

# Northern Planning Committee

## Agenda

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<b>Date:</b>	<b>Wednesday, 4th April, 2012</b>
<b>Time:</b>	<b>2.00 pm</b>
<b>Venue:</b>	<b>Meeting Room, Macclesfield Library, Jordangate, Macclesfield SK10 1EE</b>

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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.

**Please note that members of the public are requested to check the Council's website the week the Northern 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.**

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

**1. Apologies for Absence**

To receive any apologies for absence.

**2. Declarations of Interest/Pre Determination**

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

**3. Minutes of the Meeting (Pages 1 - 6)**

To approve the Minutes of the meeting held on 14<sup>th</sup> March 2012 as a correct record.

**4. Public Speaking**

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For any apologies or requests for further information, or to arrange to speak at the meeting

**Contact:** Gaynor Hawthornthwaite

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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.

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. **12/0170C - Land at Upper Medhurst Green Farm, Sandbach Road, Congleton, Cheshire: Extension to Time on Approval 08/1838/FUL New Agricultural Building for Free Range Egg Production** (Pages 7 - 12)

To consider the above planning application.

6. **12/0224C - Rushey Hey, Oak Lane, Newbold Astbury, Congleton, CW12 4RT: Proposed Agricultural Workers Dwelling** (Pages 13 - 26)

To consider the above planning application.

7. **11/4295N - Weston Hall, Main Road, Weston CW2 5ND: Extension to Time Limit of Planning Permission PO8/1274 for One Dwelling** (Pages 27 - 34)

To consider the above planning application.

8. **12/0515M - Ingersley Vale Works, Ingersley Vale, Bollington, Macclesfield, Cheshire SK10 5BP: Variation of Condition 41 Relating to the Approved Plans on Approval 08/0791P for Demolition of all Buildings Except the Mill, Conversion of Mill to 24no. Apartments and Erection of 24no. Apartments and 18no. Townhouses with Associated Landscaping and Car Parking** (Pages 35 - 44)

To consider the above planning application.

9. **12/0290M - Vincent Mill, Vincent Street, Macclesfield SK11 6UJ: (Outline) Demolition of the Existing Buildings and Redevelopment of the Site to Provide 10No. 2 to 4 Bedroom Terraced Houses and 1 No.2/3 Storey Apartment Block with 7 No.2 Bedroom Units with Ancillary Car Parking, Open Space and Access off Vincent Street** (Pages 45 - 58)

To consider the above planning application.

10. **Appeals Record in January/February 2012** (Pages 59 - 70)

To note the appeals performance for January and February 2012.

**CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Northern Planning Committee**  
held on Wednesday, 14th March, 2012 at Meeting Room, Macclesfield  
Library, Jordangate, Macclesfield

**PRESENT**

Councillor B Moran (Chairman)  
Councillor W Livesley (Vice-Chairman)

Councillors L Brown, B Burkhill, K Edwards, A Harewood, P Hoyland,  
P Raynes, D Stockton and L Roberts

**Apologies**

Councillors C Andrew, H Gaddum, O Hunter and L Jeuda

**OFFICERS IN ATTENDANCE**

Mrs N Folan (Planning Solicitor)  
Mr P Hooley (Northern Area Manager - Development Management)  
Mr Neil Jones (Principal Development Officer)  
Ms S Orrell (Principal Planning Officer)  
Mrs G Hawthornthwaite (Democratic Services Officer)

**90 DECLARATIONS OF INTEREST/PRE DETERMINATION**

Councillor Hoyland declared a personal interest in respect of application number 11/0366M on the grounds that he had attended an Adlington Parish Council meeting, but had not taken part in the debate on this application. In accordance with the code of conduct, he remained in the meeting during consideration of this item.

Councillor Keegan, who was in attendance at the meeting, declared a personal and prejudicial interest in respect of application number 11/4341M on the grounds that his property is adjacent to the site. In accordance with the code of conduct, he withdrew from the meeting during consideration of this item.

During the course of the Officer's introduction to application number 11/4341M, Councillors Hoyland, Stockton and Brown declared a personal and prejudicial interest in respect of application number 11/4341M on the grounds that they were a close friend of the adjacent site owner. In accordance with the code of conduct, they withdrew from the meeting during consideration of this item.

**91 MINUTES OF THE PREVIOUS MEETING**

**RESOLVED**

That the minutes of the meeting held on 22 February 2012 be approved as a correct record and signed by the Chairman.

**92 PUBLIC SPEAKING**

**RESOLVED**

That the public speaking procedure be noted.

**93 12/0027M - OAKLANDS COMMUNITY INFANT SCHOOL, TUDOR ROAD, WILMSLOW, SK9 2HB: DEMOLITION OF EXISTING BUILDING, REMODELLING AND REMEDIATION OF THE SITE AND DEVELOPMENT OF MIXED USE SCHEME COMPRISING 21 DWELLINGS AND CAR PARKING INCLUDING ACCESS AND AMENITY SPACE FOR MR PAUL COGGINS, RUSSELL HOMES LTD**

(Councillor P Whiteley (Ward Councillor), Mr White (objector) and Mr D 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, an amended site layout plan, and an oral report by the Planning Officer of the site inspection.

**RESOLVED**

That the Development Management and Building Control Manger, in consultation with the Chairman and Vice Chairman, subject to any consultation responses raising any new issues not already dealt with, be granted authority to APPROVE, subject to the following conditions:

- a) The prior signing of a Section 106 agreement to secure:
  - Provision of affordable housing on site in the form of 6 x 2 bed units which are made up of 4 units for social rent and 2 units for intermediate tenure.
  - Provision of commuted sum in lieu of on site provision of Play and amenity - £63,000.
  - Provision of commuted sum in lieu of on site provision of Recreation/Sport - £15,000.
- b) And the following conditions:
  - 1. AO1LS – Landscaping – submission of details.
  - 2. AO1TR – Tree retention.
  - 3. AO2TR – Tree protection.
  - 4. AO3FP – Commencement of development (3 years).
  - 5. AO3HA – Vehicular visibility at access (dimensions).
  - 6. AO3TR – Construction specification/method statement.

7. AO4AP – Development in accord with revised plans (numbered).
8. AO4LS – Landscaping (implementation).
9. AO5EX – Details of materials to be submitted.
10. AO6NC – Protection for breeding birds.
11. A12LS – Landscaping to include details of boundary treatment.
12. A16LS – Submission of landscape/woodland management plan.
13. A22GR – Protection from noise during construction (hours of construction).
14. A23GR – Pile Driving.
15. A23MC – Details of ground levels to be submitted.
16. A30HA – Protection of highway from mud and debris.
17. A32HA – Submission of construction method statement including access via Dean Row Road only.
18. No dormers other than authorised.
19. Levels details to be submitted.
20. Open plan estate layout only.
21. 10% renewable energy provision.
22. Contaminated land assessment.
23. Toucan Crossing relocated prior to commencement.
24. Class A permitted development rights removed from Plots 1, 3 and 6.

**94 12/0309M - WITHINLEE HOLLOW, WITHINLEE ROAD, PRESTBURY, SK10 4AT: DEMOLITION OF EXISTING HOUSE, CONSTRUCTION OF REPLACEMENT DWELLING HOUSE. RESUBMISSION OF 11/2386M FOR MS VICTORIA CALDERBANK**

(Councillor P Findlow (Ward Councillor), Mrs Braithwaite (objector) and Mr S Reid (supporter) attended the meeting and addressed the committee on this matter).

*(The meeting was adjourned from 2.57 pm until 3.05 pm to allow members of the public an opportunity to read the updated report which detailed representations from the Forestry Officer)*

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

**RESOLVED**

That for the reasons set out in the report, the application be APPROVED subject to the following conditions:

1. A03FP - Commencement of development (3 years).
2. A02EX – Submission of samples of building materials.
3. A01LS – Landscaping – submission of details.
4. A04LS – Landscaping (implementation).
5. A22GR – Protection from noise during construction (hours of construction).
6. A30HA – Protection of highway from mud and debris.
7. A23MC – Details of ground levels to be submitted.
8. A32HA – Submission of construction method statement.
9. A01AP – Development in accord with approved plan.

10. Submission and approval of a Tree Protection Scheme.
11. Submission and approval of a Construction Specification/Method Statement in relation to the access driveway from Withinlee Road to Withinlee Hollow.
12. Submission and approval of a Method Statement in respect of the construction of the retaining walls to the rear of the garage in relation to the offside protected Oak (forming part of G5 of the TPO).

*During consideration of this item, Councillor Brown arrived to the meeting, but did not take part in the debate or vote.*

**95 11/4341M - FORMER BEECH LAWN AND WOODRIDGE, BROOK LANE, ALDERLEY EDGE, SK9 7QG: AMENDED SCHEME FOR ERECTION OF 20 APARTMENTS IN TWO, THREE STOREY BUILDINGS FOR P E JONES (CONTRACTORS) LIMITED**

*Prior to consideration of the following item, the meeting was adjourned for 5 minutes for clarification from the Planning Solicitor on declarations of interests.*

*Having declared a personal and prejudicial interest in this application, Councillors Keegan, Hoyland, Stockton and Brown withdrew from the meeting during consideration of this item.*

Ms K Phillips (on behalf of the agent) attended the meeting and addressed the committee on this matter).

The Committee considered a report regarding the above planning application.

**RESOLVED**

That for the reasons set out in the report and detailed by the Officer at the meeting, the application be REFUSED for the following reasons:

- The proposal would by reason of scale, form, mass and bulk result in a cramped and intrusive form of development out of keeping with the character of the area within which the development would be sited. The proposed development fails to achieve an adequate quality of design to justify approval of planning permission. In reaching this conclusion regard was had to the scale, mass and bulk of the buildings, their proximity to one another and the amount of building and hardstanding coverage within the site in the context of the character of the surrounding area. It is therefore concluded that the proposal would detract from the character and appearance of the area, within which the site is located and be contrary to development plan and national planning policies which seek to promote high quality and inclusive design. It would therefore be contrary to policies DC1 and BE1 of the Macclesfield Borough Local Plan 2004 and national planning policy PPS1.
- The proposed development, by virtue of its size, design and position of the front block relative to adjoining property at Highfield House, would be unduly dominant when viewed from that adjoining property, causing an unacceptable loss of outlook and increased sense of enclosure to the detriment of the residential amenities of the occupiers of Highfield House. In addition the relationship of habitable room facing windows and

neighbours habitable rooms/ balcony space between the two proposed blocks is substandard. The approval of the development would therefore be contrary to policies H12, DC3 and DC38 in the Macclesfield Borough Local Plan and cause harm to the objectives of those policies.

*Prior to consideration of the following items, Councillors Hoyland, Stockton, Brown and Keegan returned to the meeting.*

**96 11/3397M - THE BANDSTAND AT ALDERLEY EDGE PARK, RILEYS LANE, ALDERLEY EDGE: CHANGE OF USE. CONVERSION OF EXISTING BANDSTAND INTO CAFE FOR FRIENDS OF THE PARK**

Councillor F Keegan (Ward Councillor) and Mr M Asquith (supporter) attended the meeting and addressed the committee on this matter).

The Committee considered a report regarding the above planning application.

**RESOLVED**

That for the reasons set out in the report, the application be APPROVED subject to the following conditions:

1. A03FP – Commencement of development (3 years).
2. A01AP – Development in accord with approved plans.
3. A22GR – Protection from noise during construction (hours of construction).
4. A13GR – Business hours (including Sundays) 10am-6pm daily.
5. A32HA – Submission of construction method statement.
6. A19MC – Refuse storage facilities to be approved.
7. A06EX – Materials as application.
8. A02TR – Tree protection.
9. Kitchen Extract and Odour Abatement.
10. Filtration and Extraction Equipment.
11. Submission of details in respect of services.
12. Submission of details in respect of stock delivery.
13. No amplified music.

**97 12/0313M - BEXTON PRIMARY SCHOOL, BLACKHILL LANE, KNUTSFORD, WA16 9DB: EXTENSION TO BEXTON PRIMARY SCHOOL TO PROVIDE A LINK CORRIDOR, TWO CLASSROOMS AND A FLEXIBLE RESOURCE SPACE. FACILITIES REPLACE THREE TEMPORARY CLASSROOM UNITS, WHICH ARE TO BE DEMOLISHED FOR PHIL YEOMANS, CHESHIRE EAST COUNCIL**

The Committee considered a report regarding the above planning application.

**RESOLVED**

That for the reasons set out in the report, the application be APPROVED subject to the following conditions:

1. A03FP - Commencement of development (3 years)
2. A03AP - Development in accord with revised plans (unnumbered).
3. A05EX - Details of materials to be submitted.
4. A22GR - Protection from noise during construction (hours of construction).
5. Pile Driving.
6. Float Floor Finishing.
7. Removal of temporary classrooms on occupation of development.

**98 11/0366M - LAND SOUTH OF JUNCTION OF MILL LANE AND LONDON ROAD, ADLINGTON: CHANGE OF USE OF LAND FROM AGRICULTURAL TO A NATURAL BURIAL GROUND AT ADLINGTON HALL FOR ADLINGTON HALL ESTATE**

This application was considered by the Northern Planning Committee on 8 June 2011, where it was resolved to delegate the application back to the Head of Planning and Housing in conjunction with the Chairman and Vice Chairman for approval in order to address any further representations that the Planning Department may receive in relation to the application, subject to conditions and the completion of a Section 106 Agreement.

It has subsequently come to light that the incorrect certificate of ownership was submitted with the original application; the correct certificate has now been submitted. The planning issues remain unchanged since it was previously determined by the Committee. However, due to this technicality a fresh resolution is required to delegate the application back to officers for final determination.

**RESOLVED**

That the application be delegated to the Development Management and Building Control Manger, in consultation with the Chairman and Vice Chairman.

The meeting commenced at 2.00 pm and concluded at 4.40 pm

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Councillor B Moran (Chairman)



Application No: 12/0170C

Location: Land at Upper Medhurst Green Farm, SANDBACH ROAD, CONGLETON, CHESHIRE

Proposal: Extension to Time on Approval 08/1838/FUL New Agricultural Building for Free Range Egg Production

Applicant: S.J. Pace and Co

Expiry Date: 04-Apr-2012

<b>Planning Reference No:</b>	12/0170C
<b>Application Address:</b>	Land at Upper Medhurst Green Farm, Sandbach Road, Congleton, Cheshire
<b>Proposal:</b>	Extension of Time on Approval 08/1838/FUL New Agricultural Building for Free Range Egg Production
<b>Applicant:</b>	S.J.Pace and Co
<b>Application Type:</b>	Extension to Time Limit
<b>Grid Reference</b>	381346 363000
<b>Ward</b>	Brereton Rural
<b>Consultation Expiry Date:</b>	15 <sup>th</sup> February 2012
<b>Date for determination:</b>	4 <sup>th</sup> April 2012

**MAIN ISSUES** The main issue is whether or not there have been any significant material changes in policy/circumstances since the application was previously approved.

**SUMMARY RECOMMENDATION:**

**Approve with conditions**

**REFERRAL**

The application is to be determined by Committee as it involves major development which is over 1000sqm in floorspace.

**1. SITE DESCRIPTION**

The application site is located within the Open Countryside as defined by the Local Plan Proposals Map. The site is located on the northern side of the A534 and there is an existing field access. The site is an agricultural field which is located 560m to the west of Lower Medhurst Green Farm. There is a footpath 300m to the north of the site. The

roadside, southern, boundary is defined by a hedgerow. There is a pond and copse sited on the western boundary of the field.

## **2. DETAILS OF PROPOSAL**

This is a planning application for the extension of time planning to Planning Application 08/1838/FUL. That application was for creation of 24,000 bird free range egg production unit. The scheme included the construction of a poultry building measuring 85m in length, 30m in width, 3.35m to eaves and 7.43m to ridge. Two grain silos, each of 2.75m diameter and 6.5m in height. The building would be clad in coated polyester steel sheets to roof. An area of hardstanding was also proposed, along with an access track.

## **3. RELEVANT PLANNING HISTORY**

**08/1838/FUL** – Planning permission was approved for new agricultural building for free range egg production on 14<sup>th</sup> April 2009.

**06/1181/FUL** – Planning permission was approved for agricultural building for free range egg production in January 2007.

**36699/3** – Planning permission was approved for a new agricultural building for free range egg production on 20<sup>th</sup> January 2004.

