parking. The Strategic Highways Manager considers that there would be sufficient parking to support the proposed use effectively, and has therefore raised no objection to the application. Furthermore it is considered that as the site is situated within the urban settlement there would be a sufficient level of sustainable transport options available. In order to ensure that the proposed parking layout is provided and available for use in association with the proposal this could be conditioned accordingly. Having regard to the above the application would accord with Local Plan policy GR9 (Access, Servicing and Parking Provision).

## **Design**

The proposal includes minor alterations to the external elevations of the building which are acceptable in design terms. The proposed site layout and additional internal access road would maintain amenity grassed areas and hedgerow frontages which would contribute to the overall landscaping of the site. External works are relatively minor and as such it is considered that additional landscaping is not required. The application would accord with Local Plan policies GR1 (New Development) and GR2 (Design).

## **Amenity**



It is not considered that the proposed change of use to Council offices would have any significantly greater impact on neighbouring residential amenity than the building's former use as a school. The proposal would comply with Local Plan policy GR6 (Amenity and Health).

### **Other Matters**

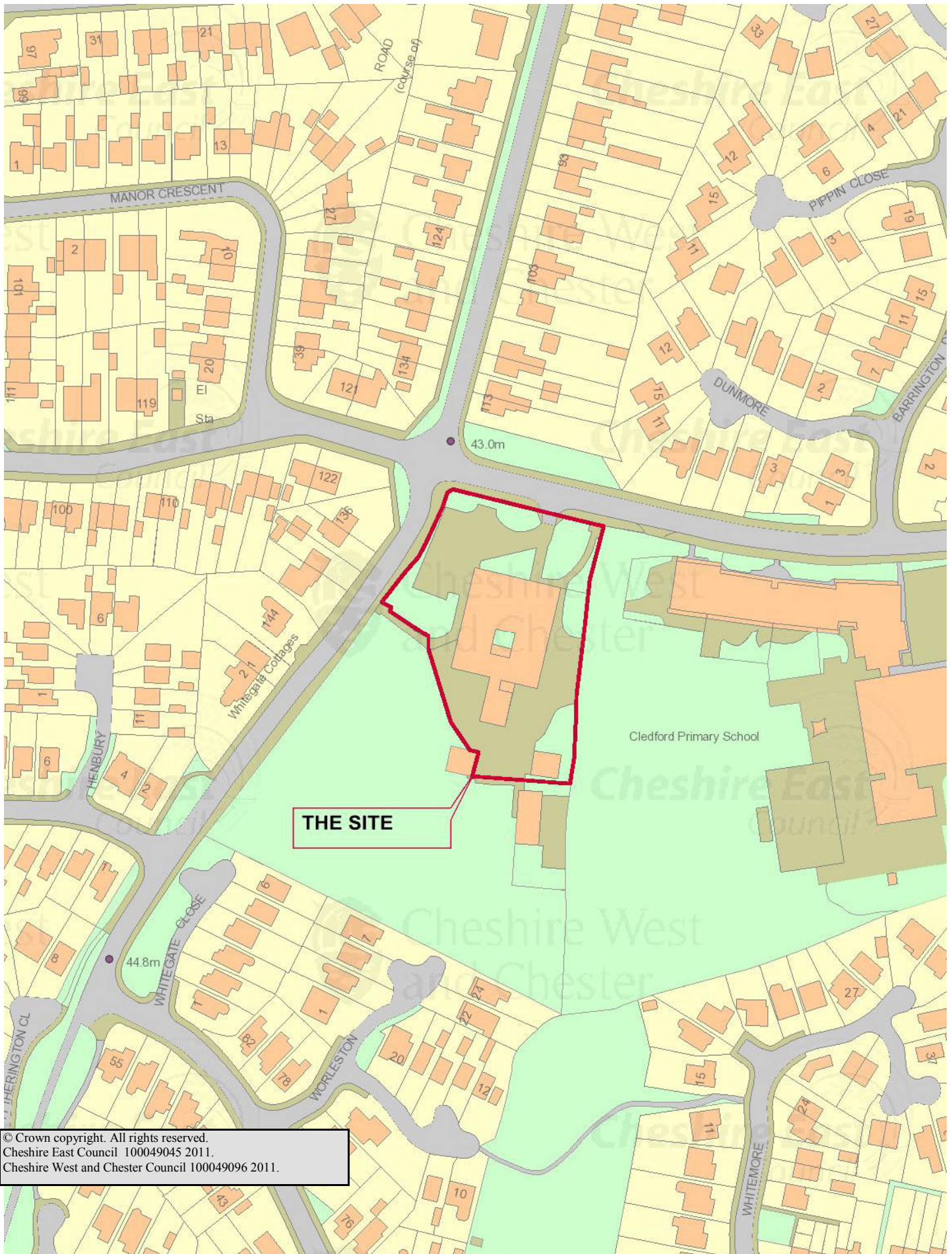
The application form states that new external lighting will be fitted to the building, however no detail has been provided in the application. In the interests of neighbouring residential amenity it is considered that a lighting scheme including details of lux levels should be required by condition.

### **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The application seeks change of use of the former Cledford Infants School to Council Offices for Children and Family Services. The external works are relatively small-scale and would be acceptable in design terms. Use of the building for office purposes would not have a significantly greater impact on neighbouring residential amenity over and above the former use of the site as a school. Additional parking provision is provided within the site and there would be no adverse impacts on highway safety as a result of the proposal. It is considered that the application seeks an acceptable form of development and would comply with the provisions of policies GR1 (New Development), GR2 (Design), GR6 (Amenity and Health), GR9 (Access, Servicing and Parking Provision) and RC2 (Protected Area of Open Space) of the Congleton Borough Local Plan First Review 2005. The application is therefore recommended for approval accordingly, subject to the following conditions:

1. Commencement of development (3 years)
2. Development in accord with approved plans
3. Materials as application
4. External Lighting details to be approved
5. Provision of car parking layout prior to use commencing





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Application No: 11/1165N

Location: STATION YARD, WRENBURY ROAD, WRENBURY, CW5 8HA

Proposal: Outline Planning Permission With All Matters Reserved For Sixteen Local Affordable Houses.

Applicant: Mr Trevor Bates

Expiry Date: 31-Oct-2011

1

**SUMMARY RECOMMENDATION:**

**APPROVE** subject to No objection from United Utilities, Network Rail and HM Railways Inspectorate and Section 106 Agreement and conditions

**MAIN ISSUES**

- Principle of Development
- Loss of Employment Site
- Site Layout
- Design
- Amenity
- Ecology
- Open Space
- Landscape
- Noise Impact
- Contaminated land
- Drainage
- Impact on the Railway
- Highways
- Other matters

**REFERRAL**

This application has been referred to planning committee because it involves a residential development of more than 10 dwellings.

**1. SITE DESCRIPTION AND DETAILS OF PROPOSAL**

The site, known as Wrenbury Station Yard comprises approximately 0.49ha of flat, overgrown, land located to the north east of Wrenbury Road. The site was last in use as a builder's yard and is bounded by the main Crewe

to Shrewsbury railway line and Wrenbury Station to the north-west, Wrenbury industrial estate to the south east and north east and residential properties fronting on to Wrenbury Road to the South West. The site access is between two of these residential properties.

The application seeks outline planning permission for 16 affordable houses, comprising a mixture of 2 and 3 bedroom semi-detached and mews houses. The houses on the proposed site are to be served by the existing vehicular access from Wrenbury Road. Although the application is submitted in outline with all matters reserved, an indicative layout has been provided which shows a cul-de-sac with an area of public open space proposed.

## **2. PREVIOUS RELEVANT DECISIONS**

None

## **3. PLANNING POLICIES**

### **National policy**

PPS 1 Delivering Sustainable Development  
PPS 3 Housing  
PPS7 Sustainable Development in Rural Areas  
PPG13 Transport  
PPS23 Planning and Pollution Control  
PPS25 Development and Flood risk.

### **Regional Spatial Strategy**

DP1 – Spatial Principles  
DP4 – Make best use of resources and infrastructure  
DP5 – Managing travel demand  
DP7 – Promote environmental quality  
DP9 – Reduce emissions and adapt to climate change  
RDF1 – Spatial Priorities  
L4 – Regional Housing Provision  
EM1 - Integrated Enhancement and Protection of the Region's Environmental Assets  
MCR4 – South Cheshire

### **Local Plan policy**

BE.1 (Amenity),  
BE.2 (Design Standards),  
BE.3 (Access and Parking),  
BE.4 (Drainage, Utilities and Resources)  
BE.5 (Infrastructure)

BE.6 (Development on Potentially Contaminated Land)  
NE.2 (Open Countryside)  
NE.5 (Nature Conservation and Habitats)  
NE.9 (Protected Species)  
NE.17 (Pollution Control)  
RES.5 (Housing in Open Countryside)  
RES 8. (Affordable Housing in Rural Areas Outside Settlement Boundaries)

### **Other Material Considerations**

Cheshire East Interim Housing Policy  
Cheshire East Interim Affordable Housing Policy  
Cheshire East Strategic Housing Market Assessment 2010

## **4. OBSERVATIONS OF CONSULTEES**

### **Environmental Health**

- Environmental Health have looked at the noise assessment submitted with the application and have the following comments to make. Before the proposed dwellings are first occupied the mitigation measures stated in Section 4 of the Noise Impact Assessment dated July 2011 should be implemented and completed to a high standard, in order to protect the proposed occupants from excessive noise from the railway and the industrial estate. In summary these mitigations measures include:
  1. Living room glazing requirements
  2. Bedroom glazing requirements for north and south facing elevations
  3. Ventilation requirements for bedrooms and living rooms
  4. Acoustic barrier around the perimeter of the garden areas (note: this would need to be possibly 4 metres tall, or more in places)
- Any external lighting of the proposed development shall be submitted to, and approved in writing by the Borough Council before it is installed, in order to protect the amenity of local residents.
- Due to the potential for noise disturbance to local residents, the construction of the development should be subject to the following hours of operation restrictions;
  - Monday – Friday            08:00hrs – 18:00hrs
  - Saturday                    09:00hrs – 14:00hrs
  - With no Sunday or Bank Holiday working
- Should there be a requirement to undertake foundation or other piling on site it is recommended that these operations are restricted to:
  - Monday – Friday            08:30hrs – 17:30hrs
  - Saturday                    09:30hrs – 14:00hrs
  - Sunday                      Nil

- Should there be a requirement to undertake “floor floating” the process of mechanical smoothing of concrete to a floor area these operations are restricted to:
  - Monday – Friday 07:30hrs – 20:00hrs
  - Saturday 08:30hrs – 14:00hrs
  - Sunday Nil
- The application is for new residential properties which are a sensitive end use and could be affected by any contamination present.
- The report submitted in support of the application indicates that there is contamination present on the site which requires further investigation and remedial measures.
- As such, and in accordance with PPS23, Environmental Health recommends that conditions requiring a site investigation and remediation measures to be submitted and agreed are imposed.

**United Utilities:**

- No comments received at the time of report preparation.

**Highways Authority:**

- The parking provision at this site is too high and should be amended to provide 200% (two spaces) per dwelling, plus 5 visitor spaces minimum.
- The drawing provided Number 631304 Revision B, shows the visibility splay in the critical direction very close to the boundary wall of the adjacent property. However this is acceptable given the size of the development and previous use of this site.
- The Highways Authority would not wish to adopt this access road but will expect it to be built to an adoptable standard.
- A section 278 agreement will be required for the proposed access. The access and internal layout, must be constructed to CEC specification with a plan approved by the LPA/HA prior to commencement.
- In principle, subject to receiving and approving drawings for the above, the highways authority would support this application. Subject to the access constructed under a section 278 agreement as per drawing number 631304 Revision B and the access road constructed to CEC specification there are no highways objections.

**Network Rail**



- The applicant will need to engage with the Network Rail Asset Protection Team as the proposal is next to Wrenbury Railway Station and the operational railway; there is serious potential for the development to adversely affect the operational railway and Network Rail land.
- The applicant must enter into an asset protection agreement with the Network Rail
- The timber acoustic fence next to the boundary with the operational railway is not acceptable to Network Rail. Any residential proposal imports a risk of trespass to the operational railway. The developer must provide a suitable trespass proof fence to mitigate any risks they have imported. Therefore in addition to the acoustic timber fence the applicant must provide, at their own expense, a minimum **1.8m** high trespass proof steel palisade fence along the boundary with Network Rail land.
- The development could result in people gaining access to the back platform of Wrenbury Railway Station without using the authorised access points. Any other method of gaining access to Wrenbury Railway Station aside from authorised entrance and exit points will be deemed trespass and would also place the individuals/animals in danger. Any Network Rail existing fencing must not be affected, altered, damaged or removed in any way by the proposal, this includes any foundations. Network Rail must also be able to maintain its platform and any fencing and the proposal must not interfere with the ability to undertake any maintenance works.
- The site plan shows that there is '*visitor parking*' proposed along the boundary with the operational railway. The applicant will need to install suitable high kerbs to prevent vehicles accidentally driving or rolling onto the railway or damaging lineside fencing from the hard standing area.
- The applicant will need to provide details of any excavation works within 10m of the boundary with Network Rail to the Network Rail Asset Protection Engineer for review and approval.
- The Design and Access Statement states, "*Given the sites superb location for local train and bus facilities, the applicant is willing to provide additional car parking spaces for use by the general public when utilising this local public transport.*" Network Rail is not aware of any discussion with the applicant with regard to parking at Wrenbury Station. Wrenbury Station is unstaffed and without parking, passenger and operational parking would be of assistance. However, future management and responsibilities arise if this were to be part of the station, local authority or third party managed.
- The site plan shows that there will be soft landscaping along the boundary with Network Rail. The applicant must submit details of the

landscaping proposal to the Network Rail Asset Protection Team for approval and these must be in line with Network Rail's recommended planting to ensure that no shrubs/hedges/trees affect Network Rail's ability to maintain its land and fencing or any vegetation that would increase leaf fall and railhead contamination on the line. As a guide where trees/shrubs are to be planted adjacent to the railway boundary these shrubs should be positioned at a minimum distance greater than their predicted mature height from the boundary. Certain broad leaf deciduous species should not be planted adjacent to the railway boundary as the species will contribute to leaf fall which will have a detrimental effect on the safety and operation of the railway. Any hedge planted adjacent to Network Rail's boundary fencing for screening purposes should be so placed that when fully grown it does not damage the fencing or provide a means of scaling it. No hedge should prevent Network Rail from maintaining its boundary fencing.

- The Design and Access Statement states, "*Whilst the site adjoins the railway, it is not a main line.*" The line in question is the Shrewsbury to Crewe line and is an active line and indeed the Design and Access Statement does go on to state that the site is within 20m of the station which provides regular services. The applicant must be made aware that the potential for any noise/ vibration impacts caused by the proximity between the proposed development and any existing railway must be assessed in the context of PPG24 and the local planning authority should use conditions as necessary. The current level of usage may be subject to change at any time without prior notification including increased frequency of trains, night time train running and heavy freight trains.
- The applicant's submitted site plan shows that on the row of '2B' houses next to the turning head is being built very close to the operational railway. At a scale of 1:500 on A3 the gap between the building and the Network Rail boundary is approximately 1.5m. The applicant is required to ensure that there is a minimum of 2 metres between any building and structure and the boundary with Network Rail. The reason for the 2m gap is to ensure that any construction works on site and any future maintenance works can be undertaken wholly within the footprint of the applicant's land and without encroaching onto Network Rail land or over-sailing into Network Rail air-space. Any less than 2m and there is a strong possibility that the applicant (and any future resident) will need to utilise Network Rail land and air-space to facilitate works.
- Any scaffold which is to be constructed within 10 metres of the railway boundary fence must be erected in such a manner that at no time will any poles over-sail the railway and protective netting around such scaffold must be installed. All operations, including the use of cranes or other mechanical plant working adjacent to Network Rail's property, must at all times be carried out in a "fail safe" manner such that in the event of mishandling, collapse or failure, no materials or plant are capable of falling within 3.0m of the boundary with Network Rail.



- The applicant will need to supply details of the drainage arrangements to the Network Rail Asset Protection Engineer, to ensure that the development drainage does not impact upon Wrenbury Station drainage.
- There is a level crossing at Wrenbury Station. The residential development at Station Yard will increase usage of the level crossing both for residents and visitors (pedestrian and vehicular). The Council have not however, notified Network Rail and the Railway Inspectorate of this formally.
- No part of the development shall cause any existing level crossing road signs or traffic signals or the crossing itself to be obscured. Clear sighting of the crossing must be maintained for the construction/operational period and as a permanent arrangement. The same conditions apply to the rail approaches to the level crossing.
- Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains.
- All roads, paths or ways providing access to any part of the railway undertaker's land both temporary and permanent, shall be kept open at all times during and after the development. The proposal must not encroach onto any Network Rail access road, paths or ways of access to any part of Network Rail land. It must not prevent any customers from gaining access or exiting Wrenbury Railway Station, or prevent any maintenance works being undertaken to Network Rail land and boundaries.
- The developer/applicant must ensure that their proposal both during construction and after completion of works on site does not encroach onto Network Rail land, it must not affect the safety, operation or integrity of the railway and its infrastructure or undermine or damage or adversely affect any railway land and structures, nor over-sail or encroach upon the air-space of any Network Rail land or cause to obstruct or interfere with any works or proposed works or Network Rail development both now and in the future to be undertaken on Network Rail land and infrastructure. Any future maintenance must be conducted solely on the applicant's land.
- The development proposal does not highlight a Network Rail reserved lineside access route through the site and although they can possibly use the new service road this does not actually lead to the access gate positioned behind Plot 2b/c.

## **Environment Agency**

- The site investigation works have identified elevated concentrations of contaminants in both soil and groundwater samples.
- The EA agree the recommendation for further ground investigation works and suggest that this includes the delineation of the contamination identified to assess whether any remedial action is required to protect controlled waters receptors. In this instance the main concern is with the protection of the River Weaver located north of the site. Therefore the EA request that planning permission should only be granted to the proposed development as submitted if the following conditions are imposed.
  - The following components of a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:
    1. A preliminary risk assessment which has identified; all previous uses; potential contaminants associated with those uses; a conceptual model of the site indicating sources, pathways and receptors; potentially unacceptable risks arising from contamination at the site.
    2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
    3. The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
    4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.
    5. Submission of, a verification report demonstrating completion of the works set out in the approved remediation strategy and the effectiveness of the remediation
  - If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the developer has submitted, a remediation strategy
- The EA also recommend that a number of informatives should also be included on the decision notice.

## **5. VIEWS OF THE PARISH / TOWN COUNCIL:**

- Wrenbury cum Frith Parish Council supports this proposal.

- The site has been for sale on the open market for in excess of 5 years and no proposal for employment use has come forward. It is a brownfield site which requires a beneficial use. As an affordable housing site it is well placed to serve the village of Wrenbury. It is within walking distance of facilities in Wrenbury (school, medical centre and shop) and is of course adjacent to the railway and on a bus route for public transport.

