

# Strategic Planning Board

## Agenda

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<b>Date:</b>	<b>Wednesday, 1st August, 2012</b>
<b>Time:</b>	<b>10.30 am</b>
<b>Venue:</b>	<b>The Assembly Room - Town Hall, Macclesfield SK10 1EA</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 Planning/Board 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 the opportunity for Members and Officers to declare any personal and/or prejudicial interests and/or any disclosable pecuniary interests and for Members to declare if they have pre-determined any item on the agenda.

**3. Minutes of the Previous Meeting (Pages 1 - 8)**

To approve the minutes as a correct record.

**4. Public Speaking**

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**Please Contact:** Sarah Baxter on 01270 686462  
**E-Mail:** [sarah.baxter@cheshireeast.gov.uk](mailto:sarah.baxter@cheshireeast.gov.uk) with any apologies or request for further information  
[Speakingatplanning@cheshireeast.gov.uk](mailto:Speakingatplanning@cheshireeast.gov.uk) to arrange to speak at the meeting

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

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

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

5. **12/0893C-Erection of up to 65 dwellings (Outline), Land off Crewe Road, Alsager for Hollins Strategic Land LLP** (Pages 9 - 42)

To consider the above application.

6. **12/1381N-Erection of 146 Dwellings, Public Open Space, Access and Associated Works, Former Stapeley Water Gardens, London Road, Stapeley for David Wilson Homes North West** (Pages 43 - 68)

To consider the above application.

7. **11/2340M-Outline application for redevelopment of site for a mixed use, comprising residential development (Maximum 77 dwellings), Class B1 office/light industrial units, (Maximum 836sqm gross), Public Open Space and New Footpath links (REVISED SCHEME). All matters reserved, Rieter Scragg, Langley Works, Langley Road, Langley, Macclesfield for The Andrew and John Downes Partnership** (Pages 69 - 94)

To consider the above application.

8. **11/4501M-Outline planning application for the demolition of existing buildings and redevelopment of the site for residential purposes (a maximum of 99 dwellings) and the relocation of the Co-op foodstore with the entrance off Wellington Road - all matters reserved, Kay Metzeler Ltd, Wellington Road, Bollington for HOW Planning** (Pages 95 - 132)

To consider the above application.

9. **12/1113M-The use of Land as a Private Gypsy and Traveller Caravan Site Comprising 3 Mobile Homes, 3 Touring Caravans and Associated Hardstandings, Land off Spinks Lane, Pickmere for Messrs Felix, Thomas and Mikey Doran** (Pages 133 - 148)

To consider the above application.

10. **Exclusion of the Public and Press**

RESOLVED - That the press and public be excluded from the meeting during consideration of the following item pursuant to Section 100(A) 4 of the Local Government Act 1972 on the grounds that it involves the likely disclosure of exempt information as defined in Paragraph 1 of Part 1 of Schedule 12A of the Local Government Act 1972 and public interest would not be served in publishing the information.

**PART 2 - MATTERS TO BE CONSIDERED WITHOUT THE PRESS AND PUBLIC PRESENT**

**11. Planning Enforcement - Legal Action (Pages 149 - 164)**

To consider the above report.

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## **CHESHIRE EAST COUNCIL**

Minutes of a meeting of the **Strategic Planning Board**  
held on Wednesday, 11th July, 2012 at The Capesthorne Room - Town Hall,  
Macclesfield SK10 1EA

### **PRESENT**

Councillor H Davenport (Chairman)  
Councillor D Hough (Vice-Chairman)

Councillors C G Thorley, J Hammond, P Hoyland, J Jackson, P Mason,  
B Murphy and S Wilkinson

### **OFFICERS IN ATTENDANCE**

Ms S Dillon (Senior Lawyer), Miss S Edge (Senior Environmental Health Officer), Mr D Evans (Principal Planning Officer), Mr A Fisher (Strategic Planning and Housing Manager), Mr S Irvine (Development Management and Building Control Officer), Mr N Jones (Principal Development Officer) and Miss B Wilders (Principal Planning Officer)

### **16 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors R Bailey, P Edwards, G Walton and J Wray.

### **17 DECLARATIONS OF INTEREST/PRE DETERMINATION**

In relation to application 12/1959N-Outline Planning Application for the Erection of a Building to use within Use Class B8 (Storage and Distribution) / B2 (General Industrial and B1 (Light Industrial/Office) with Ancillary Offices, Construction of Access Roads, Ecological Mitigation Works and Associated Structural Landscaping and Car Parking, Land North of A500 Off Crewe Road Basford West Development Site, Crewe, Cheshire for Goodman, Councillor J Hammond declared that he had attended Ward and Parish Council Member briefings in relation to the Basford sites together with Officers and when the applicant has also been present. However he confirmed that he had never expressed any views about the specific application.

In relation to the same application, Councillor D Brickhill, the visiting Councillor declared the same information.

Councillor S Wilkinson declared a personal interest in application 12/1147M-Extension of Time to Application 08/0332P, Land to East Of, Hall Lane, Ollerton, Knutsford, Cheshire for A Coutts & Sons by virtue of the fact that he was acquainted with the applicants and in accordance with

the Code of Conduct he remained in the meeting during consideration of the application.

**18 MINUTES OF THE PREVIOUS MEETING**

**RESOLVED**

That the minutes be approved as a correct record and signed by the Chairman.

**19 PUBLIC SPEAKING**

**RESOLVED**

That the public speaking procedure be noted.

**20 12/1959N-OUTLINE PLANNING APPLICATION FOR THE ERECTION OF A BUILDING TO USE WITHIN USE CLASS B8 (STORAGE AND DISTRIBUTION) / B2 (GENERAL INDUSTRIAL AND B1 (LIGHT INDUSTRIAL/OFFICE) WITH ANCILLARY OFFICES, CONSTRUCTION OF ACCESS ROADS, ECOLOGICAL MITIGATION WORKS AND ASSOCIATED STRUCTURAL LANDSCAPING AND CAR PARKING, LAND NORTH OF A500 OFF CREWE ROAD BASFORD WEST DEVELOPMENT SITE, CREWE, CHESHIRE FOR GOODMAN**

Consideration was given to the above application.

(Councillor D Brickhill, a Neighbouring Ward Councillor and Hannah Richardson, the agent for the applicant attended the meeting and spoke in respect of the application).

**RESOLVED**

That for the reasons set out in the report and in the Officers update to Committee, that the application be approved subject to the completion of a Section 106 Agreement in relation to the following matters:-

- a) Define areas of landscaping and wildlife mitigation, including land along southern boundary as well as areas to the south east of the development. Mitigation areas to be phased in accordance with details approved pursuant to the S106 attached to the outline permission for the main part of the site.
- b) The extension of the Southern Boundary scheme to include screen planting, wildlife measures as well as ponds approved pursuant to the S106 attached to the outline permission for the main part of the site to the current application site. (Phase1 of the development of Basford West as a whole.)

- c) The extension of the ecological Framework approved pursuant to the S106 attached to the outline permission for the main part of the site to the current application site.
- d) Mitigation schemes for protected species, Great Crested Newts, bat and bird boxes.
- e) Timetable for phasing of the ecological works (to co-ordinate with the timetable for the ecological works on the wider site.
- f) Extension of the Management Plan approved pursuant to the s106 Agreement attached to the outline permission for the main part of the site, to the current application site, with monitoring for habitat/landscape areas in perpetuity.

And subject to the following conditions:-

- 1. Standard outline
- 2. Standard outline
- 3. 10 years for the submission of reserved matters
- 4. Approved plans
- 5. Uses of land and principles of development in accordance with each character area 5 as shown on drawing 2000-068/025B approved under the outline permission for the main part of the site except that building heights shall comply with limitations set in Basford West Development Brief.
- 6. Floor spacing not to exceed the limits of character area 5 as given on drawing 2000-068/025B the outline permission for the main part of the site.
- 7. No development to be brought into use, which exceeds 4,645 sq m of B1 floor space and 22,868 sq m of B8 floor space before works approved under the above condition in relation to junction 16 of M6 have been implemented.
- 8. Development on the application site, when combined with the land edged blue on the location plan not to exceed 4,645 sq m B1 offices, 18,580 sq m B2 and 120, 770 sq m B8 development at any time.
- 9. Reserved matters applications to include cross sections through the site and details of existing and proposed levels to demonstrate impact of the proposed development on the locality.
- 10. Extension of phasing plan to include access road
- 11. Scheme for development of rail linked units including levels and provision of rail links to all plots
- 12. Extension of principles of structure planting for whole development site to establish principles of landscaping and public art/ "landmark features" to be submitted as part of the first reserved matters application, together with a timetable for its implementation.

13. Implementation of structural planting in accordance with a timetable to be agreed.
14. Size/ dimensions of landscape bunds to be in accordance with submitted plans.
15. Habitat creation measures for protected species, to be submitted with first reserved matters application.
16. Strategic planting scheme to be submitted with first reserved matters application
17. Each reserved matters application to include a noise assessment and mitigation measures to be detailed in the application.
18. Building heights not to exceed 25m
19. Programme of archaeological work.
20. Protection to public right of way unless diversion/ alteration otherwise approved.
21. Details of changes of levels to be submitted as part of the first reserved matters.
22. Any infilling material to be non-leachate forming.
23. Surface water regulation scheme.
24. Oil interceptors.
25. Water from vehicle washing to foul sewer.
26. Scheme for storage and handling of fuels, oil, chemicals and effluents.
27. Driver overnight facilities at each individual unit or as may be agreed.
28. Provision of covered secure cycle parking at each development together with shower/changing facilities.
29. Extension of Framework construction management plan approved pursuant to outline approval of main site to cover application site to control works during construction to protect residential amenities. Detailed construction management plan to be submitted with first reserved matters application.
30. Flood Risk Assessment as part of the first reserved matters application for units.
31. Acoustic barrier in relation to rail activities.
32. Drainage to be based on principles of sustainable drainage.
33. Lighting Strategy to be submitted with the first reserved matters application.
34. New water course to include ecological measures to promote biodiversity.
35. Waste separation and storage facilities.
36. Translocation of Great Crested Newts to be in accordance with the approved details.
37. Basford Steering Group to be established.
38. Hours of construction to include 'floor floating', Monday-Friday 08:00 to 18.00 hours, Saturday 09:00 to 14:00 hours and Nil on Sundays and Bank Holidays



*In the event of any changes being needed to the wording of the Board's decision (such as to delete, vary or add conditions / informatives / planning obligations or reasons for approval / refusal) prior to the decision being issued, the Development Management and Building Control Manager, in consultation with the Chairman of the Strategic Planning Board is delegated the authority to do so, provided that he does not exceed the substantive nature of the Board's decision.*

**21 12/1381N-ERECTION OF 146 DWELLINGS, PUBLIC OPEN SPACE, ACCESS AND ASSOCIATED WORKS, FORMER STAPELEY WATER GARDENS, LONDON ROAD, STAPELEY FOR DAVID WILSON HOMES NORTH WEST**

This item was withdrawn prior to the meeting.

**22 12/2074N-RESERVED MATTERS FOLLOWING OUTLINE APPROVAL OF 11/3089N, LAND ON NANTWICH ROAD, CALVELEY FOR UNION PENSION TRUSTEES LTD**

Consideration was given to the above application.

(Howard Jones, the agent for the applicant attended the meeting and spoke in respect of the application).

**RESOLVED**

That for the reasons set out in the report and the Officers update to Committee, that the application be approved subject to the following conditions:-

1. Time limit for reserved matters
2. Details in full accordance with outline approval
3. Plan References
4. Tree Protection Measures
5. Landscaping Implemented

**23 12/1147M-EXTENSION OF TIME TO APPLICATION 08/0332P, LAND TO EAST OF, HALL LANE, OLLERTON, KNUTSFORD, CHESHIRE FOR A COUTTS & SONS**

Consideration was given to the above application.

(Rawdon Gascoigne, the agent for the applicant attended the meeting and spoke in respect of the application).

**RESOLVED**

That for the reasons outlined in the report and in the Officers update to Committee, that 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. A15LS - Submission of additional landscape details
6. A16LS - Submission of landscape/woodland management plan
7. A13TR - Retention of existing trees
8. A02HA - Construction of access
9. A03HA - Vehicular visibility at access (dimensions)
- 10.A03HA\_1 - Vehicular visibility at access (dimensions)
- 11.A01AP - Development in accord with approved plans
- 12.soft landscape works
- 13.Passing place
- 14.Layout of car park
- 15.Extraneous matter
- 16.No ancillary uses
- 17.Lighting
- 18.Control over additional lighting
- 19.Fencing/Netting
- 20.Opening times

(The meeting was adjourned from 11.45am until 1.30pm).

**24 12/0893C-ERECTION OF UP TO 65NO. DWELLINGS (OUTLINE), LAND OFF, CREWE ROAD, ALSAGER FOR HOLLINS STRATEGIC LAND LLP**

This item was withdrawn prior to the meeting.

**25 12/1732N-DEVELOPMENT OF 165 HOUSES, ACCESS, LANDSCAPING, PUBLIC OPEN SPACE AND PARKING (RESUBMISISON OF 11/3171N), LAND AT GREY GREEN ROAD & CREWE ROAD, GREY, CREWE, CHESHIRE FOR BLOOR HOMES NORTH WEST**

Consideration was given to the above application.

(Councillor D Brickhill, the Ward Councillor, Trevor Frizell, an objector, John Borrowdale, an objector representing Morning Foods, Alison Freeman, the agent for the applicant and Donald Quinn, the agent's acoustic consultant attended the meeting and spoke in respect of the application).

**RESOLVED**

That the application be refused for the following reasons:-

The Council acknowledge that housing applications should be considered in the context of the presumption in favour of sustainable development, the lack of a five year land supply of deliverable housing sites in Cheshire East, plus the planning benefits new housing would bring. However:

- The proposed development, by reason of the increased vehicular movements, would further worsen highway safety on Crewe Road, Gresty Road and Nantwich Road, contrary to Policy BE.3 (Access and Parking) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.
- The proposed development would create an unsatisfactory proximity and relationship with surrounding industrial uses and the railway. This would limit the future operation of the surrounding businesses and detrimentally affect the amenity of future residents because of noise and unsatisfactory living environment, contrary to Policy BE.1 (Amenity) of the Borough of Crewe and Nantwich Replacement Local Plan 2011.
- These adverse impacts would significantly and demonstrably outweigh the benefits of the proposal and would therefore be contrary to the National Planning Policy Framework.

(This decision was contrary to the Officers recommendation of approval).

(Prior to consideration of the following item, Councillors P Hoyland and C Thorley left the meeting and did not return).

**26 PROPOSED ALTERATIONS TO THE SECTION 106 AGREEMENT TO ALLOW MONEY TO BE USED FOR THE CONSTRUCTION OF A LAYBY AT LEIGHTON PRIMARY SCHOOL**

Consideration was given to the above report.

**RESOLVED**

That the previous resolution in respect of application 11/1879N to read at "point 2" be amended as follows:-

“Provision of £300,000 towards highway improvements to the Remer Street corridor and the provision of a drop-off lay-by at Leighton Primary School”.

The meeting commenced at 10.30 am and concluded at 3.40 pm

Councillor H Davenport (Chairman)

Application No: 12/0893C

Location: LAND OFF CREWE ROAD, ALSAGER

Proposal: Erection of up to 65 dwellings (Outline)

Applicant: Hollins Strategic Land LLP

Expiry Date: 04-Jun-2012

### **SUMMARY RECOMMENDATION**

**APPROVE** subject to Section 106 Agreement and Conditions

### **MAIN ISSUES**

**Planning Policy And Housing Land Supply**

**Affordable Housing,**

**Highway Safety And Traffic Generation.**

**Contaminated Land**

**Air Quality**

**Noise Impact**

**Landscape Impact**

**Hedge and Tree Matters**

**Ecology,**

**Design**

**Amenity**

**Open Space**

**Drainage And Flooding,**

**Sustainability**

**Education**

### **REFERRAL**

The application has been referred to Strategic Planning Board because it is a large scale major development and a departure from the Development Plan.

### **1. SITE DESCRIPTION**

The application site is some 3.3ha in extent and is greenfield land located on the south side of Crewe Road, immediately adjacent to the settlement boundary of Alsager. The site is defined by Crewe Road to the north and Goldfinch Drive to the east. To the west is a narrow lane (which also carries a public right of way) leading to the Old Mill public house, Alsager Hall farm and Hall Farm Shop, residential properties, a pond used for recreational fishing and to the equestrian use south of the site. The southern boundary follows the line of the Valley Brook. There is one built structure within the site. A former garage or agricultural barn is situated adjacent to the eastern boundary. It is redundant, has suffered from graffiti, fly tipping and is also fire damaged.

There are a number of trees within the site but are located around the site's periphery. A copse is located in the south western corner of the site. Formal access to the site is gained via a gate off Crewe Road at the north eastern corner of the site. On the Crewe Road frontage, the boundary is set back from the highway. There is no footway and the adopted managed grass highway verge with mature trees is separated from the site by a hedgerow.

Existing residential development lies to the north and east of the site. Existing dwellings in Goldfinch Drive back on to the south eastern site boundary, whilst further north, dwellings on the opposite side of Goldfinch Drive face towards the site. On the opposite side of Crewe Road lie the rear boundaries and gardens of the existing dwellings in Bude Close, whilst to the eastern side of the Crewe Road frontage is no.214 Crewe Road, a small bungalow. To the east and south of the site lies open countryside.

## **2. DETAILS OF PROPOSAL**

Outline planning permission is sought for the erection of 65 dwellings. Approval is also sought for means of access with all other matters, including appearance, landscaping, layout and scale, reserved for a subsequent application.

An amended plan has been received during the course of this application to move the position of the access to the east by 5 metres. This would result in the removal of one Oak tree to the site frontage.

## **3. RELEVANT PLANNING HISTORY**

There are no relevant previous planning applications relating to this site.

## **4. PLANNING POLICIES**

National Planning Policy Framework

### **Local Plan Policy**

PS8 Open Countryside  
 GR1 New Development  
 GR2 Design  
 GR3 Residential Development  
 GR5 Landscaping  
 GR6 Amenity and Health  
 GR9 Accessibility, servicing and provision of parking  
 GR14 Cycling Measures  
 GR15 Pedestrian Measures  
 GR17 Car parking  
 GR18 Traffic Generation  
 GR21 Flood Prevention  
 GR 22 Open Space Provision  
 NR1 Trees and Woodland  
 NR2 Statutory Sites (Wildlife and Nature Conservation)  
 NR3 Habitats  
 NR5 Habitats  
 H2 Provision of New Housing Development  
 H6 Residential Development in the Open countryside  
 H13 Affordable Housing and Low Cost Housing

### **Regional Spatial Strategy**

DP4 Make best use of resources and infrastructure  
 DP5 Managing travel demand

## **Other Material Policy Considerations**

Interim Planning Policy: Release of Housing Land (Feb 2011)

Interim Planning Statement: Affordable Housing (Feb 2011)

Strategic Market Housing Assessment (SHMA)

Relevant legislation also includes the EC Habitats Directive and the Conservation (Natural Habitats &c.) Regulations 1994

North West Sustainability Checklist

## **5. OBSERVATIONS OF CONSULTEES**

### **Environment Agency**

No objection in principle to the proposed development but would like to make the following comments:

- The site is shown on the Flood Maps as being mainly within Flood Zone 1, which is low probability of river/tidal flooding. However, the Flood Maps show Flood Zones 2 and 3 (medium and high probability respectively of river/tidal flooding), affecting parts of the site adjacent to Valley Brook. These are identified on the Illustrative layout plan as proposed areas of open space.
- Request the following conditions are imposed.
  - Submission of a scheme to limit the surface water run-off generated by the proposed development,
  - The site layout to be designed to contain any such flooding within the site, to ensure that existing and new buildings are not affected and that safe access and egress is provided.
  - Submission of a scheme to manage the risk of flooding from overland flow of surface water.
  - An ecological survey to be carried out, to enable an assessment of the risk posed by the development.
  - Provision of mitigation for any adverse ecological impacts or compensation for loss and wildlife/ habitat enhancement measures;
  - Provision of long term biodiversity management plan
  - Scheme for the provision and management of an 8 metre undeveloped buffer zone alongside Valley Brook and a 5 metre buffer zone around the pond
  - Submission of a landscape management plan, including long- term design objectives, management responsibilities and maintenance schedules
  - Reserved matters to make provision for the houses to be laid out so that they are front facing to Valley Brook.
  - Reserved matters to make provision for the green open spaces to be adjacent to Valley Brook and the pond on site.

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○ The discharge of surface water, where practicable, to be by Sustainable Drainage Systems (SuDS).

○ The discharge of surface water from the proposed development is to mimic that which discharges from the existing site. If a single rate of discharge is proposed, this is to be the mean annual run-off from the existing undeveloped greenfield site. For discharges above the allowable rate, attenuation will be required for up to the 1% annual probability event, including allowances for climate change.

○ Only clean surface water from roofs and paved areas to be discharged to any surface water soakaway.

## **United Utilities**

No objection to the proposal provided that the following conditions are met:

- This site must be drained on a total separate system, with only foul drainage connected into the public foul sewerage system. Surface water should discharge to the soakaway/watercourse and may require the consent of the Environment Agency.
- A water supply can be made available to the proposed development.
- Deep rooted shrubs and trees should not be planted in the vicinity of the public sewer and overflow systems
- A separate metered supply to each unit will be required at the applicant's expense and all internal pipework must comply with current water supply (water fittings) regulations 1999.

## **Amenity Greenspace**

### Open Space

If the development were to be granted planning permission there would be a surplus in the quantity of provision, having regard to the Council's Open Space Study. Consequently there is not a requirement for new Amenity Greenspace to meet the future needs arising from the development. The design details and the indicative Layout Plan show an amount of Open Space within the site.

The enhanced woodland area which also contains a pond should be considered in some depth in light of future maintenance implications. Whilst it is appreciated this promotes biodiversity and complies with regulatory requirements it has never been the Council's policy to take transfer of areas of POS that have water bodies located in, around or running through them due to the additional liabilities and maintenance implications associated with such areas. Therefore it is recommended these areas of POS be transferred to a management company.

### Children's Play space

Following an assessment of the existing provision of Children and Young Persons Provision accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision, having regard to the local standards set out in the Council's Open Space Study.

Consequently there is a requirement for new Children and Young Persons provision to meet the future needs arising from the development. 'On site' provision would be required at the developers expense. (Please note the play area which is featured on page 8 of the D&A Statement known to us as Swallow Drive Play Area is in the ownership of the developer and has problems of riverbank erosion and therefore has an uncertain future)

The play area should be of a LEAP size and should include at least 5 items of equipment, using play companies approved by the Council. We would request that the final layout and choice of play equipment be agreed with CEC, the construction should be to the Council's



satisfaction. Full plans must be submitted prior to the play area being installed and these must be approved in writing prior to the commencement of any works. A buffer zone of at least 20m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site.

As with the amenity greenspace it is also recommended that the children's play area is transferred to a management company.

## Highways

Originally objected to the application due to concerns about highway safety and the location of the access and its proximity to the junction with Cranberry Lane. The highways officer also had concerns regarding the lack of a contribution for improvements to the Crewe Road corridor and concern regarding the position of a proposed pedestrian crossing.

Following a meeting, the highways officer agreed an amended siting of the junction 5 metres to the east of the originally proposed access to address the safety concerns as well as a contribution of £50,000 towards improvements along the Crewe Road corridor.

## Environmental Health

- The hours of construction of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday: 08:00 to 18:00 hrs; Saturday: 09:00 to 14:00 hrs; Sundays and Public Holidays Nil
- Should there be a requirement to undertake foundation or other piling on site, it is recommended that these operations are restricted to: Monday – Friday 08:30 – 17:30 hrs; Saturday 09:30 – 13:00 hrs; Sunday and Public Holidays Nil
- No development shall commence until a scheme for protecting the proposed dwellings from traffic noise has been submitted to and approved by the Local Planning Authority; all works which form part of the scheme shall be completed before any of the dwellings are occupied.
- In terms of site preparation and construction phase, it is recommended that the proposed mitigation measures are implemented to minimise any impact on air quality in addition to ensuring dust related complaints are kept to a minimum.
- The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. The applicant submitted a Phase I preliminary risk assessment for contaminated land, which recommends a Phase II site investigation. As such, and in accordance with the NPPF, recommend that conditions are imposed to secure a Phase II investigation.

## Public Rights of Way

- The property is adjacent to public footpath Alsager No. 7 as recorded on the Definitive Map. It appears unlikely that the proposal would affect the public right of way, although the PROW Unit would request an advice note to ensure that developers are aware of their obligations not to obstruct the right of way and to ensure safety of members of the public using the right of way.
- The proposed development presents an opportunity to improve walking and cycling facilities in the area for both travel and leisure purposes.
- Connectivity from the site onto the adjacent footpaths, namely public footpath No. 7 and the proposed 'rural walk' along the southern edge of the development site, should be included within the detailed design, as is suggested in the Design And Access Statement – (the illustrative layout and themed pedestrian/cycle strategy suggesting 4 possible location points.)
- It is presumed that the proposed 'rural walk' along the southern edge of the development is within the development boundary and therefore should be sufficiently distant from the stream banks to avoid undercutting or erosion issues. The proposal to

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have house frontages open to this path rather than a fence at the back of gardens, is welcomed in order to aide natural surveillance.

- There are differing references to this route as a 'rural walk', 'nature walk' and 'cycle way', an issue which will need consideration.
- Whilst the surrounding public rights of way network is for pedestrians, this should not preclude the aim of securing the proposed route as a shared use facility, so that future opportunities arising to upgrade connections – in particular the public footpath which could connect the development site to the railway station – are not hindered.
- The proposal to provide a new footway along the site frontage on Crewe Road is welcomed, though consideration should be given to providing this as a shared pedestrian/cyclist facility, adequately tied into the existing highway network and any off-site cycle route provisions that may be required to link the site to the facilities of the town.
- Paths should be constructed to best practice standards including width, materials and accessibility specifications.
- There is no discussion as to the proposed status of these routes (i.e. whether there is the intention to dedicate them as Public Rights of Way or whether the landowner will retain ownership and maintain the routes.) The status and maintenance of any new route, whether on-site or off-site would require agreement with the Public Rights of Way team and Highways and the corresponding due legal process completed should the route be dedicated or adopted. Should the routes be adopted, contributions for ongoing maintenance will be required if maintenance is not to be undertaken through provision within a s106 agreement.

## **Education**

Confirm that no education contribution will be required from application 12/0893C for the development of 65 new dwellings.

## **Sustrans**

- Would like to see a direct connection from the new housing to Goldfinch Drive for pedestrians and cyclists only, to integrate the new development with existing housing.
- Would also like to see a direct footpath connection from the estate to the adjacent public footpath along the western boundary of the site.
- The proposal for a footway on Crewe Road is supported.
- The design of new estate roads should restrict vehicle speeds to less than 20mph.
- The design of any smaller houses should have available storage areas for residents' buggies/bikes.
- Travel planning with targets and regular monitoring should be set up for the site.

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

Alsager Town Council object to this application and recommend that Cheshire East Council reject the application on the following grounds:

- No development should take place on greenfield sites (including this one) in Alsager before all brownfield sites are exhausted, to ensure that greenfield sites that have access to the countryside are protected and preserved against residential development.
- That existing MMU and Twyfords sites are considered to fulfil the sustainable residential development capacity in Alsager for 100 homes over the next 20 years
- The application cannot be taken in isolation and must be considered as part of the Alsager Town Strategy.
- The proposed highway access onto Crewe Road is considered unsafe and unacceptable given the existing level of traffic on the road.
- The Town Council has considerable concern about the environmental impact on the site if the site was developed.

- The land identified in the application is situated outside the current area for housing development in the town.

## 7. OTHER REPRESENTATIONS

### Objection

40 letters of objection have been received from various addresses making the following points:

### Principle

- Brownfield sites at MMU, Twyfords and Cardway Cartons should be developed first
- The houses are not needed.
- The Alsager town plan has indicated that by 2030 there will be a need for approx. 1000 new homes in the area and Twyfords and MMU will provide for 435, and the 300 houses respectively.
- There are in excess of 200 houses on the 2nd hand market in or around Alsager.
- The refurbishment of empty / derelict housing should be undertaken first.
- People are struggling to sell houses in the current economic climate
- The building trade is in decline and may existing sites remain uncompleted and looking in poor states.
- Any shortfall can be met by the Brownfield sites
- These Brownfield sites are more sustainably located.
- The proposal is contrary to the Alsager Town Strategy which strives to
  - Support development of brownfield sites
  - "Maintain the character and village feel of Alsager" (This proposal changes the character on approach from the West significantly).
  - "Maintain the Green Belt between Alsager and the Potteries" (With so much brown field available for development nearby this green field would be destroyed completely unnecessarily)
  - "Conserve and enhance the network of greenspaces throughout the town" (The proposal would cause loss of natural habitat for wildlife; this is NOT by any means a conservation exercise)
  - "Maintain and improve access to the open countryside" (This proposal would destroy the very countryside that the strategic plan is attempting to provide/improve access to)
  - "Protect and enhance heritage assets and buildings and spaces of architectural and cultural importance" (This proposal will destroy the aesthetic appeal of the approach to the Old Mill - one of the most historic buildings in the town)
- The application goes against the Government guidelines as set out in the newly revised version of the planning rule book, which require brownfield sites in town centres to be developed first and recognises the "intrinsic value" of rural areas that are not protected as Green Belt.
- The new rules state that there should be a 12 month transition period to allow councils to adopt local plans that will guide where building can take place. The site in question is not mentioned in the draft Alsager plan

### Highways

- Crewe Road is a very busy thoroughfare taking traffic from Alsager to Crewe and to J16 of the M6.
- It is vastly overused and is one of few roads leading into Alsager
- It is very narrow
- It is used as a diversion route when the M6 is closed.
- There has recently been a road traffic accident at this location.