## **3. PLANNING POLICIES**

The relevant development plan policies are:

### **Policies in the LP**

- PS8 – Open Countryside
- BH13 – New Agricultural Buildings
- GR1, GR2 – General Criteria for New Development
- GR6, GR7 – Amenity and Health
- GR9 – Accessibility
- NR2 – Protected Species Habitat
- NR3 - Habitats

Other relevant planning guidance includes:

- PPS1 - Delivering Sustainable Development
- PPS7 – Sustainable Development in Rural Areas
- PPS9 - Biodiversity and Geological Conservation
- Draft National Planning Policy Framework

## **4. OBSERVATIONS OF CONSULTEES**

**Environmental Health** – No objection

**Strategic Highways Manager – No objection**

**Natural England – No objection**

## **5. VIEW OF PARISH COUNCIL**

7 out of 8 Councillors support the application. One Councillor objects to the application due to concerns over the disposal of waste from the site from the increase in flock.

## **6. OTHER REPRESENTATIONS**

11 letters of objection/comments received from neighbours, the salient points being:

- Concerns over 2007 and 2011 fly nuisance attributed to chicken manure, could not open windows, affecting well being
- Should be no increase in stock until waste management is fully considered
- Existing site does not have a robust waste management plan
- Needs to be demonstrated that waste can be disposed without causing nuisance
- Unless current problems are resolved new building will cause more of a nuisance
- Existing breaches of good practice
- Building inappropriate in a rural area
- More heavy unsuitable traffic on country lanes
- Odour problem from manure

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

None

## **8. OFFICER APPRAISAL**

### **SCOPE OF THIS APPLICATION**

Extensions to the time limits for implementing existing planning permissions was brought into force on 1 October 2009. The new system was introduced in order to make it easier for developers to keep planning permissions alive for longer during the economic downturn. It includes provisions for a reduced fee and simplified consultation and other procedures.

The Government's advice is for Local Planning Authorities to take a positive and constructive approach towards applications that improve the prospects of sustainable development being brought forward quickly. It is the Government's advice for Local Planning Authorities to only look at issues that may have changed significantly since that planning permission was previously considered to be acceptable in principle.

In short, it is not intended for Local Planning Authorities to re-open debates about principles of any particular proposal except where material circumstances have changed, either in development plan policy terms or in terms of national policy or other material considerations such as Case Law.

## **MATERIAL CHANGES IN POLICY/CIRCUMSTANCES SINCE PREVIOUS APPLICATION**

The application remains unchanged from the previous approval and there have been no significant changes to the site itself or the immediate surrounding area. Therefore the impact of the development on the area is considered to be acceptable, subject to conditions, as previously concluded.

With regard to Policy, there have been no changes to Local Plan Policy since that previous approval. It is therefore it is considered that the proposed development would still be in accordance with the development plan and is acceptable in principle. There have been no significant changes to National Planning Policy which would preclude the proposed development. The National Planning Policy Framework is expected to be published imminently. Members will be updated on any policy changes which may affect this proposal, however based on the draft document it is not anticipated that the document will place a more restrictive control over development such as this proposal than under existing policy

The proposed development involves the construction of a building within close proximity to a pond. The previous application was supported by a Protected Species Survey to determine the presence/absence of Great Crested Newts. That survey identified that there would be no impact on Protected Species. Notwithstanding this, since the application there is the possibility that the situation may have changed and as such could affect the acceptability of the proposals. No Protected Species Survey has been submitted to support this application. However, an update to the original survey carried out in 2007 has been provided to support this application. The Council's Nature Conservation Officer has confirmed that they are satisfied that the proposed development is not reasonably likely to cause an adverse impact on Great Crested Newts or any other protected species.

## **CONDITIONS**

The previous approval was subject to a number of conditions. It is considered that these conditions are still relevant to this application.

## **9. CONCLUSIONS**

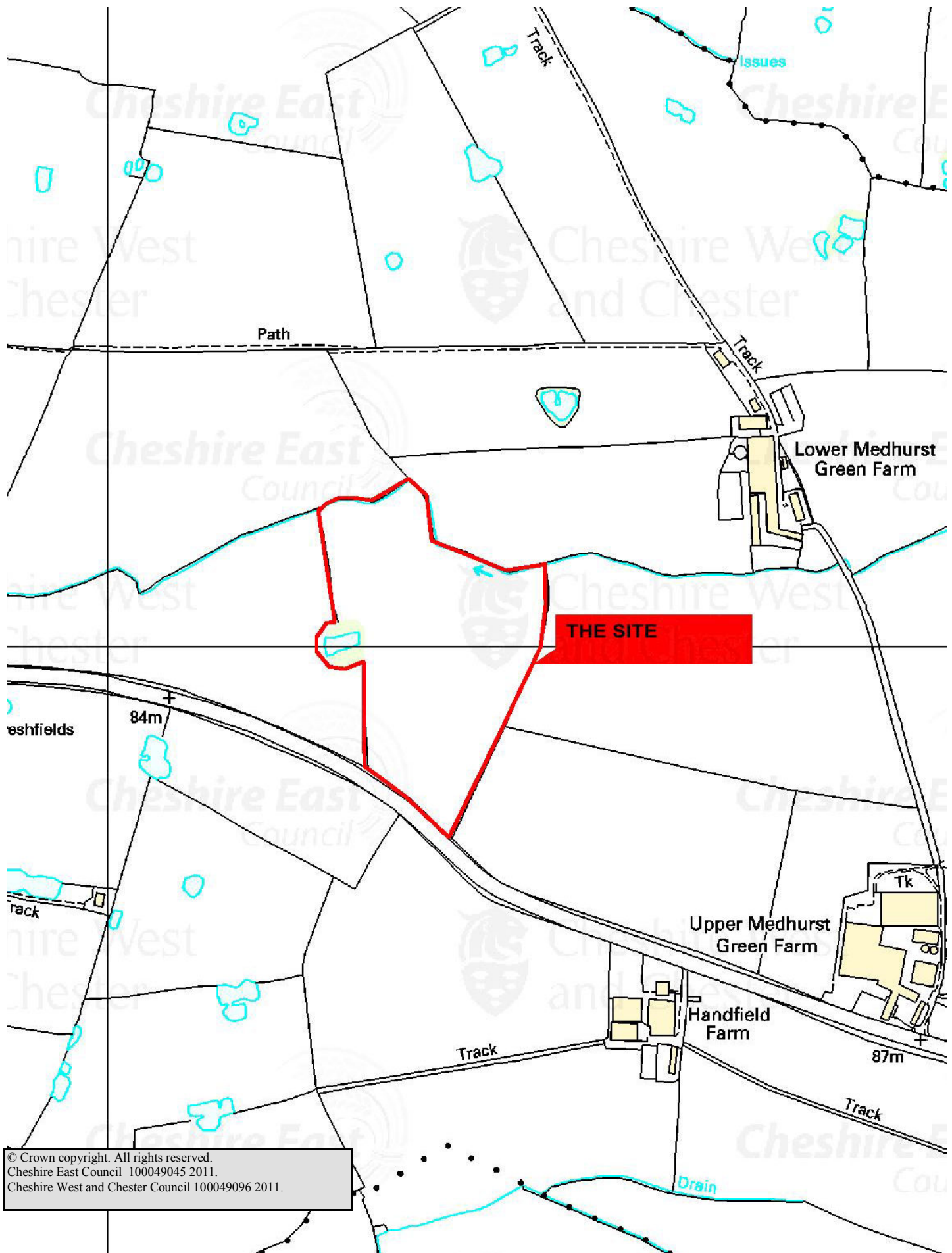
It is considered that there have not been any significant changes in Policy or other material considerations since application 08/1838/FUL was permitted. Therefore, it is recommended that the application to extend the period of permission should be approved, subject to those conditions previously attached.

## **10. RECOMMENDATIONS**

**APPROVE subject to conditions**

- 1. Standard 3 years**
- 2. Development to be carried out in accordance with approved plans**
- 3. Details of any external illumination and lighting columns to be submitted and approved prior to commencement of development**
- 4. Details of materials and colour finish to be submitted prior to the commencement of development**

- 5. Details of a Landscaping scheme and replacement hedgerow (native species), behind visibility splays to be submitted and approved prior to the commencement of development**
- 6. Implementation of Landscaping Scheme**
- 7. All materials used in connection with the egg laying unit to be stored inside the building**
- 8. Drainage scheme for foul and surface water to be submitted and approved prior to commencement of development**
- 9. No development to commence until a scheme of acoustic enclosures of fans, compressors and equipment with the potential to cause noise are submitted and approved**
- 10. Details of construction details of roads within the site to be submitted and approved prior to the commencement of development**
- 11. Prior to the commencement of development a Management of Waste Produce Plan to be submitted and approved.**



Application No: 12/0224C

Location: RUSHEY HEY, OAK LANE, NEWBOLD ASTBURY, CONGLETON, CW12 4RT

Proposal: Proposed Agricultural Workers Dwelling

Applicant: Mr & Mrs D & K Challinor

Expiry Date: 09-Mar-2012

**SUMMARY RECOMMENDATION:** Approve subject to conditions

**MAIN ISSUES:**

- Site History;
- Principle of Development;
- Policy Requirements of a Permanent Agricultural Workers Dwelling;
- Existing Agricultural Use;
- Assessment Against Policy Criteria;
- Other Suitable Properties within the Locality;
- Design;
- Impact on the Green Belt;
- Impact on Residential Amenity;
- Highways; and
- Ecology

**REFERRAL**

This application is to be dealt with under the Council's delegation scheme. However Councillor Bailey requested that it be referred to the Committee for the following reason:

*'This is a proposal that involves the building of a residence in the Green Belt, where strict and special circumstances apply. There is likely to be a debate on the issue, which ought to be aired before and within the planning committee'.*

**DESCRIPTION OF SITE AND CONTEXT**

The application site is located off Oak Lane, which is a narrow single track road which lies approximately 1km to the east of the A34 south of Congleton. The application site extends to approximately 2.6ha and is bounded on all sides by mature native hedgerow. There are currently a number of structures on the site including a portal farm building and a caravan, which the applicant currently resides in. The nearest residential property is located to the north of the application site. According to the Local Plan the application site lies wholly within the Green Belt.

## **DETAILS OF PROPOSAL**

This is a full application for a permanent agricultural workers dwelling and garage at Rushey Hey, Oak Lane, Newbold Astbury, Congleton

## **RELEVANT HISTORY**

1992 (8/23949/3) Application for livery stable and mobile caravan – withdrawn.

1992 (8/24595/3) Application for change of use of land from agriculture to the keeping of horses for non-agricultural purposes and change of use of existing agricultural building to housing horses and ancillary storage – withdrawn.

1993 (EA589) Enforcement notice issued requiring demolition of building, removal of materials and reinstatement of land. Complied with.

2002 (8/34588/3) Permission for proposed stable block.

2005 (05/0785/FUL) Permission for barn for housing of cattle and storage of feedstuffs, bedding materials and machinery.

2006 (06/0203/FUL) Application for siting of mobile home for residential purposes – withdrawn.

2009 (08/0725/COU) Refusal for change of use of part of land from agriculture to the stationing of a residential static caravan in connection with farm business and authority for enforcement action to secure the removal of the caravan from the land.

09/3220C – Stationing of Temporary Residential Caravan in Connection with Farming Business (Retrospective) (Resubmission of Previous Application 08/0725/COU) – Approved – 11<sup>th</sup> December 2009

## **POLICIES**

### **National Policy**

The application should be determined in accordance with national guidance set out in:

PPS1: Delivering Sustainable Development

PPG2: Green Belts

PPS3: Housing

PPS7: Sustainable Development in Rural Areas

PPS9: Biodiversity and Geological Conservation

### **Local Plan Policy**

GR1 General Criteria

GR2 Design

GR6 Amenity and Health

GR9 Accessibility, Servicing and Parking Provision

PS7 Greenbelt

H18 Dwellings Associated with Rural Enterprises

H19 Agricultural Occupancy Conditions

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



**Contaminated Land:** No objections subject a contaminated land condition

**United Utilities:** No objections

**Highways:** No objections

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

Objects to the proposed development for the following reasons:

No approval should be given until a fully independent, professional sustainability appraisal has been carried out into all the agricultural aspects of the application, particularly finance.

The Appraisal provided with the application papers cannot be regarded as independent when in the first paragraph of the introduction it states "the purpose of the appraisal is to support a planning application in this respect". The agricultural consultants are the same company which was employed for the previous applications.

The application is a request for approval for a permanent dwelling in the Green Belt. In addition to national planning policies, the application must therefore fully comply with local policies including Policy PS7 retained from the Congleton Borough Local Plan. The application must also be tested against the Local Policy Statement 7 in respect of Sustainable Development in Rural Areas.

Policy PS7 spells out the requirements to allow an agricultural dwelling in the Green belt which are expanded and detailed in Policy H6, viz "A dwelling required for a person engaged full time in agriculture or forestry." It is therefore essential that a fully independent agricultural appraisal is provided so that the application detail may be fully investigated to determine if a full time involvement is necessary for such a small holding with little stock. It is suggested that a site visit be made before any final decision is taken so that members can see the extent of the holding and make a considered judgement regarding the full time need.

PPS7 requires that permanent agricultural dwellings are only appropriate in the Green Belt to support existing agricultural activities on well established agricultural units.

The definition of "well established" is that the enterprise has a minimum history of three years operation since establishment. There is therefore an anomaly in that temporary permission for the existing "dwelling" was only given in 2009, just over 2 years ago. This application admits that conditions put on that temporary approval have not been carried out.

It is a salient point that the accounts provided to back up the applications in both 2009 and 2012 are exactly the same despite a further two years having passed since the first application was submitted. As the proposed dwelling is for a full time agricultural worker, both capital and revenue costs of the dwelling have to be met from the profitability of the agricultural undertaking as the occupant will be employed full time by the agricultural undertaking. This fact does not appear to have been taken into account in the calculation of profitability and therefore sustainability.

Should approval be considered, then it is suggested that in the circumstances a further temporary approval be given to allow the existing temporary dwelling to remain for a further period of 3 years. This will enable the sustainability of the agricultural undertaking to be more accurately assessed than is possible with the presently supplied information.

It is also suggested that as previously imposed conditions have not been met that a condition be included that all previous conditions must be implemented within a period of 3 months from the date of temporary approval, which would be withdrawn should the conditions not be met in that timescale.

The economics of the sustainability aspects would not be affected by the presence or otherwise of an additional dwelling. Planning approval for a dwelling in the Green Belt has to rely on the agricultural viability of the independent assessment which can only be undertaken with all the relevant facts to hand.

## **OTHER REPRESENTATIONS**

No representations received

## **APPLICANT'S SUPPORTING INFORMATION**

Design and Access Statement

Agricultural Appraisal (Produced by Reading Agricultural Consultants dated January 2012)

## **OFFICER APPRAISAL**

### **Site History**

Rushey Hey farm operate a specialist pig rearing business from the site. Currently, the applicant resides in a temporary mobile home, to enable the business to operate successfully. Temporary planning permission was granted under application 09/3220C for two years. This consent has now expired (approved on 11<sup>th</sup> December 2009) and full planning permission is being sought for a permanent agricultural workers dwelling on the site.

### **Principal of Development**

The site is located within the Green Belt where under Policy PS7 (South Cheshire Green Belt) of the Local Plan only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. The principal issues surrounding the determination of this application are the impact of the proposed development upon surrounding residential amenity, highway issues, the impact upon the character and appearance of the surrounding countryside and the potential impact upon protected species. It must also be assessed whether the functional and financial tests outlined in PPS7 and requirements of Policy H18 (Dwellings associated with rural enterprises) in relation to agricultural workers dwellings have been met with regard to the provision of an agricultural worker's dwelling on the site.

## **Policy Requirements of a Permanent Agricultural Workers' Dwellings**

The advice contained in PPS7, specifically Annex 1, and H18 (Dwellings Associated with Rural Enterprises) are the relevant policy context against which to assess the proposed need for the agricultural dwelling. PPS7 states that new residential development may be justifiable in the open countryside on the basis that it would enable a full time agricultural worker to live at or in the immediate vicinity of their place of work. Agricultural workers will be expected to live in nearby defined settlements unless there is an essential need to have a worker readily available on site to secure the viability of the enterprise. Whether it is essential to have a worker available on site is based on the needs of the enterprise and not the preference of the individual. Annex 1 in PPS7 outlines the relevant assessment to establish whether there is a case for a new dwelling to accommodate a worker. Permanent agricultural dwellings are only appropriate to support existing agricultural activities on well-established agricultural units and should satisfy the following criteria, listed below:

- there is a clearly established existing functional need;
- the need relates to a full time worker;
- the unit has been established for three years and profitable for at least one year, is financially viable and has a clear prospect of remaining so;
- the functional need could not be fulfilled by another dwelling on the unit or in the vicinity;
- other normal planning requirements.