## **6. OTHER REPRESENTATIONS:**

Letters of support have been received from the occupiers of Brookside Springfield, West View, Wayside, Hazeldene and Smeaton Hall, New Road; The Lilacs, Pinsley Green and Unit 5 Creamery Industrial Estate making the following points:

- It would utilise an unattractive brownfield site that has now remained vacant and derelict for in excess of 6 years, with no commercial user declaring an interest in the site. Furthermore, there remain other commercial unimplemented planning applications available for Wrenbury - therefore this site will not take away from the supply of commercial sites
- It would fulfil all requirements for residents,
- It would enhance the village tremendously, leaving green fields undisturbed for agriculture and wildlife.
- It should be constructed instead of the proposed planning on the green field site on New Road. The building on this Green field site is so wrong on many counts: We need to preserve green fields to grow food for the nation particularly where there is suitable building land available on non agricultural land. It is environmentally wrong to cover more land with concrete as it is detrimental to the wildlife particularly where there is an option of non green site. New Road is already very busy with traffic having to use the verges for passing. This makes the road very dirty in the winter and also very slippery.
- The address marked is incorrect - this site neighbours Wrenbury Station, not Aston as noted in the Council's address.
- The site is ideally situated for access to local/regional transport facilities and for safe pedestrian access to the village centre and its school, medical centre and shop.
- The site is already serviced, benefits from safe 30mph two-way road access (already approved in previous planning applications for large commercial HGV use), has superb public transport access (next to Wrenbury train station and close bus links), has a safe/wide public footpath into the village centre shop/school/church within easy walking distance, and

is directly neighbouring existing dwellings. As such this site is perfect for this development!

- The proposals will provide affordable rural homes for local people. This will also help support the local school numbers and local services/shop.
- The development also considers the provision of much needed car parking for local rural residents to fully utilise the existing excellent train service. Presently rural train users have to squeeze into a small informal gravel area (just big enough for 4 cars) which is really intended for railway maintenance staff!
- This is a truly sustainable development which only serves to help the local community and enhance our local environment, as such we urge the council to support this application!
- This site has been derelict for a very long time and the proposed development would enhance the area providing housing for local people.
- The development is situated close to the transport network and close to the amenities of the village school/medical centre/post office.
- This is the best possible use for this derelict site and there is a need for this type of housing in the village.

Letters of objection have been received from 1 and 2 Station Cottages and Station House, making the following points

- Sixteen houses is too many for this site as they do not have any main sewage connections.
- Neighbouring occupants also have a right of way to the rear of all the properties for access to the septic tanks given to them by British Rail when they bought their properties. It is totally unacceptable to have a housing estate behind, as residents have to go to the rear of buildings and gardens to empty them.
- The access would not take the volume of traffic it is only very narrow
- The old building should be incorporated in to the development. Does it have any historical importance?
- The evidence to support the construction of sociably affordable housing is extremely limited to one vague survey undertaken following the public meeting held on 01/02/2011 to consider a similar application (11/0041N) which only found 8 adults who might like to use the facilities of social housing. This then leads to the consideration of allowing 8 individual people to occupy eight individual two bedroom houses, hardly an acceptable use

of social housing. Without any other evidence of need from either the Parish Council or Wulvern Housing it must be accepted that the remainder of the housing will be left empty as no other local people are listed on any organisations records or the accommodation will be used to relieve the housing shortages in larger conurbations of Nantwich and Crewe, hardly supporting the idea of LOCAL housing. It was stated in correspondence from a Greville-Watts 04/02/11 concerning application 11/0041N that Wulvern Housing had accommodation in Sandfield Court that was un-utilised due to needing refurbishment/redevelopment, so would this not be a better use of existing housing stock for the 8 individuals identified and the housing associations monies.

- The small community around the Station Yard is compact and although associated with the village of Wrenbury is by its location detached from the main hub of the village. The development would increase the present specific location housing stock by 300 %. This alone would impact on the look and feel of this particular part of the village.
- Much has been written about the visual impact of the present site. The only people to see the whole site are train passengers who see it for a second or two as they pass on an express or drawing to a stand on a stopping service. Whilst standing at the station to allow passengers to alight/board the train the yard is not visible to passenger staying on the train as it stops opposite the boundary fence/building of Station House. Should the development be permitted and the conditions required by Network Rail and notes from the application all passengers will see is a 1.8 m high anti trespass fence in front of an acoustic barrier, which is normally baffled wooden panels higher than the visible sight line. This would make the yard look like some sort of industrial compound and not be in keeping with the local view. This would lead to a compound atmosphere within the development as it already has a long established high hedge line to the south face providing suitable habitation/food source for local wildlife and I hope the council would consider acceptable the destruction of this hedgerow.
- The specific area of the station has no mains sewage available to it and the public road and the access road tend to flood during and following rainfall. With the yard behind hard surfaced for the development if suitable drainage is not utilised local flooding will be exacerbated.
- The present housing stock utilises septic tanks/cess pits and many use the station yard historically as a soak away. To provide connection to the Wrenbury Waste Water Treatment Works (WWTW) would involve an excessive and costly construction phase which would either impact on the industrial estate and then the River Weaver valley or major road disruption along the Station/Wrenbury road to pump foul water to the main drains in the main hub of the village. The report supplied with the application does not support soak away drainage so limiting the use of septic tanks for the development. The utility company in charge of Wrenbury WWTW has

already noted in response to public inquiry following the application by the Comberemere Estate for 40+ houses (utilising an existing main drain) that the plant could accommodate the flow created by such a development but would possibly have difficulties in processing the nitrification produced in dealing with foul water. The solution would be a major redevelopment of the WWTW which again would impact on the local rural idyll and presumably the requester would have to pay for the capital expenditure. An additional 16 houses would almost certainly mean this redevelopment of the WWTW would need to go ahead and would thus impact on when the site would be available to occupation.

- Having recently applied to the utility company for an electrical supply the engineer mentioned that the grid was now overloaded and would require major and costly enhancement (at cost to the requester). The new development would be heated by electricity (as there is no mains gas available) which coupled with street lighting would lead to a huge new demand. Whilst not impossible to achieve this would require capital expenditure and would impact visually on the local environment.
- The access road whilst being 6.5m in width could possibly, after the provision of pedestrian walkways and suitable service access to existing drains along the access road, lead to a restrictive road of around 4m which is extremely restrictive for the passage of two vehicles. This might lead to vehicles queuing on the main road to gain access with the resulting queuing on the main road and affect safety and the proper use of the road crossing barrier. This could be overcome either by gaining full access via the road leading to the industrial estate or the implementation of a one way system via the present access and the industrial estate road access.
- The proposal does not suggest that the Council would adopt the cul de sac and therefore household waste units would have to be presented each week at the access point to the site with the main road, meaning 16/32 wheelie bins being located near to a busy road and probably restricting the public footpath. These bins would likely be left all day until the households returned from employment activities, not a pleasant site for passing road transport and visitors to the village via this main access road ruining the look of the village and rural idyll.
- Whilst the development does have good access to public transport, that transport network does not support commuter traffic and is used in a limited way by the present local population. The main form of transport in the area is private road vehicle.
- The development is already planning for the use of 32 road vehicles which would make a considerable impact on the local roads and environment. This would lead to a minimum 64 road journeys per day over local roads which already stated in many comments concerning this and other

applications in the area are mostly narrow, poorly maintained and having an excessive amount of farming associated vehicles travelling over them.

- The development would increase dramatically the noise and light pollution presently afforded to the neighbouring accommodation especially after the industrial estate has finished business for the day. The vehicle and pedestrian footfall would increase very dramatically for the Station House and 2 Railway Cottages as vehicles and pedestrian accessed the site. Presently the vehicle use is once a month into the yard and access to parking at the rear of Station House. The possibility of an additional 64 (minimum) vehicle movements is excessive and would require the two properties to take measures to reduce noise and increase privacy enhancing measures. In the case of Station House this would result in the limiting of natural daylight afforded by the southern aspect windows.
- The village school is presently restricting access to it from already established local communities and high school students are transported by coach in and out every day to schools in Nantwich.
- The local amenities whilst varied are mainly provided by public houses/etc so new families would have to travel to Nantwich/Crewe for family orientated entertainment. This increasing the road vehicle usage and taking support from local businesses to the vast corporate facilities found in the nearby major conurbations.

## **7. APPLICANT'S SUPPORTING INFORMATION:**

- Design and Access Statement
- Protected Species Survey
- Noise Impact Assessment
- Affordable Housing Statement
- Contaminated land Assessment
- Supporting Letter from Wulvern Housing
- Supporting Letter from Wrenbury Parish Council

## **8. OFFICER APPRAISAL**

### **Principle of Development**

The site is located outside the Wrenbury Settlement Boundary and within the Open Countryside, where Policy NE.2 carries a general presumption against new residential development.

The site has also been considered in the Cheshire East Strategic Housing Land Availability Assessment (SHLAA). This states that the site is brownfield, currently in employment use and that residential development was rejected at the last local plan public inquiry. It is located on potentially contaminated land and there are potential noise issues due to proximity to

the railway and the adjacent industrial estate. The general character of the area is described as a rural employment area adjacent to Wrenbury Station and the surrounding land uses comprise railway, commercial buildings, residential and open countryside. The SHLAA does acknowledge that the site is sustainable, in close proximity to Wrenbury Rail Station and is located on a bus route. It is considered to be not suitable, available, achievable or developable.

However Policy RES.9 of the Replacement Local Plan makes an exception to the general policy of restraint for affordable housing, subject to compliance with three criteria which states that:

- The housing will meet the needs of people previously shown to be in local need in a survey specifically undertaken for that purpose;
- The site is in a sustainable location immediately adjacent to an existing settlement boundary
- The scale, layout and design of the scheme are appropriate to the character of the settlement.

With regard to the issue of need the Housing Section has commented that a rural housing needs survey was carried out in 2010 which covered the Cheshire East Southern Rural Parishes, this included Wrenbury-cum-Frith.

The survey was conducted by sending out a questionnaire to all the households in the Wrenbury cum Frith. 457 questionnaires were sent out and 127 returned giving a return rate of 28% in the Wrenbury cum Frith parish. The rural housing needs survey for Wrenbury-cum-Frith identified that there were a total of 20 actual hidden households (households which have at least 1 adult in the household who wished to form a separate household, some have more than one hidden household and 18 of these 20 are adult children).

The requirements of these hidden households show that the majority of people need 2 bed houses and a smaller proportion in need of 3 bed houses, 8 of the hidden households have dependents.

The survey also established that there are 10 people who moved out of the area because they could not afford to rent or buy, 6 of these would like to return. This rural housing needs survey has identified there are a total of 26 persons with a direct local connection who could possibly be occupiers of affordable housing in Wrenbury-cum-Frith.

In addition to the Rural Housing Needs survey the SHMA 2010 identifies an affordable housing need for the Wrenbury area. The affordable housing need is 5 new units per year between 2009/10 – 2013/14 which gives a total requirement of 25 units for the period.

It is noted that a development of affordable houses has recently been granted planning permission at a site on New Road, Wrenbury (application



11/0041N refers). The approval for the site at New Road, Wrenbury is for 14 affordable dwellings and the application for the Station Yard, Wrenbury site is for 16 affordable units meaning a total of 30 affordable dwellings would be provided over the 2 sites. The rural housing needs survey carried out in 2010 for the Cheshire East Southern Rural Parishes established that in the Wrenbury-cum-Frith parish there is a need for 26 affordable dwellings. The number of applicants registered on Homechoice who require rented housing and have selected Wrenbury as their first choice has recently increased to 25, from 22 in September 2011. The majority of these require 1, 2 and 3 bed units. The 2 sites would deliver just slightly over this amount of affordable dwellings identified as needed for Wrenbury-cum-Frith in the Cheshire East Southern Rural Parishes survey. Nevertheless, given that affordable housing need appears to be increasing in the area, despite the extant permission at New Road, the Housing Section would still support the Station Yard planning application.

Due to the identified housing need above the Housing Section does not object to this planning application provided that it also meets the requirements of the Affordable Housing Interim Planning Statement for a Rural site and that due to it being in a Designated Protected Area any shared ownership units should have the purchase of additional equity in the units restricted to a maximum of 80% ownership.

Planning Policy also states that “on housing sites where an element of affordable housing is to be provided and the applicant is a registered social landlord planning permission will normally be granted subject to a condition restricting the occupation of the houses to persons who meet the objectives of the registered social landlord”. It also states that “where the applicant is not a registered social landlord planning permission may be granted for the whole scheme providing the applicant enters into a legal agreement whereby there are secure arrangements to ensure that the benefits of the affordable housing will be enjoyed by subsequent occupiers as well as the initial occupiers. It is therefore the preferred option that any rented, affordable, properties are transferred to an RSL to own and manage.

It is therefore considered that the housing will meet the needs of people previously shown to be in local need in a survey specifically undertaken for that purpose and consequently, the first criterion of policy RES:9 has been met. With regard to the second criterion, the site is considered to be in a sustainable location as it is immediately adjacent to the railway station, on a bus route, and within approximately 15 minutes walking time of the village centre which includes health centre, school, shop, post office, playground and pubs. However it is not immediately adjacent to an existing settlement boundary and therefore only partially complies with the second criterion of policy RES:9. Compliance with the third criterion, which relates to the scale, layout and design of the scheme, is discussed elsewhere in the report.

### **Loss of Employment Site**

The site was last in use as a builders yard and therefore constitutes an existing employment site. Therefore policy E.7, of the local plan is relevant. It states that development which would cause the loss of an existing employment site to other uses will be permitted where:

- it can be demonstrated that the present use harms the character or amenities of the surrounding adjacent area,
- the site is not capable of satisfactory use for employment and overriding local benefits would come from the proposed development; or
- it can be demonstrated that there would be no detrimental impact on the supply of employment land or premises in the borough

In addition, proposals must be appropriate to the existing form and character of the surrounding area and the proposed use would not be likely to restrict the range of uses which could be carried out by businesses on employment sites in close proximity.

*According to the design and access statement "Wrenbury Station Yard is a longstanding derelict brownfield site. The site has remained in a derelict vacant state, for sale and rent, for in excess of five years, prior to which it operated as a builders yard. During the last five years of vacancy the owner has attempted to facilitate the sale/rental of the site. Unfortunately, further development has not been forthcoming. Given the significant length of time that has now passed since the site became vacant it is evident that Wrenbury Station Yard is no longer satisfactory for employment use.*

*Within Wrenbury, the Station Yard is not the only site that remains vacant for employment use. Alternative employment sites are located further away from existing housing, and closer to existing industrial/commercial properties with more appropriate access for large vehicles.*

*Due to the site being located immediately adjacent to existing houses, and converted station dwellings, it is well related to the built form and suitable for the development of affordable housing. The proposed development will be complimentary to the nearby uses/housing, taking a similar design from the existing Station Cottages, and the proposals will not raise any unacceptable amenity issues for existing residents."*

With regard to the first criterion of Policy E7, the site is located adjacent to residential properties. However, these only adjoin the south western boundary and it is predominantly surrounded by railway and commercial uses. Furthermore, many commercial uses are not necessarily detrimental to residential amenity. For example, businesses falling within Use Class B1 of the Town and Country Planning (Use Classes) order are by definition, those which can be carried out in any residential area without detriment to the amenity of that area by reason of noise, vibration, smell, fumes, smoke, soot, ash, dust or grit.

B1 uses include, offices, light industry and research and development. Other uses such as retail, financial and professional services, and non-residential institutions can all be appropriate in residential areas. Consequently it is not considered that it has been demonstrated that the present use harms the character or amenities of the surrounding adjacent area and the proposal does not meet the first criteria of the policy.

In order to fully comply with Policy E7 it is only necessary to meet the first and either the second or third criteria. The applicant's comments in the design and access statement concerning the availability of other employment sites in the locality do not demonstrate conclusively that there would be no detrimental impact on the supply of employment land or premises in the borough and therefore it is considered that criterion 3 has not been met.

However, the applicants comments in respect of the attempted marketing of the site are noted, and it is recognised that an estate agent's board has been present on site for a long time and remains on site at present and although a full marketing report has not been provided, it is acknowledged that interest in commercial development on the site has been limited. Moreover, this site would provide affordable housing, for which, as stated above, there is a clearly identified need and consequently, overriding local benefits would come from the proposed development.

In summary, therefore, because the proposal does not meet the first or third criterion of policy E7 and only partly meets the second criterion, it does not fully comply with the requirements of the policy. However, the overwhelming need for affordable housing in this area is considered to be an important material consideration, of sufficient magnitude to outweigh the requirements of the development plan policy in this respect.

On this basis the principle of the development is considered to be acceptable and the main issues in the determination of this application, therefore, are the acceptability of the site layout, the design of the dwellings and their impact on amenity, landscaping, wildlife and highway safety.

### **Site Layout**

The application is submitted in outline with all matters reserved. However, an indicative layout has been submitted, which shows an access road running from the site access through the middle of the site to a turning head at the north eastern end. A row of 11 dwellings would be situated along the south eastern boundary fronting onto the road and a row of 5 dwellings would be situated at the head of the cul-de-sac facing down the access road. This has the advantage that most of the dwellings are situated away from the railway line which is a potential source of noise and vibration. However, the suggested design is considered to be of poor quality in that it is heavily car dominated with two parking spaces to the front of each dwelling and 24 visitor spaces on the opposite side of the road. Therefore

the frontages to both sides of the road would be dominated by lines of parked cars. However, as stated above, the layout is indicative and would be subject to further revision and approval at the reserved matters stage. It does demonstrate that 16 properties can be accommodated on the site whilst providing sufficient parking provision, private and public open space and an acoustic / landscaped buffer to the railway line.

Adjoining residents have raised concerns that the proposed layout would obstruct rights of way which they have over the site. However, private rights of way are not a material planning consideration and are a private legal matter between the adjoining landowners. Notwithstanding this point, the fact that the application is in outline and that layout is reserved, the opportunity exists to accommodate these rights of way within the final development.

### **Design**

The surrounding development comprises a mix of modern industrial units, traditional Victorian terraced housing, and railway architecture. Materials are predominately red brick, painted brick, plain tiles and natural slates.

Although external appearance and design are reserved matters, it is considered that the proposed dwellings, which are likely to comprise a mix of small terraced and semi-detached houses would lend themselves to an elevational treatment reflecting these traditional properties. On this basis it is considered that an appropriate design can be achieved, which will sit comfortably alongside the mix of existing development within the area.

### **Amenity**

A distance of 21m between principal windows and 13m between a principal window and a flank elevation are generally regarded to be sufficient to maintain an adequate standard of privacy and amenity between residential properties. The layout and design of the site are reserved matters. However, the indicative layout demonstrates that 16 dwellings could be accommodated on the site, whilst maintaining these minimum distances between existing and proposed dwellings. It also illustrates that the same standards can be achieved between proposed dwellings within the new estate. A private amenity space of c.50-60sq.m is also usually considered to be acceptable for new family housing. The indicative layout indicates that this can be achieved in the majority of cases. It is therefore concluded that the proposed development would be acceptable in amenity terms and would comply with the requirements of Policy BE.1 of the Local Plan.

Residents have also expressed concern about impact on amenity resulting from increased vehicle traffic to and from the site. The proposed access road runs between two houses and the able ends of those houses would be immediately adjacent the highway on either side. Consequently, it is agreed that there would be some loss of residential amenity as a result of engine

noise / headlights etc. However, having regard to the established use of the site, this is considered to be of insufficient magnitude to warrant a refusal on amenity grounds.

## **Ecology**

The EC Habitats Directive 1992 requires the UK to maintain a system of strict protection for protected species and their habitats. The Directive only allows disturbance, or deterioration or destruction of breeding sites or resting places,

- 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

and provided that there is

- no satisfactory alternative and
- no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implements the Directive in the Conservation of Habitats & Species Regulations 2010 which contain two layers of protection

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

Circular 6/2005 advises LPAs to give due weight to the presence of protected species on a development site to reflect EC requirements. “This may potentially justify a refusal of planning permission.”

PPS9 (2005) advises LPAs to ensure that appropriate weight is attached to protected species “Where granting planning permission would result in significant harm .... [LPAs] will need to be satisfied that the development cannot reasonably be located on any alternative site that would result in less or no harm. In the absence of such alternatives [LPAs] should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where ... significant harm ... cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.”

PPS9 encourages the use of planning conditions or obligations where appropriate and again advises [LPAs] to “refuse permission where harm to

the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm.”