- There are many HGV's travelling to and from the M6 and the Excalibre Trading Estate off Fields Road.
- It is the fourth most dangerous route in Cheshire.
- Drivers have difficulty getting out of Cranberry Lane or Close Lane.
- Vehicles constantly exceed speed limits,
- A further access point onto this road will cause a potential transport hazard,
- The proposed entry to the site is close to two bus stops on the busy Crewe Road and near to the entrance to the Old Mill public house and the entrance to Cranberry Lane.
- These add to congestion problems and people using the bus stop opposite the site have difficulty crossing. This development would increase risks to bus users.
- It is near a primary school and more traffic will cause hazards and congestion for children and their parents trying to get their children to school.
- Road safety around the school has already been identified as an issue, with the Council having made attempts to improve it - with limited success.
- The traffic details presented by the applicants seem to bear no relation to the difficulties experienced by local residents especially at peak hours or school times
- The development would generate 130 plus residents cars in/out during the day and then on top of this traffic there will be deliveries, collections, school runs, visitors, etc.
- Crewe Road will not cope with the extra traffic. It is very congested around the village centre with parked cars.
- A roundabout and traffic light controlled pedestrian crossing would be needed - similar to the Poppyfields estate. This would add to the queues.
- In addition to this there would be extra cost for road calming
- Despite objections from local residents the local authority at some considerable expense laid double yellow lines to restrict parking which were for safety reasons. To increase development at this location would be a contradiction of this.

### Infrastructure

- The Alsager Primary and High Schools are already full of pupils from within Alsager and schools cannot accommodate another 130 plus children.
- The number of employment vacancies in the village are low
- The medical centre cannot cope with another 250 plus patients. It is in danger of reaching capacity. Access to make an appointment to see a doctor for the same day is almost impossible. The car park is often full, there is the aging population in Alsager and another 250 plus people registered from this new estate would be a nightmare for the present group of users to medical centre
- In addition with the advent of the MMU and Twyfords site bringing further housing to Alsager there is not the social infrastructure to support any further new dwellings

### Proposed New Playground

- Residents strongly object to the playpark when there is already one playpark in very close proximity to this proposed site at Swallow Drive on the Poppyfields Estate. Therefore another playpark is not required.
- Since the estate was finished the Swallow Drive playground has not been maintained by a management company or the Council. It has been tidied up by local residents to prevent it from becoming an eye-sore.
- For over four years now, residents have expressed concerns directly to the Council Officers and local councillors regarding this abandoned site, but to no avail. The Council refuses to adopt the park despite its degeneration into an area where it is unsafe to play. It is thus unlikely that they will adopt the proposed "Meadow" play area and instead the estate will be left with yet another eyesore.
- Nobody seems to want to have any responsibility for the current play area so it seems ludicrous to build a second one.

- It would make more sense to regenerate the Swallow Drive play area rather than build a new park less than 500 metres away opposite neighbours homes which will ruin their views of the countryside and devalue houses.
- The proposed playpark will pose a noise nuisance, will be vandalised and will be a focus for anti-social behaviour, particularly if it is not properly policed, as has been the case at Swallow Drive.
- This would cause health and safety risks to users and concern for neighbours.
- The location of the park would be directly opposite approx 10 houses and almost all of these properties have 2 front aspect bedrooms (many of them children's bedrooms) which would be affected by the noise. This would affect their sleep and be a constant source of distraction for the whole family.
- It would also bring more traffic into the estate, adding to parking problems.
- At the present time children get much more satisfaction from observing the local wildlife.
- The residents of Goldfinch Drive do not want the playground. They put their children's toys into the field and said the field was theirs to deter teenagers from gathering there when they had been removed from the Swallow Drive play area.
- As it is primarily targeted at the new dwellings, the play area should be located further from Goldfinch Drive and closer to the new dwellings. The "Meadow" is large enough to allow for this

### Proposed Footpath / P.O.S.

- This would encroach on privacy of residents at Goldfinch Drive.
- Residents would also be very concerned about children playing in the street due to unknown people passing through.
- It would also decrease the value of the property.
- The path only has one purpose and that is so the residents from the new estate could get to the playground. This should be moved into the estate or omitted. Then there would be no need for a path.
- The people on the new estate can get to everywhere they want to go via the road and paths which are already there.
- It is proposed that people will be able to take "leisurely walks" through the new proposed site. However, Alsager has more than ample open spaces with an excellent network of footpaths near to the proposed site and two public accessed disused railway lines (Salt Line and Merelake Way) which provide better scenery
- Where these interlinking pathways are created, police and residents will testify that many of these walkways are used for crime and antisocial behaviour.
- The police cannot cope with this extra burden.

### Loss of Open Countryside

- People currently walk on and use the area as open countryside. This would be destroyed by the development.
- Residents with young families who chose to live in a village and area of surrounding countryside are upset that the land will no longer be available to families to walk with their children and dogs and enjoy the flora and fauna of the area.
- Residents disagree that "no unacceptable harm" would be caused to the area and its appearance and character would benefit from the proposed development.
- Once the green fields have been developed they cannot be replaced
- Alsager should not be allowed to extend into the green field areas along the South side of the Crewe Road.
- Whilst the North side is built up to an extent for almost a further kilometre, the open aspect on the South side makes a much better approach to the town and generally improves the aspect and atmosphere of this part of Alsager.

### Amenity

- The development would have a negative impact on the quality of life of the existing populations,
- Views over open fields from Bude Close and Goldfinch Drive would be ruined by bricks and mortar causing an eye sore.
- Residents bought houses on Goldfinch Drive because it was situated in a quiet cul-de-sac location where children could grow up safely. They do they want extra traffic passing through as they would be concerned for the safety of children when they play outside.
- There are not many places these days that children can play outside safely, this is one and now the Council wants to ruin that.
- Additional CO2 pollution which could affect the health of residents and pupils.
- Noise and general pollution while it is being built
- Residents on the Poppyfield estate would have no privacy what so ever, daily noise pollution and increased footfall past their houses, as people would now use the street as a cut through to the village or to the pubs (The Mill and The Plough).
- The value of existing properties would decrease
- The access from this development will be directly opposite existing residential property and headlights will shine into the living room and bedrooms for most of the time for most of the year.

### Ecology

- The new government National Planning Policy Framework contains a definition that "planning should not cause damage to our wildlife and countryside". The current field and the attached brook is a haven for wildlife, flora and fauna and it would be impossible to build 65 houses and a playing field/playground on a plot of green belt land without causing any damage to wildlife and countryside.
- The environmental impact on the fields, woods and stream would be horrendous
- The area in question has its own unique eco-system supporting both flora and fauna
- The environmental study was completed in November when there is less wildlife around is not a true reflection of the actual wildlife that exists within the area, in particular the Meadow. For example, it does not allow for nesting birds or meadow flowers.
- There are bats, owls, Water voles, badgers, foxes, Pipistrelle Bats, frogs, toads, Great Crested Newts, and nesting birds (including pheasants, kestrels and numerous smaller species) which are protected.
- There are also unprotected species of wildlife in this area. Just because wildlife is not on the protected list we have a responsibility to protect habitat for all wildlife.
- The area has established and aged trees, including oak trees, some of which are protected, along with hedgerows which are home to a variety of wildlife species. They should be protected as part of the bio-diversity of the whole site - to cut a swathe of trees and hedgerows such as these would be a travesty.
- Looking at the developers Tree Assessment, very few of the trees which create the wonderful existing habitat for birds and bats are being retained. Only 3 of the trees are considered category A and worthy of keeping.

### Drainage and Flooding

- The proposed site is very often waterlogged and unsuitable for such a development.
- The area provides natural drainage to a flood plain.
- The construction will increase the potential for flood risk to the surrounding properties including the historic 17th Century Old Mill (Public House) which has been flooded several times in recent years

### Other matters

- The proposed site falls within the Blast Zone of Radway Green - another potential hazard to safety.

- There has been a lack of communication. In this proposal, residents only finding out from neighbours and no notices have been displayed.
- Other residents managed to locate 2 notices displayed publically, one on Goldfinch Drive and the other attached to the Mill Hotel sign, partially obscured by the Farm Shop sign.
- The application site occupies land that was previously allocated for housing under Policy DP2 (A1) in the Congleton Borough Local Plan First Review Revised Deposit Draft (approved June 2001). The land south of the application boundary extending beyond the stream was also allocated in the same Revised Deposit Draft for informal open space and a wildlife corridor under Policy DP5 (A2).
- This former housing allocation required the developer to fully implement the informal open space and wildlife corridor allocation. It also required existing landscape habitats and features to be incorporated within the development wherever possible, including the pond, which is located a little further south of the former informal open space and wildlife corridor allocation.
- Both allocations were removed from the Congleton Local Plan First Review (adopted in January 2005). Nevertheless, now that housing is proposed on the former allocation, the informal open space and wildlife corridor should also be implemented by the developer as previously required as it was obviously considered to be an integral part of the development allocation.
- The Development Concept Plan submitted with the application shows that only the north side of the stream is set aside for informal open space. Therefore, the application boundary should be amended to include the full area of land covered by the former informal open space and wildlife corridor allocation and the pond. Furthermore, a scheme of works to implement the informal open space and wildlife corridor south of the stream should be required.

### Support

4 letters of support have been received making the following points:

- The Draft Alsager Town Strategy Consultation document map on page 8 shows a large section of land, marked 'H', is allocated as an Employment and/or Residential Development option.
- Whilst people would prefer the brownfield sites at MMU & Twyfords to be developed first, there will still be a shortfall of houses.
- The Poppyfields estate field & the adjacent one containing the top end of Goldfinch Drive were themselves, just over a decade ago, areas of agricultural land.
- The land off Crewe Road has not been farmed for a number of years and as a consequence thistles, nettles & the invasive Himalayan Balsam are starting to take over.
- The outline plans show that only the top end of the field will be developed with the finger of land to the south being retained as a 'Managed meadow'.
- The conservation and protection of the trees, the retention of the wooded copse, with a Management & Maintenance plan to preserve the ecology & wildlife seems well thought out.
- It makes a welcome change to see a Developer include a secure non public managed/maintained conservation area (the 'Meadow').
- Wildlife will be affected by the building but will be able to have a sanctuary in an area that will presumably be protected forever
- Other developers would probably look to maximise the number of houses on a plot.
- These proposals are sympathetic to virtually all residents in Goldfinch Drive.
- No vehicular access into the existing estate means no increased traffic issues for the residents
- The provision of a formal 'boardwalk' and copse area looks like a positive nod towards creating a eco friendly development.
- The plans seem to do everything they can to maintain an environment that will sustain this diverse fauna and birdlife.
- The only point of contention is the play area, (as set out above). For existing residents the proper maintenance of the existing facility would be much more preferable than the creation

of a second facility, which would detract from the eco aspect of the meadow and by its location probably increase the risk of trespass into the secure area.

• In summary residents are pleased to see the inclusion of the maintained green 'zone' and are supportive of what the developers want to achieve. The only concern is the provision of the park

## 7. APPLICANT'S SUPPORTING INFORMATION:

- Waste Management Plan
- Utilities Statement
- Geo-Environmental Statement
- Flood Risk Assessment
- Development Concept Plan
- Design and Access Statement
- Transport Assessment
- Section 106 Proforma
- Agricultural Land Classification
- Open Space Assessment
- Affordable Housing Statement
- Planning Statement
- Ecological Survey
- Tree Survey
- Architectural Analysis

## 8. OFFICER APPRAISAL

### Main Issues

Given that the application is submitted in outline, the main issues in the consideration of this application are the suitability of the site, for residential development having regard to matters of planning policy and housing land supply, affordable housing, highway safety and traffic generation, contaminated land, air quality, noise impact, landscape impact, hedge and tree matters, ecology, amenity, open space, drainage and flooding, sustainability and education.

### Principle of Development.

#### ***Policy Position***

The site lies in the Open Countryside as designated in the Congleton Borough Local Plan First Review, where policies H6 and PS8 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted.

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

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

Members should note that on 23<sup>rd</sup> March 2011 the Minister for Decentralisation Greg Clark published a statement entitled 'Planning for Growth'. On 15<sup>th</sup> June 2011 this was supplemented by a statement highlighting a 'presumption in favour of sustainable



Collectively these statements and the National Planning Policy Framework mark a shift in emphasis of the planning system towards a more positive approach to development. As the minister says:

*"The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy".*

### **Housing Land Supply**

Whilst PPS3 'Housing' has been abolished under the new planning reforms, the National Planning Policy Framework (NPPF) reiterates at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

*"identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land".*

The NPPF states that, Local Planning Authorities should have a clear understanding of housing needs in their area. This should take account of various factors including:

- housing need and demand,
- latest published household projections,
- evidence of the availability of suitable housing land,
- the Government's overall ambitions for affordability.

The figures contained within the Regional Spatial Strategy proposed a dwelling requirement of 20,700 dwellings for Cheshire East as a whole, for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum. In February 2011 a full meeting of the Council resolved to maintain this housing requirement until such time that the new Local Plan was approved.

It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the Strategic Housing Land Availability Assessment (SHLAA) which was adopted in March 2012.

The SHLAA has put forward a figure of 3.94 years housing land supply.

Paragraph 47 of the NPPF requires that there is a five year supply of housing plus a buffer of 5% to improve choice and competition. The NPPF advocates a greater 20% buffer where there is a persistent record of under delivery of housing. However for the reasons set out in the report which was considered and approved by Strategic Planning Board at its meeting on 30<sup>th</sup> May 2012, these circumstances do not apply to Cheshire East. Accordingly once the 5% buffer is added, the Borough has an identified deliverable housing supply of 3.75 years.

With respect to the housing supply within Alsager specifically, there has been a low number of completions in the town, totalling only 54 between 1<sup>st</sup> April 2006 and 31<sup>st</sup> March 2011 (the last 5 years) which is an average of only 10 per year. There is also a low level of commitments – currently there are full planning permissions for 8 net dwellings. There are

outline permissions for 2 net dwellings. Page 22 sites under construction there are 2 net dwellings remaining. There is also 1 dwelling subject to a S106 agreement.

The NPPF clearly states at paragraph 49 that:

*“housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

*“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- *specific policies in the Framework indicate development should be restricted.”*

The forthcoming Cheshire East Local Plan will set new housing numbers for the area and identify sufficient land and areas of growth to meet that requirement up to 2030. The Submission Draft Core Strategy will be published for consultation in the spring of 2013. Consequently, the current shortfall in housing land will be largely remedied within the coming year or so. However, in order that housing land supply is improved in the meantime, an Interim Planning Policy on the Release of Housing Land has been agreed by the Council. This policy allows for the release of appropriate greenfield sites for new housing development on the edge of the principal town of Crewe and as part of mixed development in town centres and in regeneration areas, to support the provision of employment, town centres and community uses.

The Council is currently consulting on a revision to this document. This broadens the scope of land release to include small, non strategic sites on the outskirts of other towns, provided that they are not within the green belt, do not intrude into open countryside and that certain sustainability criteria are met. The Consultation draft limits the size of such sites to 1Ha.

This provision aside, the application site accords with the spirit of the new policy. The proposal only represents a small scale development and would not represent an incursion into the open countryside or a major urban extension due to the characteristics of the site. With respect to sustainability, this will be considered further below.

The value of the Interim Planning Policy lies in the fact that this represents the democratically decided expression of the Cheshire East Community on how housing supply should be positively managed ahead of the Local Plan. This accords with the sentiments in the NPPF which indicates that local people and their accountable Councils can produce their own planning proposals, which reflect the needs and priorities of their communities. However, it is not a development plan document or a supplementary planning document and accordingly carries less weight as a material consideration.

There are two large residential proposals which involve significant areas of brownfield land, which are likely to come forward in Alsager. The first involves the Manchester Metropolitan University site (application 10/3831C) which proposes some 300 homes on the former college site. The second involves the Former Twyford's Factory (planning application 11/4109C) which involves a redevelopment of some 435 residential units. It is one of the core planning principles within the NPPF to:

*“encourage the effective use of land by reusing land that has been previously developed (brownfield land), provided that it is not of high environmental value”.*

This principle is re-iterated at paragraph 111:

*“Planning policies and decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value”.*

Neither the Twyford nor MMU site is of special environmental value. Consequently, the promotion of this Greenfield site is the face of brownfield land with capacity for some 735 homes, runs contrary to the NPPF encouragement to use land effectively. It also contradicts Objective 3 of the Congleton Local Plan which seeks to:

*“minimise the loss of countryside to new development and maximise the use of urban land, particularly brownfield sites”*

However, the existence of these sites can be afforded only limited weight as a material consideration in the determination of this application at the present time due to the fact that neither site has gained a planning permission or is close to doing so.

The draft Alsager Town Strategy underwent a four week consultation between the 2<sup>nd</sup> March and 2<sup>nd</sup> April 2012. Initial analysis of responses to this consultation indicates that for this site which is site H and is part of a wider site that:

- 49% of respondents support development of the site;
- 30% of respondents oppose development of the site;
- 21% of respondents did not answer the question.

However, at the time of writing, the Town Council has yet to approve the final version of the Town Strategy and therefore it also carries limited weight in the determination of this application.

## ***Appeals***

There are several contemporary appeals that also feed into the picture of housing supply in Cheshire East. At Elworth Hall Farm in Sandbach, a proposal for 26 homes was allowed on a small site on the outskirts of the town.

In contrast, appeal decisions on larger sites in the same town have not reached a conclusive outcome. Hindheath Road (269 homes) has been remitted back to the Secretary of State following a successful high court challenge, whilst Abbeyfields (280 homes) is going to the court of Appeal in July. The appeal at Loachbrook Farm in Congleton (200 homes) also remains undecided.

Meanwhile in neighbouring Cheshire West & Chester, the lack of a five year supply and the absence of any management measures to improve the position were material in allowing an appeal for housing on a greenfield site in the countryside in the Cuddington Appeal case, which Members will be aware of from previous Appeals Digest reports. This position has further been reinforced by recent Appeal decisions in Blackpool, Fylde and Worsley.

The proposed site is included within the draft Alsager Town Strategy as a potential housing and / or employment development site. The consultation period for this document has recently closed and the responses are being considered. Land off Crewe Road was included within the draft Alsager Town Strategy as part of one of the potential development options for the town (Area H within the Town Strategy). The draft Alsager Town Strategy sets out the vision and objectives, potential development opportunities and priorities for investment in infrastructure improvements as proposed by the stakeholder panel and agreed by Alsager Town Council. Once completed, this document will inform the Cheshire East Local Plan.

## Conclusion

From the above, it can be concluded that:

- The Council does not have a five year supply of housing – and the presumption in favour of sustainable development should apply.
- The Interim Planning Policy currently under consultation promotes the development of small sites in sustainable locations which ‘round off’ the urban area. It could be argued that this site could fall within this definition.
- Whilst there are brownfield sites in Alsager which would provide for some 735 homes in-line with the NPPF encouragement to make effective use of brownfield land before committing green field sites, given the historically low level of housing delivery within Alsager and in the absence of a planning permission for either site, the existence of these sites can only be afforded limited weight as a material consideration.
- The site is being considered as part of the Alsager Town Strategy. Whilst the final shape of that strategy is yet to be finalised, and it can therefore only be afforded limited weight, the majority of respondents were in favour of development on this site.
- There appears to be a distinction between the way in which Inspectors and the Secretary of State have viewed small scale additions to the urban area which have limited impact and major urban extensions. Elworth Hall Farm, like the site currently under consideration, is a small site almost surrounded by other houses and a logical ‘rounding off’ of the existing settlement. Hind Heath Road, by contrast was a much larger incursion of built development into the surrounding open countryside.
- The Cuddington Appeal in Cheshire West and Chester and others in Blackpool, Fylde and Worsley indicate that significant weight should be applied to housing supply arguments.
- The NPPF is clear that, where a Council does not have a five year housing land supply, its housing supply relevant policies cannot be considered up to date. Where policies are out of date planning permission should be granted unless:
  - *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
  - *specific policies in the Framework indicate development should be restricted.”*

Overall, housing supply is a very important consideration in the determination of this application and must be given considerable weight. On balance, it is considered that the principle of the scheme is acceptable and that it accords with the general policy of encouraging housing to meet the supply needs of the authority. The application turns, therefore on whether there are any significant and demonstrable adverse effects, that indicate that the presumption in favour of the development should not apply and this is considered in more detail below.

## Sustainability

The site is considered by the SHLAA to be sustainable. To aid this assessment, there is a toolkit which was developed by the former North West Development Agency. With respect to accessibility, the toolkit advises on the desired distances to local amenities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions.

The toolkit sets maximum distances between the development and local amenities. These comprise of:

- a local shop (500m),
- post box (500m),
- playground / amenity area (500m),
- post office (1000m), bank / cash point (1000m),
- pharmacy (1000m),
- primary school (1000m),
- medical centre (1000m),
- leisure facilities (1000m),
- local meeting place / community centre (1000m),
- public house (1000m),
- public park / village green (1000m),
- child care facility (1000m),
- bus stop (500m)
- railway station (2000m).

In this case the development meets the standards in the following areas:

- a local shop (370m),
- bank / cash point (400m),
- primary school (300m),
- leisure facilities (640m),
- public house (300m),
- public park / village green (925m),
- child care facility (480m),
- railway station (1400m).
- There is a bus stop immediately outside the site and there will be a playground / amenity area on site.

Where the proposal fails to meet the standards, the facilities / amenities in question are still within a reasonable distance of those specified and are therefore accessible to the proposed development. Those amenities are:

- post box (640m),
- post office (1287m),
- pharmacy (1270m),
- medical centre (1448m)
- local meeting place / community centre (1126m),

In summary, whilst the site does not comply with all of the standards advised by the NWDA toolkit, as stated previously, these are just guidelines and are not part of the development plan. Owing to its position on the edge of Alsager, there are some amenities that are not within the ideal standards set within the toolkit and will not be as close to the development as existing dwellings which are more centrally positioned. Indeed this is not untypical for suburban dwellings. However, all of the services and amenities listed are accommodated within Alsager and are accessible to the proposed development on foot and therefore it is considered that this small scale site is sustainable.

Policy DP9 of the RSS relates to reducing emissions and adapting to climate change. It requires:

- proposals to contribute to reductions in the regions' carbon dioxide emissions from all sources;

- take into account future changes in national targets for carbon dioxide and other greenhouse gas emissions
- to identify, assess and apply measure to ensure effective adaptation to likely environmental social and economic impacts of climate change.

RSS (Policy EM18) policy also necessitates that, in advance of local targets being set, large new developments should secure at least 10% of their predicted energy requirements from decentralised and renewable or low-carbon sources, unless it can be demonstrated that this is not feasible or viable. The developer has indicated that they are committed to ensuring that 10% of the energy requirements of the development will be from decentralised and renewable or low carbon sources and would be willing to accept a condition to this effect.

As all matters are reserved with the exception of access, aspects of the design relating to climate change and sustainability cannot be discussed in detail at this stage. However, the indicative layout demonstrates that dwellings will be sited so as to have their main elevations facing south enabling them to benefit from passive solar gain. There will also be shaded areas through the development, including along the walk that will provide relief from the sun in summer months. Additionally, the sites sustainable location contributes to achieving a development that takes climate change and sustainability into account.

It is therefore considered that it is viable and feasible to meet the requirements of the RSS policy and a detailed scheme can therefore be secured as part of the reserved matters through the use of conditions.

### **Loss of Agricultural Land**

Policy NR8 of the Local Plan states that proposals which involve the use of the best and most versatile agricultural land (grades 1, 2 and 3a based on the ministry of agriculture fisheries and food land classification) for any form of irreversible development not associated with agriculture will only be permitted where all of a number of criteria are satisfied.

The applicant has submitted an agricultural land classification study which concludes that the proposal, would not involve the use of 'best and most versatile (BMV) agricultural land' because the site comprises Grade 3b land with some grade 4. It is therefore considered that the proposal complies with the requirements of this policy without the need for assessment against the criteria.

### **Affordable Housing**

The Councils Interim Planning Statement (IPS) for Affordable Housing states that the Council will seek affordable housing on all sites with 15 units or more, and the general minimum proportion of affordable housing for any site will be 30% of the total units.

The Strategic Housing Market Assessment 2010 shows that for the sub-area of Alsager, there is a requirement for 36 new affordable units per year, made up of a need for 13 x 2 bed units, 12 x 3 bed units, 12 x 4/5 bed units and 10 x 1/2 bed older persons units.

Therefore as there is affordable housing need in Alsager there is a requirement that 30% of the total units at this site are affordable, which equates to 20 dwellings. The Affordable Housing IPS also states that the tenure mix split the Council would expect is 65% rented affordable units (either social rented dwellings let at target rents or affordable rented dwellings let at no more than 80% of market rents) and 35% intermediate affordable units. The affordable housing tenure split that is required has been established as a result of the findings of the Strategic Housing Market Assessment 2010.

The Affordable Housing IPS requires that the affordable homes should be provided no later than occupation of 50% of the open market units, unless the development is phased and

there is a high degree of pepper-potting which case the maximum proportion of open market homes that may be provided before the provision of all the affordable units may be increased to 80%. These requirements can be secured via a Section 106 Agreement.

All the Affordable homes should be constructed in accordance with the standards proposed to be adopted by the Homes and Communities Agency and should achieve at least Level 3 of the Code for Sustainable Homes (2007). The Affordable Homes should also be integrated with the open market homes and not be segregated in discrete or peripheral areas. As this application is an outline application, Housing Officers are unable to comment on these aspects or in detail about the affordable housing provisions required. Nevertheless, they request that the applicant submits details of their proposed affordable housing scheme at the first reserved matters stage the details of the affordable housing scheme should include the mix of unit types and how these meet the required tenure split of 65% rented affordable units and 35% intermediate tenure units.

The applicants Affordable Housing statement proposes that the affordable housing is secured by way of the Planning Inspectorates model condition on affordable housing.

It is the Council's preference that the affordable housing is secured by way of a S106 agreement, which requires the developer to transfer any rented affordable units to a Housing Association and includes the requirement for the affordable house scheme to be submitted at reserved matters and also includes provisions that require the affordable homes to be let or sold to people who are in housing need and have a local connection. The local connection criteria used in the agreement should match the Councils allocations policy. This is in accordance with the Affordable Housing IPS which states that

*"the Council will require any provision of affordable housing and/or any control of occupancy in accordance with this statement to be secured by means of planning obligations pursuant to S106 of the Town and County Planning Act 1990 (as amended)"*

It also goes on to state that

*"in all cases where a Registered Social Landlord is to be involved in the provision of any element of affordable housing, then the Council will require that the Agreement contains an obligation that such housing is transferred to and managed by an RSL as set out in the Housing Act 1996"*

## **Contaminated land**

The Council's Environmental Health officers have commented that the application is an outline application for new residential properties which are a sensitive end use and could be affected by any contamination present. As such, a Phase I desk study and walkover survey have been submitted with the application which recommends a Phase II site investigation. In accordance with the NPPF, recommend that conditions are imposed to secure a Phase II investigation.

## **Air Quality**

The site is not located within or close to any designated Air Quality Management Areas. Therefore, Environmental Health have raised no objection in principle on Air Quality grounds. However, they have recommended the submission and implementation of mitigation measures to minimise any impact on air quality arising from construction dust. This can also be secured by condition.

## **Noise Impact**

The site is located on Crewe Road, which is a major arterial route between the towns of Crewe and Alsager. Consequently there is potential for noise disturbance to the occupants

of the proposed dwellings resulting from passing traffic. Therefore, Environmental Health have recommended that no development should commence until a scheme for protecting the proposed dwellings from traffic noise has been submitted to and approved by the Local Planning Authority. All works which form part of the scheme shall be completed before any of the dwellings are occupied. This can be easily secured by condition.

## **Drainage and Flooding**

The applicant has submitted with the application, a detailed Flood Risk Assessment (FRA). It concludes that a review of the Environment Agency (EA) indicative flood mapping and other relevant data indicates that the majority of the site is located outside any predefined area that is deemed to be at risk from flooding by rivers or other surface water bodies. Furthermore, the EA has no records of any historical flooding in this location.