The guidance in PPS7 indicates that there is an expectation that permissions for temporary workers' accommodation are likely to subsequently translate into applications for permanent accommodation. Consequently, local planning authorities are advised (Annex A para 13) that they should not normally give temporary permissions in locations where they would not permit a permanent dwelling. The critical questions to be addressed in the consideration of a transfer from temporary to permanent units of accommodation are therefore:

- (i) have there been changes in the scale and nature of the relevant enterprise such that there is no longer a functional need for the ready availability of a worker?;
- (ii) has the enterprise demonstrated the necessary requirements of financial sustainability?;
- (iii) have there been changes in the local housing market such that suitable alternative accommodation is now available?.

Policy H18 states that residential development is only acceptable in the Green Belt if the dwelling is required to satisfy a proven need in terms of the efficient running of the enterprise, security and long term viability. That no other dwellings or buildings capable of conversion, are available which could satisfactorily accommodate the need and the proposal is satisfactorily sited on, or in relation to, the enterprise and wherever possible and practical should be sited within a settlement or existing group of buildings.

## **Existing Agricultural Use**

As previously stated the applicant has spent considerable amounts of money in relation to equipment, buildings, land and stock. The enterprise on which the planning consent for temporary accommodation, namely the breeding and rearing of pigs, is clearly in existence and the agricultural unit is now well established. The applicants Pig Movement Record Book

shows that the relevant livestock have been present in increasing numbers on the unit since the autumn of 2007.

### **Assessment against Policy Criteria**

PPG2 advises that new buildings, subject to a list of exceptions, are inappropriate development in the Green Belt. Although buildings for agriculture are exceptions, a dwelling, even one for an agricultural worker, should not be considered as such a building. The proposal therefore amounts to inappropriate development in the Green Belt. Substantial weight should be accorded to this. As a new building, it will erode the openness of the site and therefore additional weight should be given to this harm. The impact on the visual amenities of the Green Belt is considered in the "impact on the appearance of the countryside" section of this report.

Inappropriate development should only be granted in very special circumstances. Those circumstances will only exist if the identified harm is outweighed by other considerations. The key question for Members in assessing whether very special circumstances exist should be to consider with there is a genuine need for the dwelling that could outweigh the harm to the green belt that has been identified. In making this judgment the assessment against the functional and financial tests in PPS7 is paramount.

PPS7 requires that a new permanent dwelling should only be permitted to support existing activities on well-established units. Existing functional need relating to a full time worker the test of functional need relates firstly to "*established existing needs*", and secondly to the need for the "*essential*" ready availability of labour at most times to ensure the proper functioning of a relevant enterprise. This is not intended as an absolute test but one which relates to the particular operational circumstances of an individual enterprise. The needs of particular enterprises can vary both between enterprises of different types and between enterprises of a similar type on different units. Examples of the circumstances which might give rise to a requirement for the ready availability of worker are given in para 4 to Annex A and include cases where:

"---animals or agricultural processes require essential care at short notice."

"---to deal quickly with emergencies that could otherwise cause serious loss of crops or products, for example, by frost damage or the failure of automatic systems".

Any livestock enterprise gives rise to supervisory demands arising from:

- (a) the general welfare of the animals involved;
- (b) the management of housed stock.

The applicant is required to demonstrate that it is essential for a full time worker to reside on the site or within the vicinity. The applicant has made substantial investment in land, buildings, equipment and stock. It is accepted that there is no evidence other than that of a genuine and substantive effort to develop a sustainable enterprise on the holding.

According to the agricultural appraisal produced by Reading Agricultural Consultants as to whether it is essential for the proper functioning of an enterprise for one or more workers to

be readily available at most times. The need to respond to animals requiring essential care at short notice is cited as an example of such a circumstance. National guidance goes on to state; however, that the protection of livestock from theft or injury will not be sufficient in itself to justify agricultural accommodation, although it may contribute on animal welfare grounds.

Another important consideration is the Governments guidance to the farming community relating to animal welfare. The Guidance emphasises the responsibility of those looking after animals to meet five basic needs, which includes freedom from thirst, hunger and malnutrition; appropriate comfort and shelter; the prevention, or rapid diagnosis and treatment of injury, disease or infestation; freedom from fear; and freedom to display most normal patterns of behavior. The applicant goes on to state that any livestock unit should not be increased in size or established unless it is reasonably certain the stockman in charge will be able to safeguard the welfare of the individual animals.

The system of production at Rushey Hey Farm utilises the existing loose boxes as farrowing facilities for pregnant sows, which occupy them for about a week prior to giving birth, through a weaning and recovery period of up to five weeks. The young offspring are housed or transferred to open grazing. The older offspring and dry sows utilize the open grazing. The objective of the system is to manage the breeding cycles of the sows such that small batches of piglets are produced at regular intervals which can be weaned and reared in age related groups passing through the buildings and onto the land. There will, therefore, be no period in the year when there are no pigs about to farrow or having farrowed or young housed progeny on site.

Once the progeny are weaned they enter the second phase of operations, namely their rearing to the appropriate weight and condition prior to slaughter. It is acknowledged that the management of the breeding cycle, safeguarding the welfare of the farrowing sows, the protection of litters of newly born piglets and securing the well being of housed offspring are critical components of the stockman's role.

According to PPS 7 Annex A it is necessary to establish whether it is 'essential' for the proper functioning of the enterprise for one or more workers to be readily available at most times at the site of the proposed dwelling. It is accepted that there is a functional need for the worker to reside on the site in order to safeguard the welfare of the sows and her offspring. For example, it is an intrinsic role of the stockman's responsibility to regularly check on sows once they have given birth and when the piglets are being weaned. This is to make sure that morality is reduced, for example, making sure the sow doesn't inadvertently crush her young or some sows can react adversely to their litters. For these reasons it is important that a stockman is readily available.

These were the circumstances which led the local planning authority to accept that the scale and nature of the intended pig enterprise was such that the availability of the key stockman would be critical to its being realised and succeeding. Only if the current circumstances did not reflect the anticipated growth in scale of the enterprise would it be appropriate to review that conclusion. The applicant contends that this is not the case.

The applicant states that at the time of the temporary planning permission there were only three breeding sows on the unit and it was proposed to grow this core stock to 16 over a three-year period. There are currently 14 female animals in the breeding herd; 10 mature

sows and 4 immature animals. The business is not, however, at the end of the Business Plan period by which time there will be 12 mature sows and a further 4 immature animals. Therefore, the stocking of the enterprise is progressing in accordance with the Business Plan.

The Business Plan which was previously accepted by the Local Planning Authority predicated that the expectation that the agricultural activity involved would occupy just less than a full time worker, but that the additional capacity would be taken up with the value added activity associated with the marketing and sale of produce. It is considered that the essential functional need for the ready availability of a worker remains, and increases in stock numbers and the management of the enterprise generates a sufficient requirement for a full time worker.

### **Other Suitable Properties within the Locality**

It is noted that in granting planning permission for the temporary agricultural workers dwelling, the Local Planning Authority accepted that no alternative accommodation existed on the holding, and that residential opportunities in the immediate locality were limited. The applicant still contends that this is the case.

The area around the holding has a number of existing residential properties, which theoretically could provide a suitable base for the proper management of the holding in terms of having a worker being able to readily access the site. The case officer has conducted a search of right move and Zoopla and dwellings in the locality are being marketed at prices in excess of £500,000, which is more than quadruple the estimated cost of £100,000 to build the proposed dwelling. It is considered that the applicant has demonstrated that the agricultural workers dwelling cannot be accommodated within the locality.

According to GIS the nearest settlements of Astbury and Congleton are approximately 2 to 4kms from the holding and are accessed by a network of narrow lanes. It is accepted that the close supervision of livestock outside of normal working hours would not be practical from these locations. Overall, it is considered that there are no alternative properties within the locality, which could be afforded by the applicant and properties in Astbury and Congleton are too remote from the application and cannot be easily accessed. As such it is considered that the application satisfies the functional test of PPS 7 Annex A.

### **Financial Test**

The applicant is required to demonstrate that the agricultural activity has been established for three years, profitable for one year and has a clear prospect of remaining financially sound. The applicant has submitted a financial statement from Williams Cooper Accountants. The interim account for the year 6<sup>th</sup> April 2011 to 5<sup>th</sup> March 2012 (These are the latest set of accounts and are interim because it is not the end of the financial year) shows that the NET profit so far this year is £31, 332 and the NET profit for the year ending 5<sup>th</sup> April 2011 was £18,158. Furthermore, according to the agricultural appraisal by RAC states that in the first year of business the farm made a modest profit of approximately £7,000. The applicant is required to demonstrate that the agricultural activity which generates the need for the dwelling has been established for three years, which they have done. In order to fully accord with the criteria of PPS 7 Annex A the applicant should submit profit/loss and trading accounts which have been produced by either a certified/chartered accountant. The applicant has submitted

detailed accounts which appear to be a true reflection and include fixed assets, current assets, current liabilities, capital account, administrative expenses – including insurance, repairs and renewals bank charges etc.

Guidance from the former MAFF on the topic indicated that a financially sound business should be able to provide a reasonable return on all the inputs used which in the case of agriculture would include land, labour and capital. The methodology assumes that a minimum return to the land would be a value equivalent to the rental income attainable from the land; that the minimum agricultural wage (currently £14,000 to £15,000) would provide a reasonable return to labour; and that a reasonable return to capital employed in the agricultural sector would be 2.5%.

According to the summary of the accounts, the business has made a profit of £7,000 (2010), £18,158 (2011) and £31,332 (to date). According to the submitted agricultural appraisal the projected build cost of the proposed dwelling will be in the region of £100,000 and it is accepted that the farm business can support the cost on the projected profitability of the business. Overall, it is considered that sufficient information has been provided to show that the enterprise has been planned on a sound financial basis and as a result the proposal is in accordance with the financial test of PPS 7 Annex A.

### Design

The main issue in terms of the design is the size, bulk and mass of the proposed dwelling and its siting. Policy H18 states *'the proposal is satisfactorily sited on, or in relation to, the enterprise and wherever possible and practical should be sited within a settlement or existing group of buildings'* and policy GR2 (Design) which states that *'the proposal is sympathetic to the character, appearance and form of the site and the surrounding area'*.

PPS1 states that design which fails to take the opportunities available for improving the character and quality of an area should not be accepted. Good design should contribute positively to making places better for people. Design which is inappropriate in its context, or which fails to take the opportunities available for improving the character and quality of an area and the way it functions, should not be accepted.

The footprint of the proposed 2 storey detached dwellinghouse is roughly rectilinear in shape (with some single storey elements located on the north eastern and south eastern elevations). The proposal measures approximately 8.2m deep by 13.3m long (at the widest points) and is 4m high to the eaves and 7.1m high to the apex of the pitched roof and will incorporate one chimney on the gable to give the property a vertical emphasis. On the south east elevation there will be a small single storey outrigger incorporating a small pitched roof porch, which helps makes the property appear less stolid. According to the submitted plans the proposed agricultural workers dwelling will be constructed out of facing brick, rendered at first floor level and under a concrete tile roof, details of which will be secured by condition, if planning permission is approved. It is considered that the scale and bulk of the property will not appear overtly prominent in this isolated position and will not appear overly visible at both short and long ranges. Overall, it is considered that the design of the property of a traditional cottage appearance in keeping with its location and the proposal accords with policy GR2 (Design).

There are numerous windows on the various elevations which help to maintain the brick to glazing ratio. The majority of the windows have lintel and cill details, which help to improve the character and appearance of the building. The windows are all of a similar design, scale, and proportion and will not appear as alien or obtrusive features. The windows on the whole retain the visual hierarchy with larger ones at ground floor level and smaller ones at first floor level. The proposal incorporates a number of small pitched roof dormer windows (three on the front elevation and two on the rear elevation), which help to break the massing of the building.

Internally the majority of the accommodation will be at ground floor level and will comprise of lounge, office, cloakroom, utility room, hall and kitchen/breakfast room. The first floor accommodation will comprise 3no. bedrooms one with en-suite and a bathroom.

There are no policies within the Congleton Local Plan referring to a size restriction for a new agricultural worker's dwelling. The plan directs users to the requirements within Annex A of PPS 7 when assessing the size of an agricultural worker's dwelling, which states that an *'agricultural dwelling should be of a size commensurate with the established functional requirement'*. According to the submitted plans the total floor area of the proposed agricultural workers dwelling measures approximately 149msq. It is considered that the proposed dwellinghouse is not overtly large in relation to the size of the holding and the proposal is in accordance with guidance advocated within PPS 7.

#### *Detached Garage*

The proposed detached double garage will be located to the north of the applicants property and will measure approximately 6m wide by 6m deep and is 2.4m high to the eaves and 5.1m high to the highest part of the roof. The garage will incorporate a hipped roof design, which will help to reduce its overall bulk and massing. It is considered given the location of the garage set well back into the residential curtilage the proposed structure will not appear overly obtrusive.

The footprint of the proposed structure is primarily rectangular in form and the total footprint of the building is approximately 36sqm. It is considered that the scale and massing of the proposal is in keeping with the host property and the area. The proposed garage will be constructed out of timber under a slate roof. The proposed garage will be open faced on three sides. Whilst encouraging good design, PPS 1 says that planning authorities should not attempt to impose architectural styles and particular tastes, or be unnecessarily prescriptive. In this case, the case officer is satisfied that the proposal represents an acceptable design solution in the context of existing development.

#### **Impact on the appearance of the countryside**

According to PPS 7 'Agricultural dwellings should be sited so as to meet the identified functional need and to be well-related to existing farm buildings, or other dwellings' (PPS 7 Annex A). It is acknowledged that the proposed dwelling will be visible from Oak Lane. The proposed agricultural workers dwelling will be located in the middle of the application site adjacent to a field boundary. The proposed garage block will be located to the north west of the agricultural workers dwelling. The existing poly tunnel will be removed and the agricultural workers dwelling will be sited upon it. There will be two parcels of grassed area located to the north west of the garage block and south east of the proposed agricultural workers dwelling. It



is not considered that the residential curtilage as proposed is excessive and the location does not spread the built development further into the open countryside. PPS 7 clearly states that the 'Countryside must be protected for its own sake'.

The proposed development will be visible from a number of short and long distance views and the proposal would appear detached from other properties in the locality. It is accepted that the proposed built development could not be constructed on the land adjacent to the north east as this is used for by the applicant for agricultural purposes. The case officer noted that to the north of the application site is a modern portal frame barn and as such the proposal will not appear as an wholly isolated feature. It is considered that the proposal consolidates the built development and the proposal will not detract from the character and appearance of the Green Belt.

### **Impact on Residential Amenity**

The impact upon the residential amenity of nearby residential properties is also a consideration in particular Well Cottage, which is located to the north of the application site. There is a distance in excess of 240m separating the proposed agricultural workers dwelling and Well Cottage. Therefore, given the separation distances involved the proposed development will have a marginal impact on the residential amenities of the occupiers of this dwelling. Furthermore, there is a mature hedgerow which will help to screen the proposal and mitigate against any negative externalities. The effect on residents of other houses nearby would be negligible and as such the proposal is considered to comply with policy GR6.

### **Highways**

As previously stated the proposed agricultural workers dwelling will have two off road car parking spaces which are located to the north of the proposed dwellinghouse. According to the Local Plan the proposed dwelling will require a maximum of two car parking spaces; therefore, the proposal is in accordance with this policy. The case officer considers that there is sufficient space for vehicles to manoeuvre and access/egress the site in a forward gear. Colleagues in Highways have been consulted regarding the application and they do not have any objections subject to a condition relating to access arrangements. It is considered that there is insufficient justification to warrant a refusal on highway safety grounds and sustain it at any subsequent Appeal.

### **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.

It was noted that there was a pond in close proximity to the application site and as such the proposal could have a detrimental impact on Great Crested Newts. However, the Councils ecologist has been consulted and states *‘that there does not appear to be any direct habitat links between the pond and the proposed development site and the pond is shaded which may reduce its suitability for Great Crested Newts. Considering the small nature of the development and the relatively limited value of the habitat lost I do not feel that a survey is justified under PPS9 in this instance’*. Consequently, it is considered that the proposal accords the policies in the Local Plan and advice advocated within PPS 9.