The converse of this advice is that if issues of detriment to the species, satisfactory alternatives and public interest seem likely to be satisfied, no impediment to planning permission arises under the Directive and Regulations.

In this particular case, the applicant has undertaken an ecological survey. The Council’s Ecologist has examined the report and commented that the nature of the building on site places some constraints upon the bat survey undertaken. However, considering the relatively low level of bat activity recorded he is satisfied that the building on site is not likely to support roosting bats. The survey has identified scrub vegetation in the SE corner of the site as being utilised by foraging bats. It is therefore recommended that this area of vegetation is retained as part of the proposed development. A condition may be appropriate to ensure this recommendation is incorporated into any future reserved matters application.

If planning consent is granted conditions are also required to safeguard breeding birds.

No evidence of a badger sett was recorded on site during the survey. Therefore the proposed development is unlikely to result in any significant adverse impact upon an active sett. However, badgers are commuting across the site and may be using it for foraging. In the absence of mitigation the proposed development could therefore potentially isolate a badger sett from surrounding foraging habitat.

To mitigate the adverse impact of the development the submitted report recommends the installation of badger access gates and the provision of fenced badger corridors through the site to allow animals free movement post development.

The ecologist advises that the proposed mitigation is acceptable to minimise the impacts of the proposed development upon badgers. As the application is outline the proposed badger mitigation can also only be considered to be indicative at this stage. He recommends that if planning consent is granted a condition be attached along the lines of the following to ensure that the badger mitigation is appropriate to any future site layout produced: *Any future reserved matters application to be supported by an updated badger survey report. The survey to be undertaken by a suitable experienced ecological consultant. The survey report to include updated mitigation/compensation proposals to address any adverse impacts identified.*

## **Open Space**

The site falls below the threshold for public open space provision within the Local Plan which is set at 20 dwellings. However, the indicative layout demonstrates that there would be ancillary open space / landscaping along the northern boundary and in the south east corner, which, although primarily intended as ecological and noise / vibration mitigation areas, would also serve to create some areas of informal open space within the development.

### **Landscape**

The site comprises predominantly grass and low growing weeds, although there are existing trees and hedgerows to the boundaries. The indicative layout demonstrates that a satisfactory degree of separation can be achieved between the proposed dwellings and the site boundaries to allow these to be retained and conditions can be applied to ensure their protection. Details of proposed landscaping of the site will form part of a reserved matters application.

### **Noise Impact**

The site adjoins a main line railway and consequently, there is potential for the proposed dwellings to be adversely affected by noise and vibration. The indicative layout shows the dwellings sited on the opposite side of the site from the railway and an area of open space / landscaping and acoustic fencing on the boundary which would help to mitigate any impact. A noise assessment has been submitted with the application, which recommends a number of mitigation measures including ventilation and glazing requirements for north and south facing living rooms and bedrooms and an acoustic barrier around the perimeter of the garden areas. However, it is noted that the acoustic barrier would need to be 4m high in places, which does raise some visual amenity concerns and careful consideration would need to be given to screen planting and landscaping to reduce its visual impact. Environmental Health have examined the report and agreed with its conclusions and have therefore have no objection subject to conditions requiring the proposed noise mitigation measures to be carried out.

### **Contaminated land**

The site has formerly been used as a railway goods yard, timber yard and latterly a builder's yard. Both the Environment Agency and the Council's Environmental Health department have commented that the site has potential for ground contamination. However, neither body has raised any objection subject to the imposition of appropriate conditions requiring full investigation and remediation to be carried out. On this basis it is not considered that a refusal on contamination grounds could be sustained.

### **Drainage**

Local residents have expressed concern about the proposed foul and surface water disposal arrangements, as there are no main drainage connections and the development would need to rely on the use of septic tanks. The application has been examined by the Environment Agency and no objections have been raised. Comments from United Utilities were still awaited at the time of report preparation and a further update will be provided to members in due course.

### **Impact on the Railway**

Network Rail has raised a number of issues in their consultation response. They comment that the proposed acoustic fence is not sufficient to prevent trespassing on the railway and recommend a 1.8m high steel palisade fence. This could be installed alongside the acoustic fence and could be conditioned as part of a scheme of boundary treatment and landscaping scheme. Similarly their concerns about unauthorised access to station platforms could also be addressed through boundary treatment conditions. Concern has been raised about the position of the visitor parking and the danger of vehicles rolling on to the line. However, as stated in the highways section of this report, , the amount of visitor parking will need to be reduced and repositioned as part of a final design submitted for reserved matters approval. Appropriate boundary treatment, which can be secured by condition, would eliminate the risk of vehicles rolling onto the railway.

The point raised in respect of visitor parking for the station has been addressed in the highways section of this report. The issue about danger of vehicles rolling on to the railway, could also be dealt with through conditions.

Network Rail has expressed a desire to be consulted on details of landscaping and drainage. This can be undertaken as part of the discharge of conditions process. They have also pointed out that contrary to the Design and Access Statement the railway is a main line, which may be used more intensively in the future and therefore potential noise and vibration may generate issues for property occupiers. This matter has been considered in detail elsewhere in this report.

The proximity to the railway of the houses situated along the turning head of the cul-de-sac has generated some concern from Network Rail. However, as stated previously, the application is in outline and the submitted layout is indicative only. The final scheme can make provision for adequate separation from the railway boundary. The indicative layout shows an area of open space in the south eastern corner of the site and the row of properties in question could easily be moved a number of metres towards this area in order to achieve the required separation.

The issue of impact on the level crossing of additional traffic has also been raised and the need for additional consultations with other departments of Network Rail and HM Railway Inspectorate has been highlighted. These



consultations have been put in hand and the responses will be reported to Members at their meeting.

Network Rail has raised a number of concerns in respect of encroachment on to their property and rights of way. As stated above, private rights of way are not a material planning consideration and are a private legal matter between the adjoining landowners. Notwithstanding this point, the fact that the application is in outline and that layout is reserved means that the opportunity exists to accommodate these rights of way within the final development.

The consultation response also makes reference to various approvals which would need to be gained from the Network Rail Asset Protection Engineer. However, these are not material planning considerations, although the applicant has been made aware of the need to liaise directly with Network Rail in order to gain the necessary approvals.

### **Highways**

Access to the site is to be taken from Wrenbury Road and would run between two existing residential properties on the road frontage. Initially the highways engineer raised some concerns that the visibility splays would cross over third party land and therefore there was the potential for these to be obstructed. However, following submission of a plan to demonstrate the available visibility, he has commented that the visibility splay in the critical direction is very close to the boundary wall of the adjacent property. However this is acceptable given the size of the development and previous use of this site.

The Highway Authority would not wish to adopt the new road but it should be constructed to adoptable standard and in accordance a plan to be approved prior to commencement. This can be secured by condition. A section 278 agreement will be required for the proposed access.

The indicative layout shows that 2 parking spaces per dwelling and 24 visitor spaces can be provided within the site. The number of visitor spaces is considered to be excessive for this type of development, and, as stated above, raises design and street scene concerns. The highways engineer has commented that he would expect parking provision for this site to be 200% plus 5 visitor spaces. This would be sufficient to avoid any on-street parking that could become a danger to highway safety and can be secured by condition. The design and access statement implies that some of the proposed visitor spaces could be made available for the railway station passengers. However, the highways engineer has commented that this would raise traffic generation concerns and that the access is inadequate to serve the proposed residential development and railway station traffic. Whilst they have not objected to the provision of station parking, Network Rail has also raised queries and concerns about how this would operate. Before railway station parking on this site could be permitted additional

highways supporting information and access improvements would be required. Therefore a condition is recommended requiring 200% residents parking and only 5 visitor spaces to be provided.

In the absence of any objection from the Highways Engineer it is not considered that a refusal on traffic generation, access or parking grounds could be sustained.

### **Other matters**

The site includes a vacant building which appears to be a former railway goods shed. Residents have queried whether this building is of any historic interest. Whilst it does form a small part of the history of the station, it is not especially unusual or of any great historic or architectural merit. It is not therefore considered to be a worthy candidate for listing or inclusion within the local list.

Concerns have been raised about electricity supply. It would be a matter for the developer to negotiate with the Electricity Company with regard to the provision of an adequate supply and any associated new infrastructure that would be required.

Residents have also raised concerns about bin collection, given that this is a private road. However, the Council's waste collection team have confirmed that they would collect the bins from the properties in question and would not require residents to move their bins onto the main road. Nevertheless a condition requiring details of bin storage at each property to be provided is recommended.

## **9. CONCLUSIONS**

According to local plan policy affordable housing is an acceptable form of development in the open countryside provided that a need for the development can be established, the proposal is sustainably located and the design and layout are appropriate. It is considered that in this case a need has been demonstrated, and although the site does not immediately adjoin the settlement boundary, it remains sustainably located.

Furthermore, although the proposal does not entirely meet the tests within policy E7 for the redevelopment of an existing employment site, it is considered that the public benefits arising from the provision of the additional affordable housing would outweigh the disbenefits in terms of loss of the employment site.

The development is also considered to be acceptable in terms of amenity, landscape, ecology, highways, drainage, contaminated land, impact on the railway, noise and vibration and open space and complies with the relevant local plan policies in this respect. Although the application is submitted in outline, and the submitted layout is only indicative, it is considered that a

suitable design, and layout can be achieved which will be in keeping with the character and appearance of the area. Therefore subject to the outstanding consultation responses from United Utilities, Network Rail and HM Railways Inspectorate not raising any new issues or objections, the application is recommended for approval.

#### **10. RECOMMENDATION:**

**APPROVE subject to:**

- **No objection from United Utilities, Network Rail and HM Railways Inspectorate**
- **The completion of a legal agreement to secure the development as affordable housing in perpetuity**
- **The imposition of the following conditions:**
  1. **Standard outline time limit**
  2. **Submission of reserved matters**
  3. **Approved Plans**
  4. **No approval of indicative layout**
  5. **Implementation of noise mitigation measures**
  6. **Submission / approval and implementation of external lighting**
  7. **Construction hours limited to Monday – Friday  
08:00hrs – 18:00hrs Saturday 09:00hrs – 14:00hrs  
With no Sunday or Bank Holiday working**
  8. **Piling restricted to Monday – Friday 08:30hrs – 17:30hrs Saturday 09:30hrs – 14:00hrs, Sunday Nil**
  9. **“Floor floating” restricted to Monday – Friday  
07:30hrs – 20:00hrs, Saturday 08:30hrs – 14:00hrs, Sunday Nil**
  10. **Submission / approval and implementation of contamination report / mitigation.**
  11. **Materials**
  12. **Remove permitted development rights – extensions and ancillary buildings**
  13. **Submission / approval and implementation of access construction details**
  14. **Provision of parking to be 200% plus 5 visitor spaces**
  15. **Submission of Landscaping scheme**
  16. **Implementation / maintenance of landscaping**
  17. **Submission / approval and implementation of boundary treatment to include, inter alia, 1.8m palisade fencing to railway and acoustic fencing**
  18. **Submission / approval and implementation of drainage scheme**
  19. **Submission / approval and implementation of bat foraging area in the South East corner of the site**

- 20. No works within bird nesting season unless survey / mitigation submitted and approved**
- 21. Any future reserved matters application to be supported by an updated badger survey report to include updated mitigation/compensation proposals**



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Application No: 11/3160N

Location: WARMINGHAM GRANGE, WARMINGHAM GRANGE LANE,  
WARMINGHAM, CW11 3LB

Proposal: Conversion of Warmingham Grange into 3 apartments and  
demolition of outbuildings and replacement with 8 houses and  
erection of 3 affordable housing units

Applicant: Viscount Homes Limited

Expiry Date: 23-Nov-2011

Date Report Prepared: 24<sup>th</sup> November 2011

**SUMMARY RECOMMENDATION**

Approve subject to terms and detail of Section 106 Agreement under the original application P03/1522.

**MAIN ISSUES**

Principle

Design

Amenity

Landscape

**REASON FOR REFERRAL**

The application has been referred to Southern Planning Committee as the proposal involves residential development of over 10 units.

**DESCRIPTION OF SITE AND CONTEXT**

The application site is Warmingham Grange which is comprised of the Grade II Listed Grange building and associated enabling residential development in the form of 'The Barns' and 'The Stables' which were permitted under planning reference P03/1522. The original proposal included the demolition of existing outbuildings; the conversion of the stable block and the Grade II Listed Grange to residential accommodation; and the construction of 8 dwellings known as 'The Barns' as enabling development to the restoration of the Grange. The application comprised 14 residential units in total, inclusive of 3 No affordable units with a Section 106 Legal Agreement. The development has been commenced with a number of dwellings being occupied, however the site is not fully complete. As it stands the development is unauthorised as works have been carried out in breach of conditions and not in total accordance with the approved plans of planning reference P03/1522. The current application seeks to regularise the development and those elements which

are not in accordance with the original approval. The development lies within the Open Countryside, as defined by the Borough of Crewe and Nantwich Replacement Local Plan 2011.

## **DETAILS OF PROPOSAL**

The application seeks to regularise the development at Warmingham Grange which was permitted under planning reference P03/1522. The current application includes a number of amendments to the elevation detail of the 'The Stables' and 'The Barns' from the original approval P03/1522. In summary the changes relate to the following areas:

### Stable Building – unit 3

Additional door to south elevation

Door to east elevation to be retained

Door to garages vertically boarded and black

Unit 3 double to have personnel door from the rear of the garage

### Barns 1 -4 Rear Elevation and Part Barn 5 North Elevation

Dormer windows to Barns 4 & 5 to have vertical glazing bar as per original scheme

### Barns 5 – 8 Rear Elevation

Omit slit over door to Barn 5

Vent cover required to Barn 6 to be provided in colour to match brickwork

Omit window to Barn 5 and provide 1800mm French doors

Barn 8 -0 Change positions of French doors and window to provide French doors on side elevation and window to rear elevation which are different from original approval

Roof lights to be approved as per existing on site which differs from original approval.

### Courtyard Elevation

Drift access should access to have two slits

Vents to be in colour to match existing brick work

Roof lights to be approved as per existing on site which differs from original approval.

## **RELEVANT HISTORY**

P03/1522 Conversion of Warmingham Grange into Three Apartments and Demolition of Outbuildings and Replacement with Eight Houses and Erection of Three Affordable Housing Units (Approved with conditions).

P03/1523 Listed Building Consent for Conversion of Warmingham Grange into Three Apartments and Demolition of Outbuildings and Replacement with Eight Houses and Erection of Three Affordable Housing Units (Approved with conditions)

## **POLICIES**

### **Regional Spatial Strategy (NW)**



Policy DP7 Promote Environmental Quality

### **Borough of Crewe and Nantwich Replacement Local Plan 2011**

NE2 (Open Countryside)

RES8 (Affordable Housing in Rural Areas)

BE1 (Amenity)

BE2 (Design)

BE9 (Listed Buildings: Alterations and Extensions)

### **Other Material Considerations**

PPS1 Delivering Sustainable Development

PPS4 Planning for Sustainable Economic Growth

PPS5 Planning for the Historic Environment

### **VIEWS OF WARMINGHAM PARISH COUNCIL**

No comments made.

### **OTHER REPRESENTATIONS**

No representations received at time of report preparation.

### **OFFICER APPRAISAL**

#### **Principle of Development**

The principle of the development has already been accepted under the previous permission P03/1522. As such the key issues surrounding the determination of this application will be whether or not the changes to the original permission comply with Local Plan policies BE1 (Amenity), BE2 (Design), and BE9 (Listed Buildings: Alterations and Extensions).

#### **Design**

The current proposal includes amendments to the elevation detail which have not been carried out in accordance with the original approval. The changes however, would not affect the Grange itself but relate to the Stable block conversion and the dwellings known as 'The Barns' which were constructed as enabling development for the restoration of the Grade II Listed Grange. The changes are detailed earlier in the report and although these are minor individual elements, the cumulative impact must be assessed. In design terms the alterations which have been carried out are sympathetic to the development, with the use of appropriate materials. In this regard the scheme is still acceptable and the amendments are such that they would not adversely alter the overall character and appearance of the development when viewed in the context of the Grade II Listed Grange and its setting. The application is in accordance with Local Plan policies BE2 (Design) and BE9 (Listed Buildings: Alterations and Extensions).

### **Amenity**

There would be no additional adverse impacts on residential amenity over and above the original permission P03/1522. The proposal would comply with Local Plan policy BE1 (Amenity).

### **Landscape**

A landscape plan has been submitted with the application however the scheme is not considered to be acceptable as further changes and additional information is required. The hard and soft landscaping elements of the development are integral to the appearance of the scheme and the Grade II Listed Grange and its setting. As the landscape scheme as a whole is not acceptable the condition will be re-applied to any further permission granted having regard to Local Plan policies BE2 (Design) and BE9 (Listed Buildings: Alterations and Extensions).

### **Section 106 Agreement**

The original application was subject to a Section 106 Agreement to secure 3No units as affordable housing stock and not private dwelling houses. The affordable housing units took the form of 2No units in the 'Stables' and 1No unit in the 'Barns'. A financial contribution of £14,000 was also included within the S106 for speed management in Warmingham village. The Council is in receipt of the financial contribution and as such this does not need to be secured as part of this application. As the current application seeks to regularise the development with a new permission, the affordable housing provision will need to be secured in a new S106 Legal Agreement. The new S106 will be subject to the terms and details of the previous legal agreement of planning reference P03/1522 with the exception of the financial contribution requirement.