Based on the illustrative layout, it would appear that only a small parcel of land in the south west corner (Plot 40 on the illustrative layout) extends into the currently defined flood plain. However, evidence from a site visit and the topographic survey show that this area is elevated above the brook. As such it is highly probable that mitigation measures, if required, can be adequately designed/dealt with as part of the subsequent detailed design of the proposed development. On the basis that the site drainage can be appropriately managed then the report considers that the site is acceptable.

The report recommends that an assessment of the capacity of the sewer and/or retention capacity of the site drainage will be necessary once plans have been finalised. This should be conducted along with formal consultation with United Utilities plc. BRE 365 Soakaway Tests should be conducted across the site to determine if the underlying strata are sufficiently permeable to act as soakaway drainage.

United Utilities and the Environment Agency have considered the report and raised no objections subject to the imposition of appropriate planning conditions. It is therefore concluded that the proposed development will not adversely affect onsite, neighbouring or downstream developments and their associated residual flood risk.

## **Layout, Design and Public Right of Way**

An indicative site plan has been submitted with the application which shows a main entrance to the site, mid way along the Crewe Road frontage. Properties are shown facing on to Crewe Road. The main access roads are within the site, creating active frontage to all principle routes outside and within the development, whilst retaining the majority of the existing roadside hedges on Crewe Road and the lane along the western boundary.

2 pedestrian accesses are proposed through the western boundary hedge to allow permeability through the new development for pedestrians travelling between, the public footpath leading to the Old Mill public house and the neighbouring dwellings, Crewe Road, and the existing Poppyfields estate. This is considered to be a positive aspect of the design.

The proposed layout shows properties fronting on to the new paths so that they are well overlooked with an open aspect, which would encourage use and prevent it becoming a target for antisocial behaviour.

It is also noted that the Council's Public Rights of Way Officer has welcomed the development, as it will improve pedestrian and cycle connectivity in the area subject to a number of provisions relating to the detailed treatment of the of the route. In particular details relating to the proximity to the stream, the shared use of the route between cycles and pedestrians and its status and maintenance need to be agreed. Given that layout is a reserved matter, the first 2 matters could be addressed at a later stage, whilst maintenance would be dealt with via the management company established by the Section 106 Agreement.



To turn to the elevational detail, the surrounding development comprises a mixture of ages and architectural styles, ranging from early 20<sup>th</sup> century suburban development on Crewe Road and the surrounding roads closer to the town centre, to 1960's and 70's bungalow development on the opposite side of the Crewe Road to the north. There is a substantial amount of modern cul-de-sac development to the east of the site, whilst older more traditional vernacular buildings can be found in the open countryside areas to the south and west. Notwithstanding this, there is consistency in terms of materials with most dwellings being finished in simple red brick, and grey / brown slates / concrete / clay tiles. The predominant roof forms are gables although some are hipped.

Although external appearance and design are also reserved matters, it is considered that an appropriate design can be achieved, which will sit comfortably alongside the mix of existing development within the area.

### **Open space**

The proposed layout makes provision for 2 substantial areas of informal public open space referred to as "The Copse" and "The Meadow". The latter would also include a formal equipped children's play area. The provision of this area, including the precise details of the play equipment and its future maintenance through transfer to a management company, could be secured through a Section 106 Agreement.

Although the open space is located to the rear of the site, on the indicative layout, it is shown as being well overlooked by a number of existing properties on Goldfinch Drive, as well as existing dwellings within the development. This is preferable from a community safety and design point of view.

Following the comments made by the Council's Greenspace Officer, it is considered that the level of open space provision within the development is acceptable. A number of local residents have questioned the need for the play area given that there is an existing facility nearby at Swallow Drive. They have also raised concerns with regard to the maintenance of this area given that the Swallow Drive area, which was not adopted by the Council, has not been properly maintained by the developer. The provision of formal and informal public open space within new development is an essential part of creating a sustainable community, and as stated above, the Section 106 Agreement will ensure that adequate maintenance arrangements are put in place.

Other residents have asked whether, as an alternative to the provision of an additional play area, the existing facility at Swallow Drive, which, as stated above, is in a poor state of repair, could be brought up to an acceptable standard. This could be achieved by way of a commuted sum, equivalent to the cost of providing a play area on site, secured through the Section 106 Agreement. However, it would make the current development less sustainable and would also require the adoption of the Swallow Drive play area by the Council prior to the commuted sum being handed over. At the time of report preparation, the Council had not taken a decision on whether or not to adopt the play area in question. However, the developer has indicated that they would have no objection to this proposal.

It is therefore recommended that the Section 106 Agreement makes provision for an either/or scenario where the Council could either secure a sum of money potentially to upgrade the existing play area at Swallow Drive or require the developer to provide a play area on site which would be managed by a management company for maintenance purposes. The Council would then have the option to adopt and close the Swallow Drive play area if that was considered to be appropriate.

The suggested approach does not commit the Council to either course of action at this stage and allows flexibility in the approach in order to follow due process in respect of adoption and for necessary discussions between Green Spaces, ward Members, Town

## Amenity

The Congleton Borough Council Supplementary Planning Document, Private Open Space in New Residential Developments, requires a distance of 21m between principal windows and 13m between a principal window and a flank elevation to maintain an adequate standard of privacy and amenity between residential properties.

The layout and design of the site are reserved matters. However, the indicative layout demonstrates that 65 dwellings could be accommodated on the site, whilst maintaining these minimum distances between existing and proposed dwellings. It also illustrates that the same standards can be achieved between proposed dwellings within the new estate.

The SPD also requires a minimum private amenity space of 65sq.m for new family housing. The indicative layout indicates that this can be achieved in the majority of cases. It is therefore concluded that the proposed development would be acceptable in amenity terms and would comply with the requirements of Policy BE.1 of the Local Plan.

## Countryside and Landscape Impact

The site is currently mainly in agricultural use although a section of grassed roadside verge on the Crewe Road frontage with occasional mature trees is included. There are well established hedgerows to several of the boundaries. A number of mature hedgerow trees are located around the periphery and a copse of trees stands around a pond to the south west of the site. The tree lined Valley Brook runs to the south, outside the site boundary. There is one redundant agricultural building adjacent to the eastern boundary. The land falls at a gentle gradient from north to south.

The site lies within the open countryside and is governed by Policy PS8 of the Congleton Local Plan. This seeks to restrict development within the countryside apart from a few limited categories. One of the Core Planning Principles of the NPPF is to *“take account of the different roles and character of different areas, promoting the vitality of our main urban areas, protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside and supporting thriving rural communities within it”*. Policy PS8 accords with the NPPF desire to recognize the intrinsic character of the countryside. The application, by developing and hence eroding an area of open countryside conflicts with Local Plan Policy PS8.

The application site, although within the area designated as Open Countryside in the adopted Congleton Borough Local Plan (First Review), has no formal landscape designation.

Whilst there are references to the setting and surrounding area, the application does not include a comprehensive landscape and visual impact assessment. The land is on the fringe of the town of Alsager and is relatively well contained by existing vegetation on three boundaries. It is considered that the main visual receptors would be residential properties to the north east, properties to the north of Crewe Road, users of Crewe Road and users of the access road and public footpath. Whilst development of the site would change its appearance in the landscape, the retention of existing landscape features, additional landscape works and a sympathetic site layout could help to minimise impacts on these receptors.

Although an outline application, in principle, the illustrative layout suggests that a form of layout could be achieved that would allow for the retention of the majority of the peripheral hedgerows (other than to accommodate the main access) and would allow for landscape

and biodiversity enhancement measures which are welcomed. Whilst footpath connectivity is proposed throughout the site to adjacent footpaths, it would be important to ensure that the routes did not compromise ecologically valuable habitats. The line of the proposed footpath to the south would require careful consideration in relation to the copse/pond area and the Valley Brook. Appropriate measures would need to be secured via Section 106 Agreement to ensure ongoing management and maintenance of public open space, footpath routes and ecological corridors.

Indian Balsam has been found on the site. This invasive species requires control and measures could be required by condition.

## Trees

Several of the trees on the periphery of the site are protected by the Congleton Borough Council (Alsager Hall, Alsager) TPO 1998.

The submission includes a tree survey which indicates that eight of the trees on the site are grading category B with three Grade A trees, two Grade C trees and one dead specimen. The Landscape Officer has some concerns that the indicative layout provided is not entirely sympathetic to trees including several prominent protected specimens and therefore would not be acceptable. As a more sympathetic layout would be required, this would need to be considered in relation to the capacity of the site to accommodate 65 dwellings. In the event of approval, comprehensive tree protection conditions are recommended.

The Landscape Officer had some concerns that the indicative layout initially provided was not entirely sympathetic to trees including several prominent protected specimens and therefore would not be acceptable. As a more sympathetic layout would be required, this would need to be considered in relation to the capacity of the site to accommodate 65 dwellings.

These concerns were brought to the attention of the developer and a number of alternative layout plans were submitted. The Landscape Officer has examined these plans and stated that one of the proposed layouts does not give enough root protection area clearance for a good quality TPO Oak adjacent to 38 Goldfinch Drive and would not be acceptable. The other versions you have were better, but all would need some further adjustment to be acceptable. However, this could be carried out at the reserved matters stage, when a final layout is determined, and she is now satisfied that up to 65 dwellings could be accommodated on site without detriment to protected trees.

An amended plan has been received to slightly amend the position of the access point. This would result in the loss of 1 mature Oak tree onto the Crewe Road frontage. This tree is a Grade C tree with a severe longitudinal scar and cavity. As a result the loss of this tree is accepted subject to replacement planting. The access would also be positioned closer to a Grade B Oak tree which would be retained; the applicant has now produced a report into the impact upon tree and the applicants arboriculturist concludes that she is *'confident that impact on the rooting systems can be minimised and the tree can be retained in a healthy condition for the future'*. An update on from will be provided in relation to this issue will be provided after consultation with the Councils Tree Officer.

## Hedgerows

Where proposed development is likely to result in the loss of existing agricultural hedgerows which are more than 30 years old, it is considered that they should be assessed against the ecological, historical and archaeological criteria in the Hedgerow Regulations 1997 in order to ascertain if they qualify as 'Important'.

Should any hedgerows be found to be 'Important' under any of the criteria in the Regulations, this would be a significant material consideration in the determination of the

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application. As part of the original submission there was no reference to an assessment of the historic and archaeological criteria in the Regulations.

This outstanding information was requested from the developer and has now been provided. The Historical Environment Records Officer has confirmed that the hedgerows had been checked against the Cheshire Historic Environment Record under the archaeological criteria within the Hedgerow Regulations and that the hedgerows are not covered under the stated criteria.

With regard to the historical criteria, the County Archivist has confirmed that the hedgerows do not form part of a boundary between two historic townships or parishes and there is no evidence to suggest that the hedgerows form a boundary of a pre-1600 estate of manor. However, with the exception of the site boundaries with Crewe Road and the western side of no. 214 Crewe Road, there is evidence to suggest that the remaining hedgerows in question form an integral part of a field system pre-dating the Enclosure Acts i.e. before 1845).

It is important that the hedgerows identified as forming an integral part of a field system pre-dating 1845 should remain intact and as existing. The current indicative proposals indicate that the existing hedgerows are breached in two locations. The first is along the hedgerow fronting Crewe Road to form the vehicle access into the development. This is not considered significant as this hedgerow does not form an integral part of a field system pre-dating the Enclosure Acts.

The second is along the Hawthorn hedgerow abutting the western boundary of the site, adjacent to the lane leading to the Old Mill Public House. This lane is a designated public right of way. Two footpaths are proposed from the development linking to the lane. One is located in the south west corner of the site associated with the proposed nature trail within the development. This does not impact on hedgerows along the western boundary as none exist in this location.

A second footpath link is proposed from the development to the lane between plots 54 and 55 on the indicative layout in order to provide connectivity with the local footpath network and which would provide good linkage with the bus stop fronting the site on Crewe Road. However, this would only form a small breach in the hedgerow which has plan evidence that it formed an integral part of a field system pre-dating the Enclosure Acts, of sufficient width to accommodate a pedestrian gate. Furthermore, it is the historic line of the hedgerow, rather than the species within it which is considered to be important. Given its line follows that of the road, it could still be traced in the landscape following the implementation of the development. The impact on the hedge in historical terms is therefore not considered to be significant or of sufficient magnitude to sustain a refusal of planning permission. Through the reserved matters submission it would be possible to ensure that the important hedgerows are retained in the final layout.

## **Ecology**

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

The Directive is then implemented in England and Wales by the Conservation (Natural Habitats etc) Regulations 1994 ("the Regulations"). The Regulations set up a licensing

regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

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

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected by the proposed development, the planning authority must have regard to the requirements for derogation referred to in Article 16 and the fact that Natural England will have a role in ensuring that the requirements for derogation set out in the Directive are met.

If it appears to the planning authority that circumstances exist which make it very likely that the requirements for derogation will not be met then the planning authority will need to consider whether, taking the development plan and all other material considerations into account, planning permission should be refused. Conversely if it seems from the information that the requirements are likely to be met, then there would be no impediment to planning permission in this regard. If it is unclear whether the requirements will be met or not, a balanced view taking into account the particular circumstances of the application should be taken and the guidance in paragraph 116 of PPS9.

In line with guidance in PPS9, appropriate mitigation and enhancement should be secured if planning permission is granted. The application is supported by an ecological assessment undertaken by a suitable qualified and experienced ecologist.

The Council's ecologist has examined the assessment and commented that, he has read the ecological assessments submitted in support of this application and visited the site himself. The survey work to inform the submitted ecological assessment was completed in November a poor time of year for assessment the presence of many plant and animal species.

### Habitats

Despite the survey being undertaken at a poor time of year he is satisfied that the grassland habitats on this site are unlikely to be of significant botanical value. This is in accordance with the conclusions of the submitted assessment.

Hedgerows are a priority habitat and hence a material consideration for planning. There will be a loss of hedgerow associated with the proposed access to the site from Crewe Road. The Council's Ecologist recommends that this loss of hedgerow is compensated for by means of new native species hedgerows incorporated into the final landscaping scheme for the site. Considering the scale of the proposed development and open space it seems entirely feasible that suitable replacement planting can be incorporated in the final layout of the site.

The submitted ecological assessment has identified the wooded copse and river corridor as being of ecological value. These areas have accordingly been retained within the indicative site layout. This is welcomed as a means of avoiding a potential adverse ecological impact that would be associated with their loss. The submitted ecological assessment recommends a 10m undeveloped buffer along the river corridor. However the Council's Ecologist notes that a footpath is provided along the river. It seems unlikely that a usable footpath could be provided in very close proximity to the river without requiring the removal of vegetation and trees and consequently having an adverse impact upon the river corridor. He therefore recommends that the footpath is located outside of the 10m buffer.

The applicant has responded by stating that the path would be provided at the top of bank, and not within the wooded area/or immediately adjacent to Valley Brook. They see no

issues with the footpath being located within the part of the buffer zone that lies within the application site. According to the applicant's ecologist, no trees or vegetation of significance will be lost. Furthermore, the route shown on the layout plan is indicative at this outline stage. The applicant/Council can agree the precise route, at the Reserved Matters stage and conditions can be applied requiring the provision of the buffer zone and to ensure that the path is located outside that area.

The creation of a meadow area as part of the proposed development is also proposed and the Council's ecologist supports this proposal as an ecological enhancement in accordance with the NPPF.

### Protected Species

The submitted ecological assessment has included an assessment of two ponds within 250m of the proposed development and concludes that they are not suitable to support Great Crested Newts (GCN). However, at the time of his site visit, the Council's ecologist noted that there is now an additional pond located within the copse area which in his view had potential to support GCN. Additionally, the Council's Ecologist was not convinced that Pond 1 did not also have reasonable potential to support breeding GCN. A GCN was recorded at pond 1 a number of years ago. He therefore advised that a full Great GCN survey be undertaken in accordance with the Natural England guidelines should be undertaken and the results, together with any mitigation/compensation measures required should be submitted to the LPA prior to the determination of the application.

This was carried out and Great Crested Newts have been recorded as breeding at a pond adjacent to the proposed development. In the absence of mitigation, the proposed development would result in a 'medium' adverse impact on Great Crested Newts (as assessed in accordance with the Natural England Great Crested Newt Mitigation Guidelines) due to the loss of intermediate terrestrial habitat and the risk posed of killing/injuring animals during the construction process.

It should be noted that, since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development, the planning authority must have regard to the Habitat Regulations when determining this application. In particular, the LPA must consider whether Natural England is likely to grant a derogation license. The Habitats Regulations only allow a derogation license to be granted when:

- the development is of overriding public interest,
- there are no suitable alternatives and
- the favorable conservation status of the species will be maintained.

In this case, the need to provide a 5 year supply of housing land is considered to be of overriding public interest and, taking into account the available alternative sites, the Council will still fail to meet this requirement.

The submitted Great Crested Newt method statement proposed to mitigate the risk posed to newts during the construction phase through habitat manipulation and the trapping and exclusion of animals from the development footprint located within 100m of the proposed development. This is in accordance with standard best practice. To compensate for the loss of terrestrial habitat the applicant proposes the enhancement of the retained habitat together with the enhancement of the on-site non-breeding pond.

The Council's ecologist advises that, if planning consent is granted, the submitted mitigation/compensation is broadly acceptable. However, given that the application is outline only, a number of conditions are recommended to ensure that the recommendations of the submitted report are incorporated into any future reserved matters application. Subject to these recommendations being carried out, the favorable conservation status of the species will be maintained.

A number of trees have been identified on site that have potential to support roosting bats. The Council's Ecologist has commented that if any trees are to be removed as part of the development they must be subject to a detailed survey to determine the presence/absence of bats prior to the determination of the application. However, the submitted layout plan indicates that, whilst not sympathetic to trees in the long run, no trees are proposed for removal at this stage.

Other protected species have been recorded on site. The impacts of the indicative layout of the proposed development are relatively minor, although it is possible that Natural England disturbance license will be required. The Council's Ecologist is satisfied that the adverse impact of the development on other protected species can be mitigated in accordance with the submitted method statement. However, as the status of these species can change relatively quickly, it is recommended that a condition be attached to any outline permission that any reserved matters application be supported by an updated badger survey and a revised mitigation method statement.

Grass snakes have been recorded in this locality, as identified by the submitted ecological assessment. This species is protected by law and is a UK priority species.

The submitted assessment concludes that reptiles are likely to be absent from the site due to the poor connecting habitat between the site and the site of the known record. It further states that grass snakes are unlikely to be present in the absence of any sufficient population of common frog prey.

The Council's Ecologist advises that, as no amphibian survey has been undertaken, there is no information on the availability of amphibian prey species which is unhelpful. In addition, reptiles in general are poorly recorded in Cheshire and so little weight should be given to a lack of records from the site. He therefore initially advised that, considering the presence of a pond on site and a second pond adjacent to the site and the presence of reptile records from the nearby locality, a reptile survey should be undertaken by a suitably experienced and qualified herpetologist and the results of the survey together with any mitigation proposals required should be submitted to the LPA prior to the determination of the application. However, after further discussions with the applicants ecologist and after considering the results of the submitted amphibian survey, he is satisfied that grass snakes are not reasonably likely to be affected by the proposed development. A detailed survey for grass snakes is therefore no longer required. He has, however, requested that the applicant's ecologist provide 'reasonable avoidance measures' for reptiles in the Great Crested Newt Method Statement. The provision of details of these measures and their implementation can be secured by condition.

The proposed development site is likely to support breeding birds potentially including the more widespread priority species and the closely protected Kingfisher. The retention of the copse and the safeguarding of the river corridor will mitigate the impact of the development on breeding birds to some extent. If planning consent is granted, the Council's Ecologist advises that conditions will be required to safeguard breeding birds and to ensure some additional features are provided for both breeding birds and roosting bats.

Provided the recommendation for a 10m undeveloped buffer is provided along the river is implemented there are unlikely to be any adverse impacts on Water Vole, White Clawed Crayfish and Otters. However, if any development is to take place along the river corridor including works associated with the installation of a footpath, then detailed surveys for these species will be required.

The Barn Owl group have confirmed that there are barn owls present at a box 180m to the south of the development and that barn owls have also been recorded around the Radway Green factory site.

- necessary to make the development acceptable in planning terms
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Whilst the impacts of the development are not likely to compromise the legal protection of barn owls, barn owls are a protected species and hence a material consideration. It is the presence of barn owls in such close proximity to the site that prompts the need for the species to be considered during the determination of this application. The proposed commuted sum payment would be used for Barn owl tagging to monitor the population of Barn owls within the vicinity of the site and is therefore considered to be directly related to the development.

The site currently supports unmanaged grassland and woodland edge habitats that are likely to support the small mammal prey of barn owls. The relative scarcity of this habitat type within the otherwise intensively farmed landscape of Cheshire is one of the main factors limiting the barn owl population in the County. The development of this site is likely to result in a loss of suitable foraging habitat for the local barn owl population which can have nothing other than an adverse impact on the local status of the species. Any such adverse impact, if unmitigated, would render the proposal contrary to established local plan policy and advice in the NPPF in terms of protecting important species and their habitats, which include foraging areas. The proposed commuted sum towards mitigation measures is considered, therefore to be necessary to make the development acceptable in planning terms.

The provision of the relatively small commuted sum identified within the report to the barn owl group, would enable them to deliver quite significant benefits for the species, and is an entirely appropriate means by which this material consideration can be addressed and is fully in accordance with the NPPF and the aspirations of the white paper in respect of biodiversity off-setting. The proposed payment is therefore fairly and reasonably related in scale and kind to the development and for the reasons stated above, it is considered that the proposed commuted sum, complies with the CIL regulations.

If planning consent is granted the Council's Ecologist has recommended that a condition is attached requiring the submission of a 10 year management plan for the copse, meadow, GCN mitigation area and buffer zone. Management proposals should include the eradication of non-native invasive plant species from the site and suitable habitat creation and management proposals for the 'Meadow' area. As stated above, this will need to be secured via the Section 106 agreement. Although part of the buffer zone lies outside the application site, the Council's ecologist has confirmed that there will be not maintenance requirements on land outside the applicant's control. As a result it will not be necessary for any third parties to be signatories to the Section 106.

## **Education**

The Council's Education Officer has examined the application and concluded that there is sufficient existing capacity within local schools to absorb the predicted pupil yield from the development. Consequently, no contributions towards education provision will be required in this instance.

## **Highway Safety and Traffic Generation.**

A Transport Assessment has been submitted with the application which states that:

- *As the planning application will be in outline the exact number of units is not known at this stage. Given the size of the site and its constraints, it is likely that realistically the proposed development will only deliver around 65 houses. However, for the purpose of producing*



robust assessments in this report, it has been assumed that the site could potentially be developed for up to 70 houses.

- A new priority T-junction would be provided off Crewe Road to serve the proposed development. The proposed development layout broadly accords with Manual for Streets principles, with pedestrian/cycle friendly layout and good connectivity with the adjoining areas.
- The local area benefits from good quality lit footway network. However, currently there is no footway along the site frontage on Crewe Road on the site side. The proposal is to provide a new footway along the site frontage, from the proposed site access to the existing footway on the north eastern end of the site. This will ensure that there is a continuous footway from the site to the town centre.
- Alsager town centre is within walking distance of the site. A range of destinations and community facilities are within walking distance of the site. This includes shops, jobs, schools and leisure facilities. Alsager town centre is within walking distance of the site.
- Crewe Road is a bus route with bus stops on both sides of the road directly outside the site. The existing bus services operating on Crewe Road provide regular services to Alsager, Nantwich, Sandbach, Crewe town centres and other adjacent areas.
- The nearest railway station from the site is Alsager rail station, which is approximately 1.5km to the west of the site. Alsager Rail Station is on the Crewe to Derby Line which is also a Community rail line known as the North Staffordshire line. Alsager Rail Station is served by both East Midlands Trains local services to Derby and the London Midland semi-fast service to London Euston via Stoke and Stafford.
- It can be stated that the proposed development will be accessible to a range of destinations by walking, cycling, bus and rail in accordance with national and local transport policies.
- It has been demonstrated that the local highway network will be able to easily accommodate the forecast trips from the proposed development and accordingly there will be no material impact on the local highway network.

The report concludes that:

- The proposed development is located in a sustainable location and will be accessible on foot by cycle and public transport, in line with local and national transport policies
- The local highway network can accommodate the proposed development traffic
- In view of the above positive findings it is considered that the proposed development is acceptable in highway, traffic and transportation terms.

The Strategic Highways Manager has considered the TA and considers that the development would only have a 'relatively small' impact upon traffic levels given the number of units involved.

The highways officer did raise concerns over the position of the access given its proximity to Cranberry Lane. The Cheshire County Council standard requires a junction separation of 40 metres between the junctions and the original plans showed a separation of 35 metres. Amended plans have now been received to show the repositioned access point at 40 metres from Cranberry Lane. The position of the access and its visibility splays are now considered to be acceptable.

The highways officer did raise concern about the lack of a contribution to localised highway improvement along the Crewe Road corridor. This has now been secured and a contribution of £50,000 will be secured via a S106 contribution.

## 9. CONCLUSIONS

It is acknowledged that the Council does not currently have a five-year housing land supply and that, accordingly, housing supply policies are not considered up to date. In the light of

the advice contained in the newly adopted National Planning Policy Framework, where the development plan is “absent, silent or relevant policies are out of date” planning permission should be granted unless

*“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole”*

Or

*“specific policies in this Framework indicate development should be restricted.”*

The Development plan is not absent or silent with regard to this application. However, in the absence of a five year supply housing land supply, policies are not considered up to date. Other policies however are considered to be in line with NPPF advice.

The boost to housing supply is considered to an important benefit – and this application achieves this in the context of a smaller, non strategic land release which aligns with the Interim Planning Policy currently under consultation.

Following the successful negotiation of a suitable Section 106 package, the proposed development would provide adequate public open space, the necessary affordable housing requirements and a contribution towards highway works along the Crewe Road corridor.

The proposal is considered to be acceptable in terms of its impact upon residential amenity, ecology, drainage/flooding and it therefore complies with the relevant local plan policy requirements for residential environments

Whilst the site does not meet all the minimum distances to local amenities and facilities advised in the North West Sustainability toolkit, there is not a significant failure to meet these and all such facilities are accessible to the site. The development is therefore deemed to be sustainable.

Whilst the proposal will result in the loss of some grade 3b agricultural land, this is not the best and most versatile agricultural land and it is considered that the benefits of the delivering the site for much needed housing would outweigh this loss, given that the site does not offer a significant quality of land

To conclude highways matters, whilst the development does add a little extra pressure on the local highway network it is not sufficient to warrant refusal of the application as the additional movements generated will not be significant.

On the negative side, there are brownfield sites in Alsager that can accommodate 735 new homes and the proposal will not support the NPPF encouragement to make effective use of land.

In addition the housing will be built on open countryside contrary to the provisions of Policy PS8 of the Local Plan. Although the proposal will not have a significant impact on the landscape character of the area and will to some extent represent a rounding off of the settlement rather than a large scale intrusion into the open countryside, this remains an important adverse impact.

The Emerging Town Strategy for Alsager has not yet been signed off, and so whilst the site is under consideration it is not yet known if it forms part of local people’s vision for the future of their own community.

Overall, it is considered that the adverse impacts of the development – in terms of conflict with the development plan on Countryside and use of brownfield land issues are outweighed by the benefits of the proposal in terms of residential provision. Given the scale

and location of the development, its relationship to the urban area and its proximity to other services, it is not considered that these adverse impacts significantly and demonstrably outweigh the benefits – and so accordingly the application is recommended for approval, subject to a Section 106 Agreement and appropriate conditions.