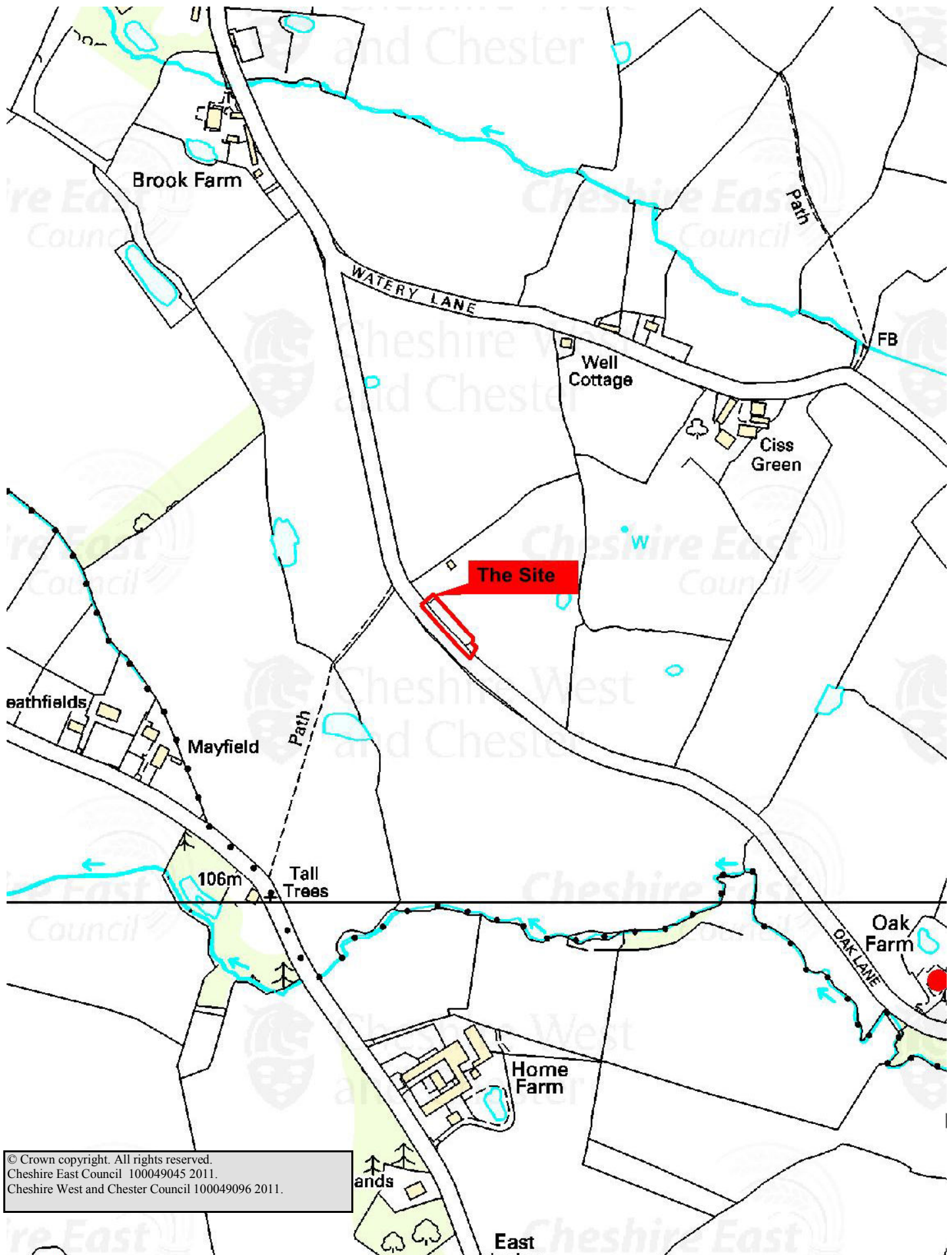
## **CONCLUSIONS AND REASON(S) FOR THE DECISION**

The proposal represents inappropriate development in the Green Belt which will erode the openness of the green belt, although the visual impact is limited. The applicant has demonstrated why a dwelling is necessary for the functioning of the farm enterprise and has justified why a location in the Green Belt is essential. It is therefore considered that the very special circumstances to justify inappropriate development exist in this case. In addition the proposals as conditioned will not have an adverse impact on highway safety or residential

amenity. The proposals therefore accord with policies GR1 (General Criteria), GR2 (Design), GR6 (Amenity and Health), GR9 (Accessibility, Servicing and Parking Provision), PS7 (Greenbelt), H18 (Dwellings Associated with Rural Enterprises) and H19 (Agricultural Occupancy Conditions) of the Congleton Borough Local Plan First Review 2005.

**Approve subject to conditions:**

- 1. Standard**
- 2. Plans**
- 3. Materials**
- 4. Landscaping Submitted**
- 5. Landscaping Implemented**
- 6. Boundary Treatment**
- 7. Surfacing Materials**
- 8. Drainage**
- 9. Remove PD Rights**
- 10. Agricultural Worker**
- 11. Land Contamination**
- 12. Car Parking Spaces**
- 13. Timber Windows/Door**



Application No: 11/4295N

Location: Weston Hall, MAIN ROAD, WESTON, CW2 5ND

Proposal: Extension to Time Limit of Planning Permission P08/1274 for One Dwelling

Applicant: Mr R Galloway

Expiry Date: 15-Jan-2012

**SUMMARY RECOMMENDATION:** Approve subject to conditions

**MAIN ISSUES:**

- Site History;
- Scope of this application;
- Material Changes in Circumstances/Policy since the Previous Application; and
- Ecology

**REFERRAL**

This application is referred to the Committee as the original proposal was a departure from the Crewe and Nantwich Replacement Local Plan 2011.

**DESCRIPTION OF SITE AND CONTEXT**

The site is located within the open countryside and was formerly occupied by Weston Hall a Grade II\* Listed Building which was destroyed by fire on 1<sup>st</sup> September 2005. All materials which were part of Weston Hall have been removed from the site and it remains vacant. The site is accessed via a drive of approximately 125m in length and is not visible from the road due to dense vegetation growth to the front of the site. A large pond is located to the front of the site and the proposed dwelling would be sited adjacent to a residential property known as 'The Cottage, Weston Hall' which is accessed via a separate driveway.

**DETAILS OF PROPOSAL**

An application for an extension to time has been submitted in relation to the approved planning consent number P08/1274. That planning consent was a full planning application for one dwelling. The proposed dwelling would be two and half storeys in height and would have 4no. bedrooms and a games room in the attic with a detached garage to the rear which would house 3 cars.

**RELEVANT HISTORY**

P08/1274 – One Dwelling – Approved – 22<sup>nd</sup> April 2009

P08/0428 – One Dwelling and Detached Triple Garage – Withdrawn – 19<sup>th</sup> May 2008

## **POLICIES**

### **Local Plan Policy**

RES.5 (Housing in the Open Countryside)  
BE.1 (Amenity);  
BE.2 (Design Standards);  
BE.3 (Access and Parking);  
BE.4 (Drainage, Utilities and Resources);  
BE.5 (Infrastructure);  
NE.2 (Open Countryside)  
NE.5 (Nature Conservation and Habitats)  
NE.9 (Protected Species)

### **National Policy**

PPS.1 (Delivering Sustainable Development).  
PPS.3 (Housing)  
PPS7 (Sustainable Development in Rural Areas)  
PPS9 (Biodiversity and Geological Conservation)  
PPG13 (Transport)

Greater Flexibility in Planning Permissions  
Ministerial Planning Statement Planning for Growth

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

**Cheshire Wildlife Trust:** No objections

### **Natural England:**

This application is in close proximity to Black Firs and Cranberry Bog Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal, Natural England raises no objection to the proposal being carried out according to the terms and conditions of the application and submitted plans on account of the impact on designated sites.

If the LPA is aware of, or representations from other parties highlight the possible presence of a protected or Biodiversity Action Plan (BAP) species on the site, the authority should request survey information from the applicant before determining the application.

**Ecologist:** No objections subject to conditions relating to a survey of the site prior to any work commencing and a scheme to incorporate features suitable for breeding birds.

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

No comments received at the time of writing this report

## **OTHER REPRESENTATIONS**

No representations received

## **APPLICANT'S SUPPORTING INFORMATION**

No supporting information included with the application

## **OFFICER APPRAISAL**

### **Site History**

The application site is located within the open countryside. New dwellings in the open countryside are not normally acceptable unless for agricultural purposes, as a replacement dwelling or to infill a small gap within an otherwise built up frontage. In this instance, there was a long established and listed property on the site; because this was destroyed by a fire the 'replacement dwelling' is considered a departure from Policy. However, it is a material consideration that a dwelling occupied the site and the harm of the proposed dwelling which would occur to the character and appearance of the Open Countryside would be minimal. Consequently, it was considered that the special circumstances in this instance were given considerable weight to override the strict planning policy presumption against new dwellings in the open countryside.

### **Scope of this application**

Extensions to the time limits for implementing existing planning permissions were brought into force on 1 October 2009. The new system was introduced in order to make it easier for developers to keep planning permissions alive for longer during the economic downturn. It includes provisions for a reduced fee and simplified consultation and other procedures.

The Government's advice is for Local Planning Authorities to take a positive and constructive approach towards applications that improve the prospects of sustainable development being brought forward quickly. It is the Government's advice for Local Planning Authorities to only look at issues that may have changed significantly since that planning permission was previously considered to be acceptable in principle.

In short, it is not intended for Local Planning Authorities to re-open debates about principles of any particular proposal except where material circumstances have changed, either in development plan policy terms or in terms of national policy or other material considerations such as Case Law.

### **Material changes in policy/circumstances since previous application**

The application remains unchanged from the previous approval, which was assessed under the same development plan. As such there are no changes in circumstances or Local Plan policies that would warrant an objection to the proposal. The application involves development on garden land so it is important to consider the implications of the amendments made to Planning Policy Statement 3: Housing on 9<sup>th</sup> June 2010, which amended Annex B so that private residential curtilages are removed from the definition of previously developed

land. An additional sentence has also been added to paragraph 41 of the PPS which states that brownfield land is the priority for development, to say that *'there is no presumption that previously developed land is necessarily suitable for housing, nor that all of the curtilage should be developed'*.

However, it is a material consideration that a dwelling occupied the site and the harm of the proposed dwelling which would occur to the character and appearance of the open countryside would be minimal.

Based on the draft National Planning Policy Framework it is not anticipated that there will be a change in national policy that would affect this proposal, however Members will be updated accordingly following the expected imminent publication of the document.

## 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;
- No detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK implemented the Directive by introducing The Conservation of Habitats and 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.

Local Plan Policy NR2 (Statutory Sites) states that proposals for development that would result in the loss or damage of any site or habitat which supports protected species will not be permitted. Furthermore the developers will be required to submit a comprehensive assessment of a proposals impact on nature conservation as part of an application to develop the site.

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.

It is noted that the submitted protected species is out of date. However, the Councils ecologist has been consulted and upon reviewing the submitted information states that *‘The ecological survey submitted in respect of the earlier application noted that the pond on site is unsuitable for Great Crested Newts or Lesser Silver Diving Beetles. As there are no buildings on site potential for roosting bats also appears limited. I advise that the proposed extension of time application is unlikely to have a significant adverse impact on protected species’*. Consequently, it is considered that the proposal is in accord with policy NE.9 (Protected Species) of the Local Plan and PPS9.

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

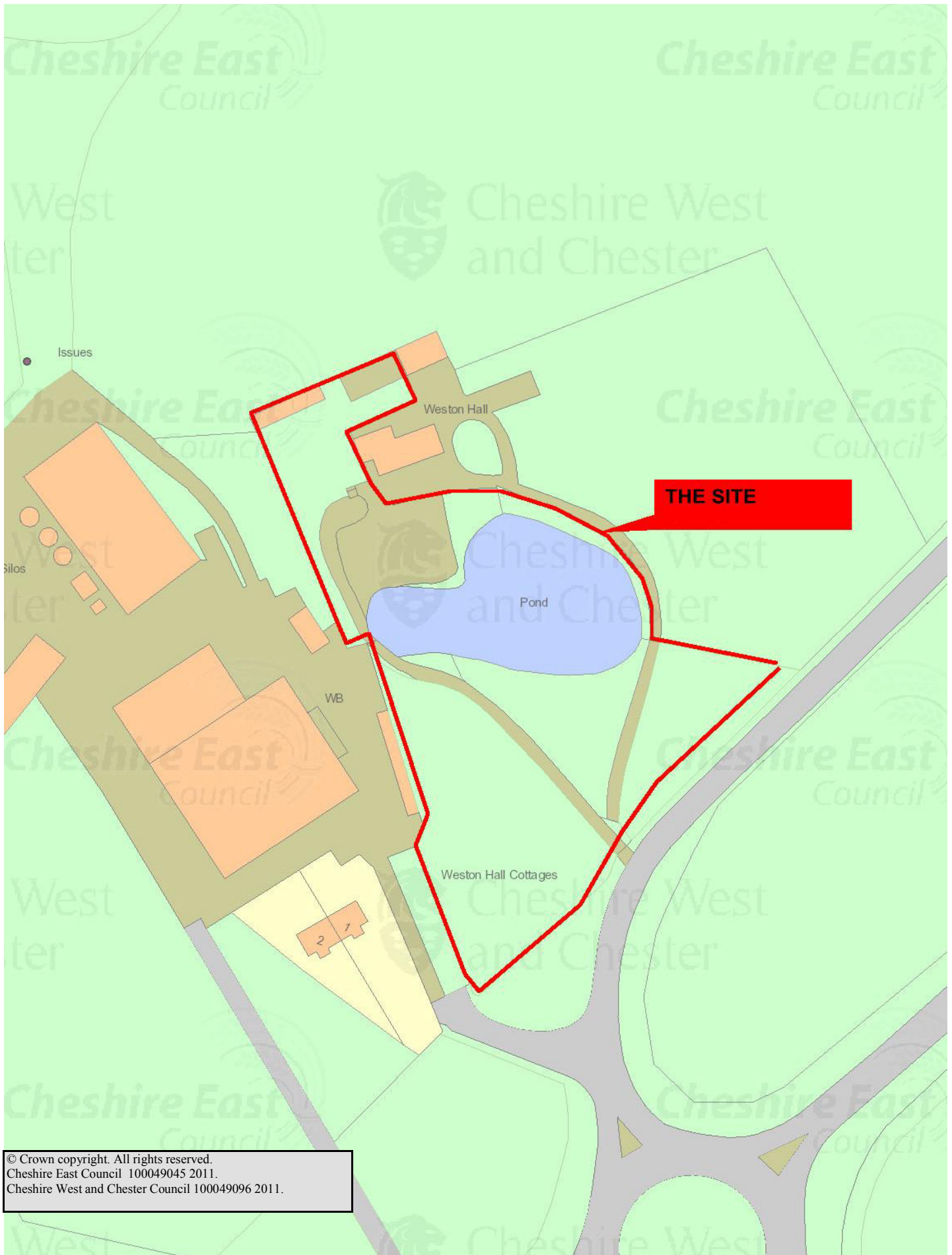
The Greater Flexibility Guidelines issued by the Government recognises that there are situations where flexibility and responsiveness to the challenging circumstances faced by the development community can easily be accommodated by the Local Planning Authority.

It is considered that there have not been any significant material changes in either circumstances or policy since application P08/1274 was originally permitted. Therefore, it is recommended that the application to extend the period of permission should be approved, subject to the same conditions that were applied in 2009.

**That the application be approved subject to the following conditions:**

- 1. Standard Time Limit**
- 2. Plan References**
- 3. Materials**
- 4. Surfacing Materials**
- 5. Landscape to be Submitted**
- 6. Landscape to be Implemented**
- 7. Drainage Details to be Submitted and Approved**

- 8. Detailed Specification of all Renewable Energy Features**
- 9. Window Reveal Details to be Submitted and Approved**
- 10. Demolition of Existing Buildings**
- 11. Remove PD Rights – Extensions and Outbuildings**
- 12. Works to Stop if Protected Species Found**
- 13. No Trees Removed Other Than Those Specified in the Arboricultural Report**
- 14. Tree Protection Measures**
- 15. Boundary Treatment**
- 16. Tree/Vegetation Removal to Take Place Outside Bird Breeding Season**
- 17. Detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds.**



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Application No: 12/0515M

Location: INGERSLEY VALE WORKS, INGERSLEY VALE, BOLLINGTON, MACCLESFIELD, CHESHIRE, SK10 5BP

Proposal: Variation of Condition 41 Relating to the Approved Plans on Approval 08/0791P for Demolition of all Buildings Except the Mill, Conversion of Mill to 24no. Apartments and Erection of 24no. Apartments and 18no. Townhouses with Associated Landscaping and Car Parking

Applicant: John Barratt, Ingersley Vale LLP

Expiry Date: 03-May-2012

**Date Report Prepared:** 22 March 2012

#### **SUMMARY RECOMMENDATION**

Approve

#### **MAIN ISSUES**

- Impact upon character and appearance of the Conservation Area
- Impact upon highway safety

#### **REASON FOR REPORT**

The application relates to an amendment to a development for 66 dwellings, and in line with the Council's constitution the application should be determined by the Committee.