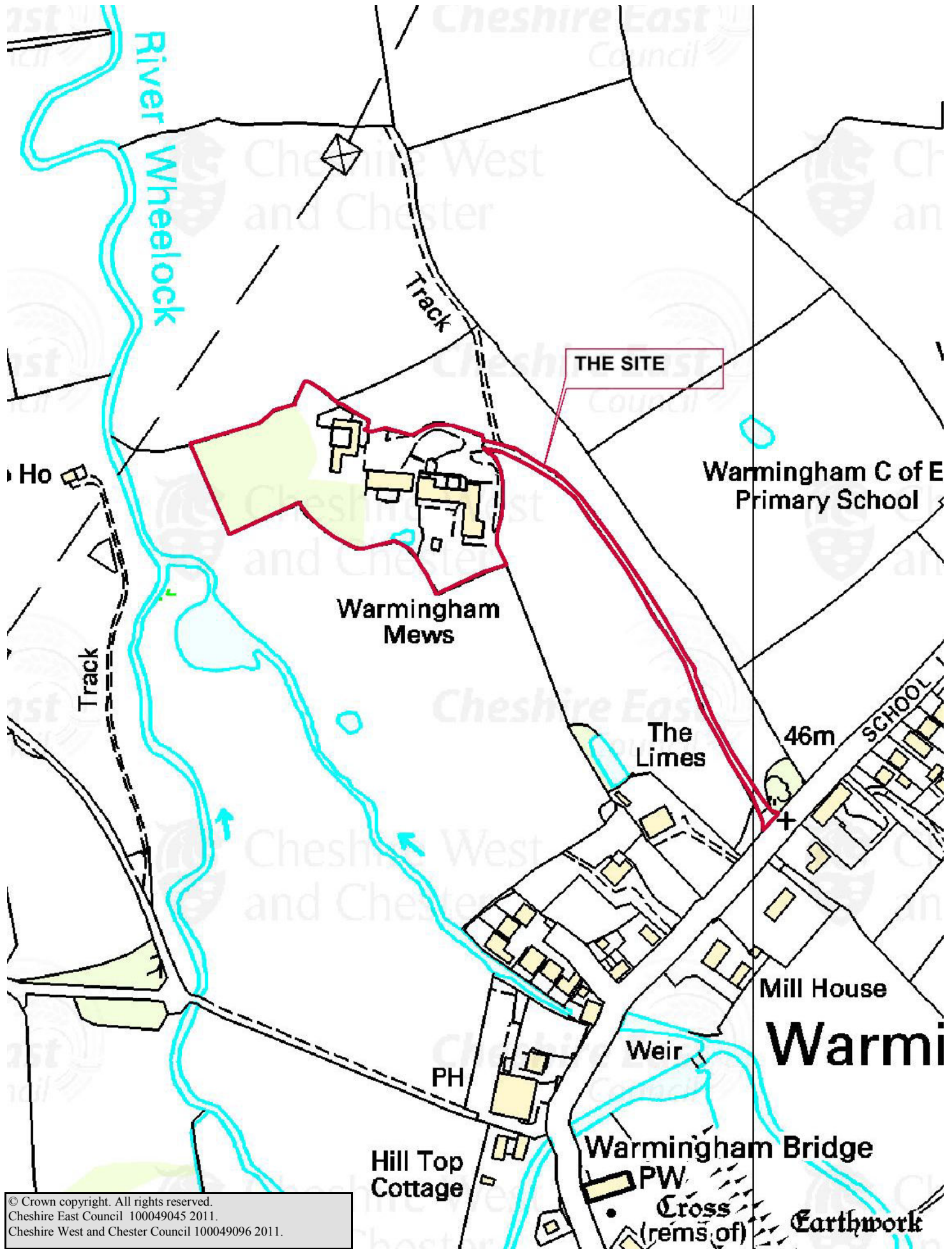
## **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The application seeks to regularise the development at Warmingham Grange which has not been carried out in full accordance with the approved plans. The main consideration in the determination of this application is the impact of the amendments to the elevation detail of the 'Stables' and the 'Barns' on the character and appearance of the scheme in the context of the Grade II Listed Grange and its setting. The amendments are considered to be acceptable in design terms and would comply with the provisions of Local Plan policies BE2 (Design) and BE9 (Listed Buildings: Alterations and Extensions). Landscaping details are not considered to be satisfactory. The hard and soft landscaping elements of the development are not satisfactory as a whole and as this is integral to the appearance of the scheme and the Grade II Listed Grange and its setting, it is considered that a landscape condition should be re-attached to any permission. The application is recommended for approval, subject to the terms and detail of the previous S106

Agreement (P03/1522) with the exception of the financial contribution requirement which has been received; and subject to conditions

**RECOMMENDATION: Approve subject to S106 and the following conditions:**

1. Approved Plans
2. Landscape scheme – hard and soft landscaping
3. Landscape implementation
4. Details of boundary treatment and enclosures
5. Remove Permitted Development Rights for Classes A to E of Part 1; Class A of Part 2; and Classes A to F of Part 40.



Application No: 11/3903N

Location: White House Farm, HITCHENS LANE, BULKELEY, SY14 8BX

Proposal: Discharge of S106 Agreement in relation to P97/0749 (Demolition of Existing Barn and Erection of Outbuildings Comprising Garage and Stable Block)

Applicant: Mr T Wallace

Expiry Date: 19-Dec-2011

## CHESHIRE EAST COUNCIL

### SOUTHERN PLANNING COMMITTEE

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**Date of meeting:** 7<sup>th</sup> December 2011  
**Report of:** Caroline Simpson, Head of Development  
**Title:** 11/3903N – Discharge of Section 106 Agreement in relation to P97/0749 (Demolition of existing barn and erection of outbuildings comprising garage and stable block)  
**Applicant:** Mr T Wallace

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#### 1.0 Purpose of Report

- 1.1 To consider discharging the Section 106 Agreement attached to property known as White House Farm, and the adjacent stable/garage block.
- 1.2 The report is being presented to Southern Planning Committee because the original approval for planning application P97/0749 was made by the legacy Crewe and Nantwich Borough Council Planning Committee and required the legal agreement to be attached to the site. The decision was issued on 4<sup>th</sup> March 1999. This report should be considered in conjunction with Planning Application 11/3123N for the Change of Use of existing stables/garage to a single dwellinghouse.

#### 2.0 Decision Required

- 2.1 To agree to discharge the Section 106 Agreement by deed.

#### 3.0 Background

- 3.1 The application (P97/0749) relates to the demolition of existing barn and erection of outbuilding comprising garage and stable blocks. This building has been constructed and used for some years as an ancillary building to the property known as White House Farm, Hitchens Lane. This development was approved subject to a Section 106 Agreement which stated that (the owner);

*'not to cause or permit the building comprising in the development and shown edged red on the Site Plan:*

*Either*

*(a) To be used for any purpose which is ancillary to the use of the main dwelling shown edged green on the site plan, other than for those expressly permitted by the permission (ref no. P970749), namely for use as stables, garage, tack room, storeroom or workshop.*

*Or*

*(b) To be used as a separate dwelling.'*

- 3.2 The applicant had attempted to sell the dwellinghouse and outbuilding as one plot for some 6 years. The site as a whole was and had received only one offer in this time, even though the price had been reduced significantly over the 6 six years. The property was then marketed separately and subsequently sold in October 2010, with only the residential curtilage of the dwellinghouse.
- 3.3 The applicant states that the site as whole had been marketed from June 2004 to November 2010. Initially the property was marketed by Jackson-Stops & Staff between June 2006 to April 2006 with an initial asking price of £1.35 million reduced down to £1.25 million. Between April 2006 to June 2008 the property was marketed on a joint basis between Denton Clarke and MacMillans for £1.25 million reduced to £1.15 million. Between June 2008 and May 2010 the property was marketed by Strutt and Parker initially for £1.15 million. During this period the property was advertised in equine publications including the Racing Post, Horse and Hound and The Farmers Guide. One offer of £910,000 was made at this time but was subsequently withdrawn.
- 3.4 In May 2010 the dwellinghouse (White House Farm) was marketed separately by Minchen Fellows initially for £725,000 reduced to £675,000 and in November 2010 an offer of £550,000 was accepted. Therefore Mr Wallace no longer own White House Farm but is still the owner of the garage/stable block and a large area of land on bother side of Hitchens Lane.
- 3.5 The garage/stable block is currently in a 'non use', although Mr Wallace is residing in a caravan on site the building area not being used. Therefore the applicant is not currently in breach of the Section 106 Agreement. However, should planning application (11/3123N), running alongside this application, for the conversion of Stable/Garage block to single dwellinghouse is approved without removing the legal agreement the applicant will be in breach of the attached legal agreement.

#### **4.0 Proposals**

- 4.1 The application has been made by the Mr T Wallace, the land owner of Stable/Garage and adjoining land, but no longer the land owner of the property known as White House Farm (dwellinghouse). The application seeks to formally discharge the Section 106 Agreement attached to White House Farm and adjacent Garage/Stable block as the legal agreement no longer serves any useful purpose.

## **5.0 Consultations**

- 5.1 The Borough Solicitor has been consulted on this application and has raised no objection to discharge the Section 106 agreement if there is policy support for the planning application (11/3123N) and there is no longer a requirement for the Section 106, therefore the original agreement should formally be discharged by deed and any local land charge cancelled.
- 5.2 The Bulkeley and Ridley Parish Council have also been consulted on this application and object to discharging the Section 106 Agreement. The main issues raised in there consultation relate to increased traffic movements on Hitchens Lane and the adjacent A534, and go on to state that if the S106 is removed which links the building with the White House Farm the Parish Council would wish to see a further Section 106 imposed on the site to restrict any further garage/stables being constructed on this land within the ASCV.

## **6.0 Analysis**

- 6.1 This application has been made by the owner of the Stables/Garage block on land adjacent to White House Farm, Hitchens Lane. The applicant had marketed the dwellinghouse and the stable/garage block for sale for some six years (two years of marketing in specific equine related publications, with only one offer made. In 2010 the applicant marketed the dwellinghouse and stables as separate buildings, and the dwelling was subsequently sold as a separate unit, and is now in separate land ownership to the garage/stable building.
- 6.2 As the site is now separately owned from the dwellinghouse the building is not being used for ancillary purposes to the dwellinghouse. As there is policy support (Policy NE.16 Re-use and adaption of a rural building for residential use) for conversion of rural building to a dwellinghouses, subsequently planning application 11/3123N has been recommended for approval. It is therefore considered that given the substantial time the property was marketed for without sale and the current situation with relation to the land owners the legal agreement no longer serves any useful purpose.

## **7.0 Conclusion**

- 7.1 In light of the comments from the legal department and the policy support for the conversion of the outbuilding to a separate dwellinghouse in the rural area, and given the two buildings are now in separate ownership it is not possible for the building to be used for ancillary purposed to the dwellinghouse and therefore the Section 106

agreement no longer serves any useful purpose and should be formally discharged by deed and the land charge removed.

## **8.0 Recommendation**

- 8.1 That the Committee resolve to discharge the Section 106 agreement by deed and the local land charge be cancelled from the site.

## **9.0 Financial Implications**

- 9.1 There are no financial implications.

## **10.0 Legal Implications**

- 10.1 Formally discharge the signed Legal Agreement attached to Planning Application P97/0749 by deed. Subject to approval from Committee the Borough Solicitor will have authority to discharge by deed the s106 Agreement.

## **11.0 Risk Assessment**

- 11.1 There are no risks associated with this decision.

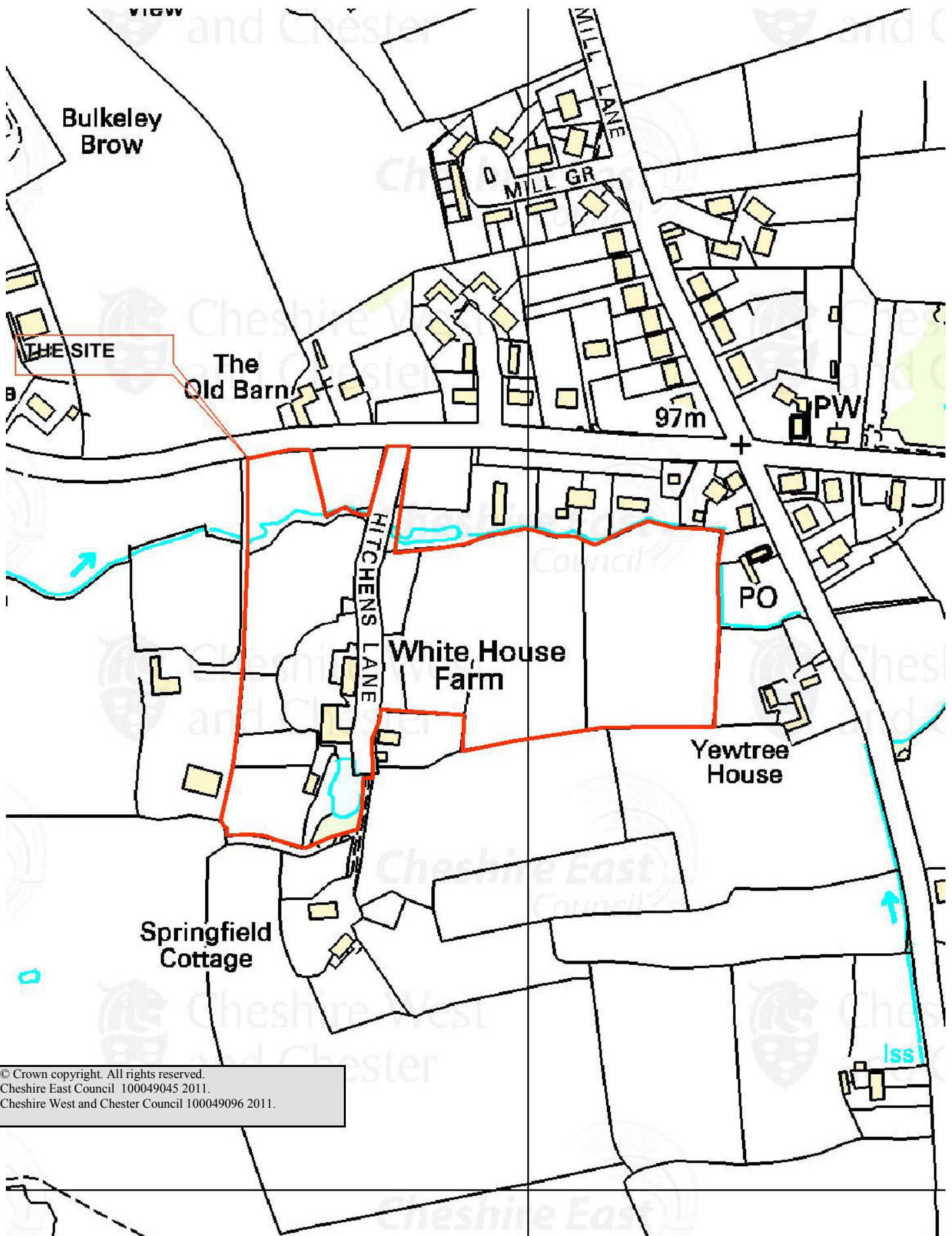
### ***For further information:***

*Portfolio Holder: Councillor Rachel Bailey*  
*Officer: Gemma Broadbent - Planning Officer*  
*Tel No: 01270 537040*  
*Email: gemma.broadbent@cheshireeast.gov.uk*

### ***Background Documents:***

- *Application P97/0749*







Application No: 11/3123N

Location: Land Adjoining White House Farm, HITCHENS LANE, BULKELEY, SY14 8BX

Proposal: CHANGE OF USE OF EXISTING STABLES/GARAGE TO A SINGLE DWELLING

Applicant: MR TERRY WALLACE

Expiry Date: 10-Oct-2011

#### **SUMMARY RECOMMENDATION**

Approve with Conditions

#### **MAIN ISSUES**

- Principle of Development
- Design Considerations
- Impact on residential amenity
- Impact on Highways
- Other Matters

This application would normally be dealt with under delegated powers however given the nature of the development and the linked application to discharge the attached Section 106 agreement it was considered necessary to refer this planning application to committee along with the Section 106 Agreement discharge report.

#### **DESCRIPTION OF SITE AND CONTEXT**

The proposal site is situated on Hitchens Lane which is a private road and is within the Open Countryside and Peckforton/Bickerton Hills Area of Special County Value. The application site relates to a large 'L Shape' detached garage/stable block of recent construction with brick walls and a tiled roof. The building was originally granted permission for ancillary use to the adjacent White House Farm dwellinghouse, however this property is now in separate ownership. The garage/stable block has a separate access and area of hardstanding, with a substantial 1.8m wall to the road side of the property.

#### **DETAILS OF PROPOSAL**

The application proposes full planning permission for the conversion of the garage/stable block to form a single detached dwelling. The building will be a five bedroom property with a separate means of access which is already established.

The site is also subject to a legal agreement which ties the building to the adjacent dwelling (White House Farm). An application to discharge the Section 106 agreement is subject to a separate application reference 11/3903N.

## **RELEVANT HISTORY**

7/11163 – Alterations and extensions – Approved 19<sup>th</sup> July 1984

7/11253 – Siting of residential caravan – Positive certificate 30<sup>th</sup> August 1984

7/11560 – Replacement Dwelling – Approved 8<sup>th</sup> November 1984

7/20161 – Conversion of farm building to dwelling – Refused 28<sup>th</sup> November 1991

P91/0308 – Change of Use redundant building to a dwelling – Approved 6<sup>th</sup> February 1992

P92/0300 – Relation of existing hay barn – Approved 1<sup>st</sup> September 1992

P97/0177 – Single storey extension – Approved 26<sup>th</sup> June 1997

P97/0201 – Detached stable block – Refused 26<sup>th</sup> June 1997

P97/0202 – Double garage/workshop/stables and tack room – Refused 26<sup>th</sup> June 1997

P97/0749 – Demolition of existing barn and erection of out building comprising garage and stable block – Approved 16<sup>th</sup> October 1997

P99/0126 – Vehicle access and re-routing of public footpath – Refused 1<sup>st</sup> April 1999

P01/0878 – Change of use of land to extend residential curtilage and modification to boundary treatment – Approved 15<sup>th</sup> October 2002

## **POLICIES**

The policies from the Borough of Crewe and Nantwich Replacement Local Plan 2011 (LP) are:

### **Local Plan Policy**

- NE.2 (Open Countryside)
- NE.3 (Areas of Special County Value)
- NE.5 (Nature Conservation and Habitats)
- NE.9 (Protected Species)

- NE.16 (Re-Use and Adaptation of a Rural Building for Residential Use)
- BE.1 (Amenity)
- BE.2 (Design Standards)
- BE.3 (Parking and Access)
- RES.5 (Housing in The Open Countryside)

#### **Other Material Considerations**

- PPS1: Delivering Sustainable Development
- PPS7: Sustainable Development in Rural Areas
- PPS9: Biodiversity and Geological Conservation

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

**Environmental Health** – No objection subject to comments. Require a condition for a phase one contaminated land survey to be carried out and restriction of Construction Hours, and external lighting.

**Natural England** – Standard Advice Note; No objections

**VIEWS OF THE BULKELEY AND RIDLEY PARISH COUNCIL** – Object for the following reasons;

1. The original permission for the block was given with the express condition that it must only be ancillary to White House Farm and not for any commercial or independent dwelling use.
2. Hitchens Lane is very narrow, single track for most of it's length, especially where it meets the A534 where even a small car waiting to emerge onto the main road completely blocks the entrance, leaving nowhere to go for a vehicle on the main road wishing to turn into the lane.
3. The conversion of a garage at Bridge Farm Barns was refused recently.

#### **OTHER REPRESENTATIONS**

A letter of objection has been received from the Occupants of Springfield Cottage, Bulkeley. The main issues raised are;

- When the stable block was approved it was with the express conditions that it remained ancillary to White House Farm and not used for commercial or as a separate dwellinghouse,
- Personal circumstances should not be a reason to alter the conditions,
- Hitchens Lane is an unadopted road, a five bedroom property will generate more vehicle movements per day than a private stable block,

- The whole block is to be converted with no garaging remaining. Parking cars on the hardstanding adjacent to the pond will have an adverse impact on wildlife in the pond.
- This is creeping development in an area of Area of Special County Value.

#### **APPLICANT'S SUPPORTING INFORMATION**

- Planning, Design and Access Statement
- Protected Species Survey

#### **OFFICER APPRAISAL**

##### **Principle of Development**

The application proposes the conversion of an existing rural building, which was approved as an ancillary garage/stable block for the adjacent property known as White House Farm. Although the building is of recent construction its design and appearance is traditionally rural. The application site is located within the Open Countryside and Peckforton/Bickerton Hills Area of Special County Value; therefore Policies NE.2 (Open Countryside) and NE.3 (Areas of Special County Value) are most relevant. Policy NE.16 (Re-use and Adaptation of a Rural Building for Residential Use) allows for the conversion of rural buildings to residential where the building is inappropriate for alternative uses by virtue of its character and location, that the applicant can demonstrate that every reasonable attempt has been made to secure a business re-use, or where conversion is a subordinate part of a scheme for business re-use.

##### *Consideration of Alternative Uses*

The applicant considers that the proposed development site is unsuitable for alternative uses. They consider that the proposal site would be unacceptable for industrial uses due to its relationship with existing residential development, its location within an ASCV/Open Countryside, and also its poor access arrangements. It is agreed that there are certain constraints to this site which would make it unsuitable for industrial development.

With regard to alternative commercial uses of the building, such as offices, the applicant firstly considers that the site is unsuitable for such uses due to its poor accesses arrangements. The applicant has demonstrated that the unit, which is over 300sq.m would require parking for 12 vehicles as required by Local Plan standards. This would require additional hardstanding, to the detriment of the character of the area, and also harm to highway safety, through the increase in vehicular movements. These arguments are considered to be reasonable and it is also considered that there would be harm on the amenities of the neighbouring property due to the intensification of vehicular movements.