## 10. RECOMMENDATION

**APPROVE** subject to a Section 106 Legal Agreement to Secure:

- **30% affordable housing (20 dwellings), split on the basis of 65% rented affordable units (either social rented dwellings let at target rents or affordable rented dwellings let at no more than 80% of market rents) and 35% intermediate affordable units.**
- **Transfer of any rented affordable units to a Housing Association**
- **Affordable house scheme to be submitted at reserved matters**
- **Affordable homes to be let or sold to people who are in housing need and have a local connection. (The local connection criteria used in the agreement to match the Councils allocations policy.)**
- **Provision of on-site play area or an equivalent financial contribution towards the upgrading of the existing play area at Swallow Drive**
- **Provision for a management company to maintain the on-site amenity space / play area**
- **Retention of meadow and GCN mitigation area in perpetuity**
- **Ecological and Landscape Management Plan for meadow, copse, buffer zone and GCN mitigation area**
- **Commuted sum of £1500 to barn owl group**
- **A highways contribution of £50,000 towards highway improvements along the Crewe Road corridor**

And the following conditions

1. **Standard Outline**
2. **Submission of reserved matters**
3. **Plans**
4. **Tree and hedgerow protection measures**
5. **Protection measures for Valley Brook corridor and pond during the construction process.**
6. **Arboricultural Method statement**
7. **Landscape maintenance and management**
8. **Control of Indian Balsam**
9. **Boundary treatment**
10. **Reserved matters to make provision for 10m buffer along river corridor**
11. **Reserved matters to make provision for 5 metre buffer zone around the pond**
12. **Reserved matters to make provision for path to be located outside buffer zone**
13. **Submission of revised ecological mitigation method statement (to take account of any changes to finalised layout)**
14. **Detailed design/proposals for new/enhanced pond and GCN mitigation area**
15. **Retention of the Copse**
16. **Breeding Bird Survey for works in nesting season**
17. **Bats and bird boxes**
18. **Updated protected species survey and method statement prior to commencement**
19. **Submission of a scheme to limit the surface water run-off generated by the proposed development,**
20. **Reserved matters to make provision for containing any such flooding within the site, to ensure that existing and new buildings are not affected and that safe access and egress is provided.**

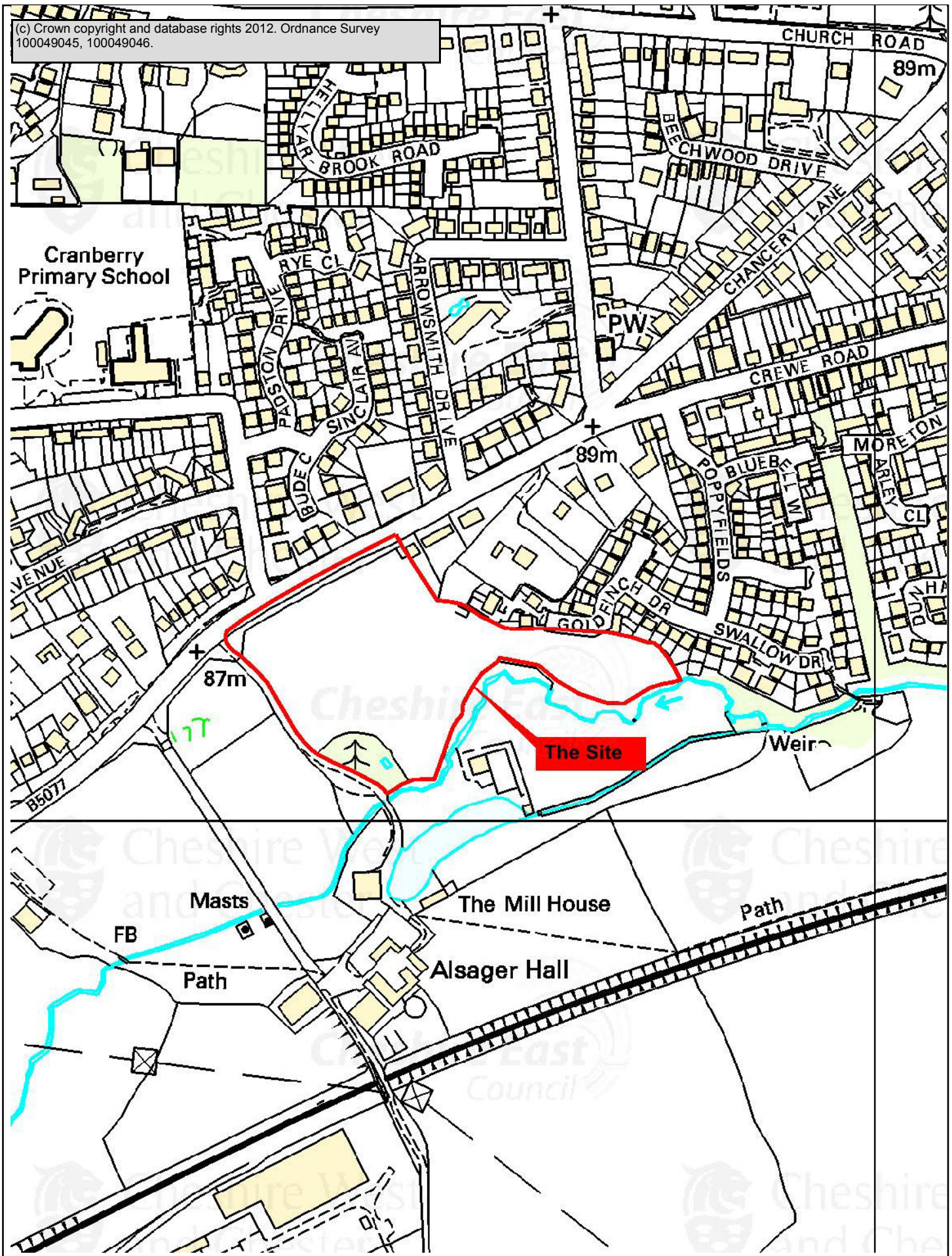
21. Reserved matters to make provision for houses fronting on to Valley Brook
22. Submission of a scheme of Sustainable Urban Drainage
23. Submission of a scheme to manage the risk of flooding from overland flow of surface water, has been submitted to and approved in writing by the Local Planning Authority.
24. This site must be drained on a total separate system, with only foul drainage connected into the public foul sewerage system.
25. The hours of construction of the development (and associated deliveries to the site) shall be restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil
26. Should there be a requirement to undertake foundation or other piling on site it is recommended that these operations are restricted to: Monday – Friday 08:30 – 17:30 hrs Saturday 09:30 – 13:00 hrs Sunday and Public Holidays Nil
27. Submission of a scheme for protecting the proposed dwellings from traffic noise
28. Submission of mitigation measures to minimise any impact on air quality from construction dust
29. Submission of a Contaminated Land Phase II investigation.
30. Submission of Construction Management Plan
31. Reserved Matters to include details of bin storage.
32. Reserved Matters to include details of design / surfacing of proposed footpath link
33. Landscaping to include replacement hedge planting

In the event of any changes being needed to the wording of the committee's decision (such as to delete, vary or addition conditions / informatives / planning obligations or reasons for approval / refusal) prior to the decision being issued, the Development Management and Building Control Manager, in consultation with the Chair of the Strategic Planning Board is delegated the authority to do so, provided that he does not exceed the substantive nature of the Committee's decision.





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Application No: 12/1381N

Location: FORMER STAPELEY WATER GARDENS, LONDON ROAD,  
STAPELEY, CW5 7JL

Proposal: Erection of 146 Dwellings, Public Open Space, Access and Associated Works

Applicant: David Wilson Homes North West

Expiry Date: 18-Jul-2012

12/1381N – Stapeley Water Gardens

#### **SUMMARY RECOMMENDATION**

**APPROVE** subject to conditions and the completion of Section 106 legal agreement to secure the following:-

- 1. Provision of 30% affordable housing units – 50% to be provided as social rent/affordable rent with 50% intermediate tenure**
- 2. The provision of a LEAP and Public Open Space and maintenance and management details**
- 3. Financial Contribution of £54,231 towards Primary School Education**
- 4. Financial Contribution of £47,000 towards Highways Improvements**
- 5. Details of Access road arrangements for Angling Centre and details to be provided of private drive to be provided once angling centre ceases**

#### **MAIN ISSUES**

**Impact of the development on:-**

**Principal of the Development**  
**Affordable Housing**  
**Highway Implications**  
**Public Rights of Way**  
**Amenity**  
**Trees and Hedgerows**  
**Design**  
**Ecology**  
**Open Space**  
**Education**  
**Flood Risk and Drainage**  
**Archaeology**

## **REASON FOR REFERRAL**

This application is referred to the Strategic Planning Board as it relates to a housing development of 146 dwellings on land which is 5.5 hectares in area. In addition previous applications at this site have been referred to Strategic Planning Board for determination.

### **1. DESCRIPTION OF SITE AND CONTEXT**

The application site forms part of the wider former Stapeley Water Gardens and Stapeley Manor site which is located within the Settlement Boundary for Nantwich as defined by the Borough of Crewe and Nantwich Replacement Local Plan Proposals Map. The site is also allocated as a Mixed Use Regeneration Area which is covered by Policy S.12.5 of the Local Plan. The land to the north of the access road forms the former Stapeley Manor curtilage and grounds and contains a large number of number of trees covered by TPONo.200. The land to the southern part of the site is covered by the former Stapeley Water Gardens buildings and large areas of hardstanding and planting. To the east and south of the site is land which is retained as newt mitigation land. The site is currently access via London Road which serves the still operational Angling Centre. A Public Right of Way Stapeley No.1 crosses the site along the existing driveway from London Road before turning north at the western part of the site towards Peter Destapleigh Way.

### **2. DETAILS OF PROPOSAL**

This is a full planning application for the construction of 146 dwellings. The dwellings proposed are a mixture of two storey detached, semi detached and terraced properties and the construction of two three storey apartment blocks, each containing 12 units. Of the dwellings proposed 44 (30%) would be affordable housing units, with a 50/50 split between social rented and shared ownership/rent to home buy. Access to the site is proposed from a reconfigured access at the existing point of access to the former Water Gardens site off London Road. The scheme includes the provision of a LEAP to be sited in the northern part of the site. Areas of public open space are also proposed, the majority of which would be sited around the existing protected trees and retained newt mitigation corridors. Additional landscaping is also proposed throughout the site. The works also include the provision of a substation and pump station. Temporary access to the Angling Centre, while it remains open, is also proposed.

### **3. RELEVANT HISTORY**

**09/4017N** – Planning permission approved for The Construction of Two Newt Mitigation Areas and Associated Connection Corridors on 23<sup>rd</sup> April 2010.

**P06/1001** – Outline Planning Permission was approved for the redevelopment and relocation of the existing garden centre facilities, A1 and A3 retail units, construction of Class C3 residential development, B1 office development, car parking, and ancillary facilities and infrastructure on 21<sup>st</sup> May 2010.

### **4. POLICIES**

#### **Local Plan Policy**

NE.5 Nature Conservation



NE.9 Protected Species  
NE.17 Pollution Control  
NE.20 Flood Prevention  
BE.1 Amenity  
BE.2 Design Standards  
BE.3 Access and Parking  
BE.4 Drainage, Utilities and Resources  
BE.5 Infrastructure  
TRAN.9 Car Parking Standards  
RT.3 Provision of Recreational Open Space and Children's Playspace in New Housing Developments  
RT.9 Footpaths and Bridleways  
S.12.5 Mixed Use Regeneration Areas - Stapeley Water Gardens

Stapeley Water Gardens Development Brief Supplementary Planning Document (2006)

### **National Policy**

National Planning Policy Framework

### **Other Considerations**

The EC Habitats Directive 1992  
Conservation of Habitats & Species Regulations 2010  
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System  
Interim Planning Statement Affordable Housing  
Interim Planning Statement Release of Housing Land  
Cheshire East Rights of Way Improvement Plan (ROWIP) 2011-2026  
Cheshire East Local Transport Plan (LTP) 2011-2026

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

**Environment Agency:** Objection raised from Environment Agency. The revised FRA has failed to provide information with regard to the sites existing surface water drainage system. The run off from the site is based on the impermeable area and not the existing surface water drainage system. The information relating to the other concerns previously raised have been satisfactorily addressed.

**United Utilities:** No objection; the site must be drained on a separate system with only foul drainage connected into the foul sewer.

### **Strategic Highways Manager:**

#### The Highways Network

The site access junction to London Road is currently operating with low levels of traffic, with only the Angling Centre now in operation. The nearby four-arm traffic signal junction of London Road

with Peter Destapleigh Way and Elwood Way operates with a degree of queuing at current traffic levels.

The site has the benefit of an extant permission for 150 houses off the same proposed access. The previous amount agreed as a contribution to off-site highways works was £37,000. This was agreed by the County Council in 2005 and formed part for the S106 Agreement signed in March 2011. A contribution index linked to 2012 would provide a sum of £47,000.

Additional traffic information was requested from the applicant on the traffic generated by the Angling Centre to assess its potential impact on the network in conjunction with the proposed residential development. It has been demonstrated that the additional traffic has only a marginal impact on the performance of this junction and that it will still operate efficiently with spare capacity.

The strategic and local road network to the South of Nantwich is increasingly constrained by traffic and on the key access routes and junctions serving the town. The junctions on the A51 Nantwich bypass has a poor accident record and suffer from peak time congestion.

Routes into the town centre pass over two level crossings on the railway. On the congested Hospital Street an AQMA is in place and Millstone Lane is restricted by on street parking. The route via B5341 Wellington Road suffers from the heavy traffic flows and passes a primary and a secondary school. The main town centre car parks to access the majority of local services aren't easily accessible from the south side of the town and any traffic growth arising from new development will only exacerbate these existing issues.

Significant improvements to the strategic highway network would be required to address these issues, without which it is difficult to see how further significant housing growth can be accommodated on the south side of Nantwich.

As such, we are seeking a contribution from this development towards improvements on the strategic road network. This would be put towards improvements to the A51 Nantwich bypass corridor; this provides the strategic connectivity for the site.

### Objector Concerns

A number of transport related objections have been received to the development proposal (outlined in section 7).

The objectors make the point that there is an extant permission for the wider former SWG site, with the access for the remodelled SWG and the proposed offices taken off Peter Destapleigh Way. The SHM recognises these concerns and has assessed the impact of the Angling Centre traffic on the London Road Junction. Additionally, the SHM has proposed conditions to manage any road safety issues caused by the additional Angling Centre traffic.

The SHM was aware of concerns of local residents regarding the suitability of traffic count data used in the transport report and requested additional information from the Applicant with respect to provision of fresh traffic data. However the fact remains that there is an extant permission for 150 dwellings from the London Road access. The SHM will suggest conditions to limit the level of traffic at this access to no more than that previously consented. The point that the peak traffic

flows at SWG would have been seasonal (highest in summer when background flows are lower) is noted. Once again, however, there is a valid consent for up to 150 dwellings from the London Road access.

The SHM recognises that there are capacity issues at local and strategic junctions/links on the southern side of Nantwich. This was discussed with the applicant but on the basis that traffic assessment work was conducted to secure the valid consent for 150 dwellings with the same access to London Road, it was difficult to justify insisting that additional analysis at these junctions was done as part of this application. Since 2007 more generally across the national road network traffic flows have remained static and in some instances have shown reductions. In this area the majority of the Cronkinson Farm estate had been completed and occupied and the Stapeley Water Gardens site was still fully operating. However, future applications will be required to undertake the assessment of the strategic road infrastructure covering a much wider area and making significant contributions towards its improvement.

Although the objectors make reference to the Development Brief for the overall SWG indicating that access was to be entirely from Peter Destapleigh Way with London Road closed; the objectors will be aware that an Outline Application for the mixed use site was approved with 150 dwellings off London Road and the other uses peter Destapleigh Way. The use of the access off London Road for up to 150 dwellings has therefore already been accepted in planning terms. Concerns over potential through routes are noted and, although not part of this Application, it is clear from the Outline Consent that such a route would not find favour with the SHM.

### Summary and Recommendations

The application before the committee is for 146 houses plus the existing angling centre. The angling centre currently generates a minimal amount of traffic and this does not conflict with the peak movements associated with the proposed residential development. However, the angling centre site could potentially change to a different A1 retail use that could generate additional vehicular movements which could impact on road safety on a residential road. To manage this risk the SHM has suggested conditions on the phasing and layout of the application.

The site has an extant permission for 150 houses off the same proposed access. Given this consideration the SHM offers **No Objection** to the proposal, subject to the following conditions:

1. That a contribution of £47,000 is made via a S106 agreement towards road safety and congestion management measures on the A51 Nantwich Bypass.
2. That, in the interests of road safety, plot numbers 143-146 are constructed in the final phase of the development.
3. That if the Angling Centre is still in use or the permitted use of the building has not been extinguished prior to the construction of plots 143-146 that the amended highway layout detailed on drawing SWGAC is constructed. This includes the provision of two temporary speed humps, the specification and location of which is to be agreed by the Highway Authority.

4. That upon the extinguishment of use of the Angling Centre or at the request of the Highway Authority the approved private drive scheme is implemented as shown on the approved plans.

**Environmental Health:** No objections subject to conditions relating to construction hours, piling hours, piling management plan, noise mitigation measures to be carried out in accordance with report, an Environmental Management Plan in relation to Air Quality and Phase II Site Investigations in relation to Contaminated Land.

**Public Open Space:** No comments received at time of writing report

**Natural England:** This proposal does not appear to affect any statutorily protected sites or landscapes, or have significant impacts on the conservation of soils, nor is the proposal EIA development. Advises the authority that permission may be granted subject to a condition requiring a detailed mitigation and monitoring strategy for great crested newts.

**Public Rights of Way:** Stapeley Public Footpath No. 1, crosses the proposed development site. The existing public right of way should be regarded as an opportunity to improve the connectivity of the development site with the rest of Stapeley and Nantwich communities and facilities. Residents of the development site travelling, for example, to Pear Tree School or the local centre facilities, the use of the public right of way offers a much more direct journey than use of the London Road entrance. The public footpath connects with Peter Destapleigh Way at a location where there is no crossing facility and where visibility would make such a facility undesirable. However, on the south side of Peter Destapleigh Way is a wide verge which could, in agreement with Highways, be upgraded as a shared use facility for pedestrians and cyclists. This would link the existing public footpath with the traffic light controlled junction of Peter Destapleigh Way and Pear Tree Field which does not have full toucan facilities either north-south across Peter Destapleigh Way, or east-west across Pear Tree Field. An upgrade to these facilities would be desirable to link the development site with the services of Stapeley and Nantwich.

The public footpath within the development site could be upgraded to a shared use facility to accommodate both pedestrians and cyclists. The route would be maintained by the management company as part of the Public Open Space maintenance agreement. The landowner/developer would have the opportunity to upgrade the legal status of the public footpath or to provide cycle access on permissive basis.

To reduce the isolation of the development site due to the adjacent roads, the pavement along the western side of the London Road between the development site entrance and Peter Destapleigh Way should be improved for use by pedestrians and cyclists. This route would be the main route for residents of the development site travelling to the employment and leisure facilities in Crewe.

The development site falls within the catchment area for Stapeley Broad Lane Primary School. The former school travel team and public rights of way team have previously received requests from Stapeley Parish Council for improved pedestrian and cyclist access from the Stapeley Pear Tree Field area to Broad Lane School (ROWIP Ref. T19, T75). There are two options for this: a) a new off-road cycle track from Peter Destapleigh Way across the fields, which could run the length of the development site western boundary, and onto Deadman's Lane (Public Bridleway No. 6, Stapeley) via third party owned land; or b) a footway/cycle lane along London Road and then an improved surface along the length of Deadman's Lane (Public Bridleway No. 6, Stapeley). Under

both options part or all of the surface of Deadman's Lane (Public Bridleway No. 6, Stapeley) would need improving.

**Education:** This development is anticipated to generate some 22 primary pupils and 17 secondary pupils. There is currently and projected to be surplus places in the local secondary sector. Primary is a little different in that there is currently a surplus in local schools however projections show numbers on roll increasing in these schools year on year and by 2017 we anticipate only 17 places in the local schools. On this basis and by adapting the usual formula a contribution of :- 17 places available – 22 pupils generated = -5 places. Therefore based on  $5 \times 11919 \times 0.91$  a commuted sum of **£54,231** to provide additional spaces is required.

## **6. VIEWS OF THE PARISH COUNCIL**

**Stapeley Parish Council:** No comments received

## **7. OTHER REPRESENTATIONS**

44 letters of objection have been received from local households, RPS Group PLC and Bob Hindhaugh Associates Ltd, Cllr Martin and Cllr Groves raising the following points;

### Principal of development

- Stapeley does not need any more houses
- Lack of comprehensive approach for planning of area
- Application should be considered on its merits in context of current policy
- Contrary to Policy S.12
- Access from Peter Destapleigh Way is a clear pre-requisite for the site
- Expectation that development would deliver an operational replacement water gardens
- Use has stopped and there is no intention to reopen
- Viability case for using London Road access to assist investment in regenerating the Water Gardens no longer exists
- Current outline permission cannot be implemented
- There are development plan objections to piecemeal development of the site
- Any development scheme should be in the context of the whole site
- A place shaping exercise is in hand for the housing and other growth requirements of Nantwich
- In terms of access arrangements there is no viability case for departing from the development brief and taking access to the site from London Road

### Highways

- Already too much traffic along Peter Destapleigh Way proposed development will add to it
- Should be no further development in area until southern by pass built
- Development Brief identifies that entire site should be accessed from signalised junction on Peter Destapleigh Way and existing London Road access closed. Proposed development therefore contrary to development plan.
- Proposed access arrangement is completely unacceptable to London Road and Wybunbury Lane residents.
- Proposed access arrangement is a significant and unacceptable departure from the Adopted Development Brief.
- Spread of suburban development cannot support the increased need for employment and will become a dormitory for elsewhere increasing traffic flow

- Wybunbury Lane becoming dangerous and used as a rat run
- Increase traffic, traffic noise and pollution
- Could mean in excess of 250 – 300 cars using Wybunbury Lane at peak times
- Object to the base traffic flows recorded in November 2011 for the AM peak at the junction of Peter Destapleigh Way, London Road and Elwood Way. Traffic count undertaken by Local Residents on 16<sup>th</sup> November 2011. Local residents recorded 624 vehicles travelling eastbound through this junction from Peter Destapleigh Way to Elwood Way between 8 and 9am whereas Singleton Clamp recorded only 402 which is 35.6% less than that recorded in the traffic count by residents.
- Residents for the opposite direction of travel (westbound from Peter Destapleigh Way to Elwood Way between 8 and 9am) recorded 351 vehicles travelling whereas Singleton Clamp recorded only 225 which is 35.9% less than that recorded in the traffic count by residents.
- Potential impacts of the proposed development on the local road network may have been underestimated.
- Recommend CEC undertake own traffic count
- No assessment of the potential traffic impacts on either the Peter Destapleigh Way/Pear Tree Field junction or the Peter Destapleigh Way/Audlem Road junction.
- Revised TA required to take into consideration missed junctions
- TA fails to assess other permitted developments in the locality
- No assessment of the permitted relocated water gardens or B1 office/employment. It is likely that the remainder of the former Stapeley Water Gardens will be redeveloped in due course, whether that be a relocated water gardens and B1 office/employment or simply another 150 or so houses. The traffic generated by those developments would have a direct bearing on the operational capacity of the local road network
- 9 no. detached dwellings was permitted at Foolpenny Hall, London Road, Stapeley not considered
- Three open road connections through site
- Condition attached to outline states that there should be no through road connection. Principle of no through route has been established.
- No need for connections in current application as western part of site is to be accessed from Peter Destapleigh Way.
- Access to Angling Centre should be from PDS
- TA is more comparable to a Transport Statement
- Cannot accept that the proposed development traffic will be less than the traffic flows associated with SWG. It is a proven fact that SWG was a seasonal operation, with traffic peaks between Easter and September. traffic flows from this proposal would continue
- Throughout the year and have a greater impact locally.
- No account of angling centre which will continue to operate
- PDW/Audlem Road junction approaching or at capacity
- PDW/London Road/Elwood Way junction is at operational capacity now in the peak times.
- All roads must end with Hammerhead turning points and not be allowed to be left open.
- TA is deficient on many levels
- Traffic flow figures in TA lower than those identified in 2006 TA
- Public traffic flow surveys in 2006 confirmed validity of 2006 TA
- Some traffic flow figures within the TA comparing flows with and without SWG's shows some greater figures without SWG.
- The projected vehicular movement counts for 2019 show figures considerably less than those taken by members of the public
- Base flows from 2011 should not be used for this application

- Traffic datasets held by CEC are 8 years old – updated count should be done and these should not be used
- Use of the London Road access would be unsafe
- A petition containing 109 names objected to the use of the London Road access was submitted to the council with regard to the 2006 application
- Allowing access for 146 dwellings could have implications on highway safety around the substandard access at redeveloped site known as The Woodlands (6 dwellings)
- Traffic queues often back up to The Woodlands access, 215m from London Road PDSW junction
- Access would be blocked by vehicles entering the site from the southbound carriageway
- Vehicles often travel in excess of 40mph
- Development could lead to severe traffic impacts contrary to NPPF
- Snapshot report for Nantwich identifies that the largest growth in traffic in the urban areas of Cheshire East was experienced in Nantwich’.
- A minimum highways contribution of £18,550 should be sought

### Green Issues

- Loss of Silver Birch part of TPO 200, G8.
- Birch contributes significantly to streetscene
- Existing access for No.92 is via the site
- Part of this birch tree is within the application site
- This tree will need to be felled as new access for No.92 is required
- Tree not shown on arboricultural plan/report
- Habitat compensation measures have not been carried out in full
- Southern corridor does not appear to have been completed
- The proposed planting of 50,000 trees have not been carried out in full
- Pond in corridor connecting areas A and B not carried out to correct extent

### Infrastructure

- Impact on local school and healthcare

### Design

- Proposed three storey apartment block at southern end of site on rural edge is inappropriate form of development.
- Block more appropriate at northern part of site near PDS Way
- Height appears to be over 10m. Hedges are 5m
- Visual impact of apartment block, many gardens face towards site, would represent an incongruous urban feature
- 3D visual prepared demonstrates that the apartment block would be out of place
- Slab levels are 1.05m above current ground levels for apartment block, making building taller than needs to be
- Plot 49 too close to road and out of keeping with streetscene

### Amenity Issues

- Unacceptable impact on amenity of occupants of apartment block at south of site due to proximity to landscaping.

### Other issues

- Object to diversion of public right of way from current alignment

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

To support this application the application includes the following documents;

- Planning Statement (Prepared by NJL Consulting dated April 2012)
- Design and Access Statement (Prepared by NJL Consulting dated April 2012)
- Transport Assessment (Prepared by Singleton Clamp dated April 2012)
- Addendum to Transport Assessment (Prepared by Singleton Clamp dated July 2012)
- Superseded Arboricultural Report (Prepared by Cheshire Woodlands dated March 2012)
- Revised Arboricultural Report and Survey (Prepared by Cheshire Woodlands dated July 2012)
- Consultation Statement (prepared by Lexington Communications)
- Flood Risk Assessment (Prepared by David Wilson Homes dated April 2012)
- Superseded Flood Risk Assessment (Prepared by Mewies Engineering Consultants dated May 2012)
- Superseded Revised Flood Risk Assessment Revision A (Prepared by Mewies Engineering Consultants dated July 2012)
- Revised Flood Risk Assessment Revision B (Prepared by Mewies Engineering Consultants dated July 2012)
- Noise Impact Assessment (Prepared by Hepworth Acoustics dated April 2010)
- Updated Noise Impact Assessment (Prepared by Hepworth Acoustics dated May 2012)
- Sustainability Statement (Prepared by David Wilson Homes)
- Great Crested Newt Mitigation Statement (Prepared by CES Ecology dated March 2012)
- Air Quality Impact Assessment (Prepared by URS dated April 2012)

These documents are available to view on the application file.

## **9. OFFICER APPRAISAL**

### **Principal of Development**

The site lies within the settlement boundary for Nantwich and forms part of a larger mixed use regeneration allocation for the former Stapeley Water Gardens site. Policy S.12.5 covers the former Stapeley Water Gardens site and includes the application boundary. That Policy seeks to ensure the regeneration of the site to provide a mixture of employment (B1 uses), leisure, tourism and housing of up to 120 dwellings.

The Stapeley Water Gardens: Adopted Development Brief Supplementary Planning Document also covers the site. The Brief reiterates the Policy requirements of S.12.5. In summary, the Brief requires a comprehensive design approach for the site and requires three chief uses for the site as a whole, the replacement water gardens, business and housing. Two development options for the site are identified both of which identify the three principle uses to occupy approximately 1/3 of the site. Both options for the redevelopment of the site identify the site in its entirety to be serviced off Peter Destapleigh Way with the existing access off London Road to be closed.

The proposed development is not in complete accordance with the Local Plan Policy S.12.5 or Stapeley Water Gardens Development Brief in terms of proposed housing numbers proposed as the proposed scheme is for 146 dwellings. In addition the proposed access arrangements



are not in compliance with the Development Brief which requires the site to be accessed in its entirety from the access spur from Peter Destapleigh Way. Notwithstanding this, the site is located within the settlement boundary for Nantwich where there is a clear presumption in favour of development.

#### Outline Planning Permission P06/1001

Outline Planning Permission has been approved for the redevelopment of the Stapeley Water Gardens site. The outline permission was for the redevelopment and relocation of the existing garden centre, A1 and A3 retail units, residential development and B1 office development. It should be noted that the scheme was sanctioned by the former Crewe & Nantwich Borough in 2007 but due to lengthy discussions and amendments due to the complexity of the site the decision was only issued on 25<sup>th</sup> March 2011. That decision was also subject to a legal agreement to secure affordable housing, open space, highway improvements and also phasing of the development.

The provision of housing under that outline scheme encompassed the eastern part of the site and limited development to no more than 5.5ha of the site as a whole and up to 150 dwellings. The residential development was approved to be accessed from London Road.