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

The application site comprises a detached mill building, with associated warehouse style buildings now having been demolished as part of permission 08/0791P. The site has a history of industrial use including as a bleach works, but had been derelict for some time prior to the buildings being demolished. The site is located within an existing employment area in the Bollington Conservation area as identified in the Macclesfield Borough Local Plan. The River Dean runs through the site.

#### **DETAILS OF PROPOSAL**

Planning permission 08/0791P granted approval to demolish all the buildings on the site, with the exception of the Mill, and to redevelop the area for a total of 66 dwellings. The approved scheme can be divided into four distinct areas.

Site A: 6 town houses in two buildings.  
Site B: 24 Apartments in two buildings.  
Site C: Conversion of the existing Mill into 24 apartments  
Site D: 12 townhouses in two buildings.

All parking for the development will be underground with the main access point off Ingersley Vale positioned between Sites A and B serving sites A, B and C, with the 12 townhouses in Site D being served by a second access point further to the south along Ingersley Vale.

This permission has been implemented by virtue of the demolition of the existing buildings.

This current application seeks permission to vary condition 41 on approval 08/0971P, which lists the approved plans. The amendments to the plans primarily relate to Site D and comprise:

- Change to the internal layout, including car parking arrangements, and elevational treatment of the dwellings, including windows, in Site D
- Widening of the river channel to the front of Site D, and a reduction in crossing points.

## **RELEVANT HISTORY**

08/0791P - DEMOLITION OF ALL BUILDINGS EXCEPT THE MILL. CONVERSION OF MILL TO 24NO. APARTMENTS AND ERECTION OF 24NO. APARTMENTS AND 18NO. TOWNHOUSES WITH ASSOCIATED LANDSCAPING AND CAR PARKING – Approved 30.12.2009

08/0879P - DEMOLITION OF EXISTING BUILDINGS – Approved 04.03.2010

10/3279M - NON MATERIAL AMENDMENT TO APPLICATION 08/0791P – Approved 08.09.2010

## **POLICIES**

### **The North West of England Plan Regional Spatial Strategy to 2021 –**

DP1 (Spatial principles applicable to development management)

DP2 (Criteria to promote sustainable communities)

DP4 (Sequential approach to make the best use of existing resources)

DP5 (Objectives to reduce the need to travel and improve accessibility)

DP7 (Criteria to promote environmental quality)

DP9 (Objectives to reduce greenhouse gas emissions and adapt to climate change)

L4 (Criteria and targets for regional housing provision)

L5 (Affordable housing provision)

### **Macclesfield Borough Local Plan 2004 –**

H1 (Phasing policy to ensure that the structure plan housing requirement is met but not exceeded and that previously developed sites will be developed before Greenfield sites)

H2 (High quality living environment in housing developments)

H5 (Criteria for the development of windfall housing sites)

H8 (Provision of Affordable Housing)

H9 (Affordable Housing)

E1 (Employment Land Policies)

E4 (Employment Land – Industry)

BE1 (Design principles for new developments)

BE3 (Development must preserve or enhance the Conservation Area)

NE1 (Landscape protection and enhancement of Areas of Special County Value)

NE9 (Protection and promotion of river corridors)  
NE11 (Protection and enhancement of nature conservation interests)  
RT5 (Minimum open space standards)  
RT8 (Access to countryside)  
DC1 (High quality design for new build)  
DC2 (Design quality for extensions and alterations)  
DC3 (Protection of the amenities of nearby residential properties)  
DC6 (Safe and convenient access for vehicles, special needs groups and pedestrians)  
DC8 (Requirements to provide and maintain landscape schemes for new development)  
DC9 (Tree protection)  
DC17 (Developments affected by / affecting water courses)  
DC38 (Guidelines for space, light and privacy for housing development)

#### **Other Material Considerations**

PPS1 (Planning for Sustainable Development)  
PPS3 (Housing)  
PPS4 (Planning for Sustainable Economic Growth)  
PPS5 (Planning for the Historic Environment)  
PPS25 (Development and Flood Risk)  
Draft National Planning Policy Framework  
Planning for Growth Ministerial Statement

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

Strategic Highways Manager – No objections as the current application will not require any changes to highways conditions previously attached.

Environmental Health – No objections

Cheshire Fire & Rescue Service – Raise no objections but offer observations and recommendations

Environment Agency – No objections

Manchester Airport – No objections

Cheshire Archaeology Planning Advisory Service – No objections subject to condition

Public Rights of Way – Object on the grounds that it would appear from inspection of the definitive map that Public Footpath no. 37, Rainow will be obstructed by the proposed layout, as submitted for amendment.

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

Bollington Town Council – Comments not received at time of report preparation

Rainow Parish Council – Comments not received at time of report preparation

## **OTHER REPRESENTATIONS**

6 letters of representation have been received raising the following concerns on the application:

- Original plans used a road to the rear of the mill to access the houses. The current plans use the existing narrow, steep, blind cornered track. This is at present used by 5 properties with attendant trade vehicles and deliveries, and recently an emergency ambulance. It necessitates careful and polite use, frequent reversing to make room particularly for the many walkers who use the track.
- It is the only access to our properties can we have assurance that this will not be restricted during building works
- No details of how the road will be upgraded have been submitted
- Applicants do not have control of all land within the application site.

A further letter has been received from a neighbouring property which includes all their objections to the previous application 08/0791P. These objections are summarised below:

- Applicants do not have control over the road
- Highway safety concerns arising from volume of vehicles using this road
- Site is on employment land and our own B2 premises are not compatible with residential dwellings.
- Roads leading to the site are already overloaded
- Road is subject to flooding
- As a private road, it should serve no more than 5 or 6 dwellings
- Question whether the road is adequately structurally sound to accommodate increase in traffic
- Site not been offered for sale as an employment site
- Houses are unsympathetic to the area

## **APPLICANT'S SUPPORTING INFORMATION**

A supporting letter has been submitted which outlines the proposed amendments, and identifies the required change to condition 41.

## **OFFICER APPRAISAL**

### **Principle of Development**

The development has been judged to be acceptable in principle at an earlier date, as a result of its approval by the Council in 2008 (ref: 08/0791P). It is therefore necessary to focus attention on national and local policies, or other material considerations which may have changed significantly since the original grant of planning permission, as well as the changes sought.

### **Policy**

Local and Regional policies remain the same as when the application was first considered in 2008. There have been some developments in national policy which while applicable at the time of writing, are not considered to raise new policy issues, including PPS3 (Housing), PPS4 (Planning for Sustainable Economic Growth), PPS5 (Planning for the Historic



Environment) and PPS25 (Development and Flood Risk). However, it is anticipated that the National Planning Policy Framework will be published and come into effect before the Committee meeting. Therefore the implications of this will be reported to Members as an update.

### **Design**

The proposed amendments do incorporate changes to the external appearance of the townhouses on Site D. The general design of the townhouses remains contemporary and very similar to that previously approved. The proposed amendments are therefore not considered to have a significantly greater impact upon the Bollington Conservation Area than the existing permission. The Conservation Officer also raises no objections to the proposed amendments. As with the previous permission, the character and appearance of the Conservation Area is considered to be enhanced by the proposal in accordance with policy BE3 of the Macclesfield Borough Local Plan.

### **Highways**

Several of the comments received in representation refer to the original plans using a road to the rear of the mill to access the houses, thereby taking traffic off Ingersley Vale. However, this is not the case. The approved plans utilised the same access arrangements as those shown within the current application. No amendment to the access arrangements is proposed. The number of parking spaces remains as approved with only the positioning of the parking beneath site D changing from the front to the rear of the footprint of the dwellings.

The Strategic Highways Manager has commented on the application and raises no objections noting that the current application would not require any changes to the conditions previously attached. No significant highway safety issues are therefore raised by the proposed amendments.

### **Ecology**

The Council's Nature Conservation Officer does not anticipate that there will be any significant ecological issues associated with the proposed amendments to the existing permission. The proposal is therefore considered to comply with policy NE11 of the Local Plan.

### **Amenity**

Having regard the scale and form of the alterations to Site D, and the distance and relationship the nearest dwellings, the proposed amendments raise no significant amenity issues.

### **Public Right of Way**

The footpath alignment shown on the submitted plans for footpath no. 37 is not the same as the route of the current footpath and therefore the definitive line would be obstructed. As there is no currently no proposal for the path to be suitably diverted under the Town and Country Planning Act 1990 (TCPA) by the applicant, and the Public Rights of way team do object to the planning application.

If, however, the applicant is prepared to apply for a diversion of the route under the Town and Country Planning Act 1990 they would consider withdrawing our objection once they have assessed the suitability of the new route.

Demolition work has already commenced on site without formal temporary closure orders for the footpath being maintained. An order that was in place has elapsed and it is understood a follow up application is currently being arranged.

Whilst it is appreciated that this application is a variation of a condition only, the issue of the footpath being affected applied equally to the existing permission as the current proposal. It does therefore need to be addressed by the developer in some way. For this reason, this issue is not considered to be sufficient reason to withhold consent for this minor material amendment to the approved scheme.

### **Other considerations**

With regard to the comments relating to the ownership of the road, it is understood that the situation is the same as when the application was first considered in 2008. However, clarification is being sought on this matter from the applicants and will be reported in an update.

### **Heads of Terms**

Should Members be minded to approve the application, then the existing S106 legal agreement would need to be updated to reflect this latest permission. The existing S106 includes the following matters:

- Provision of 15 affordable housing units
- Commuted sum payment for the provision and / or improvement of public open space within the Bollington / Rainow area
- Management Company for the site to include each purchaser of a residential unit (for maintaining roadways, and other common parts of the site)

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

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

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

The provision of affordable housing would help to sustain the existing communities of Bollington / Rainow as it would provide additional affordable housing for those with a connection with the area enabling them to remain within or return to the parish, as the case may be.

The commuted sum to be paid to the Council to make additions, enhancements and improvements to the existing open space in Rainow / Bollington, which will help to ensure it provides opportunities for all parts of the community including the new residents.

The management company will ensure that the roadways will be maintained to an acceptable and safe standard in the absence of the roadways being formally adopted.

On this basis the provision of the commuted sum, affordable housing and management company is necessary, directly relate to the development and is fair and reasonable in relation to the scale and kind of development.

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

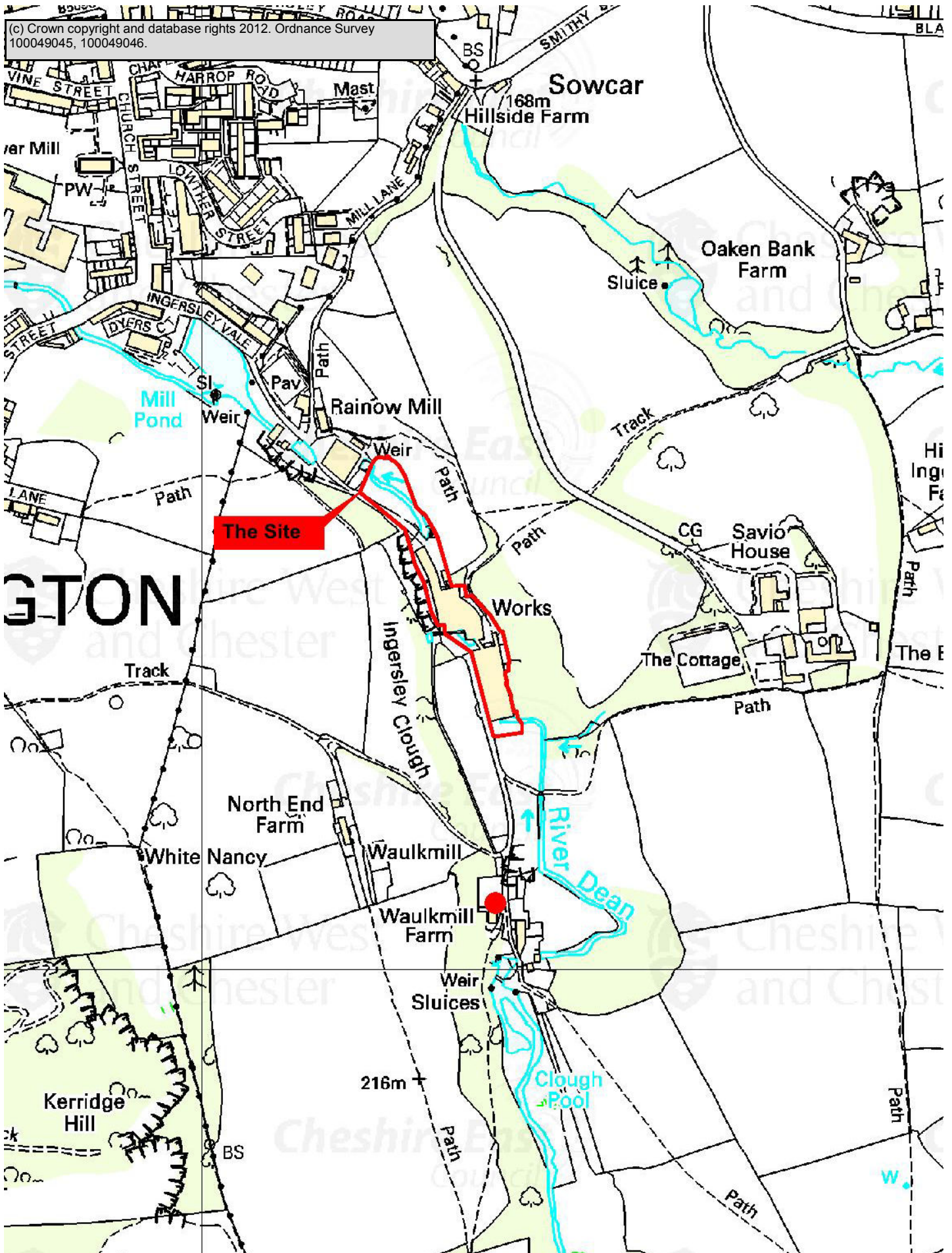
The proposed amendments are not considered to have any significantly greater impact upon the character and appearance of the Conservation Area, highway safety, ecology or any other matter of public interest than the existing permission. A recommendation of approval is therefore made subject to the receipt of comments from outstanding consultees, the same conditions being attached (and updated to reflect the current situation on site), and the prior completion of a s106 legal agreement.