Two surveys have been carried out of holiday accommodation in the area. The surveys conclude that at the time the first survey was carried out that there is considerable rate of vacancy for weeks within the school half term and summer holiday of 2010. A second survey of the whole of 2011 identified that there was also substantial vacancy rates for the year at the time of survey. The survey identifies that there are numerous units available for holiday let in this area, some of which have low rates of occupation. It is considered that the applicant has considered this option and to convert to this use would raise questions over the financial viability of the venture.

Whilst the building was never marketed solely for commercial purposes, the site as a whole (both White House Farm and the Stable Block) were marketed for sale for some 6 years, with two years of marketing in equine publications such as Racing Post, Horse and Hounds and The Farmers Guardian, with only one offer made on the property which was substantially lower than the asking price. In 2010 the applicant separated the garage/stable building from the dwellinghouse and sold the dwellinghouse plot separately. There have been no separate commercial/recreational marketing carried out for the garage/stable block however in this instance and as noted above it is considered that the substantial marketing previously carried out is suitable in this instance.

It is therefore considered that the applicant has demonstrated that the site is unsuitable for alternative uses due to its location.

#### *Intensification of Development*

Concern has been raised that the use of the building would result in a significantly detrimental impact on the character of the area through the intensification of residential development in the Area of Special County Value. It was also considered that the proposal would lead to greater pressure for ancillary buildings to be constructed.

The supporting documentation to the application states that level of intensification would not be significant and would indeed result in less activity than alternative proposed uses such as commercial operations. Furthermore, it is stated that if there was concern over the erection of ancillary buildings this could be controlled through a condition withdrawing permitted development rights for the resultant dwelling.

It is considered that the arguments put forward are reasonable and that the withdrawal of permitted development rights as a condition attached to any permission would allow the LPA to have control over the construction of further development and protect the Open Countryside / Area of Special Country Value from further unnecessary development. Control over PD rights would ensure that the character of the area can be preserved.

It is therefore considered that the principle of development in this instance is acceptable provided that the development accords with policies BE.1 (Amenity), BE.2 (Design Standards) and BE.3 (Access and Parking) or the Crewe and Nantwich Replacement Local Plan 2011.

## **Design**

The proposed design of the dwelling would remain largely unaltered to the current building other than the insertion of two small windows in the 'main elevation', and 'south elevation', a window in the projecting gable within the courtyard, infilling the underpass with glazing, removing doors and infilling with glazing and the insertion of nine rooflights. The new openings which are proposed are of acceptable proportions and in character with the existing building. However the drawings show projecting rooflights, given that the site is situated within the open countryside and ASCV is it considered that a condition to require conservation style roof lights would be more suitable. To ensure that the materials and design of openings are acceptable conditions should be attached to ensure that they are appropriate in this context.

## **Amenity**

The existing outbuilding is sited fairly close to the adjacent White House Farm property and the adjacent property known as the Wenning. At the time of the planning officers site visit a 2m close boarded fence was under construction between White House Farm dwellinghouse and the stable/garage block. The insertion of this fence separating the ownership of the land will help to mitigate for any overlooking which could occur from the change the use of the building, particularly as the large garage doors are proposed to be used as large windows. It is therefore considered given the new boundary treatment it is unlikely that the proposed change of use will have a significantly detrimental impact on neighbouring amenity at White House Farm.

The adjacent neighbours on the opposite side of the road 'Wenning' have three windows on the side elevation of the property facing the proposal site. The existing garage/stable building has a first floor window which serves the gym/storage area of the garage/stables facing towards the three windows of the side elevation of the Wenning. The first floor window will be used as a bathroom window on the proposed floor plans and it is therefore considered that with the addition of a condition for an obscure glazed window to be inserted at first floor any amenity impact will be reduced. There are also two ground floor windows proposed in this elevation however, there is a substantial 1.8m high brick wall between the two properties which will mitigate for any overlooking at ground floor level. It is therefore considered that the proposal is acceptable and in accordance with policy BE.1 (Amenity).

## **Highways**

The garage/stable block was originally accessed through the front garden of White House Farm, up to the garage openings within the courtyard on the south elevation. This access has recently been closed and a close boarded fence constructed between the outbuilding and the dwellinghouse. The current access arrangements are slightly further up Hitchens Lane, where large double gates have been erected slightly off the road. There is an area of hardstanding within the site where there is space for the



parking of vehicles safely off the adjacent road. Furthermore there is sufficient space within the curtilage of the adjacent White House Farm to accommodate several cars. The proposed change of use to residential should not significantly increase car movements than the existing stable and would be much less than a commercial use. It is therefore considered that the proposal is unlikely to result in a detrimental impact on highway safety.

### **Protected Species**

Article 12 (1) of the EC Habitats Directive requires Member states to take requisite measures to establish a system of strict protection of certain animal species prohibiting the deterioration or destruction of breeding sites and resting places. Art. 16 of the Directive provides that if there is no satisfactory alternative and the derogation is not detrimental to the maintenance of the populations of the species at a favourable conservation status in their natural range, then Member States may derogate "in the interests of public health and public safety or for other imperative reasons of overriding public interest, including those of a social and economic nature and beneficial consequences of primary importance for the environment" among other reasons.

The Directive is then implemented in England and Wales by the Conservation (Natural Habitats etc) Regulations 1994 ("the Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

Regulation 3(4) of the Regulations provides that the local planning authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

The applicant submitted a protected species survey dated March 2011 (amended in August 2011) for bats, great crested newts, barn owls and breeding birds. The report states that the proposal poses a low risk to legally protected or biodiversity target species. The report includes mitigation measures for bats and breeding birds and 'Reasonable Avoidance Measures' for Great Crested Newts and therefore the Council's Ecologist has requested that a condition is attached to any permission to ensure the development is carried out in accordance with the mitigation measures required by the Protected Species Survey dated 11<sup>th</sup> March 2011 (Amended August 2011) in accordance with the guidance set out in Planning Policy Statement 9.

### **Legal Agreement**

The site is subject to a Section 106 Agreement which as part of planning application P97/0749 restricted the use of the garage and stable block to be used solely for ancillary purposes to the main dwellinghouse and not to be used as a separate dwellinghouse. Currently the building is in a 'non-use' and therefore even though the building and the dwelling have been separated, the applicant is not in breach of the legal agreement. Planning Application 11/3903N submitted alongside this application seeks to discharge

the section 106 agreement. The Council cannot give permission for development which would breach a legal agreement and therefore as noted above the application is acceptable in planning policy terms and as the two buildings are in separate ownership it would be difficult to argue that the Section 106 was still relevant.

### **Other Matters**

The proposed development will result in the creation of a new dwelling which involves the conversion of an existing rural building. As a dwelling is a sensitive end use to ensure that the building is fit for this use a Phase I contaminated land survey will be required. This however can be conditioned.

Environmental Health have suggested that construction hours should be restricted, and any external lighting is subject to detailed submission. Given the close nature of the adjoining properties it is considered in this instance that these conditions are acceptable.

Within the Parish councils comments another site, Bridge Farm Barn, Wrexham Road, has been cited as it has recently been refused (reference 10/3327N) for the conversion of a garage to a dwelling. These two applications are different as the refused application building was clearly a domestic residential building and not a rural building and therefore could not be considered under Policy NE.16 (Re-use and adaptation of a rural building for residential use), notwithstanding this each application must be considered on its own merits.

### **CONCLUSIONS AND REASON(S) FOR THE DECISION**

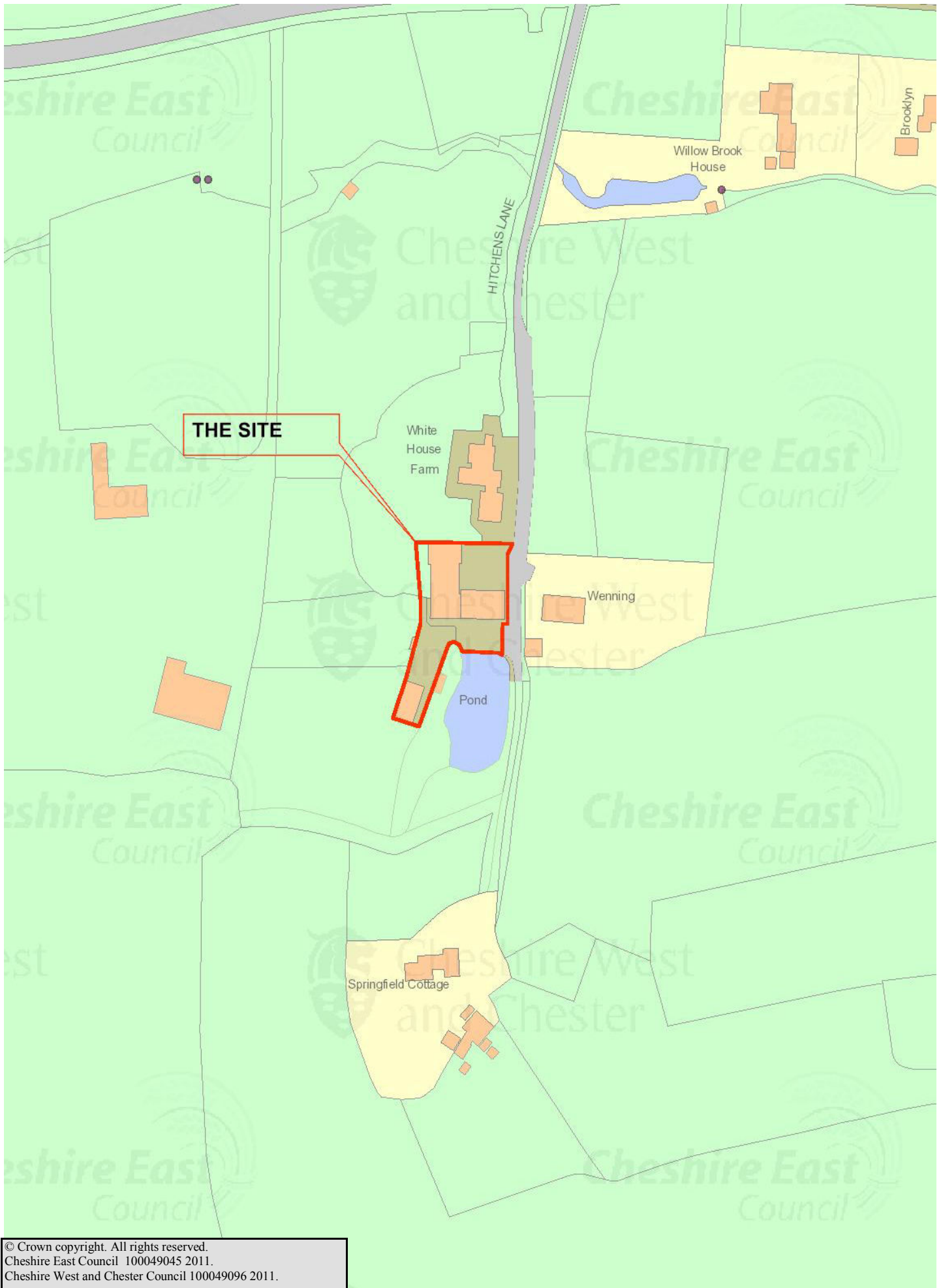
It has been demonstrated that the building is not suitable for other uses, it has been marketed for several years and is therefore acceptable in principle. The proposed development is of an appropriate design which would not result in any additional significant harm on the character and appearance of the Open Countryside, and Area of Special County Value to the existing. There would be no significant harm caused on the amenities of neighbouring properties, highway safety or protected species as conditioned. The proposal is therefore considered to be in compliance with Policies NE.2 (Open Countryside), NE.3 (Areas of Special County Value), NE.5 (Nature Conservation and Habitats), NE.9 (Protected Species), NE.16 (Re-Use and Adaptation of a Rural Building for Residential Use), BE.1 (Amenity), BE.2 (Design Standards), BE.3 (Parking and Access), and RES.5 (Housing in The Open Countryside) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.

### **RECOMMENDATIONS**

#### **APPROVE with conditions**

- 1) Standard Time**
- 2) Approved Plans**
- 3) Materials to Match**

- 4) Openings to be timber**
- 5) Conservation Style Rooflights**
- 6) Phase I Contaminated Land Survey**
- 7) Protected Species Mitigation**
- 8) Landscaping to be submitted**
- 9) Landscape implementation**
- 10) Removal of all Permitted Development Rights**
- 11) Details of any new or replacement Boundary Treatment to be submitted and approved**
- 12) Hours of Construction**
- 13) External Lighting to be submitted and approved in writing**



Application No: 11/3608N

Location: TESCO STORES, LOCKITT STREET, CREWE, CW1 7BB

Proposal: Variation of Condition 2 of Planning Approval 10/3554N to Extend the Time Limit of Temporary Store to 17 June 2012

Applicant: TESCO STORES LTD

Expiry Date: 17-Nov-2011

**SUMMARY RECOMMENDATION:**

- **APPROVE** subject to conditions

**MAIN ISSUES:**

**Principle of development**  
**Highways**  
**Design**  
**Layout and Landscaping**  
**Ecology**  
**Sustainability**  
**Impact on Neighbour Amenity**  
**Impact on the Water Environment**  
**Land Contamination**  
**Air Quality**

**1. REASON FOR REFERRAL**

The application has been referred to Committee because the proposal is for a commercial building of over 1000 square metres in floor area.

**2. DESCRIPTION OF SITE AND CONTEXT**

The application relates to a 0.97 hectare site, which is currently occupied by a temporary foodstore, which has been erected to allow business continuity whilst the rebuilding works are underway at the Tesco store, a short distance from the application site, in Vernon Way. The temporary store has a total floor area of 1244sq.m and is bounded to the north and east by railway lines filtering into Crewe railway station, to the south by commercial properties and to the west by Mill Street.

The site is allocated, under Policy S.12.2 of the Borough of Crewe and Nantwich Local Plan, as a mixed use regeneration area and also forms part of the Mill Street/Pedley Street sub area within the Crewe Rail Gateway Adopted Development Brief.

### 3. DETAILS OF PROPOSAL

Planning permission was granted for the temporary store in December 2010 (application 10/3554N refers). The store will only trade during the closure of the existing store at Vernon Way, which was original intended to be less than 12 months. Consequently a condition was imposed on the planning permission stating that the permission shall expire on 17<sup>th</sup> December 2011. The condition goes to to stated that *“The foodstore hereby permitted shall be removed from the site and the land restored to its former condition (or as otherwise agreed in writing with the Local Planning Authority) on or before that date unless a further planning permission for the retention of the foodstore has first been granted on application to the Local Planning Authority.”*

Development works at the permanent site in Vernon Way are well advanced, but due to some delays in the pre-construction phase, Tesco did not open the temporary store until 16th May 2011 and it has therefore only traded for a period of 4 months to date. The temporary store is required until the replacement store is operational. The replacement store at Vernon Way is currently timetabled to open at the end of January 2012, following which the temporary store will close

This application therefore seeks a variation to Condition 2 to extend the expiry date of the permission by a period for 6 months to ensure that the temporary store will remain open until the replacement store at Vernon Way is operational. Although it is currently anticipated that the temporary store will cease trading at the end of January 2012 (in line with the opening of the new store at Vernon Way), a 6 month extension period is sought by this application to take account of any potential delay to the opening of the replacement store and to allow time of the dismantling of the unit and its removal to an alternative site, following the identification of a suitable location. The temporary store will cease trading as soon as the replacement store is open even if the expiry date of the permission has not been reached. Tesco are therefore seeking to extend to the permission until 17<sup>th</sup> June 2012.

### 4. RELEVANT HISTORY

**P06/0876** – Outline application for Mixed Use Development Comprising Housing (Class C3), Employment (Class B1) and Retail (Class A1) uses, New Pedestrian/Cycle Link through the site and Associated Car Parking, Landscaping, Servicing and Access. - Withdrawn 26th October 2006.

**P07/0639** - Outline application for Mixed Use Development Comprising Residential, Retail (Food and Non Food Uses), New Pedestrian/Cycle Link and Associated Car Parking, Landscaping, Servicing and Access. - Resolution to approve subject to signing of Section 106 Agreement 24<sup>th</sup> March 2010

**10/3554N** - Erection of Temporary Foodstore (Class A1) – Approved 17th December 2010

### 5. POLICIES

## **North West of England Plan - Regional Spatial Strategy to 2011**

Policy DP 5	Manage Travel Demand; Reduce the Need to Travel, and Increase Accessibility
Policy DP 7	Promote Environmental Quality
Policy DP 9	Reduce Emissions and Adapt to Climate Change
Policy RDF 1	Spatial Priorities
Policy W 1	Strengthening the Regional Economy
Policy W 5	Retail Development
Policy RT 1	Integrated Transport Networks
Policy RT 2	Managing Travel Demand
Policy RT 3	Public Transport Framework
Policy RT 9	Walking and Cycling
Policy EM9	Secondary and Recycled Aggregates
Policy EM 11	Waste Management Principles
Policy EM 12	Locational Principles
Policy EM 15	A Framework For Sustainable Energy In The North West
Policy EM 16	Energy Conservation & Efficiency
Policy EM 17	Renewable Energy
Policy EM18	Decentralised Energy Supply
Policy MCR 4	South Cheshire

## **Cheshire Replacement Waste Local Plan**

Policy 11 (Development and Waste Recycling)

## **Borough of Crewe and Nantwich Replacement Local Plan 2011**

BE.1 (Amenity)  
 BE.2 (Design Standards)  
 BE.3 (Access and Parking)  
 BE.4 (Drainage, Utilities and Resources)  
 BE.5 (Infrastructure)  
 TRAN.1 (Public Transport)  
 TRAN.3 (Pedestrians)  
 TRAN.4 (Access for the Disabled)  
 TRAN.5 (Provision for Cyclists)  
 TRAN.6 (Cycle Routes)  
 TRAN.9 (Car Parking Standards)  
 S.10 (Major Shopping Proposals)  
 S.12.2 (Mixed Use Regeneration Areas) Mill Street, Crewe  
 E.7 (Existing Employment Sites)

## **National policy**

PPS 1: Delivering Sustainable Development  
 PPS 4: Planning for Sustainable Economic Growth  
 PPS 25: Development and Flood Risk  
 PPG 13: Transport

Department for Transport – Manual for Streets  
Proposed Changes to PPS6: Planning for Town Centres – Consultation

**6. CONSULTATIONS (External to Planning)**

**Environmental Health**

Environmental Health has no objection to the above application subject to the following comment with regards to air quality:

If the temporary store is still to be open for less than 12 months (as discussed during application 10/3554N), there should not be an impact on annual mean nitrogen dioxide concentrations in the area. Environmental Health would recommend however that if the store was to be in situ for more than 12 months, an air quality impact assessment should be undertaken.

**7. OTHER REPRESENTATIONS:**

None received at the time of report preparation.

**8. APPLICANT'S SUPPORTING INFORMATION:**

- Covering Letter

**9. OFFICER APPRAISAL**

**Principle of Development**

The site is allocated in the Adopted Borough of Crewe and Nantwich Replacement Local Plan 2011 under Policy 12.2 as a mixed use regeneration area and also forms part of the area covered by the Crewe Rail Gateway Adopted Development Brief. The thrust of the Local Plan allocation is to encourage the regeneration of this site with a mixture of uses including employment (B1, B2 and B8), appropriate sui-generis uses and retail subject to the retailing complying with the requirements of Policy S.10 (Major Shopping Proposals). Major proposals for the purposes of this policy will be regarded as those with a gross floorspace of over 2500 sq. m. As the temporary foodstore falls below this threshold, there is no conflict with this policy.