It is acknowledged that this is a Full Planning application and is not a Reserved Matters application to that Outline consent. However, the outline decision is a material consideration in the determination of this application, which has set the principles and parameters of acceptable development on this site. The proposed development in respect of housing development is in line with that previous decision.

While it is accepted that, like the outline application, a holistic view of the site in its entirety would be desirable, the proposed application for residential development on this part of the wider site does prevent or disable the wider site coming forward or being developed for the proposed uses identified in the Development Plan, and for that part of the site to be accessed from the existing spur from Peter Destapleigh Way.

#### National Planning Policy Framework

Members should note that on 23<sup>rd</sup> March 2011 the Minister for Decentralisation Greg Clark published a statement entitled 'Planning for Growth'. On 15<sup>th</sup> June 2011 this was supplemented by a statement highlighting a 'presumption in favour of sustainable development' which has now been published in the National Planning Policy Framework (NPPF).

At the heart of the NPPF is a presumption in favour of sustainable development which should be seen as a golden thread running through both plan-making and decision-taking. Paragraph 14 of the NPPF states that for decision-taking this means;

*'Where a development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless:*

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or*
- specific policies in this Framework indicate development should be restricted'*

Paragraph 49 of the NPPF then goes on to state that;

*‘Housing applications should be considered in the context of the presumption in favour of sustainable development’*

#### Planning Policy and Housing Land Supply

Having regard to the current housing land supply position within Cheshire East, the figures contained within the Regional Spatial Strategy proposed a requirement of 20,700 dwellings for Cheshire East as a whole, for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum.

It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the Draft Strategic Housing Land Availability Assessment (SHLAA).

The Draft SHLAA has put forward a figure of 3.9 years housing land supply. The inability of the Council to demonstrate a 5 year housing land supply is also a material consideration which weighs in favour of the proposed development of an available and developable brownfield site.

#### Sustainability of Site

It is necessary to consider the three dimensions of sustainable development: economic, social and environmental. The economic dimension is clear with the requirement for housing within the Borough together with the need to secure the provision for infrastructure. The environmental role in terms of biodiversity, natural resources and climate change is considered in the sections below. Furthermore, the proposal does not result in the loss of a Greenfield site outside of the settlement boundary. In terms of the social role the proposal would help to provide for the housing needs (including affordable housing) of the Borough in a location which is well connected to the existing settlement, services and facilities of Nantwich.

It is considered that in this case that the proposed development is a deliverable brownfield site, would not conflict with the three dimensions of sustainable development.

#### Conclusion on Principle of Development

In the light of Local Plan Policy the other material considerations outlined above, in particular the clear presumption in favour of sustainable development endorsed by the National Planning Policy Framework, it is considered that the redevelopment of this previously developed site for 146 dwellings would represent a sustainable form of development and is acceptable in principle, subject to the wider considerations, identified below, being acceptable.

#### **Affordable Housing**

The Interim Planning Statement on Affordable Housing identifies that on allocated sites there will be a minimum requirement to provide 30% affordable housing within the scheme. The normal expected ratio between social rented accommodation and intermediate housing is 65/35.

The proposed scheme includes the provision of 146 dwellings, of which 44 would be dedicated to affordable housing. This equates to 30% on site affordable housing provision, of which it is proposed that 22 (50%) would be social rented and 22 (50%) would be shared ownership/home buy properties. The scheme would deliver a proportion of affordable housing in line with the Policy requirement of 30%. However the ratio is not in line with the guidance and concern has been expressed by the Housing officer in this respect. Notwithstanding this, the ratio of affordable housing is in line with the agreed level of for affordable housing within the outline approval on the site which is a material consideration. In addition, a change to the level of affordable housing provision has been required in order for the scheme to deliver the Education contribution. The proposed affordable housing provision is considered to be acceptable.

The proposed mix of unit type is proposed to be:

12 x 1bed – (6 Rent & 6 Shared), 12 apartments;  
18 x 2 bed – (9 Rent & 9 Shared) 12 apartments & 8 mews terrace; and,  
14 x 3 bed – (7 Rent & 7 Shared) 14 mews terrace

The mix is considered to be acceptable as it will meet housing need for the area. The planning layout showing the proposed locations of the affordable units has been provided and the affordable units are spread across the site in clusters and show a degree of integration into the Open Market housing.

### **Highways Implications**

The proposed access is to be provided from a reconfigured access off London Road. The Development Brief identifies that the development should be provided of Peter Destapleigh Way and the existing access off London Road to be closed. The proposed development is not in accordance with the Development Brief requirement. Notwithstanding this, permission has been approved, under planning permission P06/1001 for an access off London Road to serve a maximum of 150 dwellings. The principle of an access retained off London Road to serve a residential development has therefore been established.

It is acknowledged that this is a Full Application and should be considered afresh with regard to the impact that the proposed development would have on the Highways Network. The application has been supported by a Transport Assessment which has been prepared by Singleton Clamp dated March 2012. The TA identifies that the proposed development could generate a total of 111 trips in the morning peak and 119 trips in the evening peak, and identifies that Stapeley Water Gardens generated vehicular movements of 136 vehicle movements in the morning peak and 178 movements in the evening peak. It concludes that the development represents a net reduction in traffic from the previous use of the site.

Following a request for further information further vehicular movements detail has been provided which relate to the Angling Centre. These figures show a total of 28 movements in the morning peak and 64 movements in the evening peak. These figures relate to the operation of the Stapeley Water Gardens in November 2011 and not the Angling Centre in isolation, therefore the figures are likely to be inflated in comparison to the existing situation. The combined vehicular movements show a total morning peak traffic flow of 139 and evening peak of 183.

The addendum to the TA also considers whether the proposed development (with the retention of the Angling Centre) can be accommodated on the local highway network with capacity assessments for a future year of 2019. The results demonstrate that the site access, the junction of Peter Destapleigh Way/Elwood Way and Elwood Way/Newcastle Road can all accommodate the traffic from the proposed development of 146 dwellings with Angling Centre retained.

Concern has been raised by Local Residents that the traffic counts taken by Singleton Clamp, dated November 2011, and contained within the TA underestimate the volume of traffic passing through the junction of London Road, Peter Destapleigh Way and Elwood Road. Local residents have carried out their own traffic count at a similar date which highlight that in some critical directions the counts contained within the TA are over 35% less than those recorded by local residents. It is also noted that some of the figures recorded are lower than those recorded in the 2006 TA. In addition, concern has been raised with regard to the failure to consider other nearby junctions and other permitted developments in the surrounding area.

Discussions with the Strategic Highways Manager have indicated that there are no capacity issue relating to the London Road access resulting from the development of 146 dwellings and the retained angling centre.

However, it is identified that there are concerns with the wider strategic highways network as direct routes into the town centre pass level crossings, pass primary and secondary schools (Wellington Road), contain an AQMA (heavily congested Hospital Street), have on street parking and the main town centre car parks are not accessible from the south. Improvements to the wider Strategic Highways Network would be required to address these issues. The Strategic Highways Manager has identified that contributed sum of £47,000 towards road safety and congestion management measures on the A51 Nantwich Bypass would mitigate for the additional traffic generated. This figure is index linked to the previously requested sum within the outline legal agreement.

The SHM was aware of concerns of local residents regarding the suitability of traffic count data used. However, the point that the peak traffic flows at Stapeley Water Gardens would have been seasonal (highest in summer when background flows are lower) has to be taken into consideration, plus there is a consent for up to 150 dwellings from the London Road access.

Although the objectors make reference to the Development Brief, that indicates that access was to be entirely from Peter Destapleigh Way with London Road closed; they will be aware that an Outline Application for the mixed use site was approved with 150 dwellings off London Road and the other uses Peter Destapleigh Way. The use of the access off London Road for up to 150 dwellings has therefore already been accepted in planning terms.

Concerns over potential through routes are noted and, although not part of this Application, it is clear from the Outline Consent that such a route would not find favour with the SHM.

The Strategic Highways Manager considers that the private driveway, as shown on the approved plans, to provide access to the Angling Centre to the front of units 143 -146 would be insufficient. They therefore require a more engineered road while the Angling Centre remains operational.

It has been agreed that once the Angling Centre ceases operation, a private driveway serving units 143 and 146 will be implemented. This can be secured by Legal Agreement, and details of how this

access will be closed to prevent future vehicular access to the remainder of the site will be secured. A private driveway would not be in anyway sufficient to serve any future use of that part of the site.

Discussions have also indicated that there is concern over highway safety with regard to the shared access to the Angling Centre with units 143 and 146, (i.e a conflict between residential uses and commercial vehicles). While the concern of the Strategic Highways Manager are noted, this is not an adverse impact of the scheme and would in no way outweigh the clear benefits of the scheme as stressed by paragraph 14 of the National Planning Policy Framework. Further to this, temporary speed humps could be provided to reduce speeds of vehicles accessing the Angling Centre which would improve the Highways Safety issue and this has been agreed by the Strategic Highways Manager. This could be secured by the Legal Agreement as outlined above. In addition the applicant has agreed that the development will be phased so that these units (143-146) are to be delivered in the fourth and final phase of development. Details of phasing can be secured by condition.

The application proposes a layout which has elements which have been informed by Manual for Streets. No objection has been raised to the site layout from a highways point of view. The proposal provides a satisfactory level of parking for the development and no objection has been received from the Strategic Highways Manager in this respect.

### **Impact on Public Right of Way**

A Public Right of Way (Stapeley No.1) crosses the site and runs along the route of the existing driveway into the site before directing north to join Peter Destaplegh Way. The Public Right of Way would be retained and would follow the route of the road into the site before crossing a landscaped area towards Peter Destaplegh Way. An opportunity exists to improve the PROW within the site and the amended plans appear to suggest that this would be more formalised. Full details of the surfacing of the footpath have not been provided however this could be secured by condition. The Councils Public Right of Way Officer has indicated that the route within the site could be upgraded to a shared pedestrian/cycle route.

A requirement of the Outline consent was to provide a footpath along the eastern edge of the site adjoining London Road. This would form part of the scheme and a condition can be attached to ensure that it is delivered. There was no requirement to improve the junction of Pear Tree Field and Peter Destaplegh Way, or to provide improved facilities along Peter Destaplegh Way under the extant approval.

### **Amenity**

#### Relationship with Nearby Dwellings

In terms of the surrounding residential properties the application site is located to the rear of properties which front London Road. Between these properties and the application dwellings is an area of Newt Mitigation which has been approved to be heavily landscaped. The proposed development would be above the suggested spacing standards distances and as a result would not cause any amenity issues to these properties.

The exception to this is 92 London Road which would be sited adjacent to a new dwelling at the entrance to the site, plot 49. The proposed development would not result in any significant harm to the amenities of this property through loss of daylight, loss of privacy, overlooking or overbearing.

The existing dwellings to the north of the site on the opposite side of Peter Destapleigh Way also satisfy acceptable spacing standards. The northern boundary to the site is also heavily vegetated which reduces any perceived impact.

With regard to the disturbance impact during the construction phase of development Environmental Health have suggested that conditions be attached to any approval relating to hours of construction, pile driving and dust control.

#### Internal Relationships

The layout of the scheme in the main satisfies spacing standard guidance and it is considered that there would be no significant harm on the amenity of future occupants of the scheme through overlooking, overbearing, daylight or privacy. However, there are some very minor breaches of spacing standards between some facing principal elevations. Notwithstanding this, it is considered that this would not result in an unacceptable level of amenity for future occupants. It should also be noted that the layout has been informed by some of the principles of Manuel for Streets which can often result in lower spacing standards, at the expense of improved public realm.

The scheme proposes a mixture of dwelling sizes and consequently there is also a mixture in the garden sizes proposed. There is one garden which is below the suggested garden size of 50sqm. This garden, for plot 119, provides 40sqm of garden space. While this is below the guidance contained within the SPD for new housing development in backland and gardens, the size is still adequate to provide for the requirements of the dwelling.

The apartment block at the southern end of the site has been repositioned so that its proximity to and relationship with the site boundary is improved.

#### Impact on the Scheme from Noise

A revised Noise Impact Assessment has been submitted to support the scheme following concerns raised by Environmental Health. An attended day and night noise survey was carried out to determine the impact on the proposed development from noise. In order to achieve acceptable noise levels within the proposed development a noise mitigation scheme is proposed. This includes upgraded glazing, and acoustic ventilation for properties closest to London Road and Peter Destapleigh Way. Some dwellings would require acoustic fencing. There has been no objection raised from Environmental Health with regard to noise impact and this can be secured by condition.

#### Impact on Air Quality

An Air Quality Impact Assessment has been submitted to support the application which has been assessed by Environmental Health. The report is considered to be satisfactory and its conclusions accepted. However, they have highlighted that dust during the construction phase of development needs to be considered and have suggested that a condition be attached to any permission to

require the submission and approval of an Environmental Management Plan to outline sources of dust and suggest mitigation measures.

#### Contaminated Land

The site was formerly a garden centre and therefore the land may be contaminated which needs to be fully considered as the application proposals are for a sensitive end use. A geo-environmental report has been submitted to support the application. This has recommended that further investigation works are carried out to fully assess identified possible pollution linkages within the site. The Councils Contaminated Land Officer has suggested that this can be assessed through the implementation of a contaminated land condition for a Phase II investigation to be carried out and if contamination is found then remediation measures be carried out.

#### **Trees and Hedgerows**

The site contains a large number of trees which are covered by the Stapeley Manor Nantwich (No. 200) Tree Preservation Order 2006, therefore the proposed development needs to ensure that the impact on these trees is acceptable.

Pre-application discussions were carried out with the Council which agreed in principle to the removal of a number of unprotected individual, groups of trees and four sections of hedgerow which are considered to be of poor quality or of limited amenity value.

#### Application for works to protected trees (App 10/4637T)

An application for works to protected trees submitted by the Managing Director of Stapeley Water Gardens was received by the Council on 26<sup>th</sup> November 2010 (App 10/4637T). The proposed work included the removal of three mature Sycamore trees (T14 and one Sycamore forming part G5 of the TPO) along the north side of the existing access road. The third Sycamore tree next to a protected Oak (T15 of the TPO) did not form part of the Order. The trees were found to be in decline, with significant crown dieback and displayed other structural defects which presented a risk to users of the access road. The application also included pruning works to other protected trees to provide adequate clearance over the access road. A Decision Notice authorising these works was given on 20<sup>th</sup> January 2011 subject to a condition requiring the planting of three Norway Maples on the north side of the access road.

#### Planning Layout

The submitted Arboricultural Report identifies the removal of various unprotected low value trees and shrubs to accommodate the proposed development. The trees are generally in poor condition or do not contribute significantly to the landscape and wider amenity of the area and therefore there is no principle objection to their removal. A number of protected trees have been identified for removal namely a Norway Maple to the north of the site (T3 of the Order; T4 of the report) which displays extensive decay to the stem and therefore mechanically compromised, and two Irish (fastigate) Yew (G2 of the Order; G9 of the report). In order to provide an acceptable access, it will be necessary to remove a protected London Plane (T10 of the Order; T8 of the Report). The tree has suffered from past failure of primary limbs and is presently located within a narrow planting bed within the centre of the existing access. The removal of

these trees is considered to be acceptable in terms of their condition/limited contribution to amenity and highway considerations.

Concern has been raised on the original layout with regard to the impact the proposed development would have on a Protected Silver Birch which is sited on the boundary between Plot 49 and No.92 London Road. The layout has since been amended so that the dwelling is no longer immediately adjacent to this tree which addresses this issue and this Silver Birch is now retained. The juniper to the front of plot 49 is shown for removal. This tree displays an included fork and there are no principal objections to its removal.

However, as a consequence of resiting Plot 49, the revised plans now show the loss of the protected silver birch (T19) which would be sited close to both Plot 49 and 50. The Arboricultural report identifies the protected Silver Birch (T19 of the report) as a B category tree with relatively low visual prominence. To mitigate for this loss two additional lime trees are proposed to be planted on the northern side of the access road. The Principal Forestry Officer has confirmed that, on balance, the two extra heavy Lime trees on the road frontage is deemed acceptable mitigation for this loss. Whilst the impact of such replacement planting will not be immediate, the proposed plantings do reflect the road frontage character and will eventually become prominent trees.

The remaining plots generally provide a satisfactory distance from protected trees to ensure their health and wellbeing.

## **Design**

The application is a full application for the construction of 146 units. The scheme comprises a mixture of 122 detached, semi detached and terraced properties which are two stories in height. However some units have accommodation in the roofspace. The housing mix is for 7 x 2-bedroom properties, 34 x 3-bedroom properties, 68 x 4-bedroom properties and 13 x 5-bedroom properties.

In addition, the scheme also includes the construction of two three-storey apartment blocks each containing 12 units (6 x 1-bed units and 6 x 2-bed units). A condition was attached to the outline consent which restricts the residential development to no greater than 3 storeys in height. The scale of the proposed development and its mix of units is considered to be acceptable in this location.

The site is relatively well contained from existing built fabric of Stapeley due to the high level of vegetation and surrounding areas of newt mitigation land. The northern part of the site is largely constrained due to the existing protected trees and newt corridor. The development takes advantage of these existing constraints and would make for an attractive built environment in this location. Consequently the northern part of the site is of a relatively low density, but does provide a mixture of house types and is considered to be acceptable.

The southern part of the site is free from such constraints, save for an easement which crosses the southernmost part of the site. This part of the site is therefore more intensive and has a higher density. Notwithstanding this it is not considered that this represents an overdevelopment of the site as the layout does provide satisfactory parking and gardens for these dwellings.



The house types are of varying sizes and heights which will add some subtle interest to the appearance of the dwellings with a varying ridge line across the development. The proposed dwellings include features such as projecting gables, sill and lintel details, porches and bay windows, these details provide interest to the dwellings. A mixed palette of building materials is proposed with varying brick types utilised and key plots finished in render. A revised scheme has been submitted to improve the public realm. The revisions include the creation of feature squares with a mixture of surfacing materials and introduction of street landscaping.

Plot 49 was originally shown to be sited close to London Road. This has now been repositioned so that it more appropriately reflects the building line along London Road.

The application site forms an urban fringe location with areas of newt mitigation to the south and east of the site and the wider Open Countryside beyond to the south. The proposed development would be visible from the wider open countryside. Concern has been raised that the proposed three storey apartment block to the south of the site would form an incongruous feature on the landscape and therefore causing harm to its character and appearance, particularly when viewed from existing properties along London Road and a public right of way to the south. The very nature of the development would ultimately change the character of wider of the landscape. This feature would also be viewed in the context of the other two storey buildings proposed, and these buildings would also be apparent. In addition, over time, it is considered that the impact of the apartment block would be softened by the extensive landscaping which is to be carried out within the Newt Mitigation land to the east and south of the south.

Given the nature of the application site, its internal constraints and its urban fringe location the right type of boundary treatment is an important factor. Some details of boundary treatment have been submitted to support the application. However due to changes to the layout this plan is no longer up to date. It will be important to ensure that appropriate boundary treatment is incorporated into the scheme, particularly those areas which face onto to newt mitigation land. Details of proposed boundary treatment can be secured by an appropriate condition.

## **Ecology**

### Great Crested Newts

In terms of history a 'large' population of great crested newts formally occurred on the Stapeley Water Gardens site. Great Crested Newts have now been translocated to a receptor site created under planning consent 09/4017N, for an extensive Newt Mitigation Scheme, and under the terms of a Natural England license.

It is not anticipated that Great Crested Newts remain within the development footprint, therefore the proposed development of the site is not likely to have an adverse impact upon this European protected species. The submitted Great Crested Newt assessment does however make recommendation for the supervised destruction of any features on site under the supervision of an ecologist as a precautionary measure.

Natural England have advised that planning consent can be granted subject to appropriate conditions.

To ensure that the adjacent Great Crested Newt mitigation site functions as envisioned there are two requirements of the currently proposed development. These are that a newt corridor and road tunnels are provided around the Stapeley manor site and that a suitable access point into the mitigation area is maintained.

The original master plan for the re-development of the Stapeley Water Gardens site included the provision amphibian corridors around the site of the former Stapeley Manor and it is understood that the provision of these corridors is also a requirement of the Natural England license. The proposed LEAP was initially sited within this corridor. The revised site layout now shows this LEAP to be clear of the newt mitigation corridor.

The proposed cultivated turf of the newt mitigation corridors as shown on the submitted landscaping scheme is unacceptable. Details of appropriate treatment of the newt mitigation corridor has been requested by the Nature Conservation Officer. However, it is considered that this could be addressed through condition.

The proposed access to the newt mitigation area B is required to be retained. The revised layout shows access to mitigation area B to be provided from the southern part of the site to the south of the apartment block. This has been agreed as being acceptable to the Nature Conservation Officer.

Conditions would be attached to any approval have been suggested by the Nature Conservation Officer. These conditions relate to breeding birds, the incorporations of features into the scheme suitable for breeding birds, submission of a 10 year habitat management plan, and the implementation of recommendations suggested by Cheshire Ecological Services.

## **Public Open Space**

The application submission identifies that the development would provide just over 8500sqm of public open space. A high proportion of this POS would be sited towards the northern part of the site. This open space includes the land surrounding the retained Protected Trees and land which is also to be retained as Newt Mitigation Corridor. The level of provision is in accordance with Policy RT.3, the justification to which identifies that Public Open Space can be designed purely as a visual feature using landscaping and planting. As such the proposed development makes best use of its existing constraints to make for an attractive environment. This level of open space is considered to be acceptable and its provision and management will be secured via a S106 Agreement.

In terms of children's playspace the scheme offers the provision of a LEAP (400sqm), this would be provided within the northern part of the site adjacent to the proposed Public Open Space. The shape of the LEAP has been amended so that it is informed by its surrounding natural environment. In addition it is now shown to be clear of the route of the Newt Corridor. The provision, maintenance and management of the LEAP can be secured through the S106 Agreement.

The provision of a LEAP and POS is in line with the original outline agreement for the site. In addition, there is a Equipped Childrens Playground at the junction of Peter Destaplegh Way and Pear Tree Field which is in close proximity to the site.

## **Education**

This development is anticipated to generate some 22 primary pupils and 17 secondary pupils. There are currently and projected to be surplus places in the local secondary sector. However, with regard to the primary sector there is currently a surplus places in the local schools. However, projections show numbers on roll increasing in these schools year on year and by 2017 it is anticipated that there would only be 17 places in the local schools.

On this basis there would be a deficit of 5 places in Local Schools as a result of this development. As such a contribution of £54,231 has been requested by the Education Officer to compensate for this deficit.

The applicant has agreed to pay the suggested contribution, at the expense of a slightly reduced affordable housing contribution as detailed above, which can be secured by Legal Agreement.

## **Flood Risk and Drainage**

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. This defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. As the application site exceeds 1 hectare a Flood Risk Assessment has been submitted as part of this application.

Surface water will be drained to an existing watercourse to the west of the site. The flow will be attenuated up to a 1 in 30 year plus 20% allowance for climate change storm event using oversized pipes. Discharge rates will be controlled using hydrobrakes. The drainage system will be split into two outlets from the site at two locations. The hydrobrake to the north of the site will restrict flows to 53l/s and the hydrobrake to the south of the site will restrict flows to 77l/s. This is lower than the existing flow rate of 156l/s. The applicants state that the proposed drainage scheme provides betterment to the existing situation as there is a reduction in peak discharge from the site. Storage in the form of underground oversized pipes will be utilised to attenuate the flow prior to discharge into the watercourse.

The Environment Agency have raised a holding objection to the proposed development due to insufficient information. The revised FRA (Revision A) does not contain any information on existing flows in this culvert and no assessment of the flood risks associated with the proposed diversion. An additional report has been provided and it is hoped that these matters will be resolved and Members will be updated accordingly.

The proposed foul sewage will be connected to the existing foul drains. United Utilities have raised no objection to the proposed development in this respect.

## **Archaeology**

A condition was attached to the outline consent for a scheme of archaeological investigation and works to be submitted and approved at the site. It is considered that this condition should be replicated on any approval.

## **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 development would result in increased demand for primary school places which has very limited projected spare capacity. In order to increase capacity of local school which would support the proposed development a contribution towards primary school provision is required. This is considered to be necessary and fair and reasonable in relation to the development.

As explained within the main report, affordable housing, POS and children's play space is a requirement of the Planning Policy; it is directly related to the development and is fair and reasonable.

There are identified road capacity issues within the south Nantwich and the proposed Highways financial contribution towards road safety and congestion management improvements on the A51 would compensate for the increased movements resulting from this scheme.

On this basis the S106 recommendation is compliant with the CIL Regulations 2010.

## 10. CONCLUSIONS

The application site is located within the settlement boundary for Nantwich where there is a presumption in favour of development. The site is allocated within the Local Plan as a mixed use regeneration scheme to deliver a replacement water gardens, business units and residential development. While the number of units proposed and access details differ from those specified in the Development Plan, an extant outline planning permission has established that the amount of development and the position of the access to be acceptable. In addition, the proposed development would not compromise the remainder of the site coming forward for those uses specified in Local Plan Policy and the Development Brief.

It is considered that the proposed development is of an acceptable design and would not cause significant harm to the character and appearance of the area, or the amenities of adjoin properties. In addition the proposed development could be carried out without having an adverse impact on great crested newts or the significance of the TPO which covers much of the site.

The National Planning policy Framework in paragraph 14 makes it clear that planning permission should be granted for sustainable forms of development. There are no adverse impacts resulting from this development which would *significantly* or *demonstrably* outweigh the clear benefits of the scheme.

Subject to the above it is recommended that the proposed development should be approved subject to the completion of a Legal Agreement to secure the delivery of affordable housing, open space and LEAP, contribution towards primary school education, contribution towards off site highways improvements and access arrangements to the Angling Centre during and post operation.

## **11. RECOMMENDATIONS**

**APPROVE** subject to completion of Section 106 legal agreement to secure the following:-

- 1. A scheme for the provision of 30% affordable housing – 50% to be provided as social rent/affordable rent with 50% shared ownership/homebuy. The scheme shall include:**
  - The numbers, type, tenure and location on the site of the affordable housing provision**
  - The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
  - The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**
  - The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
  - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**
- 2. A scheme for provision of a LEAP and Public Open Space to be maintained by a private management company. The scheme shall include:**
  - Timing and delivery of LEAP and POS and its phasing into the development**
  - Details of proposed equipment, design and layout, including surfacing and boundary treatment**
  - Long term maintenance and management**
- 3. A financial contribution of £54,231 towards improved primary school provision**
- 4. A financial contribution of £47,000 towards off site Highways improvements for road safety and congestion management measures on the A51 Nantwich Bypass**
- 5. Alternative schemes for access road to Western part of Stapeley Water Gardens site to be submitted and approved. Details shall include:**
  - Details of engineered road to boundary of Angling Centre site to be provided and approved. Detail shall include the provision of speed humps/measures to improve road safety. The approved access shall remain provided whilst the Angling Centre remains operational; and**
  - Details of private driveway to serve units 143-146 (as shown on approved plans), be provided. The private driveway shall be provided after the Angling Centre ceases operation. Detail shall include details of timing for the delivery of the private road once Angling Centre ceases operation**

**And the following conditions**

- 1. Standard Time Limit (3 years)**
- 2. Approved Plans**
- 3. Submission of Materials**
- 4. Full details of all surfacing materials**
- 5. Full Landscaping scheme to be submitted, including details of replacement trees**
- 6. Landscaping Implementation**

7. Full details of all boundary treatment. Boundary treatment onto newt mitigation land shall not be close board fence
8. Details of Sub station of Pump Station to be submitted
9. The development shall be carried out in strict accordance with the Arboricultural Report (CW/6033-AS1 dated 4th July 2012) and Tree Protection Plan and Method Statement (CW/6033-P6 dated 4th July 2012) submitted by Cheshire Woodlands Arboricultural Consultants.
10. Full details of treatment of public right of way to be submitted
11. Submission of 10 year habitat management plan including proposals for monitoring
12. Implementation of recommendation made by the submitted Great Crested Newt assessment undertaken by Cheshire Ecological Services.
13. Safeguarding breeding birds (as above)
14. Detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including house sparrows. Such proposals to be agreed by the LPA. The proposals shall be permanently installed in accordance with approved details.
15. Details of newt tunnels
16. Proposed Public Footpath along western side of London Road to be provided
17. Scheme of Archaeological Investigation to be submitted for Stapeley Manor Site
18. Full details of access to be submitted, access to be submitted in accordance with approved plans
19. Parking to be provided prior to first occupation of the dwelling
20. Access to Newt Mitigation Area B to be permanently retained
21. Hours of construction Monday – Friday: 08:00 to 18:00 hrs, Saturday: 09:00 to 14:00 hrs and Sundays and Public Holidays: Nil
22. Method Statement for pile driving to be submitted. All piling operations shall be restricted to - Monday – Friday: 09:00 – 17:30 hrs, Saturday: 09:00 – 13:00 hrs, Sunday and Public Holidays: Nil
23. Noise mitigation measures to be carried out in accordance with Acoustic Statement
24. Submission of an Environmental Management Plan (EMP) with respect to the construction phase of the development. The EMP shall identify all potential dust sources and outline suitable mitigation.
25. Prior to the commencement of development a Phase II Contaminated Land Assessment shall be submitted to the LPA for approval in writing.
26. No development shall take place until a scheme has been submitted to and approved in writing by the local planning authority showing how at least 10% of the predicted energy requirements of the development will be secured from decentralised and renewable or low-carbon sources. The scheme shall be implemented as approved and retained thereafter.
27. Removal of permitted development rights
28. The development hereby permitted shall not be commenced until such time as; a scheme to limit the surface water run-off generated by the proposed development, has been submitted to and approved in writing by, the Local Planning Authority.
29. The development hereby permitted shall not be commenced until such time as; a scheme to manage the risk of flooding from overland flow of surface water, has been submitted to, and approved in writing by, the Local Planning Authority.
30. Details and location of the contractors compound together with details of management of the site to be submitted to the LPA and approved in writing
31. Details of phasing of development to be submitted and approved, phasing to show provision of units 143-146 to be provided in final phase of development

**INFORMATIVE(S):**

**Any diversion of the route of Public Right of Way Stapeley No.1 (as shown on the definitive map) will require consent from Cheshire East Council's Public Right of Way team.**

**In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Head of Development Management and Building Control has delegated authority to do so in consultation with the Chairman of the Strategic Planning Board, provided that the changes do not exceed the substantive nature of the Committee's decision.**





Application No: 11/2340M

Location: RIETER SCRAGG / LANGLEY WORKS, LANGLEY ROAD, LANGLEY, MACCLESFIELD

Proposal: Outline application for redevelopment of site for a mixed use, comprising residential development (Maximum 77 dwellings), Class B1 office/light industrial units, (Maximum 836sqm gross), Public Open Space and New Footpath links (REVISED SCHEME). All matters reserved.