Application for Variation of Condition

### **RECOMMENDATION:**

1. A03FP - Commencement of development
2. A02EX - Submission of samples of building materials
3. A03EX - Materials to match existing
4. A10EX - Rainwater goods
5. A14EX - Specification of bonding of brickwork
6. A15EX - Specification of mortar mix
7. A20EX - Submission of details of windows
8. A21EX - Roof lights set flush
9. A11LS - Implementation of landscaping scheme submitted with application
10. A10LS - Additional landscaping details required
11. A01MC - Noise insulation
12. A02HA - Construction of access
13. A04HA - Vehicular visibility at access to be approved
14. A06HA - Pedestrian visibility at access in accordance plans to be approved
15. A07HA - No gates - new access
16. A12HA - Closure of access
17. A15HA - Construction of highways - submission of details
18. A24HA - Provision / retention of service facility
19. A26HA - Prevention of surface water flowing onto highways
20. A30HA - Protection of highway from mud and debris
21. A32HA - Submission of construction method statement
22. A06HP - Use of garage / carport

- 23. A07HP - Drainage and surfacing of hardstanding areas
- 24. A22GR - Protection from noise during construction (hours of construction)
- 25. A19MC - Refuse storage facilities to be approved
- 26. A23MC - Details of ground levels to be submitted
- 27. A01GR - Removal of permitted development rights
- 28. Arboricultural Works in accordance with submission
- 29. Woodland Management Plan to be submitted
- 30. Archaeological Programme of work
- 31. Decontamination of Land
- 32. Traffic calming details to be approved
- 33. Parking in accordance with approved plan
- 34. Details of highways, footways and cycleways to be approved
- 35. Details of non reflective materials to be submitted
- 36. Constuction of hydro-electric scheme
- 37. Signage for 'ramblers' parking area
- 38. Development in accordance with ecological report
- 39. A06NC - Protection for breeding birds
- 40. Proposals for biodiversity enhancement to be submitted
- 41. A01AP - Development in accord with approved plans



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Application No: 12/0290M

Location: VINCENT MILL, VINCENT STREET, MACCLESFIELD, SK11 6UJ

Proposal: (OUTLINE) DEMOLITION OF THE EXISTING BUILDINGS AND REDEVELOPMENT OF THE SITE TO PROVIDE 10 NO. 2 TO 4 BEDROOM TERRACED HOUSES AND 1 NO. 2/3 STOREY APARTMENT BLOCK WITH 7 NO. 2 BEDROOM UNITS WITH ANCILLARY CAR PARKING, OPEN SPACE AND ACCESS OFF VINCENT STREET

Applicant: MR TWIGG

Expiry Date: 19-Apr-2012

**Date Report Prepared: 22.03.2012**

#### **SUMMARY RECOMMENDATION**

**APPROVE, SUBJECT TO  
CONDITIONS**

#### **MAIN ISSUES**

- The scale of the proposed (impact of height, mass, bulk, density on the character and appearance of the area & street-scene)
- Highways safety (in respect of the proposed access and indicative parking arrangements)
- Impact on residential amenity
- Impact on neighbouring Grade II Listed Building
- Environmental issues
- Landscape and nature conservation issues
- Housing policy and supply
- Heads of Terms for a Legal Agreement

#### **REASON FOR REPORT**

The proposed is an outline application with an indicative layout comprising 17 No. 2-4 bedroom dwellings. As such the Council's scheme of delegation requires the application to be determined by the Northern Planning Committee.

#### **EXECUTIVE SUMMARY**

Members are informed that this application is a resubmission of an application which was approved by Committee on 29/09/2010 (10/1842M), following a site visit. The reason the application has had to be resubmitted is that a technical land ownership issue arose during the process of drafting a Section 106 agreement. The application had to be made invalid for purely technical reasons. This resubmitted application remains exactly the same as the scheme approved by Committee in September 2010. The site circumstances remain the same. The National Planning Policy Framework (Draft) is the main additional policy to

consider, the key tenet of which is a presumption in favour of sustainable development. The application site is located within a sustainable location. As there are no reasons to do otherwise, the Officer recommendation will be the same as the recommendation on application 10/1842M, i.e. a recommendation of approval.

The report presented below is a copy of the original report presented to Committee but updated in respect of representations received and consultee responses.

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### **Description of site**

The site to which the application relates is located on the edge of Macclesfield Town Centre on the north-western side of Vincent Street.

The site itself has an industrial land use comprising a two-storey building and associated vehicle parking and turning area (part of the building is currently used as a manufacturing joinery workshop and a small area is used by an engineering company) There is a telecommunications mast and associated equipment located in the western corner of the site. It is noted that the Agent has previously indicated that the applicant could terminate the contract for the mast located on site at any time.

There is a variation in ground levels within the site. The site generally slopes down from its southern corner and eastern side on Vincent Street towards its northern corner and western side adjacent to the B & Q car park. The change in levels between the southern and northern corners of the site is approx. 2m.

More generally, the site is located within a Mixed Use Area as designated in the Local Plan. There is range of commercial and retail units in the area and mainly residential properties to the north-east, east and south of the site. The residential properties are mainly terraced; there is variation in design, ridge and eaves heights, materials and the number of storeys. Though mainly two-storey, there are some traditional three-storey weavers cottages in the area and there is a residential development (approx. 20 years old) north-east of the site comprising three- storey terraced town houses around a courtyard.

The site is bounded specifically by residential properties along the south-eastern boundary on Vincent Street (one of which is a three-storey Grade II Listed Building), a garage repair workshop along the north-eastern boundary, the B & Q store and car park along the south-western and north-western boundaries respectively.

Vehicles currently access the site from Vincent Street, at the southern end of the south-eastern boundary.

One of the development constraints on the site is the existence of a culvert (taking overflow water from Ryles Pool in South Park) running in a northerly direction close to the centre of the site.



## **DETAILS OF PROPOSAL**

The proposed seeks outline planning permission to demolish existing buildings (old mill buildings, approximately 100 years old) and erect 10 No. 2-4 bedroom terraced houses, 1 No. 2/3 storey apartment block consisting of 7 No. 2 bedroom apartments, plus ancillary car parking, open space and access off Vincent Street.

More specifically, this is an outline application for which permission for scale and access is being sought with layout, appearance and landscaping being left for a reserved matters application.

## **RELEVANT HISTORY**

10/1842M     Outline application to demolish existing buildings and redevelop the site to provide 10 No. 2 & 4 bed terraced houses, 1 No. 2/3 storey apartment block consisting of 7 No. 2 bed units and ancillary car parking, open space and access off Vincent Street. Invalid, 21.07.2011

10/3096M     Telecommunications determination. Approved, October 2010

## **POLICIES**

### **Macclesfield Borough Local Plan – saved policies**

BE1 Design Guidance  
BE16 Listed Building Setting  
E11 Mixed Use Areas  
H1 Phasing Policy (Housing)  
H2 Environmental Quality in Housing Developments  
H5 Windfall Housing Sites  
H13 Protecting Residential Areas  
DC1 Design  
DC3 Amenity  
DC6 Circulation & Access  
DC8 & DC37 Landscape  
DC38 Space, Light & Privacy  
DC63 Contaminated Land Including Landfill Gas

‘PPS3 Housing and Saved Policies Advice Note’ and the associated ‘PPS3 Housing Self Assessment Checklist’

### **North West of England Plan Regional Spatial Strategy to 2021**

DP1 Spatial Principles  
DP2 Promote Sustainable Communities  
DP4 Make the Best Use of Existing Resources and Infrastructure  
DP5 Manage Travel Demand; Reduce the Need to Travel, and Increase Accessibility  
DP7 Promote Environmental Quality  
L2 Understanding Housing Markets

L4 Regional Housing Provision  
L5 Affordable Housing  
RT2 Managing Travel Demand

### **National Planning Policy Guidance**

Planning Policy Statement 1: Delivering Sustainable Development  
Planning Policy Statement 3: Housing  
Planning Policy Statement 5: Planning for the Historic Environment  
Planning Policy Statement 9: Biodiversity and Geological Conservation  
Planning Policy Statement 25: Development and Flood Risk  
Planning Policy Guidance Note 13: Transport  
National Planning Policy Framework (Draft)

### **CONSULTATIONS**

#### **Highways:**

Awaiting comments. However, it is noted that no objections were raised on the previously approved application, subject to conditions (including a requirement for an increase in parking provision within the site as part of a reserved matters application). The Highways Officer has noted verbally that the same comments provided on the previously approved application will be submitted for the current application.

#### **Environmental Health:**

Awaiting comments. However, it is noted that no objections were raised on the previously approved application, subject to conditions.

The Environmental Health Officer previously stated that, as the indicative layout does not show a telecommunications mast it is assumed that this would be removed from the site and wouldn't form part of the site layout at reserved matters stage. Should a mast remain on site, then the relationship with proposed dwellings could be assessed as part of the reserved matters application. Mitigation measures/conditions could be applied at this stage if necessary.

#### **Conservation/Listed Building and Design:**

No objections

#### **ESU – Landscape:**

No objections

#### **ESU – Nature Conservation:**

No objections

**Leisure Services:**

No objections, subject to provision of commuted sum for off site outdoor space and sport & recreation.

**Housing Strategy and Needs:**

Awaiting comments. However, it is noted that no objections were raised on the previously approved application, subject to provision of some affordable housing as part of the scheme (4 No. units, based on the No. of units, 17, outlined on the indicative layout).

**United Utilities:**

No objections, subject to conditions & recommendations related to foul drainage and discharge of surface water and adequate methods for provision of water to supply the properties.

**Cheshire Fire Authority:**

It is noted that no objections were raised on the previously approved application but comments were provided which the Authority wished the applicant to be aware of in respect of access to the site for the fire service, water supplies and means of escape. A recommendation was made that the applicant considers the inclusion of an automatic water suppression system in the eventual design. Such information has previously been forwarded to the agent/applicant for information.

**Sustrans**

Recommend the following if approved:

*The site lies close to the town centre, but surrounded by busy roads, Churchill Way and Park Lane. We would like to see the development make a contribution to improving the walking/cycling route to the town centre.*

*The design of all the properties should include conveniently located storage areas for any residents' buggies/bicycles.*

**VIEWS OF THE PARISH / TOWN COUNCIL**

Not applicable

**OTHER REPRESENTATIONS**

5 No. representations have been received. 4 No. from occupants of neighbouring properties and 1 No. from a tenant of the industrial unit on site (manufacturing joiners). Details can be read on file. The planning objections raised are summarised below:

**Neighbours: -**

- Highways safety - insufficient parking in the area, increase in traffic and vehicle movement around the area would be hindered.
- Potential problems with the sewerage network in the area.
- Residential amenity - loss of light and privacy to numbers 42 and 44 Vincent Street and detrimental impact on outlook.

**Tenant: -**

- Loss of an industrial unit and the implications for the business (having to find new premises, seeking to retain staff, not wanting an increase in rental costs, etc.).

It is noted that the author of the letter objecting to the loss of the industrial unit asserts that the letter he submitted in respect of the previous application (10/1842M) had not been presented. However, the Officer can confirm that the objections raised were covered in the report presented to Committee (under the heading of 'representations').

**APPLICANT'S SUPPORTING INFORMATION**

The applicant has submitted the following additional information:

- 'Design and Access Statement'
- An 'Affordable Housing Statement'
- A 'PPS3 Housing Self-Assessment Checklist'
- Land Registry Information
- 'Phase 1 Desk Study' (Contaminated Land)
- Historical Maps

Details of each of the documents can be read on file.

**OFFICER APPRAISAL**

**Principle of Development**

The principle of the proposed is acceptable, subject to being in accordance with relevant Development Plan policies. Indeed, as noted above, not only has the principle already been accepted but an identical outline application has recently been approved by Committee (10/1842M).

**Policy**

The relevant policies are listed above and relate to the issues identified. As noted above, the site falls within a Mixed Use Area (Policy E11) as designated in the Local Plan. Policy E11 allows for housing in the area provided the new use does not a) conflict with other proposals of the plan, b) materially harm adjoining or nearby uses or c) in the case of housing, a satisfactory housing environment can be created. It is considered that the industrial unit on site and its location is not required to be retained for employment purposes in the Local Plan.

The applicant notes in the 'Design and Access Statement' that deliveries to the site have proved difficult over the years with access to the building being restricted through the surrounding residential streets. On occasions, it is claimed, fork lift trucks have been required to transport supplies from delivery vehicles parked on Park Lane. Thus, the building and its location is not ideal for present day industrial requirements. It is considered that use of the site for residential purposes would not materially harm adjoining or nearby uses and that a satisfactory housing environment could be created.

### **Highways safety (in respect of the proposed access and indicative parking arrangements)**

The access is one of the specific aspects that have been applied for as part of this outline application. As noted above, the Strategic Highways Manager raised no objections in principle on the previous application to the re-siting of the access (subject to conditions). Indeed, it was considered by the Strategic Highways Manager that the re-siting of the access would improve visibility compared with the existing access.

As regards the number of parking spaces provided on the 'indicative layout' submitted with the application (i.e. 1 No. space per unit [100%] and 3 No. visitor spaces), as noted above, the Strategic Highways Manager previously raised concerns, being of the view that this would lead to overspill parking which would have a detrimental impact on the surrounding network. Therefore, the minimum level of parking sought within this site would be 150% (to be dealt with under a reserved matters application).

### **Impact on residential amenity**

The indicative layout illustrates that a separation distance of approx. 10m can be achieved between the existing houses on, and fronting, Vincent Street and the dwellings that are likely to front Vincent Street as part of the eventual site layout. It is considered that such a separation distance is commensurate with the area, so long as the properties that front the properties on Vincent Street are two-storey.

It is considered that the change of use of the site from industrial to residential would improve the amenity for residents of properties within the vicinity of the site.

Hence, it is considered a) that the access as applied for is acceptable as regards impact on residential amenity and b) that restricting the scale of properties fronting Vincent Street to two-storey would ensure commensurate distance standards are achieved on a future reserved matters application, which would have an acceptable impact on residential amenity.

### **Scale of the proposed (impact of height, mass, bulk, density on the character and appearance of the area & street-scene)**

The scale of the proposed is one of the specific aspects that have been applied for in this outline application. The scale (i.e. no. of dwellings, density, and eaves and ridge heights as shown on the 'indicative scale' plan and the 'indicative layout' plan) has been considered in the context of the surrounding area, i.e. existing buildings, (dwellings and commercial properties) and views from key public vantage points around the site (Vincent Street, Buckley Street, Statham Street and Churchill Way).

Details of the scale of existing buildings in the area are provided below along with details of the scale of buildings as shown on the indicative plans and the scaled parameters that the Officer considers appropriate to the site given its location.

### **Scale of buildings/properties on, and within the vicinity of, the site**

The buildings on site are mainly old mill buildings, with a max. eaves height of approx. 5.4m and a max. ridge height of approx. 7.4m - when measured from the ground level outside the north-eastern corner of the mill buildings, opposite No. 32 Vincent Street.

There are a range of properties within the vicinity of the site, two and three-storey, with varying eaves and ridge heights. The residential properties are mainly terraced arranged in a relatively dense grid layout.

The nearest residential properties to the site are those located on Vincent Street, with the front elevations of Nos 30 to 50 Vincent Street and the side elevations of Nos 1 and 2 Nelson Street being directly opposite the south-eastern boundary of the site. Apart from No. 46 (which is a three-storey Listed Building) the eaves height of these properties ranges from approx. 4.7m to 5.7m and the ridge heights range from approx. 7.0m to 8.2m. The eaves and ridge heights of the three-storey Listed Building (No. 46) are approx. 7.9m and 10.1m respectively.

The residential development north-east of No. 30 Vincent Street (Town Houses around a court-yard) are three-storey, the eaves and ridge heights of the town house attached to No. 30 Vincent Street are approx. 8.2m and 10m respectively.

Nos 46 to 50 Vincent Street face the corner of the B & Q building located at the southern tip of the application site. The eaves height of the B & Q building at this corner is approx. 4.5m.

The building on the north-western side of the site that faces the B & Q car park sits on a ground level ranging between approx. 1-2m lower than the car park ground level. The elevation of this building that faces the car park has a max. flat-roof height of approx. 9m.

In summary, the area comprises two and three-storey buildings which are mainly terraced arranged in a relatively dense grid layout. The eaves and ridge heights of these buildings varies, eaves heights from 4.7 to 8.2m and ridge heights from 7m to 10m.

### **Scale of buildings proposed**

The 'indicative scale' and 'indicative layout' plans illustrate the following: i) 17 No. dwellings, comprised of 1 No. terrace of for two-storey apartments, 1 No. terrace of 2/3-storey houses and 1 No. terrace having a mix of 2/3-storey and 3/4 storey houses; ii) the eaves heights of the buildings fronting Vincent Street range between 5.4m and 6m and the ridge heights range between 6.8m and 9.2m; the max. eaves and ridge heights of the terrace on the north-western side/corner of the site are approx. 7.4m and 11.2m respectively (measured from the existing ground level on this part of the site).

### **Scaled parameters**

Bearing in mind a) the scale of the buildings that currently exist on site, b) the scale of the buildings within the vicinity of the site (particularly the dwellings opposite the site on Vincent Street and Nelson Street), c) the change in ground levels within the site and d) factors such as distance standards, amenity and outlook (which will have to be satisfied on a reserved matters application), it is considered that the scale of the buildings as illustrated on the 'indicative scale' plans are a little higher (eaves and ridge heights) than can comfortably be accommodated within the site. Therefore, the following parameters are recommended:

- For properties opposite Nos 46-50 Vincent Street the eaves height shall be between 4.8-5.4m and the ridge height between 7.2-7.6m and shall be no more than two-storey.
- For properties opposite Nos 30 and 32 Vincent Street the eaves height shall be between 5-5.5m and the ridge height between 7.5-8m and shall be no more than two-storey.
- All other buildings within the site shall not project above the heights of any of the buildings fronting Vincent Street and none shall be more than three-storey.