Crewe and Nantwich Borough Council resolved in 2007 to grant outline planning permission for a mixed use development, originally comprising residential, retail (including a 1,300 sqm foodstore) and employment uses. However, this scheme proved to be unviable and as a result Strategic Planning Board resolved to approve a revised planning application on 24 March 2010, subject to the completion of a Section 106 Agreement, which included 5,975sqm of gross retail floorspace. The additional retailing provision was considered to be justified as a way of delivering the key regenerative benefits identified in the adopted Development Brief and also the social benefits in the form of affordable housing and crucially delivering the majority of the pedestrian and cycle links between the town centre and the railway station which is a key objective of



the Crewe Rail Gateway Development Brief. For this reason the development represented a departure from the Local Plan. However, it was considered that the benefits would outweigh any harm to the vitality and viability of the town centre which may result from the additional retail floorspace.

The developer has yet to sign the Section 106 Agreement, although negotiations are ongoing. At its meeting in November 2011, Strategic Planning Board, considered a report relating to a number of proposed changes to the terms of the Agreement. However, at present it remains unsigned and therefore permission has yet to be issued.

The principle of substantial retail development on this site is therefore firmly established by the previous resolutions. Whilst the temporary Tesco store does not deliver the regenerative benefits referred to above, the floor area of 1244sq.m is considerably less than that accepted in March 2010, and is comparable to the amount put forward in the 2007 scheme, which accorded with the provisions of the Local Plan and the SPD. Therefore the development is considered to be acceptable in principle.

However, the part of the site on which the temporary Tesco store is located is the area would be occupied by the residential element (phase 2) of the comprehensive redevelopment scheme which Members resolved to approved in March 2010. It is therefore vital that the Tesco foodstore is subject to conditions to ensure that it is a temporary feature and that it is removed as soon as the new facility is completed. Retention of the store would result in the loss of the residential element of the comprehensive redevelopment and a further substantial increase in overall retail floor space across the site.

Given that the Section 106 Agreement remains unsigned, and that the proposed residential development would be part of the second phase of the comprehensive redevelopment of this site, it is not considered that the proposed extension to the time limit from December 2011 to June 2012, would jeopardise this development coming forward and it is therefore considered to be acceptable in principle.

### **Highway Considerations**

It is important to ensure that adequate parking and servicing facilities are available within the site and that a safe access can be achieved into and out of the site which does not result in an unacceptable level of congestion or queuing at any of the existing junctions. The impact of the additional traffic generated on the wider highway network must also be taken into account.

The existing vehicular access has been used from Mill Street and the existing line of Lockett Street has been maintained to provide access to the development. In respect of previous proposals on this site the Strategic Highways Manager has highlighted a high accident record along Mill Street which it is understood relates predominantly to rear end collisions. A right turn lane was therefore requested to be incorporated into the Mill Street access to reduce queuing traffic waiting to enter the site. This has been provided and will be retained.

With regard to traffic generation, the developer previously submitted a Traffic Impact Assessment which concluded that the site is in a highly accessible location and that the traffic impact of the proposed development would be no greater than that of the previously approved development. It was considered previously that given that the temporary store will only operate whilst the main Tesco site is out of commission, the traffic impact on the surrounding roads and junctions is unlikely to be significantly different than at present. This will continue to be the case if the permission is extended.

Tesco envisage that the new store will be available at the end of January 2012 but have requested an extension of the temporary store permission until June 2012 to allow for contingencies. It is recommended, however, that the condition is worded to require early closure of the temporary store in the event that the permanent Tesco opens prior to June 2012.

The maximum parking provision for A1 retail stores as set out in the Local Plan is 1 space per 9sq.m, which generates a maximum requirement of 138 spaces. The submitted plans show parking areas containing 101 spaces along with HGV turning and unloading facilities. At the time of the previous application the Strategic Highways Manager, considered this level of provision to be acceptable and this continues to be the case.

In summary, this is a temporary store, located a short distance from the existing Tesco site, in an accessible location midway between the railway station and the town centre. Any additional traffic generation will be off-set by a reduction resulting from the closure of the existing store. Improvements have been made to Mill Street to ensure that safe vehicular access can be achieved and adequate parking provision has been made available within the site boundary. In light of the above, and in the absence of any objection from the Strategic Highways Manager, it is not considered that a refusal of the proposed extension of time on highways grounds could be sustained.

## **Design**

The temporary store is a single storey, flat roofed modular building, with an overall height of 4m and a brown plastisol finish. It is sited adjacent to the north side of the existing bus depot. In this location it is largely screened from Mill Street and other public vantage points by the depot building and the adjacent Wickes Store. As a result it is only be visible from within the site or from passing trains on the railway line to the east.

Consequently, whilst the proposed building is not of any merit in design terms, due to its low overall height and its location to the rear of the site, it does not detract from the overall character and appearance of the area. Furthermore, given its temporary nature, any impact on the long term efforts to enhance the quality of the development in this area are limited. It is not considered that increasing the temporary time limit by six months will prejudice these long term plans for the improvement of the site, or would be sufficiently detrimental to the overall appearance of the area in the short term to warrant refusal. Therefore, subject to conditions to ensure that it remains a temporary structure, it is considered to be acceptable in terms of design.

## **Layout and Landscaping**

The site was largely brownfield, with trees being constrained to the north-western corner of the site. The development has been carried out without significant loss of vegetation on the site. Two small trees were removed as part of the access arrangements into the car park. In the context of the provision of the additional planting this was considered to be acceptable. It is not considered necessary for replacement trees to be planted that will themselves have to be removed at a later date if they are not to restrict future development of this site.

The proposed temporary store is located on the northern part of the site. The existing access to the bus depot has been utilised to give access to a parking area to the front and side of the store. A compound has been formed at the northern end of the site using temporary fencing to serve as a service yard and delivery area to the store. A new access has been formed to an area of retained hardstanding to the south of the site which serves as a yard area to the bus depot. This enables users of the store and car park to be safely separated from the vehicle movements associated with the bus depot. The car park and surrounding pedestrian areas are appropriately surfaced and some new landscaping, including trees and low growing shrubs, has been provided to the perimeter of the site.

Considering the temporary nature of the proposal, a quick establishment predominantly native landscape scheme was considered to be acceptable. This landscaping will continue to be maintained for the remainder of the temporary period.

Whilst the layout and landscaping do not reflect the Council's future aspirations for the regeneration of the site, which should include high quality public realm, public art and a high quality pedestrian / cycle link through the site, these works are temporary, and will constitute an improvement over the derelict and vacant land which occupy the site at present.

## **Ecology**

Given the brownfield nature of the site it is considered that there would be no adverse impact on protected species.

## **Sustainability**

Policy EM18 of North West England Plan Regional Spatial Strategy (RSS) outlines that, in advance of the setting of local targets for decentralised/renewable/low-carbon source energy supply, at least 10% of predicted energy requirements should be from such sources unless it is demonstrated not to be viable.

Whilst the proposal has sufficient floor area to fall within the Policy EM18 requirement for renewable energy, given the temporary nature of the building, and the fact that the new store to be constructed in Vernon Way will include many energy saving and sustainable features, it was not previously considered to be reasonable or viable to

insist on the incorporation of sustainable features within this temporary development. This continues to be the case as the building will not become a permanent feature.

As the building is now in place, and no further physical works are proposed there is no requirement for a Construction Waste Management Plan and no conflict with policies EM9 (Secondary and Recycled Aggregates) and EM11 (Waste Management Principles), EM11 of the RSS which relate to waste management principles and Policy 11 (Development and Waste Recycling) of the Waste Local Plan

### **Impact on neighbour amenity**

Given the town centre location and the nature of the surrounding land-uses, which are predominantly associated with commercial and retail activity, impact on neighbour amenity is not considered to be a significant issue in this case.

### **Impact upon Water Environment**

The Valley Brook is culverted beneath a large part of the site. However, the Environment Agency raised no objections to the original application subject to the imposition of appropriate conditions. An objection was raised by United Utilities as the development affected a right of way which they have across the site. However, this has since been resolved privately between the developer and United Utilities.

### **Land Contamination**

The site has a history of use as a Gas Works and Railway Engine Sheds and has the potential for the land to be contaminated. Both the Environment Agency and the Environmental Health Department, however, raised no objection to the original application subject to the imposition of appropriate conditions.

### **Air Quality**

Environmental Health is satisfied that the proposed development would have little or no impact on the air quality in the surrounding area or the Nantwich Road Air Quality Management Area given its temporary nature. Environmental Health would recommend however that if the store was to be in situ for more than 12 months, an air quality impact assessment should be undertaken. However, the store should be closed within 12 months of it's original opening in May 2011 and conditions will be imposed to ensure that it is removed by 17<sup>th</sup> June 2012.

### **Other Matters**

Network Rail raised a number of issues, in respect of the original permission, some of which are material planning considerations. Drainage, lighting and boundary treatment were dealt with by way of condition and the issues raised in terms of maintaining the safety of the railway during construction works were added to the original decision notice as informatives. However, matters relating to access and encroachment are private issues between Network Rail and the developer as neighbouring land owners.

## **10. CONCLUSION**

The proposal seeks to extend to time limit of the consent for a temporary Tesco store of 1244sq.m which will only trade during the closure of the existing store at Vernon Way, which will be until the end of January 2012, or, allowing for unforeseen contingencies, June 2012, at the latest.

The site is allocated for a mixed use scheme, which includes an element of retail and previous Committee resolutions have established the acceptability in principle of retail development on the site. The amount of retail development proposed is less than the more recently accepted scheme and is comparable to the scheme which Committee resolved to approve in 2007. However, as the temporary store will be located on the part of the site shown for residential development in the outline scheme, in order to avoid an overall increase in retail development on the site, it is necessary to impose conditions to ensure that it is removed following completion of the permanent store.

It has also been adequately demonstrated that, the proposed development is not having an adverse effect on traffic levels or highway safety within the vicinity and that it will continue to be acceptable in terms of design, layout and landscaping, ecology, sustainability, impact on neighbour amenity, impact on the water environment, land contamination and air quality, providing that it is retained only on a temporary basis.

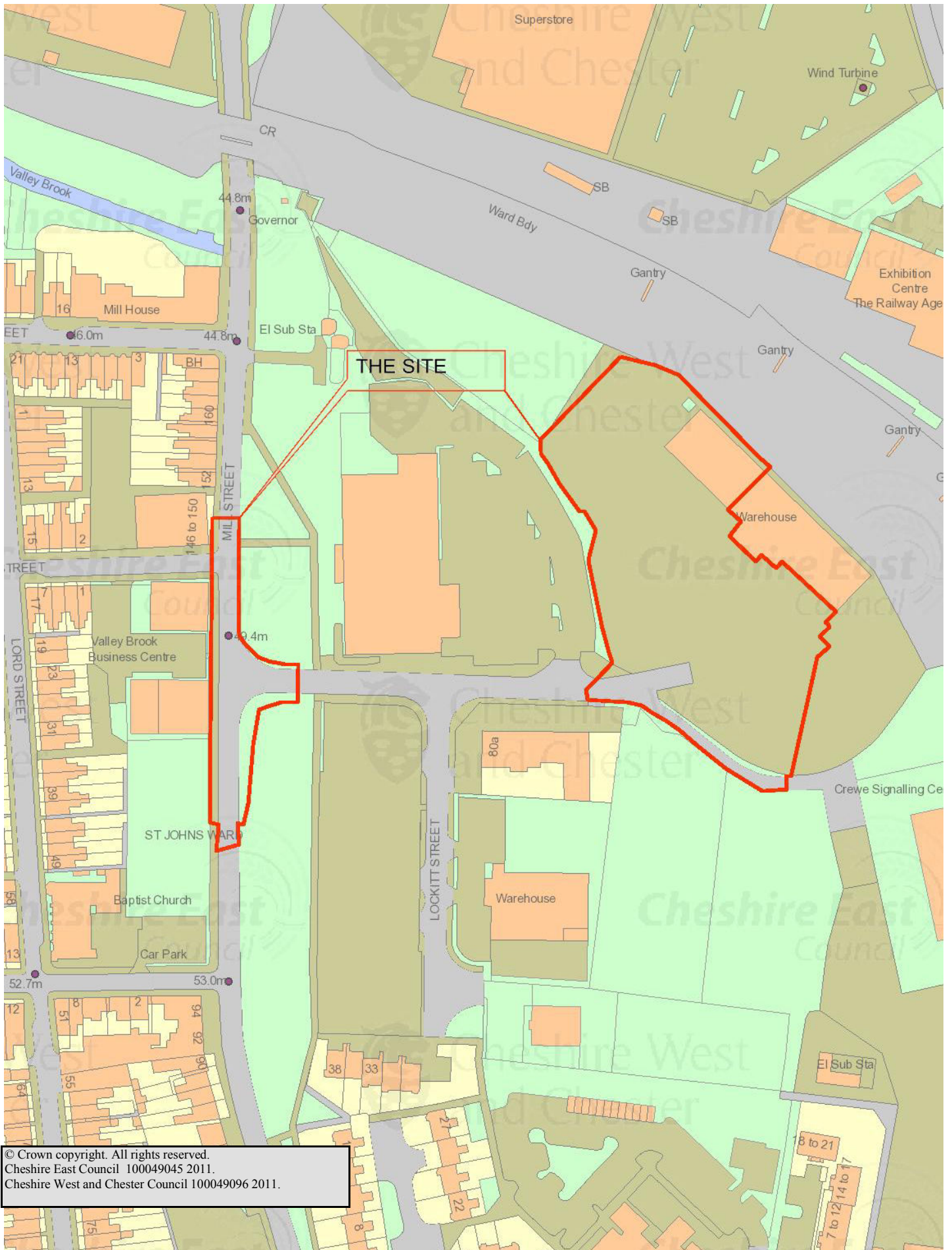
Having due regard to all other matters raised, it is considered that the proposal complies with the relevant Development Plan policies, as set out above and in the absence of any other material considerations, it is recommended for approval subject to conditions as set out below.

## **11. RECOMMENDATIONS**

**APPROVE** subject to the following conditions:

- 1. Standard**
- 2. Temporary until 17<sup>th</sup> June 2012, or opening of the new store, whichever is sooner.**
- 3. Approved Plans**
- 4. Materials to be in accordance with those shown in the application**
- 5. Implementation / Maintenance of Landscaping in accordance with previously approved details.**
- 6. Surfacing Materials to be in accordance with those shown in the application**
- 7. No lighting other than that previously approved.**
- 8. No works to take place except in completed accordance with previously approved contaminated land report**
- 9. Foundations shall consist of stacked paving slabs placed at existing ground level.**
- 10. No works to take place except in completed accordance with previously approved method statement to ensure than no dust emits from the site**

- 11. No works to take place except in completed accordance with previously approved soil gas monitoring and confined spaces within the building should be ventilated.**
- 12. No Development within 8m of side walls of culvert**
- 13. No works to take place except in completed accordance with previously approved scheme of drainage**



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## CHESHIRE EAST COUNCIL

### SOUTHERN PLANNING COMMITTEE

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**Date of meeting:** 7<sup>th</sup> December 2011  
**Report of:** Caroline Simpson, Head of Development  
**Title:** Planning Approval P03/0494 – 24 No. Dwellings at Hastings Road - Variation to S.106 Agreement relating to No.21 The Gatehouse  
**Applicant:** Miss L Vass and Plus Dane Housing Group

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#### **1.0 Purpose of Report**

- 1.1 To consider proposed amendments to the wording of a signed S.106 agreement.
- 1.2 The report is being presented to Southern Planning Committee because the original approval for planning application P03/0494 was made by the legacy Crewe and Nantwich Borough Council Planning Committee for the construction of 24 dwellings. The decision was issued on 27<sup>th</sup> September 2004.

#### **2.0 Decision Required**

- 2.1 To agree to the amendment to the wording of a S.106 agreement attached to the above to enable 100% staircasing to the property known as 21 The Gatehouse, Nantwich.

#### **3.0 Background**

- 3.1 The application (P03/0494) relates to the construction of 24 Dwellings on land adjacent to London Road, Nantwich. The dwellings have been completed and are occupied. The development was approved subject to the completion of a s.106 agreement to secure affordable housing on the site. The s.106 agreement has been completed and signed.
- 3.2 The s.106 agreement refers to three affordable units which are known as No.17, 20 and 21 The Gatehouse. The properties are subject to a shared ownership lease whereby the occupier acquires a percentage interest in the unit and a rent is payable to the Housing Association on the remainder of the unit.
- 3.3 In this instance the s.106 agreement allows for staircasing whereby the occupier pursuant to a Shared Ownership Lease has the right to acquire a greater interest in the unit by paying a % of the open market value of the property. The rent payable thereby reduces proportionately.

- 3.4 This s.106 contains a clause whereby any leaseholder of the affordable unit is not permitted to staircase beyond acquiring a 90% share of that unit. Therefore, the occupier cannot own the dwelling outright.

#### **4.0 Proposals**

- 4.1 This application has been made by the occupier and part owner of the property known as 21 The Gatehouse (Miss L Vass) and the Housing Association (Plus Dane Housing Group). It is requested that the Committee agree to the variation of the wording of the s.106 agreement to remove the 90% restriction on staircasing and allow for the outright ownership of the dwelling known as 21 The Gatehouse, Hastings Road.

#### **5.0 Analysis**

- 5.1 The joint application has been made by the joint owners of the property. The applicant has stated that the reason behind the request to vary the s.106 agreement is that they have experience great difficulty in selling the property due to this restriction.
- 5.2 The property has been marketed since 2008. Evidence has been submitted from two estate agents, 1<sup>st</sup> Choice for Homes and Bridgfords, demonstrating the applicants instruction to market the property. The marketing price in 2008 for Ms Vass's share of the property was £57,500 which reduced in 2011 to £50,000. Plus Dane Group have confirmed that all the appropriate steps have been taken to market the property but the dwelling remains unsold.
- 5.3 Feedback from the estate agents and comments from Dane Plus Housing has stated that whilst owning a 50% share in the property is attractive to young people, they are unwilling to commit to the property without having the option to own the remaining 50% at some point in the future.
- 5.4 It is also stated that since the housing market crises most mortgage providers have now withdrawn from providing mortgages where restricted staircasing is imposed.
- 5.5 Consultation has been carried out with the Strategic Housing and Development Manager. They have stated that there are currently 7 shared ownership properties within the housing scheme which are subject to this restriction and there has been no approach from the other 6 owners in this respect. Notwithstanding this, they applicant has marketed the property since 2008 and they have witnessed an inability to sell despite considerable price reductions as potential purchasers are deterred from placing an offer due to the staircasing restriction.

5.6 The Strategic Housing and Development Manager has also confirmed that most mortgage providers have withdrawn from providing mortgages where restrictive staircasing is imposed because if the property is repossessed the mortgage lender is not able to access 100% ownership. Therefore it is extremely difficult to access a mortgage.

5.7 Furthermore, there are no other urban schemes in Cheshire East with such a restriction. The Homes and Communities Agency (HCA) document "Shared Ownership: Joint Guidance for England" states that except in certain rural schemes, schemes in Protected Areas and shared ownership schemes for the elderly all HCA funded schemes must allow for the leaseholder to staircase to 100% and own the property outright.

## **6.0 Conclusion**

6.1 In the light of the comments raised by the Strategic Housing and Development Manager it is considered that the wording of the s.106 agreement attached to Planning Permission P03/0494 be amended to allow staircasing for 100% ownership of the property known as 21 The Gatehouse.

## **7.0 Recommendation**

7.1 That the Committee resolve to vary the wording of the s.106 Agreement in respect of application P03/0494 to allow for 100% staircasing of the property known as 21 The Gatehouse.

## **8.0 Financial Implications**

8.1 There are no financial implications.

## **9.0 Legal Implications**

9.1 Revisions to the wording of the signed Legal Agreement attached to Planning Application P03/0494 to allow for staircasing to the property known as 21 The Gatehouse, Hastings Road, Nantwich. Subject to approval from Committee the Borough Solicitor will have authority to execute a s106 Agreement in those revised terms.