Applicant: The Andrew and John Downes Partnership

Expiry Date: 31-Oct-2011

**Date Report Prepared: 20 July 2012**

#### **SUMMARY RECOMMENDATION**

Approve, subject to conditions and the completion of a S106 agreement

#### **MAIN ISSUES**

- Compliance with National Planning Policy Framework, the Local Plan and the Development Brief (January 2000)
- Housing supply
- Impact on the Green Belt and Area of Special County Value for Landscape
- Loss of employment land / removal of un-neighbourly use from the Village
- Density, design & layout
- The scale of the proposal – impact of height, mass, bulk, character and appearance of the area
- Impact on residential amenity
- Impact on landscape, trees and ecology
- Open space provision
- Impact on highway safety and traffic generation
- Viability issues
- Heads of Terms

#### **REASON FOR REPORT**

The proposal is a major development as defined by The Town and Country Planning (Development Management Procedure) Order 2010. Under the Council's constitution, such applications are required to be considered by Strategic Planning Board.

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

The Reiter Scragg site is situated to the south of Langley village, within the parish of Langley and Sutton. It is a small village of approximately 200 houses located around

3km to the east of Macclesfield. Access to the village from Macclesfield is from Langley Road.

There is a limited range of facilities accessible by foot or bicycle, including two small shops, a public house, Methodist Church, Village Hall / community facilities, and play area. The closest school is Hollinhey Primary School approximately 1.2 miles away.

The site is designated a Major Development Site in the Green Belt and is situated within an Area of Special County Value for Landscape as defined by the Macclesfield Local Plan 2004.

## DETAILS OF PROPOSAL

This revised application seeks *Outline* planning permission for the redevelopment of the site to create a maximum of 77 dwellings/apartments (including 18% affordable housing) and B1 employment (office/light industrial units) totalling 836 sq m gross. In addition, public open space, new footpath links, and the retention of the Old Mill Building are proposed.

The developer seeks agreement to the *principle* of development to be determined at this stage, whilst matters of access, appearance, landscaping, layout and scale are reserved for subsequent approval.

The proposed parameters for the residential element would comprise the following:

- 12 no. 3 storey apartments (max height 8.5m above ground floor level at the reservoir bank)
- 8 no. 2.5 storey semi-detached houses (max height 8.5m)
- 11 no. 2 storey terraced houses (less than 8.5m)
- 16 no. 2 storey semi-detached houses (less than 8.5m)
- 4 no. 2 storey link-detached houses (less than 8.5m)
- 26 no 2 storey detached houses (less than 8.5m)

It should be noted that the number of dwellings/apartments proposed in this application has been reduced from 101 (as originally submitted) to 77 following discussions and negotiations with the applicant over an extended period. The Illustrative layout plan is **revision N**, which indicates the applicant's commitment to the development.

The rural enterprise hub proposes 6 units / 836 sq m. 4 of the units would be single storey and 2 would be two storey (less than 7.5m).

The originally proposed amphitheatre and the shop have been omitted from the proposals.

## RELEVANT HISTORY

- |          |   |
|----------|---|
| 01/1664P | Demolition of existing industrial buildings & replacement with erection of mixed use development including industrial units, 90 residential dwellings incorporating affordable dwellings, new access, alterations to existing access, provision of play area, open space, new footpaths & landscaping.<br>Refused 01/10/01<br>Reasons for refusal: <ul style="list-style-type: none"><li>▪ Contrary to the Development Brief dated January 2000</li><li>▪ Harm to Green Belt</li><li>▪ Highway / parking issues</li><li>▪ Insufficient information submitted with the application</li></ul> |
| 02/1628P | Demolition of existing industrial buildings & replacement with erection of mixed use development including industrial units, 93 residential dwellings   |

incorporating affordable dwellings, new access, alterations to existing access, provision of play area, open space, new footpaths & landscaping.  
Refused 04/11/02

Reasons for refusal:

- Contrary to the Development Brief dated January 2000
- Harm to Green Belt
- Highway / parking issues
- Insufficient information submitted with the application

Appeal withdrawn 09/06/03

05/1098P Residential development of 44no. Affordable two storey dwellings  
Approved 06/02/06

06/2767P 44 No. affordable dwellings, including repositioning of dwellings on plots 1-8 and additional minor amendments to the development as approved previously by virtue of planning consent 05/1098P  
Approved with conditions 15/05/07

## **POLICIES**

National Planning Policy Framework 2012

### **Regional Spatial Strategy**

DP1 Spatial principles applicable to development management  
DP2 Criteria to promote sustainable communities  
DP4 Sequential approach to making the best use of existing resources  
DP5 Objective to reduce need to Travel and increase accessibility  
DP7 Criteria to promote environmental quality  
DP9 Objective to reduce emissions and adapt to climate change  
RDF2 Spatial priority for development in rural areas  
RDF4 Maintaining the general extent of the Region's Green Belt  
W3 Supply of Employment land  
L2 Understanding Housing Markets  
L4 Criteria on targets for regional housing provision  
L5 Affordable housing provision  
RT2 Strategies for managing travel demand and regional parking standards  
RT9 Provision of high quality pedestrian and cycle facilities  
EM1 Objectives for protecting the Region's environmental assets  
EM2 Remediating Contaminated Land  
EM18 Decentralised Energy Supply

### **Local Plan Policy**

#### **Green Belt**

GC1 – New Buildings

GC4 – Major Developed Sites

#### **Built Environment**

BE1– Design Guidance

#### **Development Control**

DC1 – New Build

DC3 – Amenity

DC5 – Natural Surveillance

DC6 – Circulation and Access

DC8 – Landscaping

DC9 – Tree Protection

DC36 – Road Layouts and Circulation

DC37 – Landscaping

DC38 – Space Light and Privacy

DC40 – Children's Play Provision and Amenity Space

DC41 – Infill Housing Development

DC63 – Contaminated Land

### **Employment**

E1 - Employment Land Policies

E4 – General Industrial Development

### **Transport**

T2 – Integrated Transport Policy

### **Environment**

NE1 – Landscape protection and enhancement of Areas of Special County Value

NE11 – Protection and enhancement of nature conservation interests

NE17 – Nature Conservation in Major Developments

### **Housing**

H1 – Phasing policy

H2 – Environmental Quality in Housing Developments

H5 – Windfall Housing

H8 – Provision of Affordable Housing

H9 – Occupation of Affordable Housing

H13 – Protecting Residential Areas

### **Recreation and Tourism**

RT5 – Open Space

### **Implementation**

IMP1 – Development Sites

IMP2 – Transport Measures

### **Other Material Considerations**

- Interim Planning Policy: Release of Housing Land (Feb 2011)
- Interim Planning Statement: Affordable Housing (Feb 2011)
- Strategic Market Housing Assessment (SHMA)
- Relevant legislation also includes the EC Habitats Directive and the Conservation (Natural Habitats &c.) Regulations 1994
- North West Sustainability Checklist
- SPG on Section 106 Agreements (Macclesfield Borough Council)
- Ministerial Statement – Planning for Growth (March 2011)

### **CONSULTATIONS**

The following consultation responses are a summary. Full copies of the consultation response are available at Committee should Members wish to read the comments in full.

### **Archaeology**

No objection, subject to a condition requiring a programme of archaeological mitigation in order to record surviving aspects of the 19<sup>th</sup>-century mill complex

### **British Waterways**

No comment

### **Forestry**

No objection.

### **Housing**

The Sutton Rural Housing Need Survey (2011) indicates that there is a need for 38 affordable dwellings in the Parish. No objection is raised to the provision of 18% of the total number of dwellings being affordable, based on the acceptance of the Financial Viability Appraisals submitted by the applicant, and externally assessed by Lambert Smith Hampton on our behalf.

A tenure split of 65% affordable rented and 35% intermediate tenure is required, this equates to 14 affordable houses, with a tenure split of 9 for rent and 5 for intermediate tenure, based on the current numbers.

### **Highways**

No objection, subject to conditions, the completion of a s.106 agreement to upgrade bus stops, and the completion of a s.278 agreement to provide footway works on Langley Road. (Discussed in further detail below)

### **Environment Agency**

Initial objection withdrawn. No objection raised in respect of the revised proposal (rev N), subject to conditions.

### **Environmental Health**

No objection, subject to conditions.

### **Landscape**

No objection, subject to conditions and the requirement of a s.106 agreement to secure a Landscape and Habitat Management Plan

### **Nature Conservation**

No objection, subject to conditions.

### **Natural England**

No objection.

### **Public Rights of Way**

The new footpath links are welcomed. Further improvements to the condition of Sutton Public No. 15 in the form of a new footbridge and steps would benefit residents of the proposed development and other uses.

### **SUSTRANS**

No objections

### **United Utilities**

No objection, subject to conditions

## **VIEWS OF THE PARISH COUNCIL**

Sutton Parish Council uphold their objection to the application on the following grounds:

- The proposals conflict with The Framework, the Local Plan and the Development Brief
- The proposals well exceed the development area identified on Plan 5 of the Development Brief (2000)
- The RSS indicates new housing should be concentrated in Crewe, not the Green Belt
- The number of dwellings/apartments is considered excessive
- The development harm the openness of the Green Belt and the character of the countryside
- The development will increase the housing stock in Langley by 50%, which will destroy the character of a small rural community.
- The 3 storey apartment block is out of character
- The development will urbanise the village
- The footpaths will harm the character of the Green Belt
- Insufficient open space is proposed, The Rural Enterprise Hub should be omitted from the scheme to provide more open space
- The single access point is inadequate

## **VIEWS FROM THE SUTTON PARISH PLAN STEERING GROUP**

The Steering Group make the following comments:

- 97% of residents consider the preservation of the Green Belt is important
- An appropriate housing density is recommended
- 50% of residents are in support of a small development of affordable housing
- 24% of businesses said they were likely to need more accommodation in the next 3 to 5 years. They therefore support the proposed Employment Hub
- Improvements to play facilities and Langley Playing Fields are required
- Concerns are raised in respect of road safety

## **OTHER REPRESENTATIONS**

### **Original Scheme**

36 letters of objection were submitted in respect of the original proposals (2011). The proposed amphitheatre and village shop were heavily criticised, but as they were removed from the proposals, they are not listed below.

The following representations have been made:

## **OBJECTIONS**

### **Scale, density, design & character**

- The scale of the development is disproportionate to the village
- The development would increase the size of the village by 50-75% This would damage the close rural community
- The development would result in the village evolving too quickly
- The density of the development – particularly having regard to the recently constructed 44 dwellings on Cock Hall Lane

- Far from espousing the 'sensitive and imaginative' design principles advocated in the 2000 Development Brief, the proposal raises the prospect of a rather dull high-density housing estate, more suited to the suburban sprawl of Manchester than to an attractive small village on the fringe of the Peak District.
- The apartment block is totally out of character with the village, it is excessive in scale, will block out sunlight, and will overlook properties on Cock Hall Lane. It should be reconsidered.
- The buildings should not exceed 2 stories in height
- Proposal does not comply with 'By Design' and does not create character, a place with its own identity
- Proposal would split the village in two, the new and old Langley, leading to a loss of identity

### **Green Belt**

- The proposals exceed the existing building footprints contrary to the Development Brief & green belt policy
- The development is 'Inappropriate', and no 'Very Special Circumstances' have been submitted to justify the development
- The development would harm the green belt and the character of the countryside

### **Development Brief (January 2000)**

- The brief proposed that future development on the site should focus on employment and tourism uses, with some affordable housing.
- The housing development alone extends well beyond Area A of Plan 5 of the Development Brief, and the proposed Rural Enterprise Hub is completely outside the existing industrial building plot

### **Infrastructure**

- There is insufficient infrastructure to support the development
- Can the sewers cope with the additional demands? If additional drains are required, they may damage the roots of protected trees
- Will the development result in flooding?

### **Type of housing**

- There is no provision for sheltered accommodation for elderly people, which is urgently required
- Not all the affordable housing on Cock Hall Lane was taken up by local residents. Is there a need for additional affordable housing?

### **Residential amenity**

- The development will create an unacceptable level of noise
- Proposal will generate light pollution
- New footpath would result in a loss of privacy & security to neighbouring properties
- The proposed industrial units will result in a loss of privacy

### **Ecology, trees & landscape**

- The proposal may harm the fishing pond & stream
- The development would have an adverse impact on wildlife and protected species

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- There would also be visual intrusion of 70 houses in Hall Terraces and Cock Hall Lane, and unnecessary destruction of mature trees subject of a preservation order, which are currently a visual amenity for the village.

### **Traffic generation**

- Proposal will result in significant increase in traffic in the villages of Langley and Sutton, which will change the character and 'feel' of these villages
- The additional traffic will have a huge impact at the junction of Byrons Lane and London Road at rush hour, and will result in congestion
- The development will have an adverse effect on traffic flow along Church Lane (a narrow lane with poor visibility), as people will drive their children to school in Sutton.
- The development is unsustainable, as it would house residents some distance from employment and transport links
- Langley would become a commuter village
- The volume of additional traffic movements will disrupt local residents
- Additional traffic may result in safety issues

### **OTHER**

- There is no provision for allotments
- The proposal does not create sufficient employment opportunities
- What will happen to the existing businesses?

### **SUPPORT**

- Rural enterprise hub will help safeguard employment in the village
- Additional affordable houses are required
- Larger family homes are encouraged to allow families to grow
- Retention of trees encouraged
- A smaller scale development of 50 houses would be acceptable

### **COMMENTS**

- The speed limit on Langley Road should be reduced to 30 MPH
- A cycle lane should be introduced
- It is very difficult to understand how the Council can consider this application when the Sutton Parish Plan has not been formulated nor published.

### **Revised Scheme (Re-consultation 12<sup>th</sup> June 2012)**

A further 19 letters of objection were submitted in respect of the revised proposals. The concerns raised in respect of the original plans were re-iterated. In addition, the following new comments are made:

- Although the reduced number of houses is welcomed, 77 dwellings/apartments is still too dense in relation to the current size of the village
- The development will be on undeveloped green belt land
- If the Committee are minded to approve this scheme, there should be a condition attached to say that if there is no demand for the industrial units that the developers will not receive permission to convert the area into additional housing, above the maximum agreed as part of any initial planning consent
- The 3m wide tarmac path in the public open space is inappropriate for a rural area with a network of smaller paths, which are dressed with natural stone if at all. There is no need for the footpath to be so wide



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- The area designated for public open space is currently a wild green field (previously grazed many years ago). It is full of wildlife, including badgers, foxes, birds and small rodents. Ideally it should be left as wild meadow
  - 77 dwellings/apartments will create more than 14 children of primary school age
  - There must be alternative means to design a retaining wall for the reservoir other than an apartment block
  - The placement of a bus shelter in front of Brighton Crescent is unacceptable. It would be an unnecessary eyesore
  - The LPA can secure greater housing stock in far more suitable locations than Langley
  - Better road crossings/footpath links are required

## APPLICANT'S SUPPORTING INFORMATION

- Ecological Supporting Information
- Barn Owl Survey
- Phase 1 Desk Study / Preliminary Risk Assessment
- Flood Risk Assessment & Update
- Arboricultural Assessment
- Reservoir Assessment
- Waste Management Strategy
- Sustainability & Climate Change Assessment
- Noise Report
- Updated Planning Statement & Counsel opinion
- Updated Employment Land Report
- Heritage Statement
- Draft Heads of Terms v3
- Summary of Viability Appraisals
- Amended Affordable Housing Statement
- Updated Transport Assessment
- Design and Access Statement
- Open Space Strategy and Accompanying Compartments
- Review of Traffic Conditions on Langley Road and Formal Crossing Requirements

## OFFICER APPRAISAL

### Principle of Development

The proposed development needs to be considered with regard to the Green Belt and Employment policies contained within the Macclesfield Borough Local Plan, and policies contained within National Planning Policy Framework 2012 (The Framework).

Paragraph 14 of The Framework states:

*'At the heart of The Framework is a presumption in favour of sustainable development'....'For decision-taking this means' (unless material considerations indicate otherwise)... 'where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole: or*
- *Specific policies in this Framework indicate development should be restricted'*

In January 2000, the Local Authority adopted the Reiter Scragg, Langley Development Brief which advises:

*'The Council considers that retaining the site in predominantly employment uses is the most sustainable form of development'.*

*'Outdoor based tourism and leisure related uses are also considered to be a sustainable form of development'.*

*'The site could be development for a single or mixed uses'*

Affordable housing on Cock Hall Lane was also considered acceptable, as a result 44 affordable dwellings were approved on Cock Hall Lane in 2006, which have since been built.

The Development Brief is a material consideration. It is considered that little weight can be attached to it, as:

- It significantly conflicts with the guidance in The Framework;
- It pre-dates the Development Plan;
- It has not been updated in accordance with policy GC4;
- It has not been subject to a sustainability appraisal;
- It is 12 years out of date.

The site is designated a Major Development Site within the Green Belt (policy GC4) and an Area of Special County Value for landscape (policy NE1) within the Local Plan. There is no reference in The Framework to Major Development Sites; rather it advises at paragraph 89 that the complete redevelopment of previously developed sites in the Green Belt is *appropriate development* provided it would not have a greater impact on the openness of the Green Belt and the purposes of including land within it than the existing development.

Policy E1 seeks to retain existing employment areas for employment purposes, to provide a choice of employment land in the Borough. As such, there is a presumption that the site will be retained for employment purposes. As the proposed development comprises a Rural Enterprise Hub, some land will be retained for more appropriate employment for the village.

The provision of an acceptable level of affordable housing and the provision of a good quality housing development clearly are very important material considerations which may help to justify the development. As such, it is considered vital to ensure that they are delivered as part of the overall scheme. The viability appraisal and benefits provided through Section 106 contributions require careful consideration during the determination of this application.

## **Housing supply**

Members should note (as background) that on 23<sup>rd</sup> March 2011, the Minister for Decentralisation Greg Clark published a statement entitled 'Planning for Growth'. On 15<sup>th</sup> June 2011, this was supplemented by a statement highlighting a 'presumption in favour of sustainable development' which has now been published in the National Planning Policy Framework.

Collectively, these statements and the National Planning Policy Framework mark a shift in emphasis of the planning system towards a more positive approach to development. As the minister says:

*'The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where*

Whilst PPS3 ‘Housing’ has been abolished under the new planning reforms, the National Planning Policy Framework (The Framework) reiterates at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

*‘identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land’.*

The Framework states that, Local Planning Authorities should have a clear understanding of housing needs in their area. This should take account of various factors including:

- housing need and demand,
- latest published household projections,
- evidence of the availability of suitable housing land,
- the Government’s overall ambitions for affordability.

The figures contained within the Regional Spatial Strategy proposed a dwelling requirement of 20,700 dwellings for Cheshire East as a whole, for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum. In February 2011, a full meeting of the Council resolved to maintain this housing requirement until such time that the new Local Plan was approved.

It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the Strategic Housing Land Availability Assessment (SHLAA) which was adopted in March 2012.

The SHLAA has put forward a figure of 3.94 years housing land supply. Paragraph 47 of The Framework requires that there is a five year supply of housing plus a buffer of 5% to improve choice and competition. The Framework advocates a greater 20% buffer where there is a persistent record of under delivery of housing. However, for the reasons set out in the report which was considered and approved by Strategic Planning Board at its meeting on 30th May 2012, these circumstances do not apply to Cheshire East. Accordingly once the 5% buffer is added, the Borough has an identified deliverable housing supply of 3.75 years.

The Framework clearly states at paragraph 49 that:

*‘housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.’*

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of The Framework. In summary, it states permission should be granted unless the adverse impact of doing so significantly outweighs the benefits of the scheme and is demonstrable.

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The forthcoming Cheshire East Local Plan will set new housing numbers for the area and identify sufficient land and areas of growth to meet that requirement up to 2030. The Submission Draft Core Strategy will be published for consultation in the spring of 2013. Consequently, the current shortfall in housing land will be largely remedied within the coming year or so. However, in order that housing land supply is improved in the meantime, an Interim Planning Policy on the Release of Housing Land has been agreed by the Council. This policy allows for the release of appropriate Greenfield sites for new housing development on the edge of the principal town of Crewe and as part of mixed development in town centres and in regeneration areas, to support the provision of employment, town centres and community uses.

The proposed development complies with the IPP, as it is a regeneration scheme which is part of a mixed development in a village centre.

From the above, it can be concluded that:

- The Council does not have a five year supply of housing therefore, the presumption in favour of sustainable development should apply.
- The proposed development complies with the Interim Planning Policy as it is a mixed development located in a village centre
- The Cuddington Appeal in Cheshire West and Chester and others in Blackpool, Fylde & Worsley indicate that significant weight should be applied to housing supply arguments.
- The Framework is clear that, where a Council does not have a five year housing land supply, its housing supply policies cannot be considered up to date. Where policies are out of date planning permission should be granted unless:

*‘any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in The Framework taken as a whole;  
or  
specific policies in The Framework indicate development should be restricted.’*

Housing supply is a very important consideration in the determination of this application and must be given considerable weight. Overall, it is considered that the principle of the scheme is acceptable and that it accords with the general policy of encouraging housing to meet the supply needs of the authority. The application turns, therefore on whether there are any significant and demonstrable adverse effects, that indicate that the presumption in favour of the development should not apply. This is considered in more detail below.

### **Impact on the Green Belt and Area of Special County Value for Landscape**

Paragraph 89 of The Framework states that:

*‘a local planning authority should regard the construction of new buildings as inappropriate in Green Belt.’*

Exceptions to this are listed and the proposal would fall under:

*‘...the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than existing development.’*

The site is recognised as previously developed land. A definition of ‘previously developed land’ is provided within the glossary of The Framework:

Under paragraph 111 of The Framework,

*'...decisions should encourage the effective use of land by re-using land that has been previously developed (brownfield land), provided that it is not of high environmental value.'*

Therefore, the development could be deemed 'appropriate', if it has no greater impact on the openness of the Green Belt. This policy differs from both PPG2 and the Macclesfield Local Plan policy GC1. As it forms part of The Framework, it should be afforded more weight.

### **Does the development have a greater impact on the openness of the Green Belt?**

The site is currently occupied by a number of large industrial buildings, (which equate to 14,945sqm). Due to their height, mass, bulk and colour, they are very prominent in the landscape and visible from surrounding vantage points. Furthermore, there is a large amount of hard standing surrounding these buildings, providing areas for parking.

The following table indicates the existing and proposed amount of hard standing, floor space, volume and maximum height of buildings.

	<b>EXISTING</b>	<b>PROPOSED</b>		
		<b>Residential</b>	<b>Commercial</b>	<b>Total</b>
<b>HARDSTANDING</b>	15,708m <sup>2</sup>			9173 m <sup>2</sup>
<b>FLOOR SPACE</b>	14,766m <sup>2</sup>	10,079m <sup>2</sup>	836m <sup>2</sup>	10,915 m <sup>2</sup>
<b>VOLUME</b>	88,000-100,000m <sup>3</sup>			68,209m <sup>3</sup>
<b>MAXIMUM HEIGHT</b>	Approx.16.5m above ground level (variable)	13.5m	8.5m	

This table demonstrates that the proposed development will result in a considerable reduction in hard standing (41%), floor space (24%), volume (32%), and a reduction in building heights by 3-5.5m.

The cross section indicates that the proposed development would not exceed the height of the existing buildings, and in the majority of the cases would be up to 3 metres lower than the existing built form, which would significantly reduce the bulk and mass of buildings on site.

Whilst there is a significant reduction in built form, it must be noted that the development does extend beyond the footprint of the existing buildings, particularly to the north west / front of the site, where the Rural Enterprise Hub is proposed. The six employment units are to be sited on an informal area of hardstanding, which is currently in use for external storage. The land is previously developed and falls within the curtilage of the developed land. As such, the redevelopment of this portion of land is considered acceptable. Given the modest scale of these buildings, and the overall reduction in built mass on

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site, this element of the development is not considered to harm the character or openness of the Green Belt, and complies with the guidance set out in The Framework.

The overall built form would be reduced and the demolition of the existing prominent industrial buildings would significantly enhance the character and the openness of this identified Major Development Site within the Green Belt.

The development is considered to have no greater impact on the character and openness of the Green Belt, and therefore is considered 'appropriate', in Green Belt terms, in full accordance with The Framework.

### **Will the development have a greater impact on the purposes of including land in the Green Belt**

The Framework identifies five purposes of including land in Green Belt:

1. To check the unrestricted sprawl of large built-up area
1. To prevent neighbouring towns merging into one another
2. To assist in safeguarding the countryside from encroachment
3. To preserve the setting and special character of historic towns
4. To assist in urban regeneration, by encouraging the recycling of derelict and other land

It is considered that the development accords with these purposes, in particular, as it would recycle a redundant site into a more beneficial use.

### **Loss of employment land / removal of un-neighbourly use from the Village**

Policy E1 seeks to retain employment land for employment purposes. However, Para 22 of The Framework states that:

*'Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities'.*

### **Cheshire East's Annual Monitoring Report 2010/2011**

Table 5.3 of the 2010-2011 Annual Monitoring Report indicates there is 296.69 hectares of employment land in Cheshire East. Of this, 20 hectares is committed for non-employment uses, leaving 286.69 hectares. Approximately 60 hectares is located within the former Macclesfield Borough. During this period, the annual take up rate was 1.96 hectares per year. Using the same take-up rate, it is assumed that there is a 26.35 year supply across the former Macclesfield Borough.

The key consideration for this application is whether there is sufficient employment land with the local area, to meet current needs. The following is a list of large employment sites in the former Macclesfield Borough where employment land is available:

- Tytherington Business Park
- Lyme Green Retail and Business Park
- Hurdsfield Industrial Estate
- Adlington Park
- Poynton Industrial Estate
- Stanley Green Industrial Estate, Handforth

- Parkgate Industrial Estate, Knutsford
- South Macclesfield Development Area

The Council has commissioned an employment land review, which in part will identify the nature and scale of employment land needed in Cheshire East to meet its sub-regional policy requirement and local business needs.

At this juncture, it is considered that there is adequate Employment Land available across the District, and the loss of this site will not lead to an inadequate supply in this area.

An Employment Land and Market Overview Expert Report from GVA Grimley was submitted with the application. In conclusion, the report advises that there is no requirement to retain this site solely for employment purposes for the following reasons:

### **1. The site does not provide an important contribution to the local area in terms of employment land.**

The site suffers from extremely poor access which is unsuitable for modern HGV traffic. The access is compromised by the canal bridge to Byron's Lane which can only provide for one vehicle to pass at a time coupled with a height restriction making it too low for many modern HGVs. The works also has poor access to the region's motorway network.

The buildings whilst generally presenting themselves as serviceable are at or near to the end of their economic life by virtue of low eaves heights, an ad hoc layout, scale and massing of the individual units and levels. It is a tired mill complex that does not meet the modern requirements of business.

### **2. There is an appropriate supply of land available for employment uses.**

The data presented demonstrates that there is a 35 year supply of employment land in Cheshire East. The only conclusion that can be drawn is that there is an appropriate supply of employment land.

### **3. There are other sites available that are of better quality.**

There are other sites available within Cheshire East as a whole and also within the former Macclesfield Borough that are preferable in terms of location and better quality than the application site.