It is noted that the space required within the site for car parking (150% recommended by highways) is more than has been allowed for on the 'indicative layout'. This will have an implication for the number of units that can be accommodated within the site. However, it is not possible for the Council to conclude how many units can actually be accommodated within the site, as this could vary according to design and layout details.

It is considered that the scaled parameters as defined would allow for a residential scheme to be designed of a scale that would be acceptable within the character and appearance of the area and the street-scene of Vincent Street, whilst also allowing for a satisfactory layout to be achieved in a reserved matters application in respect of distance standards, outdoor amenity space and outlook.

### **Impact on neighbouring Grade II Listed Building**

The Conservation Officer is of the opinion that the proposal would be acceptable in the context of the setting of the Grade II Listed Building located on the eastern side of Vincent Street opposite the south-eastern corner of the site, subject to satisfactory materials forming part of the reserved matters application.

### **Environmental issues**

As noted above, the Environmental Health Officers raised no objections on the previously approved application, subject to conditions requiring: i) a phase II contaminated land investigation and ii) noise and dust levels to be controlled to protect residential amenity. The proposed residential use is considered to be a sensitive end use. The Phase 1 Report submitted with the application identified potential contamination and recommends further investigation.

As noted above, as there is no telecommunications mast shown on the indicative layout, it is assumed that the mast will be removed from the site within a reserved matters application

(having noted that the Agent has stated that the contract could be terminated by the applicant). Should this not be the case, the matter could be addressed at the reserved matters stage.

### **Landscape and nature conservation issues**

As the current application is identical to one that has been approved, the Landscape Officer notes that the same comments apply, i.e. change of use to residential would be a suitable long term use of the site provided the details of design are in keeping with the tight urban grain of the area. It is suggested that relocating the existing telecommunications mast would create a more attractive setting for dwellings.

It is suggested that the reserved matters application, either detailed on the layout or required as conditions, should include screen planting along the south-western boundary next to the large, blank brick wall that forms part of the B & Q building and also along the north-eastern boundary adjacent to the repair garage. The desire to strike a balance between open, amenity space and car parking is also expressed.

The Nature Conservation Officer does not consider there to be any significant ecological issues associated with the proposed development.

### **Housing policy and supply**

The Housing Strategy and Needs Manager noted previously that 4 No. of the units (based on the indicative figures) should be provided as affordable units. To assist in meeting the housing needs of the area there should be 2 No. social rented properties and 2 No. intermediate tenure properties. The 2 No. socially rented should be 2 or 3 bed-roomed and the intermediate tenure properties could be either 2 No. houses or 2 No. apartments. Although the Housing Strategy and Needs Manager would have preferred a Registered Social Landlord to sign up to a s106 to provide the Social Rented properties, it is considered that this arrangement could not be stipulated at this stage.

It is considered that the proposal would contribute to the housing needs of the area and provide a mix of properties. This brownfield site is located within a very sustainable location, close to the main public transport stations, local amenities and facilities. The density is at least 30 dwellings per hectare, thereby making efficient use of land. The details of a reserved matters application could secure a scheme which is acceptable in respect of design/appearance, layout, landscaping, relationship with neighbouring properties and level of parking provision. The proposed accords with current housing policy.

### **Heads of Terms:**

Leisure Services have stated that the commuted sum required for provision of Outdoor Space is £51,000; the figure required for Recreation / Outdoor Sport is £10,500 (which includes discount of £3,000 for affordable housing based on 2 houses and 2 apartments being the affordable element).



Both commuted sums would be used to make improvements, additions and enhancements to the facilities at the three town centre parks (West Park, Victoria Park and South Park, including the allotment provision at South park) and St Georges Play area.

It is noted that the commuted sums required for open space and outdoor recreation would form part of a s106 agreement, as would the details for the affordable housing provision.

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

In summary, it is considered that the principle of residential use on the site is acceptable (indeed has already been accepted) and complies with policy. The site is adjacent to an existing residential area in a sustainable location. The scale of the proposal, as recommended within the scaled parameters, would make efficient use of this brownfield site and provide a residential scheme that would contribute to the housing needs of the area. The scale, as defined, would have an acceptable impact on the character of the area and distance standards between properties could be achieved to be commensurate with the area. It is considered that the extent to which the proposed would impact on neighbouring residential amenity is of an acceptable degree. The access, as proposed, is considered to be acceptable. It is recommended a condition be attached, should the application be approved, to ensure provision of car parking spaces within the site at a level of 150%, detailed as part of the reserved matters application.

The objections submitted have been borne in mind. The Officer acknowledges the concerns of the current tenant of the industrial unit on site and the issues raised by neighbours. However, the proposed adheres to the relevant policies of the Development Plan, which allows for development as proposed on the site. The Strategic Highways Manager has previously considered the proposed not to have any detrimental impact on highways safety (subject to conditions and appropriate levels of parking being provided within the site), and the level of impact on the amenities of the occupants of neighbouring properties (subject to the detail in a reserved matters application) is considered to not be significantly detrimental. For the reasons outlined above it is recommended the application be approved, subject to conditions and a s106.

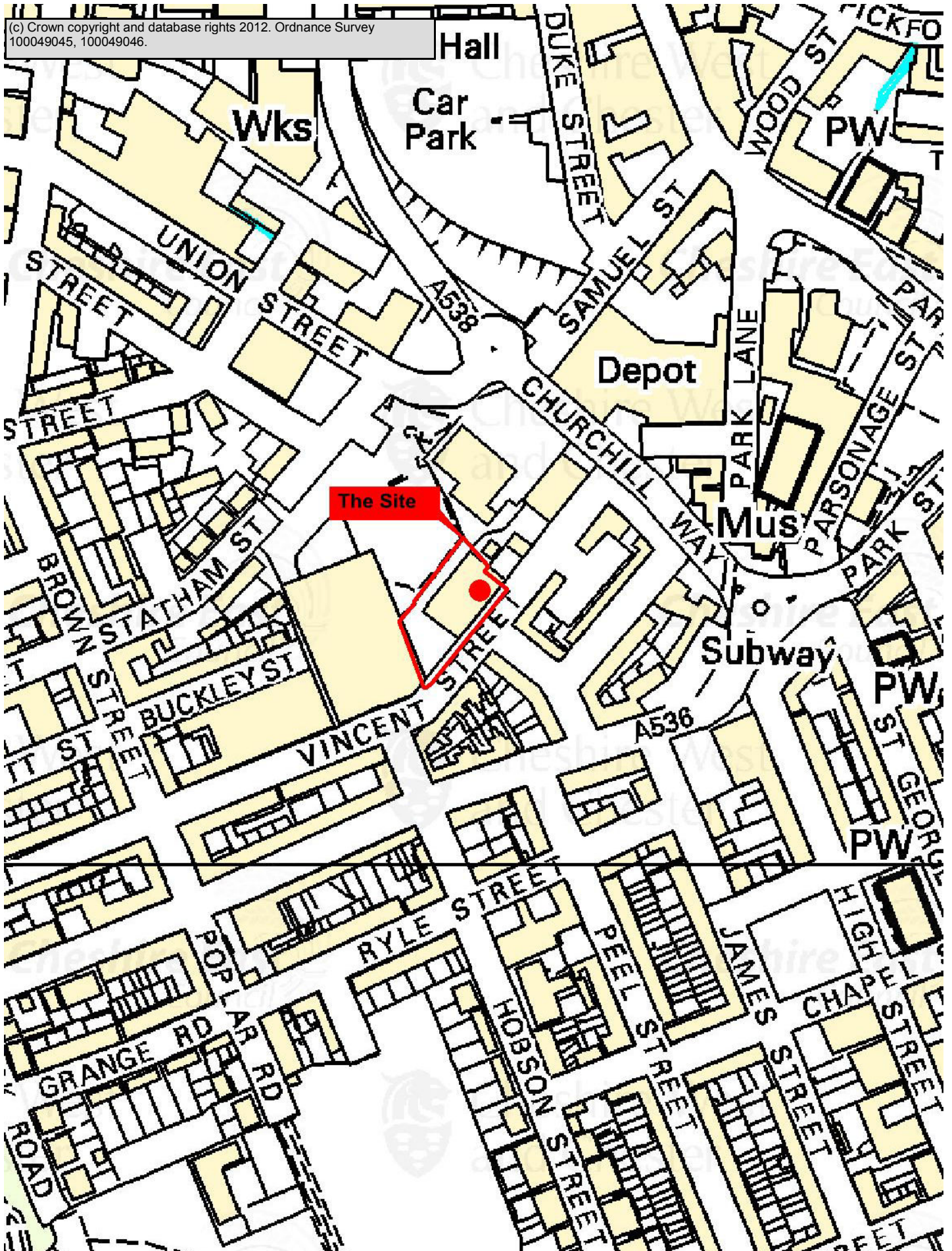
Application for Outline Planning

**RECOMMENDATION:** Approve subject to a Section 106 Agreement and the following conditions

1. A01OP - Submission of reserved matters
2. A02OP - Implementation of reserved matters
3. A03OP - Time limit for submission of reserved matters
4. A23MC - Details of ground levels to be submitted
5. A02AP - Detail on plan overridden by condition
6. A12HA - Closure of access
7. A05HA - Pedestrian visibility at access (dimensions)
8. Contaminated land

9. Commencement
10. Scaled parameters
11. Details of layout to include parking provision of 150%

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## CHESHIRE EAST COUNCIL

### Northern Planning Committee

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**Date of meeting:** 4<sup>th</sup> April 2012  
**Report of:** Stephen Irvine, Development Management and Building Control Manager.  
**Title:** Appeals in January and February 2012  
**Portfolio Holder** Cllr Rachel Bailey

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#### **1.0 Report Summary**

- 1.1 This report summarises the Council's appeals record for the first two months of the year.

#### **2.0 Decision Required**

- 2.1 For noting by the Strategic Planning Board

#### **3.0 Recommendation**

- 3.1 That the Committee note the Council's appeal's performance for January and February 2012 (77.77%) and its success in most instances in defending planning appeals.
- 3.2 That the Committee note the reasons the Council lost some appeals and a recent Cheshire West appeal that raised issues in relation to housing land supply.

#### **4.0 Financial Implications**

- 4.1 There are no financial implications.

#### **5.0 Legal Implications**

- 5.1 There are no legal implications with the recommendation.

#### **6.0 Risk Assessment**

- 6.1 There are no risks associated with this decision.

#### **7.0 The Council's Appeals Record in 2011**

- 7.1 The Council fought a total of 122 appeals in 2011.
- 7.2 The Council's record in 2011 was as follows:

##### Performance

Appeals Dismissed: 87 (71.3%)  
Appeals allowed: 35 (28.7%)

## **8.0 2012 Performance**

- 8.1. The full list of appeals determined in this period is attached as Appendix 1.
- 8.2. It shows that the Council dealt with 19 appeals during the period that had the following results:
- 13 appeal cases dismissed.
  - 2 appeal cases part-dismissed and part-allowed.
  - 3 appeal cases allowed.
  - 1 appeal withdrawn.
- 8.3. The Council were successful in 77.77% of its appeals. This is well above the Government target of 60%. It is also above last year's figure of 71.3% and target figure for 2012 of 74%.

### **Cases that were allowed**

- 8.4. In relation to the three cases the Council lost, two were overturned officer recommendations. Specifically the lost cases were:

#### 11/0573M - MINSHULL LANE, CHURCH MINSHULL

This application was for a poultry house and feed hopper.

The application was called into Southern Planning Committee. Whilst it was recommended for approval by Officers, the Committee choose to refuse the application on the grounds that the proposal:

- Would not create or maintain employment or involve the diversification of a farm business.
- Was unacceptable in terms of the design of the proposed building and its isolation in the context of its surroundings.

The Inspector considered the land use, character and appearance, noise impact and highways issues the case raised, but concluded that the land use was appropriate and it would not have a harmful impact on the character and appearance of the surrounding area in any way.

As such, he allowed the appeal.

#### 11/1742M - 11 WOODVALE ROAD, KNUTSFORD, CHESHIRE, WA16 8QF

This application was for a two-storey extension to the front and rear, plus an additional rear single-storey extension.

The Council refused the application on the grounds that the proposed extension, by reason of its height, depth and position, coupled with the change in levels, would be oppressive, overbearing and result in a loss of outlook to the first floor bedroom window to 13 Woodvale Road.

The Inspector agreed that the main issues were the effect of the extension on the street scene and on living conditions at number 13. However, he found that:



*“the degree of harm would (not) be so significant as to justify refusal of the proposal and there would be no overlooking of or loss of privacy at No.13”.*

As such, he allowed the appeal.

11/1469N - LAND IN FRONT OF THE CHESHIRE CHEESE, CREWE ROAD, SHAVINGTON CUM GREYSTY, CREWE

This application was for a 12.5m high telephone mast, following negotiations with Officers to reduce the height of the mast from over 15m in height.

The application was called into Southern Planning Committee. There were a considerable number of objections to the scheme. Whilst it was recommended for approval by Officers, the Committee choose to refuse the application on visual amenity grounds and failure to consider alternative sites.

The Inspector considered the main issues to be the effect of the mast on the character and appearance of the streetscene and whether there were other preferable locations for it. He also covered concerns on highways safety and health. He concluded that the mast:

*“..... would not have a significantly detrimental effect on the character and appearance of the street scene along Crewe Road and that there are no other preferable locations where the mast could be erected”.*

As such he allowed the appeal.

**Part dismissed and part allowed cases**

- 8.5. In relation to the part dismissed / part allowed cases, one was a Committee overturn. These cases are summarised below.

10/4431C - BURNS GARAGES LTD, CANAL STREET, CONGELTON

This application was for security fencing to a car parking area.

The Council refused the application on the basis that:

- The development was an intrusive feature which had a harmful effect on the character and appearance of the Grade II Listed and Locally Listed Cockshuts Path and its setting.
- The development had a detrimental impact upon the appearance and setting of the Moody Street conservation area when viewed in the context of the approach from Cockshuts Path.
- The cumulative impact of the unauthorised and unsympathetic development had an overall negative impact on the character and appearance of the area and the streetscene.

The Inspector dismissed the appeal in relation to the boundary wall to Cockshuts Path, arguing that this part of the fence affected the listed path and its setting. However, he allowed the appeal relating to the remainder of the development, arguing it:

*“preserves the character and appearance of the Conservation Area and the setting of St Peter’s Church”.*

11/1550N - OAKSIDE, 37 CREWE ROAD, HASLINGTON

This proposal was for the erection of a wall, pillars and railings to the from boundary.

The application was called into Southern Planning Committee. Whilst the proposal was recommended for approval by Officers, the Committee choose to refuse the application on the grounds that the proposed rear verandah would be overbearing and an unneighbourly form of development which would impact on the amenity of the adjacent property.

The Inspector disagreed with the Committee's view, feeling that the proposed veranda:

*"would not harm the living conditions of the occupiers of 33 Crewe Road in any way".*

However, he dismissed the appeal against refusal arguing that:

*"the completed boundary wall and pillars along with the proposed railings would harm the character and appearance of the street scene ..."*

contrary to the views of both the Committee and Officers.

**Committee Overturns that were won**

- 8.6. There were also two cases where Officer reasons for approval were overturned by Members and the refusal was won on appeal. These cases were:

11/1722C - 14 SMITHFIELD LANE, SANDBACH

This application was for the demolition of an existing house and erection of 5 two-storey houses.

The application was forwarded to Southern Planning Committee for approval. However, the Committee disagreed and refused permission on the grounds that the form and layout of the proposed development was not sympathetic to the character of the surrounding area.

On appeal, the Inspector held that the development would be harmful to the established character of the area and unsympathetic to the height, scale, form and grouping of buildings. As such, he dismissed the appeal.

11/2520C - THE SANDPIPER, 62 THE HILL, SANDBACH

This application was for an external staircase and timber exit gate.

Officers recommended this application for approval. However, the matter was called into Southern Planning Committee on the grounds of the height of the dwellings, the development not being in keeping with the surrounding area, plus loss of privacy and amenity concerns.

Following debate, Southern Planning Committee considered the staircase would:

- result in disturbance and a loss of amenity to residential properties



- would not provide adequate and safe provision for access and egress by pedestrians to the public highway, due to the dangers posed by vehicles reversing out of driveways in Booth Avenue.