## **10.0 Risk Assessment**

10.1 There are no risks associated with this decision.

### ***For further information:***

*Portfolio Holder:* Councillor Rachel Bailey  
*Officer:* Declan Cleary – Senior Planning Officer  
*Tel No:* 01270 537497  
*Email:* [declan.cleary@cheshireeast.gov.uk](mailto:declan.cleary@cheshireeast.gov.uk)

***Background Documents:***

- *Application P03/0494*

## CHESHIRE EAST COUNCIL

### SOUTHERN PLANNING COMMITTEE

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**Date of meeting:** 7<sup>th</sup> December 2011  
**Report of:** Caroline Simpson, Head of Development  
**Title:** Smallwood Storage

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#### **1.0 Purpose of Report**

- 1.1 To consider the comments of the Greenspaces Officer in respect of planning application 11/0627C for demolition of Existing Buildings and Erection of 15 Dwellings and Associated Infrastructure Works at Smallwood Storage Ltd, Moss End Farm, Moss End Lane, Smallwood.

#### **2.0 Decision Required**

- 2.1 To agree to the proposed amendments to the previous resolution and to instruct the Borough Solicitor to complete the Section 106 Agreement.

#### **3.0 Background**

- 3.1 Members may recall that at its meeting on 13th July, 2011 Southern Planning Committee resolved to grant delegated powers to the Head of Planning and Housing to approve outline planning permission for the demolition of the existing warehouse and erection of a residential development of 15 dwellings at Smallwood Storage subject to no objection being received from the Greenspaces Officer.
- 3.2 The Greenspace Officer's comments have since been received which request a substantial financial contribution towards public open space. The developer has argued that a requirement to make such a contribution would render the scheme unviable. However, failure to agree to the contribution by implication invokes an objection from the Greenspaces Section and consequently, the matter must be referred back to committee for further consideration.

#### **4.0 Officer Observations**

- 4.1 The Greenspaces Officer has commented (see below) that an area of on-site open space, which is deficient in terms of area, based on the number of dwellings proposed, will be provided alongside the access road. As well as commenting on the inadequacy of the area, she has raised concerns about its location alongside the access road and close to the pond. However, this land is shown outside the application site

boundary, as shown edged red on the location plan. The developer has confirmed that this area is not proposed as open space. Consequently, no public open space is proposed as part of this development.

- 4.2 The preference of the Greenspaces officer is for on-site provision. However, if this is not possible she has recommended a financial contribution of £109,139 in lieu of off-site provision.
- 4.3 This requirement has been put to the developer who has responded by stating that the requirement to make a public open space contribution would render the scheme unviable.
- 4.4 The viability of individual schemes is a material consideration in deciding planning applications, and as stated above, both the interim statement and local plan policy allow economics of provision arguments to be advanced. Since 2008 there has been significant downturn in the housing market and particularly on brownfield sites where costs of redevelopment are proportionally higher than greenfield sites. Developers have sought and continue to seek to negotiate a lower provision for Section 106 contributions such as affordable housing and public open space on the basis that the Council's normal requirements would render redevelopment unviable. Furthermore, this stance has been upheld by Inspectors on a number of occasions at Appeal, who have determined that the regenerative benefits of bringing brownfield sites back into beneficial use, and the contribution to housing land supply, outweigh the need to provide the full policy requirements in terms of contributions.
- 4.5 There would be significant planning benefits that would arise from the redevelopment of the site for residential use. Firstly, the proposal would assist the Council to meet its housing land requirements and would ease pressure of Greenfield sites elsewhere within the Borough. Secondly, the proposed residential development would have significantly less impact on the character and appearance of the surrounding area, traffic generation and the amenity of neighbouring occupiers than the existing haulage and storage use.
- 4.6 Thirdly the Written Ministerial Statement: Planning for Growth (23 March 2011) by The Minister of State for Decentralisation (Mr. Greg Clark) states that *"The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy."* It goes on to say that *"when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development. Where relevant - and consistent with their statutory obligations - they should therefore, inter alia,*

- *consider fully the importance of national planning policies aimed at fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession;*
  - *take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;*
  - *consider the range of likely economic, environmental and social benefits of proposals; including long term or indirect benefits such as increased consumer choice, more viable communities and more robust local economies (which may, where relevant, include matters such as job creation and business productivity);*
  - *ensure that they do not impose unnecessary burdens on development”*
- 4.7 The proposal at the Smallwood Storage site will enable an existing local business to relocate to new premises and to expand, generating jobs and economic benefits. Furthermore, the proposal will help to maintain a flexible and responsive supply of land for housing, which is specifically identified above as a “key sector”. The proposal will also create jobs and economic growth in the construction industry and all the associated supply networks. The Secretary of State for Communities and Local Government has made it clear that he will take the principles in this statement into account when determining applications that come before him for decision. In particular he will attach significant weight to the need to secure economic growth and employment.
- 4.8 If it is not financially viable for the developer to build the scheme the site will not come forward and the planning benefits of the proposal, as outlined above will not be realised. This adds significant weight to the financial viability of the scheme as a material consideration.
- 4.9 Members will recall from the previous report relating to this site that a viability appraisal was submitted with the application. This indicated that when all site acquisition and construction costs as well as developers profit were subtracted from the sales values of the completed properties, the residual would be sufficient to provide an affordable housing contribution of £239,400.
- 4.10 The viability report was scrutinised by officers and its conclusions were accepted and Committee subsequently resolved to agree this level of affordable housing contribution. In so doing, the Council has accepted that viability is an issue on this site, and the developer’s residual valuation. Therefore, the only way in which a further contribution for public open space provision could be obtained is if the affordable housing contribution were to be reduced accordingly.
- 4.11 The developer has stated that they would have no objection to the monies being divided between public open space and affordable housing. However, it is considered that given the pressing need for affordable housing, particularly in rural areas, and the fact that opportunities have been identified to use the funds in question, that it

would be undesirable to reduce the affordable housing contribution that has been secured.

- 4.12 Furthermore, both the developer and the Greenspaces officer have highlighted the difficulties in identifying opportunities to spend the money on public open space improvements within the immediate vicinity. Although contributions in lieu of amenity greenspace could be used for improvements to surfacing of the Public Footpath adjacent to the site to increase its capacity there is particular difficulty in spending the contribution in respect of formal children's playspace. Both Sandbach and Congleton main parks exceed the 800m threshold distance from the development by a long way. The Greenspaces Officer has commented that the small play facility within Smallwood called 'Foxes Covert' (approx 1000m way) was required as part of that development would benefit from improvement, but the site is very small and not really suitable. It is for this reason that her preference is for on-site open space provision.
- 4.13 Given that the application is made in outline, a condition could be imposed requiring on-site provision of public open space as part of the reserved matters application. However, the developer has argued that this would be impractical for a number of reasons. Firstly, provision of open space within the development site, would reduce the developable area, which would impact on the viability of the scheme.
- 4.14 Secondly, as Members may recall from the previous report on this application, it was initially proposed to redevelop the site for a 30 unit scheme comprising a mix of house types, typical of many suburban housing estates in a cul-de-sac layout. The proposal would have included, inter alia, 3 storey townhouses and mews properties. At the pre-application stage officers expressed the opinion that this would be inappropriate as it would represent an excessive bulk of built development in the open countryside both in terms of height and massing, and would be out of keeping with the low density character of surrounding development. The scheme was therefore redesigned to include a smaller number of much more exclusive large detached houses. The presence of on-site public open space would reduce the exclusivity of the development, and with it the potential property values and accordingly, the already marginal viability would be adversely affected.
- 4.15 The only way in which the viability could be improved would be to increase the number of units on site, which would in turn further increase the public open space requirement. This would necessitate further units to further improve viability until the two came into balance. This increase in units would be undesirable from a design perspective and would increase the bulk of built development on the site to the detriment of the open character and appearance of the surrounding countryside.



- 4.16 Thirdly, the developer has argued that given that they are providing large family houses, with large gardens and therefore families would have less need to utilise public open space. This argument is not accepted as gardens are considered to be 'private open space' for which there is a separate policy requirement in addition to "public open space. Therefore the two forms of open space cannot be substituted.
- 4.17 Notwithstanding this point, the developers viability concerns, and the design considerations as set out above are legitimate and important material considerations, which, in this case, are considered to be sufficient to outweigh the provisions of the development plan policy and the supplementary planning guidance in respect of public open space provision.

## **5.0 Conclusion**

- 5.1 The proposal does not make any provision for on-site public open space. The developer has previously provided, and the Council has accepted, a financial appraisal which demonstrates that the viability of this site is marginal. Any proposal to provide either on-site open space or a contribution towards off-site provision would render the scheme unviable. This would prevent the redevelopment of a brownfield site and the relocation and expansion of an existing business, which is currently poorly located.
- 5.2 Previous appeal decisions have established that viability is a significant and material consideration in the determination of planning applications.
- 5.3 The only way in which viability could be improved would be to increase the number of dwellings on site which would be undesirable in design terms and would detract from the open character and appearance of the countryside. This is also an important material consideration, given the unusual and sensitive location of this site.
- 5.4 The developer has stated that they would have no objection to the £239,400 affordable housing contribution which has already been secured, and accounted for in the viability appraisal, being divided between public open space and affordable housing. However, it is considered that it would be undesirable to reduce the affordable housing contribution that has been secured.
- 5.5 Therefore, for the reasons set out above, it is considered that the exceptional circumstances surrounding these in this case, are significant material considerations that warrant the setting aside of established local plan policy and supplementary planning guidance in respect of public open space provision. Accordingly, it is recommended that Members resolve to approve the application subject to conditions as set out below, and the signing of a Section 106 agreement to secure £239,400 towards affordable housing provision but without any requirement to make any provision for public open space.

## **6.0 Recommendation**

**APPROVE planning application 11/0627C subject to:**

**Section 106 agreement to secure:**

- **£239,400 towards affordable housing provision elsewhere in the area**

**and the following conditions:**

- 1. Standard**
- 2. Plans**
- 3. Materials**
- 4. Landscaping**
- 5. Implementation of Landscaping**
- 6. Boundary Treatment**
- 7. Tree Protection Measures & Arboricultural Method Statement.**
- 8. Implementation of Tree Protection**
- 9. Removal of Permitted Development Rights**
- 10. Contaminated Land Condition**
- 11. Construction of Access.**
- 12. Provision of parking**
- 13. Development shall be restricted to 08:00 to 18:00 hours on Monday to Friday, 08:00 to 13:00 hours on Saturday, with no work at any other time including Sundays and Public Holidays.**
- 14. Details of piling to be submitted**
- 15. Timing of works to avoid bird nesting season**
- 16. Provision of bat roost**
- 17. method statement covering mitigation for great crested newt as outlined in the supporting Phase 1 Habitats Survey Report**
- 18. Accommodation of the public footpath.**
- 19. Submission of scheme to limit the surface water run-off generated by the proposed development,**
- 20. The discharge of surface water from the proposed development to mimic that which discharges from the existing site. Attenuation will be required for discharges up to the 1% annual probability event, including allowances for climate change.**
- 21. Provision of SUDS**
- 22. Submission of a scheme to manage the risk of flooding from overland flow of surface water,**
- 23. site layout is to be designed to contain any such flooding within the site,**
- 24. Submission of a scheme to treat and remove suspended solids from surface water run-off during construction works**
- 25. Submission of a scheme to dispose of foul drainage**

## **7.0 Financial Implications**

- 7.1 There are no financial implications.

## **8.0 Consultations**

### ***Borough Solicitor***

- 8.1 The Borough Solicitor has been consulted on the proposals and raised no objections

### ***Greenspaces Section***

- 8.2 *With reference to the plans for the erection of 15 dwellings consisting of 4 and 5 bedrooms, if the development were to be granted planning permission (in accordance with the submitted Proposed Site Layout Plan, Drawing No 490 SL 01 D, dated 10th May'10) there would be a deficiency in the quantity of provision, having regard to the adopted local standards set out in the Council's Open Space Study for both Amenity Green Space and Children and Young Persons provision.*
- 8.3 *It should also be noted that the Planning Statement 4.18 states 'Policy GR22 deals with the provision of open space. It refers to the Council's Supplementary Planning Guidance. In this case the number of dwellings is below the threshold for the provision of public open space in the Supplementary Planning Guidance and there is therefore **no** requirement for onsite provision'. This is incorrect and contrary to policy as provision is required for residential developments over 7 dwellings in accordance with the Supplementary Planning Guidance paragraph 3.6.*
- 8.4 *Following the assessment of the existing provision of Amenity Greenspace accessible to the proposed development, having a quantity deficiency, it is acknowledged an area of Amenity Greenspace is being provided on site. As this is an outline application with all matters reserved, no measurement or landscape details are provided. Based on 15 dwellings comprising of 4 bedrooms each, the area required on site is 600m<sup>2</sup>. This figure will vary if bedroom numbers alter. This is the area required for Amenity Green Space alone and Children and Young Persons provision should be in addition.*
- 8.5 *To the NE side of the site an existing pond is retained and whilst it is appreciated this is to conserve the natural landscape, environment and contributes to regulatory requirements to comply with SUD's it has never been the Council's policy to take transfer of areas of POS that have water bodies located in, around or running through them due to the additional liabilities and maintenance implications associated with such areas. Therefore I suggest that consideration is made for this the pond and wetland areas to be transferred to a management company.*
- 8.6 *The area of water would not be classed as useable open space and would therefore be deducted from the total area of amenity greenspace that is being offered up on site.*

- 8.7 *The location of the POS that has been proposed, is not ideal being adjacent to the main inlet road to the development. The Council's Supplementary Planning Guidance Note for provision of Public Open Space in New Residential Developments 5.2 states new provision should be 'preferably centrally located' and 'the open space should not adjoin a main road or estate distributor road, which is expected to carry a significant amount of traffic' It is appreciated there are boundary treatments which may provide a buffer but this is difficult to assess as there are no details. Consequently, given the information provided Greenspaces request the location of the POS is re considered. If this is not feasible then the main inlet road is re located further towards the pond to maximise the useable POS providing a kick about area.*
- 8.8 *The existing trees to the front and other boundaries of the site are being retained with new supplementary planting to be included within the proposed landscaping scheme. These areas including the additional buffer planting which should be considered in some depth in light of future maintenance implications, planting distances in relation to buildings, and species types of trees. Clarification would be required as to the intended end ownership of these areas due to any maintenance implications that may arise as a result of it. It is with this in mind therefore, that I suggest that consideration is made for these areas of POS to be transferred to a management company.*
- 8.9 *Based on the aforementioned calculations, if the formal area of 600m<sup>2</sup> POS was to be transferred to The Council serving the development based on the Council's Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be £7,095 for maintenance.*
- 8.10 *Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study for Children and Young Persons Provision. Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development.*
- 8.11 *Whilst The Council recognises that smaller developments will not always practically be able to provide open space and/or play provision on site where less than 20 dwellings are proposed, and financial contributions would be sort towards enhancement of pos/play provision within an 800m radius. In this instance, there is no provision nearby, hence the request for play provision on site.*
- 8.12 *If a small Equipped Area for Play (LEAP) centrally located on the POS within the development providing at least 3 items of equipment (including a multi-unit) for the 6 and under age range, the estimated*

cost would be £51,000 with maintenance estimated at a further £51,044 (25 years)

- 8.13 *This would take into account play area infrastructure, equipment including elements of DDA equipment, safer surfacing and safety inspection. We would request that the final layout and choice of play equipment be agreed with CEC, and obtained from a supplier approved by the Council, the construction should be to the council's specification. Full plans must be submitted prior to the play area being installed and these must be approved, in writing prior to the commencement of any works.*

## **9.0 Risk Assessment**

- 9.1 There are no risks associated with this decision.

## **10.0 Reasons for Recommendation**

- 10.1 To ensure that an approved scheme for additional housing supply on a brownfield site, including an affordable housing contribution, within the rural area is delivered.

### ***For further information:***

Portfolio Holder: Councillor Rachel Bailey  
Officer: Ben Haywood – Principal Planning Officer  
Tel No: 01270 537089  
Email: [ben.haywood@cheshireeast.gov.uk](mailto:ben.haywood@cheshireeast.gov.uk)

### ***Background Documents:***

*Planning application 11/0627C*

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<b>Planning Reference No:</b>	11/3879T
<b>Application Address:</b>	Bottom Wood, Hatherton, Nantwich
<b>Proposal:</b>	Application to fell 12 protected trees (comprising of six Oak; two Beech; two Pine, one Larch and one Silver Birch) and crown lifting of other protected trees adjacent to the highway.
<b>Applicant:</b>	Mr Peter Jackson, Peter Jackson Developments Ltd, Field House, 597 Etruria Road, Basford, Stoke on Trent, Staffs ST4 6HP
<b>Application Type:</b>	Works to TPO Trees
<b>Ward:</b>	Wybunbury
<b>Registration Date:</b>	24 <sup>th</sup> September 2011
<b>Expiry Date:</b>	18 <sup>th</sup> November 2011.

#### **SUMMARY RECOMMENDATION**

The Committee is recommended to :

- refuse consent for the felling of Tree Nos. 1089(Pine); 1092(Oak); 1097 (Beech) and 1116 (Silver Birch)
- grant consent for the felling of Tree Nos. 1094 (Oak); 1100(Oak);) and 1119 (Pine) insofar as the works are considered in accordance with good woodland management
- allow the felling of Tree Nos. 1095(Oak); 1101 (Beech) and 1121 (Larch) and removal of deadwood from other trees insofar as these works are considered to be exempt from any requirement to obtain consent from the Council by virtue of Section 198(6)(a) of the Town and Country Planning Act 1990.
- grant consent for the crown lifting of Trees Nos. 1086 (Oak); 1087(Oak); 1090(Oak); 1093(Oak); 1096 (Beech); 1098(Beech); 1122 (Oak); 1123(Oak);1125 (Oak);1128(Oak); 1130(Oak) by variation of the application for the removal of secondary and sub lateral branches to a height no greater than 5.2 metres no further than edge of the carriageway.
- grant consent for the crown lifting of 1118(Oak) to a height of 3 metres to allow suitable clearance for pedestrians
- grant consent for the crown lifting of Tree Nos. 1089(Pine); 1092(Oak); 1097 (Beech); 1103 (Oak); 1104 (Oak) which by virtue of this recommendation were refused consent for felling or withdrawn for the purposes of felling by the Applicant, but by the reasons submitted can be mitigated by pruning of secondary and sub lateral branches to a height no greater than 5.2 metres no further than the edge of the carriageway

## **REASON FOR REPORT**

To seek the determination of an application to fell 12 trees (comprising of six Oak; two Beech; two Pine, one Larch and one Silver Birch) and crown lifting of other trees adjacent to the highway within a woodland which is protected by the Nantwich Rural District Council (Hatherton) Tree Preservation Order 1973. This application has been called in to Southern Area Planning Committee by Cllr Clowes.

The reason for this request is because concern has been expressed by the local community about the impact of the proposals on the amenity, historic character and ecology of the woodland. In addition the woodland has been linked to previous planning applications which have been refused on appeal and more recently in respect of the granting of Forestry Commission Woodland Improvement Grant/Felling Licence proposal. It is considered that in the light of these matters it is appropriate to allow the committee to base its decisions on all the information available and be consistent in its approach to the decisions on the site.