The site is remote from the motorway network and has poor accessibility.

### **4. The site would continue to provide employment but on a scale more suited to the area.**

The application proposes a mixed-use scheme which incorporates small scale B1 office and light industrial units floor space more suited to this location.

The rural hub would offer employment in the order of 70-84 full time positions in the B1 sector based on HCA's Employment Densities Guide 2010 2nd Edition. This is in excess of the current level of employment at the site which is circa 55.

The GVA Grimley Report concludes that there are a number of issues that impact on Langley Works' ability to be occupied on a commercially viable basis or to be economically redeveloped for employment purposes. In short, the site is not suitable for continued employment use, there are other sites of better quality elsewhere in Cheshire East and the loss of this site would have no impact on the supply of employment land.

The points raised above are considered to valid. The Council is keen however to retain some employment uses on site, given that this is one of the last sites in employment use in Langley. The small scale employment uses proposed are considered more appropriate to the village, and are supported.

Policy E14 of the Macclesfield Local Plan advises that the Council:

*'Encourage the relocation of businesses which create unacceptable level of nuisance to neighbouring dwellings arising from noise, smell, safety or traffic generation. Infill housing will be encouraged on such sites'.*

It is understood that the site has not been operating to its full capacity in recent years. If operations were to recommence, it is likely that it would result in considerable HGV traffic through the village, which may affect residential amenity. It is considered that the allocated employment sites listed above would be more suitable for B2/B8 industrial uses, rather than the application site, due to its central location in a small village, with a rural highway network, which is unsuitable for modern HGV traffic.

### **Density, design & layout**

The density of the development is in the region of 50 dwellings per hectare, which is considered commensurate to the pattern of development in the surrounding area.

Whilst this is only an Outline application, with all matters reserved, the illustrative layout (Rev N) indicates how the Rural Employment Hub and 77 dwellings/apartments **could** be incorporated on site.

Following discussions with Officers, various amendments have been made to the illustrative layout, such as:

- Reducing the number of houses
- Opening up the access to the reservoir area
- Adding a variety of house types,
- Changing the car parking configuration,
- Enhancing the open space areas
- Adding a Woodland adventure playground
- Retaining the Old Mill building

We are now satisfied that the proposed level of development could be achieved on site, whilst not compromising good design standards.

### **The scale of the proposal – impact of height, mass, bulk, character and appearance of the area**

One of the key concerns raised by local residents is that the apartments are out of character with the village, and that they are excessive in scale.

It must be stressed that this application is only seeking assurance that 77 dwellings/apartments could be provided on site. It does not necessarily mean that the apartments will be built, although the applicant has indicated that there is a requirement for a retaining structure adjacent for the reservoir, so it is likely that a large scale building will need to be erected here – although it could contain three storey townhouses as opposed to 12 apartments.

The parameters of scale indicate that the apartment block will be 3 storeys in height, (from reservoir level), not exceeding 8.5m above ground floor level at the reservoir bank. The building is comparative in scale to the existing industrial building (as can



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been seen on the cross section drawing such, no objection can be raised in respect of its scale.

The scale of the dwellings at 2 – 2.5 storeys in height (to a maximum of 8.5m) is considered acceptable in principle, as are the single & two storey employment units (to a maximum height of 7.5m).

It is considered that at low-key Rural Enterprise Hub, and 77 dwellings/apartments are more in keeping with the character of this rural area, rather than the lawful General Industrial / Storage and Distribution uses.

### **Impact on residential amenity**

Concerns have been raised in respect of loss of privacy as a result of the public footpath within the informal open space area. The footpath is 27 metres from the closest residential property, well in excess of the space, light and privacy distances recommended in DC38, as a result the path is not considered to raise any significant amenity issues.

Initially, Environmental Health raised concerns about the proximity of the Rural Enterprise Hub to the proposed dwellings/apartments. As a result, it was agreed that the Rural Enterprise Hub would be limited to Use Class B1 (Office/light industrial use) and the hours of operation be restricted, to prevent any noise and disturbance to neighbouring properties.

Overall, it is considered that the proposed development will improve residential amenity, replacing a heavy industrial use, with Class B1 office /light industrial units and residential dwellings/apartments.

### **Impact on landscape, trees and ecology**

#### **Landscape**

The landscaping of the site is crucial to ensure that is an attractive place to live and work, and so that the development blends into the countryside.

Following numerous meetings, discussions and negotiations, the Landscape Officer advises that the Illustrative layout (revision N), Green Space Plan (revision E) Footpath Connections (revision D) and Open Space Strategy are now acceptable.

The Open Space Strategy sets out the principles that will inform the design of the Landscape Masterplan for the entire site and the Landscape and Habitat Management Plan (L&HMP) for all open space areas.

The Landscape Masterplan and the L&HMP must be submitted and approved as part of the reserved matters application.

The Masterplan must include the landscape design for all open space compartments identified in the Open Space Strategy, the housing development and the rural enterprise hub.

The Landscape and Habitat Management Plan should form part of a s106 agreement in order to secure appropriate on-going management and public access in perpetuity.

#### **Forestry**

The main developable area associated with the residential dwellings occupies broadly the footprint associated with the industrial complex, with the existing tree aspect contained around the periphery of the site.

The majority of the trees associated with the rural enterprise hub and the associated access/parking occupy the informal hard standing which exists on site. Apart from those trees which front the existing main access the majority of the trees associated with this area of the site are considered to be low value specimens with their loss easily mitigated by a specimen replacement planting scheme.

Any objections in principle have been addressed through negotiation with the protected tree cover on the site able to be retained and protected in accordance with current best practice BS5837:2012

Any subsequent detailed full application will require an arboricultural implication study to reflect BS5837:2012, which should include, tree protection, tree pruning/felling, levels, and services.

## **Ecology**

### Bats

Three relatively widespread bat species have been recorded as roosting within the former mill building. Maternity colonies of each species are present making these roosts of significant nature conservation value.

### Breeding Birds

A number of bird species have been recorded on site. A number of these are Biodiversity Action plan priority species and hence a material consideration.

If planning permission is granted, conditions are required to safeguard breeding birds.

### Ecological Enhancement

The Framework encourages Local Planning Authorities to strive to secure enhancements for nature conservation from proposed development. The submitted ecological assessment suggests the creation of a wildlife pond within the open space area. This is acceptable, and should be secured by condition.

In addition, a “wet flush” occurs in the open space area close to the site access. This area is of sufficient nature conservation value to warrant its retention as part of the development. The Landscape Masterplan submitted as part of a Reserved Matters application should show this.

### Barn owls

A Barn Owl Survey has confirmed that there are no Barn Owl roosts. The detailed landscaping scheme needs to ensure that the site retains sufficient rough grassland to ensure the site continues to offer appropriate barn owl foraging habitat.

### Protected Species

Bats, Breeding Birds & Barn Owls are listed as a protected species under schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Protected species are considered to be a material consideration in the determination of a planning application, and therefore any impact must be considered and mitigated accordingly.

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,

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- 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.'*

The Framework 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'.*

The Framework 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'.*

If there is no harm to protected species, satisfactory mitigation measures can be made, and public interest is satisfied, there is no grounds for withholding planning permission under the Directive and Regulations.

The applicant has submitted detailed ecological information, surveys and mitigation measures, and amended their proposals to retain the Mill building (which contain maternity colonies of three bat types).

The Council's ecologist has indicated that the LPA must consider whether Natural England is likely to grant a derogation license. The Habitats Regulations only allow a derogation license to be granted when:

1. the development is of overriding public interest,
1. there are no suitable alternatives and
2. the favorable conservation status of the species will be maintained.

1. In terms of overriding public interest, the proposals would create high quality open market and affordable housing which is required to meet our housing needs, and provide small scale employment units, which would help the rural economy, this is considered to represent overriding public interest given that the Council cannot demonstrate a five year land supply.
2. There are no suitable alternatives available.
3. The favourable conservation status would be maintained by the mitigation proposed. As a licence would be likely to be granted, it is considered that the proposals would accord with the guidance within The Framework.

### **Open space provision**

The scheme proposes a number of areas of Public Open Space, namely:

- 'The Green' at the entrance to the site;
- The informal open space area to the north of the site;
- The reservoir area, with a path extending to public footpath No. 15;
- A woodland adventure playground &
- A wild flower/tree planting area to the south west of the site.

These Public Open Spaces make the site interesting & attractive and will ensure that the development is incorporated into the village.

The Open Space Strategy [in conjunction with the open space compartment plan] should prove a very valuable tool in ensuring the open spaces deliver maximum benefit to the new and existing community and in integrating the new development into the village. The strategy will inform the design of the landscape Masterplan and landscape and habitat management plan, to be submitted and approved as part of reserved matters. Arrangements for the long term management of the on site open spaces must be put in place and safe public access ensured in perpetuity.

Commutated sums are required in lieu of on site children's play and recreation / outdoor sports. The commuted sums will be used to make additions, enhancements and improvements to the Langley playing field facility, a short distance from the development site. The main focus of this work will be to enhance and build upon the sites existing character and assets by:

- Improving the access into and around the facility;
- Providing opportunities for informal recreation, health and fitness activities; Supporting active lifestyles &
- Providing a range of play facilities that enhance and sit well within the facility, including social and imaginative play opportunities.

### **Impact on highway safety and traffic generation**

The site will use the existing site access point, but will provide some improvements to visibility 2.4m x 70 m in the leading direction and 2.4m x 90m in the non leading direction. This provision meets the minimum visibility standards for the speed of vehicles on Langley Road.

When considering the traffic impact of the development on the local highway network, the current lawful use of the site needs to be taken into account as it will have generated traffic movements to and from the site. This existing use is then compared to the proposed use to arrive at either + or – net traffic impact on the network. The application proposals will likely generate between 80 and 120 trips in the peak hours. If

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these figures are compared to the industrial use of 110 and 90 trips, it is evident there is little or no difference in the traffic visiting the site. However, there is highway benefit in that the amount of HGVs visiting the site as a result of the redevelopment; (potentially some 70 HGVs) could be removed on a daily basis.

The applicant has assessed a number of junctions on the highway network to highlight whether there are any capacity problems that arise with the development added. The report has highlighted there is only one junction that will reach its theoretical capacity in the future year 2020 and this is the A523 Cross Street/Byrons Lane junction. This analysis is accepted, as there are existing vehicle queues forming at the junction. Whilst the capacity concerns of this junction would be a major issue if this was an entirely new development, the traffic demand is no greater than the extant use of the site. As such, a refusal on traffic impact grounds could not be substantiated.

In terms of sustainability, there is only 1 hourly bus service. However, the site is connected to the surrounding footpath network via the new paths adjacent to the access road. Overall, it is considered that the level of sustainability of the site is low and that very few non-vehicle work or business trips will be made from the site, although the national walking/cycling agreed distances are met and also there is a bus service available within a reasonable distance from the site, as such it is accepted that the site is accessible to non-car modes.

As this is an outline application, no detailed comments are provided regarding the internal layout of the site. There will need to be some changes to the alignment of the road to allow the road to be adoptable. The main access is very straight and will promote high vehicle speeds and also the bend at the eastern end of the development is too severe.

In summary, the traffic impact of the proposal is broadly very similar to the existing industrial / commercial use. As such, it does not have a material impact on the road network. The site does not provide good sustainable links, but complies with the nationally accepted guidelines for distances to access non-car mode infrastructure.

A legal agreement is required to secure a bus shelter and upgrade two bus stops.

### **Viability issues**

Detailed Financial Viability Appraisals prepared by GVA Grimley have been submitted with the application, which sets out that it is not financially viable to provide 30% Affordable Housing in addition to the S.106 requirements.

The appraisals identify the cost of the development and expected return rate. The Land values take into account the following: -

- Residential construction cost
- Rural Enterprise Hub construction cost
- Abnormal construction costs including:
  1. Existing junction upgrade
  2. Works to Bollin Brook Head
  3. Strengthening works
  4. Temporary reservoir support
  5. Extended footway/cycleway
  6. Substation provision
  7. Ground levels
  8. Structural works to existing bat building
  9. Contaminated hotspots
  10. Piled foundations

- Contingency
- Assumed s.106 costs
- Professional fees
- Marketing costs
- Finance rate

In order for redevelopment to take place the value of the site for housing and employment must exceed existing use value.

The Council has had the developer's Financial Viability Appraisals independently assessed by Lambert Smith Hampton, who concur with the findings of the submitted Appraisals. They conclude that it would only be viable to provide 20% Affordable Housing with a tenure split 50% affordable rented and 50% intermediate, or 18% Affordable Housing with a tenure split of 65% affordable rented and 35% intermediate tenure. The Council has opted for the latter, to meet the current housing needs.

## CONCLUSIONS AND REASON(S) FOR THE DECISION

This application seeks Outline permission, with all matters reserved for subsequent approval.

The application site is a Major Development Site in the Green Belt, and Area of Special County Value for Landscape. The principle considerations are whether the proposal would have an acceptable impact on the openness of the Green Belt, whether the reduction in Employment land is acceptable and whether the scale and type of development is achievable without undermining design, amenity, highway and environmental policies.

Due consideration needs to be paid to the National Planning Policy Framework, in particularly paragraphs 49 and 14 which advise:

*'housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.'*

And

*'At the heart of The Framework is a presumption in favour of sustainable development'....'For decision-taking this means' (unless material considerations indicate otherwise)... 'where the development plan is absent, silent or relevant policies are out-of-date, **granting permission** unless:*

- *Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole: or*
- *Specific policies in this Framework indicate development should be restricted'*

As Cheshire East can not demonstrate a five-year supply of deliverable housing sites, this is a weighty consideration.

It is concluded that the development is 'appropriate' in Green Belt terms and would improve the openness of the Green Belt, due to the significant reduction in built form. Furthermore, it is concluded that the site is not needed and is not suitable for General

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Industrial Use. In principle, it is considered the development can be accommodated on site, without any adverse impacts. As such there must be a presumption in favour of the development.

The development is considered to comply with The Framework and MBC Local Plan, and therefore a recommendation of approval is made, subject to conditions and the completion of a s.106 agreement to secure the Heads of Terms listed below.

## **HEADS OF TERMS**

All of the contributions listed below will be spent within a 15 year period. All of the monies to be paid on the commencement of development. Should the monies not be required, or are not spent within this timeframe, they will be returned to the developer.

**Affordable Housing** - 18% affordable housing - with a tenure split of 65% affordable rented and 35% intermediate tenure, this equates to 14 units, with a tenure split of 9 for rent and 5 for intermediate tenure.

**Community Facilities / Youth Support** - £30,000 to be spent in accordance with the SPG on S106 contributions to be spent on either Community Facilities and / or Youth Support as agreed between CEC and Sutton Parish Council

**Education** - £84,000 to be spent at Hollinhey Primary school, to accommodate the additional pupils the development will generate

**Highways** – £26,000 to provide a bus shelter, and 2 new bus stops

### **Landscape and Habitat management plan**

**Open Space** - £191,000 to provide £120,000 towards off site play, and £71,000 toward recreation and outdoor sport £71,000

### **Open Space Strategy**

**Public Open Space management company to maintain the POS in perpetuity**

**Provision of a new footbridge and steps leading to Public Footpath 15 adjacent to the reservoir**

**Provision of Public Art** - to be agreed

## **COMMUNITY INFRASTRUCTURE LEVY (CIL) REGULATIONS**

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is 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.

### *Affordable Housing*

Affordable Housing is prescribed in National and Local Planning Policy. The provision of 18% affordable housing is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with National and Local Planning Policy.

### *Community Facilities / Youth Support*

The commuted sum for community facilities / youth support is required to mitigate against the development, as the proposal would introduce 77 households into the village, which would add additional pressures onto the existing facilities and services. The contribution is considered to be necessary, directly relates to the development and is reasonable in scale and kind. The contribution complies with the Council's Supplementary Planning Guidance on legal agreements, and The Framework.

### *Education*

The commuted sum for education is required mitigate the development, as the proposal would leave a 7 space deficit at the local Primary school. The contribution would assist in providing an extension to the school to accommodate the additional pupils. The contribution is considered to be necessary, directly relates to the development and is reasonable in scale and kind. The contribution complies with the Council's Supplementary Planning Guidance on legal agreements, and The Framework.

### *Highways*

A bus shelter and 2 new bus stops are required to minimise the traffic generated by the development, and to improve the opportunity to use public transport, to promote sustainability. The contribution is considered to be necessary, directly relates to the development and is reasonable in scale and kind. The contribution complies with the Council's Supplementary Planning Guidance on legal agreements, and The Framework.

### *Open Space*

The commuted sum (in lieu for off site provision of recreation / outdoor sport) is required, as the new residents will use local facilities, and there is a necessity to upgrade/enhance existing facilities.

The commuted sums will be used to make additions, enhancements and improvements to the Langley Playing field facility, a short distance from the development site. The contribution is considered to be necessary, directly relates to the development and is reasonable in scale and kind. The contribution complies with the Council's Supplementary Planning Guidance on legal agreements, and The Framework.

All of the contributions listed above are considered to fully comply with CIL.

### Application for Outline Planning

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

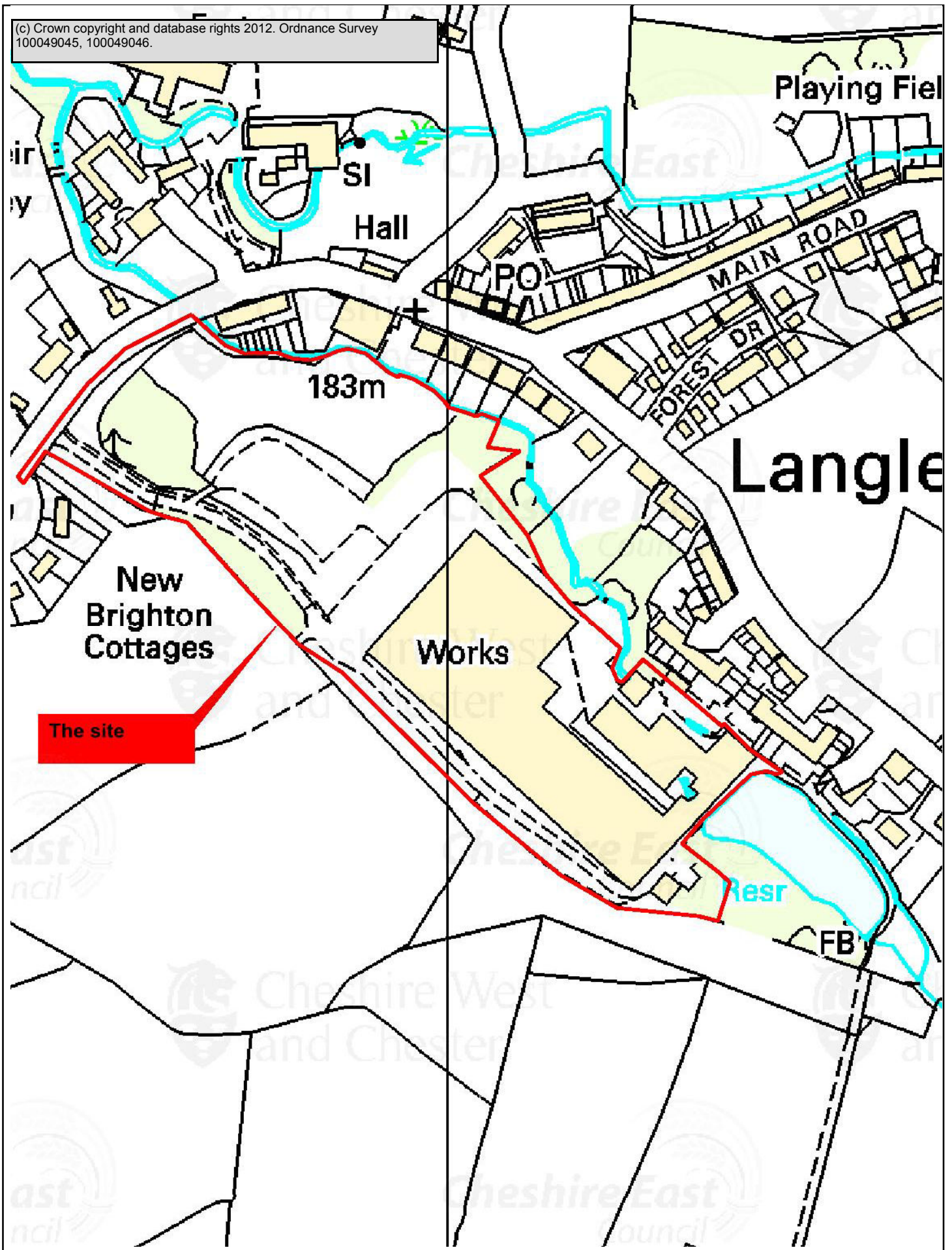
1. Commencement of development
2. Time limit for submission of reserved matters (within 3 years)
3. Submission of reserved matters
4. Implementation of reserved matters (Plans/reports/surveys/statements)
5. Compliance with parameter plans
6. Maximum 77 dwellings and 836sqm of B1 office / light industrial use
7. Mechanism to ensure Rural Enterprise Hub is delivered
8. Landscape Masterplan to be submitted as part of Reserved Matters application



9. Detailed landscape schemes for the proposed development to be submitted as part of a Reserved Matters application
10. Implementation of Open Space Compartments Plan
11. Landscaping (implementation)
12. Landscape and habitat management plan to be submitted with Reserved Matters application
13. Principles of landscape masterplan and landscape and habitat management plan to accord with Open Space Strategy and compartments plan
14. Full Arboricultural Implication Study required
15. Access to be taken from Langley Road, in accordance with the updated Transport Assessment
16. Visibility Splay requirement
17. Provision of cycle parking for Employment Units
18. Protection of nesting birds, and incorporation of features for breeding birds
19. Details of Highways, footways and cycleways to be submitted, in accordance with Manual for Streets
20. Development in accordance with ecological recommendations and mitigation outlined in application
21. Submission of a programme of archaeological work
22. Construction Method Statement
23. Pile driving
24. Hours of Construction
25. B1 office/light industrial use only
26. Information on walking, cycling and public transport to be provided in each building
27. Hours of use of Rural Enterprise Hub
28. Remediation of any contaminated land
29. Limitation on noise emitted from Rural Enterprise Hub
30. Submission of lighting scheme with Reserved Matters application
31. Ground levels to be submitted with Reserved Matters application
32. Removal of permitted development rights
33. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources
34. Submission of an aquatic enhancement plan with reserved matters application
35. Submission of a detailed Flood Risk Assessment with the Reserved Matters application
36. Submission of a foul/surface water drainage scheme with Reserved Matters application
37. Submission of a scheme to manage the risk of overland flow of surface water with Reserved Matters application
38. Submission of a complete soil survey with the Reserved Matters application



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Reference 11/4501M

Location: Kay Metzeler Ltd, Wellington Road, Bollinton SK10 5JJ

Proposal: Outline planning application for the demolition of existing buildings and redevelopment of the site for residential purposes (a maximum of 99 dwellings) and the relocation of the Co-op foodstore with the entrance off Wellington Road – all matters reserved.

Applicant: How Planning

Expiry Date: 08-Jun-2012

**SUMMARY RECOMMENDATION**

Approve, subject to conditions and the completion of a S106 agreement

**MAIN ISSUES**

- Loss of a site allocated for employment purposes
- Housing policy and supply
- Provision of affordable housing
- Design, layout and density
- The scale of the proposal – impact of height, mass, bulk, character and appearance of the area
- Impact on residential amenity
- Noise issues from the electricity sub station
- Sustainability of the site
- Environmental issues
- Flooding and drainage
- Impact on landscape, trees and ecology
- Impact on highway safety and traffic generation
- Provision of open space
- Redevelopment benefits
- Heads of Terms for a Legal Agreement

**REASON FOR REPORT**

The application seeks outline consent for up to 99 dwellings and a foodstore and is considered to be of strategic importance.

**DESCRIPTION OF SITE AND CONTEXT**

The site is located to the north of Wellington Road, in the centre of Bollington. The site measures 4.4 hectares (approx. 10.86 acres).

The site is bounded by the Middlewood Way (viaduct) to the east. To the west lies woodland and farmland (which falls within the Green Belt). Bollington Medical Centre lies directly to the south of the site with residential development beyond on Wellington Road. The River Dean flows along the northern boundary of the site and then along the western boundary and partly through the site.

The site comprises generally of single-storey, metal clad and blockwork structures.

The majority of the site is visible from the Middlewood Way (viaduct).

There are a number of trees adjacent to the arches, which lead through to Adlington Road Business Park.

The viaduct (which is locally listed) forms the edge of the Bollington Conservation Area.

Within the Macclesfield Borough Local Plan (2004), the whole site is allocated under policy E4. This policy allows for general industry (Class B2), warehousing (Class B8), high technology (Class B1b), and light industry (Class B1c) usage.

## **DETAILS OF PROPOSAL**

Outline Planning permission is sought for the redevelopment of the site for residential development (a maximum of 99 dwellings) and the relocation of the Co-op foodstore with the entrance off Wellington Road. The proposed parameters for the residential would comprise the following: -

- **6 three-storey semi detached houses**
- **44 two-storey semi detached houses**
- **5 two-storey link detached houses**
- **17 two-storey detached houses**
- **15 two-storey terraced houses**

It should be noted that this is a decrease from the originally submitted proposal, which was for up to a maximum of 126 dwellings.

The developer seeks agreement to the principle of development to be determined at this stage, whilst matters of access, appearance, landscaping, layout and scale are reserved for subsequent approval.

## **RELEVANT HISTORY**

Many applications have been received in relation to the Kay Metzeler site over the years. However, it should be noted that these relate to the applications for development of the industrial premises. They are not considered to be of relevance to the determination of this application.

## **POLICIES**

### **National Planning Policy Framework (The Framework)**

#### **Regional Spatial Strategy**

- DP1 Spatial principles applicable to development management
- DP2 Criteria to promote sustainable communities
- DP4 Sequential approach to making the best use of existing resources
- DP5 Objective to reduce need to Travel and increase accessibility
- DP7 Criteria to promote environmental quality
- DP9 Objective to reduce emissions and adapt to climate change
- W3 Supply of Employment land
- L2 Understanding Housing Markets
- L4 Criteria on targets for regional housing provision
- L5 Affordable housing provision
- RT2 Strategies for managing travel demand and regional parking standards
- RT9 Provision of high quality pedestrian and cycle facilities
- EM1 Objectives for protecting the Region's environmental assets
- EM2 Remediating Contaminated Land
- EM18 Decentralised Energy Supply

#### **Local Plan Policy**

##### **Built Environment**

- BE1– Design Guidance
- BE2 – Historic Fabric
- BE3 – Conservation Area

##### **Development Control**

- DC1 – New Build
- DC3 – Amenity
- DC5 – Natural Surveillance
- DC6 – Circulation and Access
- DC8 – Landscaping
- DC9 – Tree Protection
- DC35 – Materials and Finishes
- DC36 – Road Layouts and Circulation
- DC37 – Landscaping
- DC38 – Space Light and Privacy
- DC40 – Children's Play Provision and Amenity Space
- DC41 – Infill Housing Development
- DC63 – Contaminated Land

##### **Employment**

- E4 – General Industrial Development

##### **Transport**

- T2 – Integrated Transport Policy

##### **Environment**

NE11 – Protection and enhancement of nature conservation interests  
NE17 – Nature Conservation in Major Developments

### **Housing**

H1 – Phasing policy  
H2 – Environmental Quality in Housing Developments  
H5 – Windfall Housing  
H8 – Provision of Affordable Housing  
H9 – Occupation of Affordable Housing  
H13 – Protecting Residential Areas

### **Recreation and Tourism**

RT5 – Open Space

### **Implementation**

IMP1 – Development Sites  
IMP2 – Transport Measures

### **Other Material Considerations**

Interim Planning Policy: Release of Housing Land (Feb 2011)  
Interim Planning Statement: Affordable Housing (Feb 2011)  
Strategic Market Housing Assessment (SHMA)  
Relevant legislation also includes the EC Habitats Directive and the Conservation (Natural Habitats &c.) Regulations 1994  
North West Sustainability Checklist  
SPG on Section 106 Agreements (Macclesfield Borough Council)  
Ministerial Statement – Planning for Growth (March 2011)

## **SUMMARY OF CONSULTATIONS**

### **Strategic Highways Manager**

Comments that the redevelopment results in a minor net increase in traffic overall that will not have a detrimental effect on the road network or cause congestion issues. There are benefits of the redevelopment in that there will be a reduction in HGV traffic, as an industrial use has been removed.

### **Environmental Health Officer**

They assessed the application in relation to the construction phase of development, noise, air quality and contaminated land.

#### *Demolition and construction phase of development*

They recommended that conditions are attached in relation to the hours of construction and the hours of pile foundations (should they be required). If piling work was found to be necessary on the site as part of the development, then the contractors should be members of the Considerate Construction Scheme and should also consider and select a piling system which would result in the least disturbance to nearby residents in terms of noise and vibration.