On appeal, the Planning Inspector considered that ASB and noise on Booth Avenue would outweigh any advantage that would result in more convenient access created by the staircase. He therefore dismissed the appeal on these grounds. However, he did not consider that the gate created access or highways safety issues and therefore felt this element of the scheme was acceptable.

## **9.0 Other planning appeals**

### APP/A0665/A11/2159006 - LAND BOUNDED BY ASH ROAD, CHESTER ROAD AND FOREST ROAD IN CUDDINGTON, NORTHWICH

- 9.1 Officers consider that another case in the neighbouring borough of Cheshire West and Chester Council is also worth noting because of its relevance to issues being considered in Cheshire East and because it has been referred to by agents at Strategic Planning Board recently.
- 9.2 The land in question is defined as 'open countryside'.
- 9.3 The application was for outline planning permission for up to 150 units, including access, public open space and associated works. 30% affordable housing was proposed.
- 9.4 Whilst it was a large site within Environmental Impact thresholds, the Inspector held it would not give rise to significant environmental effects. Consequently, it was not EIA development.
- 9.5 There were a considerable number of objections to the application from residents and the Parish Council about:
  - the extension of the village into the countryside,
  - the impact of the dwellings on the quality of village life,
  - pressure on resources and facilities,
  - the need for more housing,
  - traffic congestion and access for emergency vehicles (residents presented their own traffic survey),
  - parking problems,
  - dangers to bike riders,
  - loss of water pressure,
  - power cuts,
  - impact on badgers and wildlife,
  - impact on the sewerage system,
  - capacity of schools,
  - whether there was sufficient play space for additional children,amongst other concerns.
- 9.6. The Inspector considered that the case turned on whether the:
  - i) Current requirements for housing would warrant the scheme,

- ii) Development of this green-field site would undermine the planned housing objectives, the spatial vision for the area or wider policy aims,
  - iii) Proposal would damage the character of the village, the appearance of the countryside or any feature that ought to be preserved,
  - iv) Scheme should be curtailed until suitable improvements are made to the Cuddington Waste Water Treatment Works.
- 9.7. Cheshire West only has a housing land supply of 2.3 years, a decline (of some 40%) from 2010's 3.8 years. Furthermore, they had no appropriate mechanism or policy proposed to address this situation.
- 9.8. The Inspector concluded that:
- "The evidence adduced demonstrates a deteriorating deficiency in the 5-year housing supply currently culminating in a substantial shortfall. Moreover, in the circumstances that pertain, I consider that there is no adequate 'management measure' to address that shortfall and no reasonable prospect of one being available shortly. Hence, there is a clear failure to demonstrate a 5-year supply of deliverable sites and, in accordance with PPS3, favourable consideration should be given to this application for housing, subject to the advice in paragraph 69.*
- 9.9 The Inspector then went on to consider whether the scheme would provide a good mix of high quality housing and entail the efficient use of a suitable, environmentally sustainable site. He also considered whether this scheme would *"risk lifting the lid on development beyond settlement boundaries thereby encouraging housing on large areas of countryside and undermining the regeneration of Northwich"*
- 9.10 He concluded that:
- "... the prospect of a deluge of development in the countryside remains largely speculative. Moreover, even if inconceivable levels of investment and an unimaginable change in market conditions were to 'encourage' the imminent provision of all the 2754 dwellings identified, the sum total would be sufficient for barely 1.7 years; a shortfall in the 5 year supply would remain. The prospect of the posited 'spectre' materialising must be remote: and, the danger it might pose must be limited.*
- Nor is there any compelling evidence that permission for the appeal proposal would undermine the regeneration of Northwich"*
- 9.11 He went on to add that:
- "the proposal did not undermine a proper plan-led approach to development and that the proposal would properly reflect current planning aims for housing and the spatial vision .... For the area; it would also generally accord with the wider policy objectives applicable here"*
- and that:
- "such a scheme would offer a sound basis for achieving a reasonably efficient use this site and for providing a 'good mix' of high quality housing*

*capable of reflecting the needs of a wide cross-section of the community, including those requiring affordable dwellings”.*

and concluded that the site was in “*an inherently sustainable location*”.

- 9.12 The Council claimed that because the site was in open countryside, a deviation from policy was only allowed in exceptional circumstances. However, the Inspector held that that:

*“ .... a severe shortfall in housing requirements is neither countenanced by the RSS nor addressed by policy RDF2. Hence, the policy does not provide the appropriate context in which to balance the ‘need for housing’ against ‘protection for the countryside’. On the contrary, the balance is identified in PPS3. In my view, the accumulated level of the shortfall evident here would be capable of being exceptional enough for housing development to be considered favourably especially where no specific environmental damage is identified and the provisos set out in paragraph 69 of PPS3 are met”.*

He continued:

*“ .... the recent tenor of ministerial statements and the approach heralded by the draft NPPF seems to me to imply a rather more robust response to housing applications than bestowing ‘favourable consideration’ where an up-to-date 5-year supply of deliverable housing sites cannot be demonstrated.*

*For all those reasons, I consider that this scheme would meet the remaining provisos set out in paragraph 69 of PPS3. The proposal would not damage the character of the village, the appearance of the countryside or any feature that ought to be preserved. On the contrary, it would be capable of providing a wide mix of good quality housing and represent an appropriately efficient use of a highly suitable and sustainable site”.*

- 9.13. Whilst United Utilities objected to the scheme on the grounds that the incidence and volume of foul sewage spills at manholes would increase substantially, the Inspector was not convinced that the proposal would result in the problems suggested. Furthermore, he dismissed residents and the Parish Council’s concerns re: traffic impact and congestion, power outages, overlooking and ecology issues.

#### Conclusion

- 9.14. The Inspectors conclusion was as follows:

*I have found that there is a deteriorating deficiency in the 5-year housing supply currently culminating in a substantial shortfall. Worse still, there is, as yet, no adequate ‘management measure’ to address that deficiency and no reasonable prospect of one being available shortly. Hence, favourable consideration should be given to this application for housing, subject to the provisos listed in paragraph 69 of PPS3. Since I consider that this scheme would properly reflect planning aims for housing and the spatial vision for the area and be capable of providing a wide mix of good quality housing on a highly suitable and sustainable site, I find that the provisos set out in paragraph 69 are met. The balance is thus in favour of*

*developing this site just beyond the current settlement limit of Cuddington. On the evidence available, I am not convinced that the proposal would result in a significant increase in 'spills' of foul sewage and, given the absence of any objection from the Environment Agency, I doubt the need to limit the proposed development. Hence, and in spite of considering all the other matters raised, I find nothing sufficiently compelling to alter my conclusion that this appeal should be allowed.*

He therefore concluded that the appeal be allowed.

Costs Hearing

9.15 The appellant's (Fox Strategic Land and Property and Johnstone Godfrey) claimed that the Council behaved unreasonably as they:

- Prevented development that could properly have been permitted in the light of the Development Plan, national planning policy (PPS3) and all other material considerations.
- Prolonged proceedings by the introduction of what was effectively a new reason for refusal that remained unsubstantiated (specifically permission was refused solely because the site lies beyond the settlement limit of Cuddington and within open countryside where the erection of new buildings would not normally be permitted and that the scheme would risk 'lifting the lid' on settlement boundaries and thereby erode large areas of countryside around towns and villages, jeopardise the evident urban focus of policies, impair the regeneration of Northwich and undermine the planned approach to development.
- Issued a reason for refusal against the professional and technical recommendation of officers. Although authorities are entitled to reach a different decision, the advice they were given was that needed to show reasonable planning grounds for doing so and produce relevant evidence on appeal to support such a decision in all respects. Cogent reasons for departing from the detailed, thorough and careful consideration of all the issues set out in the planning officer's report were absent. Indeed, the reason for refusal asserted a breach of policy without identifying any actual harm or addressing other material considerations.

They consequently submitted a costs application against Cheshire West.

9.16 The Inspector concluded that:

*"Quite properly Councils do not have to follow the recommendations of their officers. But it seems to me that particularly cogent reasons should be required to justify departing from the sort of detailed, thorough and careful consideration of all the issues presented to them in this planning officer's report. The bald statement that the proposal would breach the policy presumption embodied in 'saved' policy GS5, although correct, simply fails to acknowledge other policies in the Plan as well as any other material consideration. On the face of it such a stance would fail to fulfil the basic requirements of the Act. It would also appear to ignore, rather than accommodate, the proffered professional advice. And, the absence of any alleged harm (such as an adverse impact on the landscape, or the village, or local residents or nature conservation interests) simply serves to accentuate that deficiency.*

*I fully accept that such defects would not matter much provided evidence was to be produced at appeal stage to substantiate the reason for refusal. But the line adopted simply asserts that permission for the scheme would risk those damaging consequences flowing from the effects of prematurity and precedent. For the reasons set out in my decision letter, I consider that the evidence adduced fundamentally fails to demonstrate that the appeal proposal would entail serious risks emanating from either source. Moreover, I think that the absence of any reference to the guidance set out in the General Principles and PPS3 relating to 'prematurity' (explicit or otherwise as far as I can discern) confounds any realistic chance of demonstrating otherwise.*

*I therefore find that unreasonable behaviour resulting in unnecessary expense, as described in Circular 03/2009, has been demonstrated. Hence, I allow this application for a full award of costs in the terms set out below."*

#### Commentary

9.17 It should be noted that Cheshire East's housing land supply position is considerably stronger than Cheshire West's. Furthermore, the Interim Policy on Housing has been brought forward to address this situation, whilst the Planning Inspector here felt that Cheshire West had done little to address their housing shortfall in a meaningful way.

9.18 Nevertheless, this appeal shows that Inspectors are putting considerable weight on the PPS 3 housing supply argument that, if a 5-year supply of deliverable sites cannot be demonstrated, then favourable consideration should be given to applications for housing. Members and Officers should note that such an argument can outweigh a presumption against building on open countryside where no 'harm' can reasonably be identified.

9.19 Moreover:

- failure to give weight to such an argument,
- fully justify going against it,
- ignoring rather than accommodating professional advice,
- not identifying 'harm' in a refusal,

can lead to a full costs award against a Local Planning Authority, as it did in this case.

**APPENDIX 1**

**APPEAL DECISIONS JANUARY AND FEBRUARY  
2012**

| <u>Application number</u> | <u>Development description</u>                                                   | <u>Main Location</u>                                                            | <u>Decision description</u>        | <u>Agenda description</u>              | <u>Overturn Y/N</u> | <u>Appeal decision date</u> | <u>appeal decision desc</u> |
|---------------------------|----------------------------------------------------------------------------------|---------------------------------------------------------------------------------|------------------------------------|----------------------------------------|---------------------|-----------------------------|-----------------------------|
| 09/4225M                  | Certificate of lawful development for a proposed swimming pool enclosure         | THE GRANGE, MOSS LANE, OLLERTON, KNUTSFORD, CHESHIRE, WA16 8SH                  | negative certificate               | Delegated Agenda                       | N                   | 08/02/2012                  | Withdrawn                   |
| 10/2984W                  | Application for Removal or Variation of a Condition following Grant of Planning  | WHITTAKERS GREEN FARM, PEWIT LANE, BRIDGEMERE, CW5 7PP                          | Not determined                     | 05.01.11- Strategic Planning Board     | N                   | 19/01/2012                  | Dismissed                   |
| 10/4431C                  | Security Fencing to Retail/Service Car Parking Area                              | BURNS GARAGES LTD, CANAL STREET, CONGLETON, CW12 3AA                            | refused                            | Delegated Agenda                       | N                   | 23/02/2012                  | Part allowed/part dismissed |
| 10/4489N                  | Development of Land at Hall O'Shaw Street to Provide 14 Dwellings                | LAND TO THE REAR OF 91, HALL O SHAW STREET, CREWE, CHESHIRE                     | refused                            | 02.02.11- Southern Planning Committee  | N                   | 03/02/2012                  | Dismissed                   |
| 11/0573N                  | The Erection of Poultry House and Feed Hopper with Associated Access Road        | Land adjacent Minshull Lane, Church Minshull, CW5 6DX                           | refused                            | 14.09.11 - Southern Planning Committee | Y                   | 07/02/2012                  | Allowed                     |
| 11/1742M                  | Construction of 2 storey side extension to front and rear                        | 11, WOODVALE ROAD, KNUTSFORD, CHESHIRE, WA16 8QF                                | refused                            | Delegated Agenda                       | N                   | 29/02/2012                  | Allowed                     |
| 11/1469N                  | Proposed Vodafone Installation at Crewe Road, Crewe                              | LAND IN FRONT OF THE CHESHIRE CHEESE, CREWE ROAD, SHAVINGTON CUM GREYSTY, CREWE | Determination - refusal (stage 2 ) | 01.06.11 - Southern Planning Committee | Y                   | 17/01/2012                  | Allowed                     |
| 11/1550N                  | Remodelling of Front of Property to Restore the Nature of Original Single Proper | 37, CREWE ROAD, HASLINGTON, CHESHIRE, CW1 5QR                                   | refused                            | 26.10.11 - Southern Planning Committee | Y                   | 03/01/2012                  | Part allowed/part dismissed |
| 11/1648N                  | Proposed Replacement Dwelling                                                    | WOODLANDS COTTAGE, WHITCHURCH ROAD, SPURSTOW, CHESHIRE, CW6 9RU                 | refused                            | Delegated Agenda                       | N                   | 18/01/2012                  | Dismissed                   |
| 11/1722C                  | Demolition of Existing House and Erection of 5no Two Storey Houses               | Gwenstan, 14, SMITHFIELD LANE, SANDBACH, CHESHIRE, CW11 4JA                     | refused                            | 03.08.11 - Southern Planning Committee | Y                   | 18/01/2012                  | Dismissed                   |
| 11/1746N                  | Change of Use for Land 12' Wide Adjacent to the Property. Currently in Ownership | 8, KEMBLE CLOSE, WISTASTON, CW2 6XN                                             | refused                            | Delegated Agenda                       | N                   | 19/01/2012                  | Dismissed                   |
| 11/1755C                  | Demolition of Existing Building and Erection of Three Detached Dwellings         | CRANAGE NURSERIES, 79, NORTHWICH ROAD, CRANAGE, WA16 9LE                        | refused                            | Delegated Agenda                       | N                   | 07/02/2012                  | Dismissed                   |
| 11/1793N                  | Single Storey Extension to Rear of Property                                      | Fields View, MIDDLEWICH ROAD, WOOLSTANWOOD, CW2 8SD                             | refused                            | Delegated Agenda                       | N                   | 18/01/2012                  | Dismissed                   |

|          |                                                                                  |                                                                       |         |                                        |   |            |           |
|----------|----------------------------------------------------------------------------------|-----------------------------------------------------------------------|---------|----------------------------------------|---|------------|-----------|
| 11/1979M | Retrospective Planning Permission for Erection of Wooden Fence                   | 9, OLD HALL CRESCENT, HANDFORTH, CHESHIRE, SK9 3AX                    | refused | Delegated Agenda                       | N | 16/01/2012 | Dismissed |
| 11/2311N | CHANGE OF USE OF LAND FROM AGRICULTURAL TO GARDEN & DRIVEWAY/PARKING AREA        | THE ASH, WOODHOUSE LANE, AUDLEM, CREWE, CW3 0DT                       | refused | Delegated Agenda                       | N | 09/01/2012 | Dismissed |
| 11/2520C | A 1200 Wide Hardwood External Staircase From The Yard At The Rear                | The Sandpiper, 62, THE HILL, SANDBACH, CHESHIRE, CW11 1HT             | refused | 14.09.11 - Southern Planning Committee | Y | 18/01/2012 | Dismissed |
| 11/3071M | Erection of a single storey side extension to form new principle entrance to the | CYDONIA COTTAGE, KNUTSFORD ROAD, ALDERLEY EDGE, CHESHIRE, SK9 7SS     | refused | Delegated Agenda                       | N | 21/02/2012 | Dismissed |
| 11/3615M | Alterations to single storey dwelling                                            | BOWESLEIGH, GREENDALE LANE, MOTTRAM ST ANDREW, MACCLESFIELD, SK10 4AY | refused | Delegated Agenda                       | N | 03/01/2012 | Dismissed |
| 11/3790N | FIRST FLOOR EXTENSION TO PROVIDE LEVEL ACCESS SHOWER ROOM/BEDROOM AND THROUGH FL | 7, BAKER CLOSE, CREWE, CW2 8GS                                        | refused | Delegated Agenda                       | N | 28/02/2012 | Dismissed |