## **DESCRIPTION OF SITE AND CONTEXT**

The woodland known as Bottom Wood lies about 5 km south of Nantwich to at the junction of the B5071 Crewe Road and Park Lane within the rural hamlet of Hatherton. The woodland appears to be part of a larger wooded estate, its existence dating back to 1777 or earlier. The woodland is approximately 2 hectares in size and consists principally of Pine, Larch and Birch with smaller areas of Beech, and Oak part of which has a Holly under storey. A public right of way (Hatherton FP6) runs through central northern section of the woodland from Park Lane to B5071 Crewe Road along the south west boundary of 'Oak View'

The woodland is the subject of a Tree Preservation Order (TPO) which was confirmed by the Council on 20<sup>th</sup> August 1973

## **DETAILS OF PROPOSAL**

This is an application to fell six Oak trees; two Beech trees; two Pine trees, one Larch tree and one Silver Birch tree within W1 of the Nantwich Rural District Council (Hatherton) Tree Preservation Order 1973 and the crown lifting to a height of 5.2 metres of various Oak and Beech trees adjacent to the highway and public right of way to allow safe clearance for the passage of vehicles and pedestrians. With the exception of Birch (Tree 1116) the proposed works to trees in the application has been submitted because specific areas of the woodland within which these trees stand were deemed inappropriate for inclusion within recently approved Woodland Improvement Grant/ Felling Licence proposals.



## **RELEVANT HISTORY**

23<sup>rd</sup> March 2011 - Felling licence approved and funding secured through the Forestry Commission English Woodland Grant Scheme (EWGS) - Woodland Improvement Grant (WIG) (Ref EWGS 22325). The management aims will be to maintain Continuous Canopy Cover with a target to remove Pine in compartment 2 and create uneven aged woodland through thinning, gap creation and regeneration of local broadleaves. The current grant scheme application and felling licence work has now been completed to the satisfaction of the Forestry Commission and the Council.

P/08/0926 - Application for a detached dwelling on land adjacent to The Oaks, Crewe Road, Hatherton - Refused 24.9.2008 Appeal dismissed 4<sup>th</sup> August 2009

P/05/1602 – Outline application for one detached dwelling with detached double garage on land adjacent to The Spinney', Park Lane, Hatherton – Refused 6.1.2006

## **POLICIES**

In deciding this application the Authority is not required to have regard to policies under the Local Plan neither is there a general duty to make their decision in accordance with that plan. Applications to carry out works to protected trees are determined in accordance national guidance found in 'Tree Preservation Orders A Guide to the Law and Good Practice' March 2000 (updated September 2008).

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

None

## **VIEWS OF THE PARISH/TOWN COUNCIL**

Hatherton and Walgherton Parish Council (Report dated 11<sup>th</sup> November 2011)  
The Parish Council supports the application in accordance with the stated objectives set out in the Woodland Improvement Grant (WIG) subject to a number of conditions. These conditions are:

1. Verification of the condition of trees and suitability of the works proposed.
2. Provision of comprehensive replanting in order to maintain the special character of the woodland and ensure a sense of enclosure and reinstate tree cover lost due to felling under the WIG and the TPO application.
3. The Submission of a bat survey.
4. Disclosure of the applicant's intention for the future management of the woodlands.

Without such conditions the Parish Council would object to the application due to the adverse impact on the character and amenity within the Parish.

## OTHER REPRESENTATIONS

Five letters/e mails have been received from local residents with one resident seeking assurance that approval for any works should meet the aims of the Forestry Commission and the aims of the local community. Four residents have suggested that the application be refused and their concerns in respect of the application are:

- Information on ownership given in the application is not entirely correct and that there is an intention to sell the woodland to a developer who it is suspected has commissioned the application to facilitate development.
- The line of the public footpath has been moved from that shown on the Ordnance Survey maps, and has been enclosed with wire fencing which has affected local wildlife.
- Concern that this further work proposed for the woodland edge in addition to that already approved by the Forestry Commission for the whole wood may be part of an agenda to facilitate the applicant's future development proposals.
- Felling and removal of trees dead wood will deprive the wildlife habitat of the woodland.
- Any authorised work should not be carried out without the necessary precautions to protect wildlife within the woodland (bats, badgers etc)
- The woodland has been subject to past planning applications for development and infill which have been refused on appeal.
- Silver Birch (tree 1116) which stands on the public footpath appears to be healthy and does not obstruct the footpath.
- The application form states in section 8 "condition of trees" that there are no issues with any of the trees being diseased, dying, dead or dangerous.

An independent report on behalf of one of the residents has also been submitted. The key points in this report are also précised by the Parish Council and are as follows:

- Questions the need to crown lift roadside trees to 5.2 metres as the height of overhang branches have been defined by passing traffic. Crown lifting would open up the woodland frontage and expose shallow rooted Pine trees. An alternative would be to prune selected branches that are considered to be a risk back to the roadside.
- There is no reason to remove dead trees or dead wood within woodland unless there is a liability issue.
- The pedestrian height clearance for Tree 1118 has been set at 3 metres, whilst it has been stated at 2.5 metres for other trees on the site.
- Advice from the Forestry Commission should be sought in respect of the presence of bleeding canker on Birch (Tree 1116)

## **APPLICANTS SUPPORTING INFORMATION**

The following documents have been submitted in support of the application:

Details of Tree Inspections  
Work Schedule of Trees  
Summary of Trees

It is the Applicant's case that there are 11 trees where their condition has been described as poor due to their form, or a risk to the adjacent highway due to the presence of structural defects. One Silver Birch (Tree 1116) located on the public right of way is proposed for removal as it has been identified as having a poor overall condition and is infected with the disease pathogen *Phytophthora*. A further 11 trees have been identified for crown lifting over the highway to a height of 5.2 metres to allow unimpeded access for vehicles using the highway. The removal of low branches to a height of 3 metres is proposed on one Oak tree (Tree 1118) as branches are obstructing pedestrians using the public right of way.

## **OFFICER APPRAISAL**

In consideration of this application, the Council in accordance with Government guidance contained in 'Tree Preservation Orders – A Guide to the Law and Good Practice' (March 2000) must grant consent so far as accords with good forestry practice unless they are satisfied this would fail to secure the maintenance of the special character of the woodland or the woodland character of the area (para 6.47).

### **Consideration of objections**

Many of the objections received relate to issues outside the scope of the application, such as the line of the public footpath, the prospect of future development of the site and disclosure of future management of the woodlands. In this regard the authority can only have regard to the merits of the application as submitted and the impact any works may have on the woodland and the amenity of the area. Any future development proposals for the site will be considered at the time and determined having regard to Development Plan policies and any other material considerations.

The irregularity on the application form that states that there are no issues with any of the trees being diseased, dying dead and dangerous has been clarified by the Agent who has confirmed that this is an error on the form and that the works are to be considered for issues of safety.

With regard to concerns regarding the impact on wildlife within the woodland including bats a note to the Applicant will be included on the Decision Notice of their requirements under the Wildlife & Countryside Act 1981, Countryside & Rights of Way Act 2000 and The Conservation (Natural Habitats etc).

Regulations 1994. If bats are discovered during inspection or subsequent work, all work must cease and Natural England informed.

The concerns in respect of the removal of Silver Birch (Tree 1116), the impact of tree felling on the character of the woodland and crown lifting works are addressed below.

## **Proposed Work**

### Felling

Following a detailed inspection of the trees on site it is confirmed that in respect of trees 1095 (Oak); 1101 (Beech) and 1121 (Larch) these trees are considered to be exempt from the requirement to obtain consent by virtue of Section 198(6)(a) of the Town and Country Planning Act 1990. The Oak has been identified with extensive decay of the root/stem buttress, the Beech displays a diametral helical crack on the main stem which has occurred due to wind loading on the crown. The Larch is split at the base of the stem and has partially fallen into an adjacent Pine tree. It is concluded therefore that these trees present a potential risk to the highway and will require removal to address the common duty of care imposed on the owner of the woodland by the Occupiers Liability Act 1957.

The upper stem of Tree 1094 (Oak) is currently resting on a BT wire over the highway, as a consequence there is no satisfactory pruning solution to clear the highway. Tree 1100 (Oak) has a significant stem lean and is of poor form and severely suppressed. Tree 1119 (Pine) has lost its apical shoot, is severely suppressed and the upper stem over Crewe Road and has no particular individual merit. These three trees are authorised for removal insofar as the works are considered in accordance with good woodland management.

The Application states that Tree 1089 (Pine) is a poor specimen with a life expectancy of 0-10 years and has recommended that the tree be felled but the application does not go into any detail justification as to why the tree is of poor quality. Government advice requires that sufficient evidence is required to support the case for the proposed work. The tree is slightly crown suppressed by adjacent trees and there appears to be no evidence of any significant structural defects which would justify its removal or reduced life expectancy. The tree is a moderately prominent specimen which forms part of the continuous tree cover along Park Lane with some deadwood evident within the crown. The removal of this tree is not considered to accord with good woodland management and would be detrimental to the amenity value of the area.

The Application further states that Tree 1092 (Oak) has a life expectancy of 30-40 years and justification for removal is based upon the tree being a poor specimen and having crossing branches. However an inspection reveals the crossing/rubbing branch is on Tree 1091 (Oak) and Tree 1093 (Oak) and not

Tree 1092. It is considered that remedial pruning works could be undertaken to the affected trees to address this issue. The removal of this tree is therefore not justified in respect of the reasons submitted in support of it. Its retention is therefore in the interests of good forestry.

Tree 1097 (Beech) has been identified for removal on the basis that the tree is a poor specimen and has an included union and there is a cavity present on the tree. The application states that the tree has a life expectancy of 20-30 years. The tree is a moderately prominent specimen located on the woodland edge forming part of the continuous tree cover of Park Lane. The tree is partially suppressed by an adjacent tree and appears to be in reasonable physiological condition. There is an included union at 1 metre, however the inclusion shows no evidence of weakness at the present time. The removal of this tree is therefore considered to be premature and its retention in the interests of good forestry.

The Silver Birch (Tree 1116) located on the public right of way has been identified for removal due to the presence of bleeding canker. The Applicant has suggested that the removal of this tree may reduce the risk of healthy trees being infected, although has indicated that there is no guarantee that such measures would be successful. The tree is an over mature specimen and has two small areas of bleeding canker on the stem of the tree. The presence of the disease appears to have had no effect on the physiological condition of the tree. It should be noted that this tree was not identified by the Forestry Commission for removal as part of any phytosanitary measures under the recent Felling Licence/ WIG Scheme which covered this part of the woodland. Furthermore as there is currently no reliable evidence base as to how the pathogen spreads to other trees. The retention of this tree is therefore in the interests of good forestry.

### **Crown Lifting**

The application identifies the crown lifting (to a height of 5.2 metres) of nine Oak trees and two Beech trees which are overhanging the highway and the crown lifting of one Oak tree (to a height of 3 metres) over the public right of way. Section 130 of the Highways Act 1980 places a duty on the Local Authority to protect the rights of the public to use and enjoy the highway, although the standard for minimum clearances over the carriageway of a public road is actually defined within the 'Design Manual for Roads and Bridges' which specifies that a vertical clearance of 5.2 metres shall be maintained to allow sufficient clearance for vehicles which might ordinarily be expected to use the highway for access.

Whilst there is evidence of some damage to lower lateral branches of trees from passing high sided vehicles, the majority of overhanging branches provide sufficient clearance over the highway. It is noted however that during the summer branches will likely be lower due to the leaf cover and this has to be taken into consideration when specifying work. With regards to the issue that crown lifting could create gaps in the unbroken line of branches which forms part of the character of the woodland edge, it is considered that this

matter could be addressed by modifying the crown lifting to allow pruning of selected branches to the edge of the carriageway rather than back to the stem of the tree to maintain a clearance of 5.2 metres. This requirement however should not detract from the owner's duty of care to ensure the safe passage of vehicles using the road.

The crown lifting of the Oak over the footpath is deemed to be minor works and in accordance with accepted arboricultural best practice

### **Replacement Planting**

The applicant has indicated his intention to carry out replacement planting of Oak, Beech and Birch in his application. The authority when granting consent for felling of woodland trees cannot impose conditions requiring replacement or replanting. Instead it has the power to issue a replanting direction as a result of Section 198(3)(b) of the Act where the felling of trees are in the course of forestry operations. The provision of a replacement direction enables additional provisions to be included than might be appropriate in a condition. Under Section 204 (2) of the Act the LPA are liable to pay compensation for any loss or damage caused or incurred as a result of complying with the direction.

### **Removal of deadwood**

The removal of deadwood may be removed under Section 198(6) (a) of the Town and Country Planning Act 1990 as this operation is deemed to be exempt from any requirement to obtain consent from the Council. These works are restricted to those trees immediately adjacent to the highway and the public right of way where the deadwood may present a risk.

### **OTHER RELEVANT INFORMATION**

Following a meeting on site and subsequently agreed by e-mail on 22<sup>nd</sup> November 2011, the Agent has confirmed his intention to withdraw Oak trees 1103 and 1104 for the purposes of felling and that the reasons submitted will be mitigated by pruning to achieve the benefit of tree retention.

### **RECOMMENDATION**

The Committee is therefore recommended to partly refuse and partly approve the application

### **CONDITIONS AND REASONS FOR REFUSAL**

1. Refuse consent for the felling of Tree Nos. 1089(Pine); 1092(Oak); 1097 (Beech) and 1116 (Silver Birch)

Reason for refusal: The removal of these trees would be contrary to the interests of good forestry and the special character of the woodland.

Grant consent for the felling of Tree Nos. 1094 (Oak); 1100(Oak);) and 1119 (Pine) insofar as the works are considered in accordance with good woodland management.

2. Grant consent for the crown lifting of Trees Nos. 1086 (Oak); 1087(Oak); 1090(Oak); 1093(Oak); 1096 (Beech); 1098(Beech); 1122 (Oak); 1123(Oak);1125 (Oak);1128(Oak); 1130(Oak) by variation of the application for the removal of secondary and sub lateral branches to a height no greater than 5.2 metres from the edge of the carriageway.
3. Grant consent for the crown lifting of Tree Nos. 1089(Pine); 1092(Oak); 1097 (Beech); 1103 (Oak); 1104 (Oak) which by virtue of this recommendation were refused consent for felling or withdrawn for the purposes of felling by the Applicant, but by virtue of the reasons submitted can be mitigated by pruning of secondary and sub lateral branches to a height no greater than 5.2 metres from the edge of the carriageway.
4. Grant consent for the crown lifting of 1118(Oak) to a height of 3 metres to allow suitable clearance for pedestrians.

Subject to the following conditions:

The works hereby authorised shall be carried out at least to the standards as specified within BS3998:2010Tree Work Recommendations.

Reason : To ensure that the works are carried out in the appropriate manner having regard to accepted arboricultural best practice and in the interests of the heath and visual amenity of the tree(s).

The works hereby authorised shall be carried out within 2 years of the date on which the consent is granted.

Reason: To avoid confusion over unimplemented consents

The Local Authority shall be advised of the date of commencement of the works hereby approved.

Reason: To ensure appropriate monitoring and compliance of the local amenity.

**Replanting Direction:**

Direction under Article 6 of the Model Order

The owner of the land shall subject to the provisions of the Order and Section 175 of the Act, replant the said land in accordance with the direction require the planting of the following:

30 Oak and Beech (600-900mm in height) to be planted within the woodland known as Bottom Wood, Hatherton adjacent to Park Lane (positions to be agreed with the LPA).

Trees shall be suitably protected with guards to prevent damage from rabbits

The works shall be carried out within the first planting season following the removal of the trees specified.

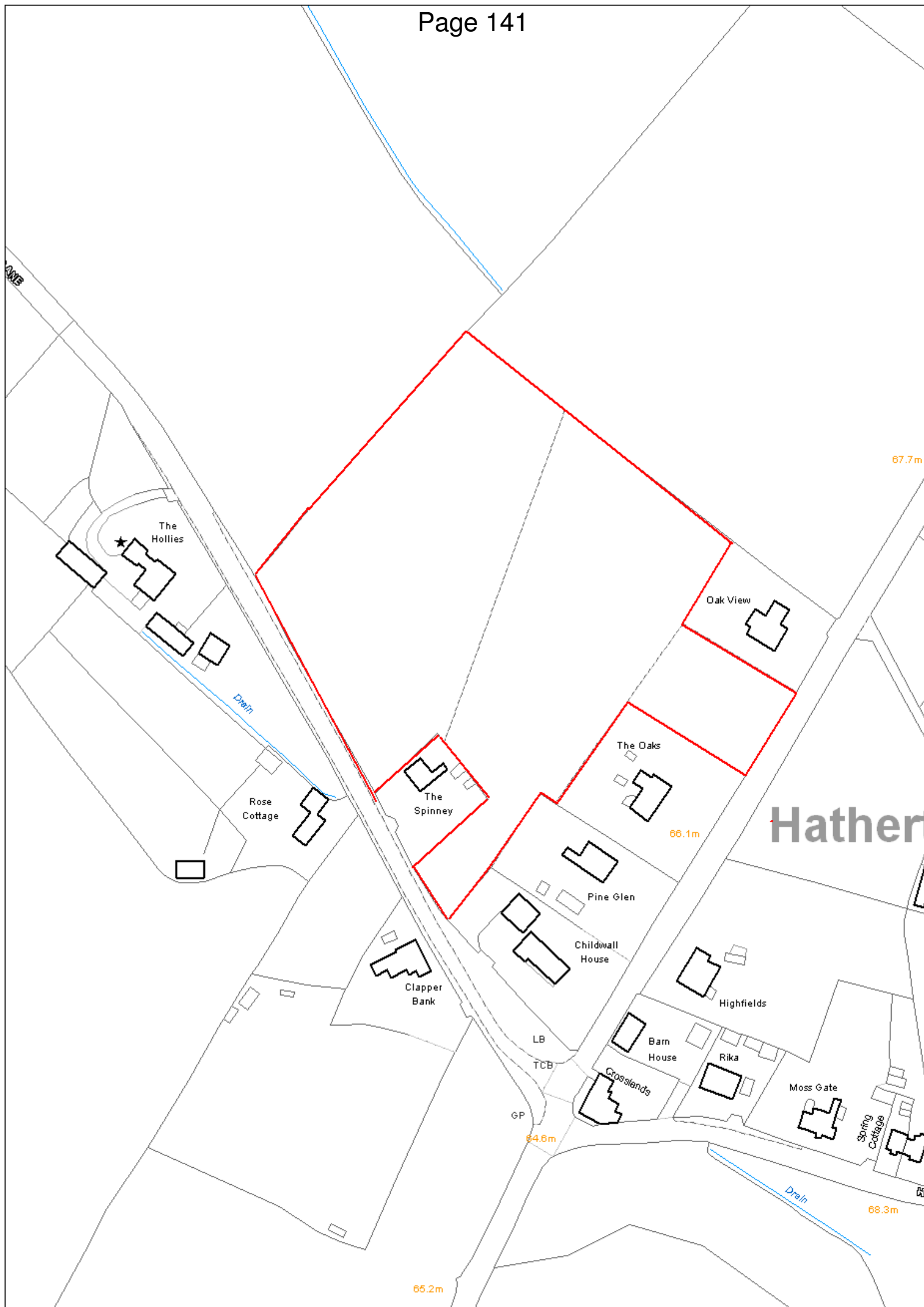
### **Exempted Works**

Allow the felling of Tree Nos. 1095(Oak); 1101 (Beech) and 1121 (Larch) and removal of deadwood from other trees insofar as these works are considered to be exempt from any requirement to obtain consent from the Council by virtue of Section 198(6)(a) of the Town and Country Planning Act 1990.

### **Note to Applicant**

INFORMATIVE: Under *The Wildlife & Countryside Act 1981, Countryside & Rights of Way Act 2000, The Conservation (Natural Habitats etc) Regulations 1994 and any future revisions*, it may be an offence to disturb bats (and their roosting sites) and breeding birds. It is your (and your Contractors) responsibility to ensure that all tree felling & pruning works are carried out in accordance with the above legislation. If bats are discovered during inspection or during work all work must cease and Natural England informed. Please contact the Councils Nature Conservation Officer, Mr J Baggaley (01625) 383742), if you require further guidance.





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