### *Noise Assessment*

The Noise Assessment has been considered and its contents are acceptable. The recommendations from the report should form conditions of any approval of this application. Of particular relevance are the noise mitigation measures which would be incorporated into the design/structure/fabric of the dwellings and commercial premises on the site.

### *Dust Control*

In terms of demolition, site preparation and construction phases, it is recommended that mitigation measures are implemented to minimise dust.

### *Contaminated Land*

This site has a history of use as a Mill and Works, which may include a gasworks and areas of filled ground. Therefore, the land may be contaminated.

The application is for new residential properties which are a sensitive end use and could be affected by any contamination present. The report submitted in support of the application identifies potential contamination issues and recommends that further investigations are required to allow the preparation of a suitable remedial method statement.

A Phase II investigation shall be submitted and approved in writing and any remediation works carried out as necessary.

### **Environment Agency (EA)**

Raised no objections in principle to the proposed development, subject to the following conditions and informatives:

- The development shall be carried out in accordance with the approved Flood Risk Assessment and the mitigation measures, which relate to the provision of a surface water drainage scheme, based on sustainable drainage principles and limiting surface water run-off using underground storage. The external and internal levels are to be set as per the illustrative layout
- Although the EA are satisfied at this stage that the proposed development could be allowed in principle, the applicant will need to provide further information relating to the proposals to an acceptable standard to ensure that the proposed development can go ahead without posing an unacceptable flood risk.
- A detailed method statement for the removal of the weir. An assessment of removing the weir upstream and downstream will be required.
- A detailed method statement for any bank works, including reprofiling.
- A detailed management plan for the buffer riparian / linear park area adjacent to the River Dean. This should include details of the planting scheme and long term management regime for the area.

- A detailed management plan for the eradication or management of the invasive plant species on site.
- Given the sensitive location of the site, the EA recommends conditions are attached to ensure that any risks posed to controlled waters from land contamination are appropriately assessed.

#### **Cheshire Fire and Rescue Service**

Provided comments with regard to access and facilities for the fire service and asked the development is in compliance with guidance which supports the Building Regulations, for details of the water main installations, a fire risk assessment, the design of the refuse storage area(s) to ensure it / they can be maintained as a safe and secure area. The Fire Authority recommends the fitting of domestic sprinklers.

#### **Sustrans**

- 1) The site lies close to the Middlewood Way, National Cycle Network Route 55. Walking and cycling journeys could be encouraged along this route particularly to Macclesfield amenities and the mainline station. A development of this size could make a contribution to further enhancements of the Middlewood Way.
- 2) The design of any smaller properties should include storage areas for buggies/bicycles.
- 3) Travel planning should be included with targets and regular monitoring for the site.

#### **Public Rights of Way Team**

Commented that the development does not appear to affect a public right of way.

#### **Greenspaces**

Commented in relation to the improvement of public rights of way, countryside access and active travel.

The proposed development presents an opportunity to improve walking and cycling facilities in the area for both travel and leisure purposes.

The applicant's documents refer to the creation of a new footpath / cycleway within the linear park and a new bridge link to the Adlington Road playground and Middlewood Way access, both of which are welcomed.

The applicant has accepted the inclusion of a planning condition which would detail a management scheme to maintain the public open space and public rights of way through the site in perpetuity.

#### **Housing Strategy and Needs Manager**

Initially objected to the application.



The Councils Affordable Housing Interim Planning Statement states that Cheshire East Council will seek provision of 30% affordable housing on any sites over 15 units, with a tenure mix of the affordable housing of 65% rented affordable housing and 35% intermediate tenure.

Following the receipt of an independently verified viability appraisal, the Housing Strategy and Needs Manager accepts that in this instance, due to genuine viability issues, it is only possible to provide 15% of the dwellings as affordable units.

#### **Archaeology Planning Advisory Service**

Notes that the application is supported by a Heritage Assessment. This reports notes that the Kay Metzeler site is recorded in the Cheshire Historic Environment Record, where it is stated that a series of mills were present on the site from the late 18<sup>th</sup> Century until the area was cleared and re-developed in the second half of the 20<sup>th</sup> Century. The complex was known as Waterhouse Mills and was concerned with cotton production.

The comprehensive demolition of the mill structures means that there are no significant upstanding remains of the 19<sup>th</sup> Century complex, but an examination of the historic mapping allows the accurate identification of a number of areas of interest, with particular reference to structures associated with the mill's power systems. These include the leat which fed the mill's reservoir and which the master plan indicates will be filled in as part of the development. In addition, the wheel pit is clearly shown on the Ordnance Survey first edition 25" map (c 1880), whilst subsequent 19<sup>th</sup> Century mapping shows a small extension to the mill, adjacent to the wheel pit, which may be associated with the documented change from water power and the erection of an engine shed.

The Development Control Archaeologist does not consider that the significance of these features is such that it would be reasonable to object to the development on archaeological grounds, or to recommend a programme of pre-determination evaluation. However, it is advised that those aspects of the development affecting the leat, wheel pit, and probable engine house should be subject to archaeological monitoring and recording (a developer-funded watching brief). This is an approach that has been used on a number of mill sites in Cheshire East in the recent past and has proved to be an effective and proportionate approach to recording a significant aspect of the area's industrial heritage. The work may be secured by a condition.

#### **The School Organisation and Capital Strategy Manager**

Confirmed that there is projected to be sufficient unfilled places at both the "local" primary school and also the "local" secondary school to accommodate the pupils generated by this development.

#### **The Parks Management Officer.**

Comments are awaited.

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

## **Bollington Town Council**

### Original Consultation

Objected to the plans as originally submitted (comments received on 11<sup>th</sup> April 2012).

The Civic Society and Town Council held public consultation last year. They argue that the consultation articulated the wishes of the community and this was fed into the site development process. However, the outline application fell short of those wishes. They considered:

- a) The Heads of Terms as outlined in the Section 106 Agreement do not conform with policy, as set out in the Supplementary Planning Guidance. In particular, they do not take into account the impact of this large development on Bollington. The allocations should recognise the need for recreational facilities for young people, for off-street parking and for investing in community facilities such as the two Community Centres, The Bollington Cross Project, Arts Centre, Leisure Centre, Civic Hall and Library.

The S106 allocations to the Co-op and the repair of the viaduct are too large. The transfer of the Co-op is to be welcomed but is a commercial transaction and should not absorb resources meant for community use.

- b) Overdevelopment: The plans for 126 houses are a too great concentration of houses, to the detriment of provision for employment on a mixed development. The public consultation showed a clear wish for a mixed development which would include employment opportunities. This has been neglected as the jobs created in the transferred Co-op will be replacement rather than new employment.
- c) The plans for 126 houses ignore the wish for a housing mix with larger family homes. These are required to enable families to move within the Bollington community. The submitted plans have a too dense concentration of housing.
- d) Traffic flows are of concern. This concentration of smaller houses and flats has provision for two spaces per unit dwelling. This traffic, coupled with the flow of traffic generated by the retail store, will increase congestion during the morning and evening rush hours. There should be a more balanced allocation of space between retail office and housing.
- e) The new medical centre, which was strongly supported by the community consultation, has been withdrawn from the scheme. This is a setback for the viability and sustainability of the scheme from the point of view of the community.

The current medical centre is poorly sited with a blind entrance and exit on the main road through the town. The parking is limited and awkward.

The Medical Practice has chosen to expand on its current site. This will cause increased problems for parking and traffic flow. With the Medical Practice withdrawn, there will now be very limited off street parking to support local events at the Arts Centre which has a high footfall.

- f) The suggested building materials do not reflect the site's close proximity to the stone built Bollington Conservation Area. This area is one of stone cottages stone church and former Sunday school, stone Town Hall and next to the Waterhouse, which is a listed building, a substantial and distinctive stone house.

If the Strategic Planning Board is minded to grant permission, Bollington Town Council would ask the Committee to:

- a. Restrict the number of houses
- b. Ask for a detailed traffic survey to ensure an adequate flow of traffic.
- c. Require additional employment opportunities and off-street parking to compensate for that being taken out of use.
- d. Condition appropriate building materials
- e. Require a Section 106 Agreement that reflects and responds to Bollington's community needs in line with Supplementary Planning Guidance. This indicates a sum of £630k rather than the sum of £500K on offer.

There should be very limited money spent on either the Co-op transfer or the viaduct.

The agreement should provide support to the Community Centre's, The Bollington Cross Project, the Arts Centre, the Leisure Centre, the Civic Hall and the Library.

#### Revised Consultation

Following revisions, Bollington Town Council supports the proposal and reduced home density of up to 109.

However, it asked Members to take into account the following when they consider the application.

- 1. The Section 106 agreement does not conform to the policy as set out in the Supplementary Planning Guidance. In particular, they do not take into account the impact of this large development on the local community that has limited space to provide sports and leisure facilities.
- 2. The people who come to live in the 109 houses will benefit from the earlier efforts of the townsfolk to create a network of sporting and cultural facilities. The developers will sell their houses more easily because Bollington is well-known as an attractive place to live and where local people become involved in community life. However,

some of these facilities need to be improved and expanded to support growth and community expectation.

3. They argue the need for increased provision for older teenagers. This need will be fulfilled in the Bollington Cross Youth Project supported through two town plans and consistently supported by Bollington Town Council, Macclesfield Borough and Cheshire East Council. The land near the Leisure Centre is the only suitable place for such facilities in Bollington and will serve teenagers who live at this development as well as other teenagers from further away. Without the investment in such facilities, young people will travel further to Macclesfield and beyond undermining sustainability.
4. They ask the Members to support the view that the S106 agreement should reflect the requirements of the community as expressed through Town Plans and the Town Council. They draw attention to an extract from the SPG:
  - That requires off-site facilities that are necessary to meet the needs of the community in order to avoid placing a burden on the existing community
  - Notes that whilst the purpose of planning gain contributions is to address the impact of development and not existing needs, an area's particular needs may well be a relevant matter in considering what appropriate mitigation measures may be.

The Town Council recommended that the S106 addresses the following community requirements and that Members are mindful of the increased pressure 109 houses will have on facilities and the need to ensure that its leisure, cultural and sports facilities are destinations of choice for residents.

With this in mind, they express their support for the following projects for inclusion in the section 106:

### **Open Space, Sports & Leisure**

#### **1. The Bollington Cross Youth Project (Funding sought £100k)**

This project budgeted at circa £250k has appeared in two Town Plans.

The aim is to provide a suite of facilities for young people on land at the back of Bollington Cross Leisure Centre (the only area in the parish suitable for such a development). Facilities include:

- a refurbished play area,
- teen shelter,
- MUGA (Multi use Games Area)
- specifically designed pitches for youth football.

The project provides for both male and female physical activities.

The S106 provides an opportunity to realise this project and to attract outside funding from the Football Association. All the preparatory work has been done. A grant from the Government through Cheshire East realised a part of the project in upgrading the play area. This would bring to a successful conclusion a commitment by Bollington Town Council which is unlikely to be achieved in any other manner.

The number of houses proposed will require increased facilities for young people of all ages in the community. The Bollington Cross Youth Project will provide those facilities.

## **2. The Civic Hall (funding sought £70,000)**

The Civic Hall (including the Library and associated car park) is part of a suite of facilities the Town Council has decided to accept from Cheshire East as part of their assets transfer policy. The transfer will take place on 1<sup>st</sup> September this year.

Ownership of the Civic Hall by the Town Council will ensure a community leisure and performance space in perpetuity.

The facility is currently used for:

- indoor bowling,
- tap dance,
- BOKWA dance,
- light opera shows,
- horticultural shows,
- art exhibitions,
- art classes,
- the flower club,
- weddings and other events.

The Hall has not been well maintained and repairs have not been of adequate quality. The kitchen facilities, lighting, bar area and the furniture need an overhaul and renewal. The Town Council has precepted an amount to cover some upgrading costs, but this will not be enough to bring the Hall to an acceptable modern standard of service.

The above allocation will ensure that not only the basics can be achieved, but that Civic Hall will become a venue of choice rather than a fall back option.

The site will increase the population in the centre of town and put more pressure on all community facilities in Bollington.

**3. Bollington Recreation Ground cricket and football pavilion and bowling hut -refurbishment and development of facilities.** (funding sought £30,000)

The Recreation Ground has green flag status. It is due to be transferred to the ownership of Bollington Town Council in the next stage of asset transfer.

The Recreation Ground Pavilion, used for both football and cricket, is in need of refurbishment, including improved refreshments and club facilities and improved security measures. Furthermore, the Bowling Hut has reached the end of its life and is in need of replacement.

The Friends of the Recreation Ground and Cheshire East Council have worked hard to attain Green Flag status, but the physical facilities provided need to be upgraded if that status is to be maintained. The Recreation Ground is a short walk from the site (via the riverside walk) and will be a leisure and sporting resource for residents on the KM site.

**4. Skate Park Adlington Road Play Park-drainage improvement of the grassed kick about area** (funding sought £10,000)

The Play Park improvements have been a staged project of the Bollington Town Council since 2005.

There have been two stages so far:

- the improvement of the play facilities.
- the creation of a new skate park replacing outdated equipment.

The third stage will be the improvement of the central kick-about area. Bollington Town Council will be responsible for commissioning the work. The skate park is a short walk from the KM site via the riverside walk.

**Arts and Culture**

**5. Bollington Arts Centre (BAC)** (funding sought £50,000)

The Arts Centre is housed in an adapted schoolhouse, which consists of a small performance space, bar / exhibition area and ancillary rooms used for a variety of courses. It is a well used and popular venue providing chamber concerts, jazz sessions, folk music performances as well as plays and comedy nights.

It is a charitable trust, run by volunteers and is self-financing. BAC makes a significant contribution to the Town's arts and culture provision and is unique in the community.

It operates on a tight budget, yet is improving and growing its facilities. It has recently been hit by the need to provide a new electricity supply which

has interrupted its development of backstage rooms. The building is relatively small and activities have increased and this improvement work is necessary to support its programme.

Kay Metzeler residents would be immediately next door to the Arts Centre and are likely to increase pressure on its facilities.

The Management Committee is committed to ensuring that Bollington Arts Centre serves the community and asks, through the Town Council, to access funds from section 106 obligations.

Further important considerations raised were:

#### Traffic

The development has provision for two spaces per unit dwelling. This traffic coupled with the flow of traffic generated by the retail store will increase congestion during the morning and evening rush hours. There should be a full traffic impact assessment to determine a safe exit and entrance is designed and consideration given to controlled pedestrian crossings to ensure those living on the new development can cross the road to access public transport into Macclesfield and beyond.

#### Disabled and mobility provision

Adequate provision must be made for the disabled and for mobility provision throughout the site and at the entrance to the site.

#### Materials

Close attention needs to be paid to the quality of building materials and design to ensure it is not detriment to the Conservation Area.

### **OTHER REPRESENTATIONS**

#### **Bollington Civic Society**

Bollington Civic Society welcomed the reduction in numbers. The former number was a source of considerable concern to members of the Civic Society. It is a significant reduction and will also reduce the volume of traffic generated by this development.

Bollington Civic Society understands that there will now be a certain number of four-bed, detached houses on the other side of the river and this is welcomed.

These remarks do not, of course, have any bearing on The Civic Societies views on the S106 issues which remain unchanged and will do so, until the monies are directly deployed for the benefit of the community. Bollington Civic Society do not believe that supporting the move of the Co-op for commercial gain to the extent of £240,000 and setting aside £250,000 for carrying out the repair work on the viaduct arches - which should be undertaken by CEC - meets this criterion. There will need to be significant changes in this area before The Civic Societies members support the current proposal.

### **Cheshire Gardens Trust**

Reference was made to the proposed development within the garden at the rear of the current Medical Centre. Whilst not part of the current application, it is shown as a continuation of this development, presumably to be part of a subsequent application.

An objection is made to the current application, on the basis that approval of the current indicative layout would imply approval of the principle of continuation into the adjacent site. The Cheshire Gardens Trust recommend that the principle of retention of the Victorian garden is established at the earliest possible stage.

### **Objections**

3 letters of objections have been received. The letters are summarised as follows:

An objection was lodged on the basis that this strategically located site should be used to enhance the facilities in Bollington. This would include significant off-street parking and the relocation of a number of existing premises that have inadequate parking.

Ideally, there would also be new employment opportunities to partially offset those lost with the closure of Kay Metzeler. Instead, the Town is offered a housing estate. The only improvement to the town's facilities is the relocation of the Co-Op. Welcome as this is, this will use a significant part of the funding that the developers make available to the town, whereas the relocation should be a purely commercial transaction between the developers and the Co-op.

The plans fulfil few of the wishes of the people of Bollington (who have expressed a desire for a scheme to include a mixture of housing and small business units, a new Medical Centre, a new site of the Co-op mini supermarket (in a less congested area), as well as community car parking

The lack of any small business provision will further erode Bollington as a working town and take it nearer to becoming dormitory, reducing its vitality and economic viability.

Whilst the relocation of the Co-op supermarket is applauded, the suggested position near the main road merely transfers many of the traffic problems, which affect the present site on Albert Road.

It is also believed that there should be some provision of off-street parking on the site to meet the needs of the people using the shops, the Waterhouse, the Catholic Church, the Arts Centre and any future development of the Methodist Church. For the Arts Centre, losing the concessionary car park will seriously compromise the viability of this unique facility which has a footfall of at least 20,000 people per year.



The access to the site is very restricted as it must serve shoppers and residents alike and will worsen the congestion in an already busy area on a road that is the main thoroughfare to west Bollington and Pott Shrigley.

A resident from Adlington Road raises concerns were a vehicle access formed through one of the arches of the Middlewood Way viaduct, along the route of the old Kay Metzeler fire brigade access track, alongside the River Dean to exit on to Adlington Road by the river bridge were proposed. Any such access would be unsafe, would remove car parking spaces and would increase danger to all road users and pedestrians.

The resident endorses the comments of The Civic Society and specifically agrees with The Civic Society with regard to the proposed use of Section 106 monies to waterproof the road surface of the Middlewood Way viaduct.

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

The following information has been submitted in support of the application:

- A Planning Statement
- A Design and Access Statement
- A Site Appraisal including geo-tech assessment
- An Employment Land and Market Overview Feasibility Analysis
- An Arboricultural Implications Assessment and Method Statement
- Heritage Assessment
- A Noise Assessment
- A Flood Risk Assessment
- A Flood Risk Assessment Sequential and Exceptions Test Appraisal
- A Community Consultation Report
- A Transport Assessment
- An Ecological Assessment
- An Archaeological Report
- Draft Head's of Terms for a Section 106 Agreement
- A Viability Appraisal

Details of the above documents can be found on the application file.

### **OFFICER APPRAISAL**

#### **Principle of Development**

Paragraphs 12 and 13 of The Framework states that the development plan is the starting point for decision making.

*“Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused unless other material considerations indicate otherwise.”*

The:

*“NPPF constitutes guidance for local planning authorities and decision-takers”...*

and is:

*“a material consideration in determining applications”.*

Paragraph 14 states:

*“At the heart of the NPPF is a presumption in favour of sustainable development”...*

*“For decision-taking this means” (unless material considerations indicate otherwise)... “where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole: or*
- Specific policies in this Framework indicate development should be restricted”*

The site is allocated as an existing employment area where policy E4 (which normally permits Use Classes B2, B8, B1b and B1c) applies. Furthermore, Policy E1 seeks to normally retain both existing and proposed employment areas for employment purposes to provide a choice of employment land in the Borough. As such, there is a presumption that the site will be retained for employment purposes. This proposal therefore constitutes a departure from the Development Plan. Planning decisions must be made in accordance with the Development Plan, unless material considerations indicate otherwise.

In this case, there are a number of relevant material considerations when considering the proposed loss of employment land. These are:

- The site is located in the centre of Bollington, on a main through route, and the surrounding use is primarily residential.
- Replacement of a potentially unneighbourly use to adjacent residents.
- HGV's associated with the existing use would be removed from the highway.
- The site is vacant and there is an oversupply of employment land in both the former Macclesfield Borough and the wider Cheshire East area.
- The indicative scheme (as revised) provides a good mix of housing types. 15% of which is offered to be affordable.

- A Linear Park would be created adjacent to the river.
- Some on-site public open space would be provided.
- The river would be widened which will prevent flooding on site and up-stream.
- There may be an opportunity to repair the viaduct to enhance usability of the space below. The developer has offered £250 000 towards this.
- The Co-op would be relocated to the Kay Metzeler site, which would free up the existing site for an alternative, more suitable use.
- A contribution is offered to the Bollington Youth Project of £20 000 – to enhance facilities for young people locally.
- Provision of family-sized homes in Bollington.
- The site is in a relatively sustainable location. The site has good access to the major road network (Wellington Road) and a bus service. Shops and schools are in good walking distance.
- There is an identified shortage of housing land supply and a need for affordable housing.

Consequently, although contrary to the Development Plan, it is acknowledged that there are significant material considerations that indicate that the principle of a residential-led development on this site is acceptable in this location and that a case to retain employment land would not be sustainable. This is looked at in more detail below.

### **Loss of Employment land**

The application site is designated for employment uses within the Local Plan.

Policy E1 seeks to retain employment land for employment purposes. However, Paragraph 22 of The Framework states that:

*“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”*

An Employment Land and Market Overview report from Hallams Property Consultants was submitted with the application.

In conclusion, the report advises:

- The site largely provides poor quality, outmoded industrial, warehouse and office accommodation incapable of economic repair and upgrading for occupation.
- The buildings require demolition. The cost of undertaking these works in addition to any possible remediation due to potential contamination issues is significant. The cost of bringing the site forward for redevelopment in terms of providing good quality, modern industrial/warehousing space is significant and not feasible given the level of rents achievable in today's market.
- The existing access for commercial vehicles via Wellington Road is poor. This would be considered inadequate by most modern day employment occupiers and other uses such as car showrooms etc would severely affect the marketability and ultimately values that could be extracted from the site.
- There is already around 30 years worth of supply (excluding the application site) of employment land in the immediate areas of Macclesfield, Tytherington and Bollington based on historic take-up rates from 1996 and an over supply of employment land in Cheshire to 2018 based on the RSS.
- Employment redevelopments which include industrial/warehousing, office, retail, health clinics and leisure facilities, either by developing accommodation of disposing of land is wholly and financially unviable.
- There is currently no demand for the premises. The site is no longer considered as a potential location for modern businesses.
- Demand for employment sites in the immediate locality is predominantly for plots of less than 1 acre and there is currently in excess of 30 years worth of supply in relation to take-up identified.
- Overall, there is 50 540 sq m of existing office and industrial space available currently in Macclesfield.

A number of the points made in the Employment Land and Premises Report are considered to be valid. The comments in relation to the number of office vacancies in the area is evidenced and backed up by the Council's independent reports.

#### Cheshire East's Annual Monitoring Report 2010/2011

Table 5.3 of the 2010-2011 Annual Monitoring Report indicates there is 296.69 hectares of employment land in Cheshire East. Of this, 20 hectares is committed for non-employment uses, leaving 286.69 hectares. Approximately 60 hectares is located within the former Macclesfield Borough. During this

period, the annual take up rate was 1.96 hectares per year. Using the same take-up rate, it is assumed that there is a 26.35 year supply across the former Macclesfield Borough.

The key consideration for this application is whether there is sufficient employment land with the local area, to meet current needs. The following is a list of large employment sites in the former Macclesfield Borough where employment land is available:

- Tytherington Business Park
- Lyme Green Retail and Business Park
- Hurdsfield Industrial Estate
- Adlington Park
- Poynton Industrial Estate
- Stanley Green Industrial Estate, Handforth
- Parkgate Industrial Estate, Knutsford
- South Macclesfield Development Area

The Council has commissioned an employment land review, which in part will identify the nature and scale of employment land needed in Cheshire East to meet its sub-regional policy requirement and local business needs.

At this juncture, it is considered that there is adequate Employment Land available across the District, and the loss of this site will not lead to an inadequate supply in this area.

### **Need for additional housing**

Members should note that on 23<sup>rd</sup> March 2011, the Minister for Decentralisation Greg Clark published a statement entitled 'Planning for Growth'. On 15<sup>th</sup> June 2011, this was supplemented by a statement highlighting a 'presumption in favour of sustainable development' which has now been published in the National Planning Policy Framework (NPPF).

Collectively, these statements and the National Planning Policy Framework mark a shift in emphasis of the planning system towards a more positive approach to development. As the minister says:

*"The Government's top priority in reforming the planning system is to promote sustainable economic growth and jobs. Government's clear expectation is that the answer to development and growth should wherever possible be 'yes', except where this would compromise the key sustainable development principles set out in national planning policy".*

Whilst PPS3 'Housing' has been abolished under the new planning reforms, the National Planning Policy Framework (NPPF) reiterates at paragraph 47 the requirement to maintain a 5 year rolling supply of housing and states that Local Planning Authorities should:

*"identify and update annually a supply of specific deliverable sites sufficient to provide five years worth of housing against their housing*

*requirements with an additional buffer of 5% (moved forward from later in the plan period) to ensure choice and competition in the market for land. Where there has been a record of persistent under delivery of housing, local planning authorities should increase the buffer to 20% (moved forward from later in the plan period) to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land”.*

The NPPF states that, Local Planning Authorities should have a clear understanding of housing needs in their area. This should take account of various factors including:

- housing need and demand,
- latest published household projections,
- evidence of the availability of suitable housing land,
- the Government’s overall ambitions for affordability.

The figures contained within the Regional Spatial Strategy proposed a dwelling requirement of 20,700 dwellings for Cheshire East as a whole, for the period 2003 to 2021, which equates to an average annual housing figure of 1,150 dwellings per annum. In February 2011 a full meeting of the Council resolved to maintain this housing requirement until such time that the new Local Plan was approved.

It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the Strategic Housing Land Availability Assessment (SHLAA) which was adopted in March 2012.

The SHLAA has put forward a figure of 3.94 years housing land supply. Paragraph 47 of the NPPF requires that there is a five year supply of housing plus a buffer of 5% to improve choice and competition. The NPPF advocates a greater 20% buffer where there is a persistent record of under delivery of housing. However, for the reasons set out in the report which was considered and approved by Strategic Planning Board at its meeting on 30th May 2012, these circumstances do not apply to Cheshire East. Accordingly once the 5% buffer is added, the Borough has an identified deliverable housing supply of 3.75 years.

The NPPF clearly states at paragraph 49 that:

*“Housing applications should be considered in the context of the presumption in favour of sustainable development. Relevant policies for the supply of housing should not be considered up-to-date if the local planning authority cannot demonstrate a five-year supply of deliverable housing sites.”*

This must be read in conjunction with the presumption in favour of sustainable development as set out in paragraph 14 of the NPPF which for decision taking means:

*“where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:*

- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole; or*
- specific policies in the Framework indicate development should be restricted.”*

The forthcoming Cheshire East Local Plan will set new housing numbers for the area and identify sufficient land and areas of growth to meet that requirement up to 2030. The Submission Draft Core Strategy will be published for consultation in the spring of 2013. Consequently, the current shortfall in housing land will be largely remedied within the coming year or so. However, in order that housing land supply is improved in the meantime, an Interim Planning Policy on the Release of Housing Land has been agreed by the Council. This policy allows for the release of appropriate greenfield sites for new housing development on the edge of the principal town of Crewe and as part of mixed development in town centres and in regeneration areas, to support the provision of employment, town centres and community uses.

The proposed development complies with the IPP as it is a regeneration scheme which is part of a mixed development in a town centre.

From the above, it can be concluded that:

- The Council does not have a five year supply of housing – and the presumption in favour of sustainable development should apply.
- The proposed development complies with the Interim Planning Policy as it is a mixed development located in a town centre
- The Cuddington Appeal in Cheshire West and Chester and other recent appeals in Blackpool, Fylde and Worsley, Salford indicate that significant weight should be applied to housing supply arguments.
- The NPPF is clear that, where a Council does not have a five year housing land supply, its housing supply relevant policies cannot be considered up to date. Where policies are out of date planning permission should be granted unless *“any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole”*.

Overall, housing supply is a very important consideration in the determination of this application and must be given considerable weight.

On balance, it is considered that the principle of the scheme is acceptable and that it accords with the general policy of encouraging housing to meet the supply needs of the authority. The application turns, therefore on whether there are any significant and demonstrable adverse effects, that indicate that the presumption in favour of the development should not apply and this is considered in more detail below.

**Need for additional affordable housing in the area**

Policy H8 of the Local Plan requires the negotiation for the provision of 25% affordable housing. However, since then the Council has adopted the Interim Planning Statement on Affordable Housing which, on sites of 0.4ha or 15 or more dwellings in settlements of over 3,000 population, seeks to provide a minimum proportion of affordable housing of 30%. In addition, this document also looks for developments of 10 or more dwellings to provide a minimum of 25% low cost housing.

This site should therefore be providing 33 affordable dwellings and 27 low cost dwellings.

The Affordable Housing Interim Planning Statement states that on all sites over 15 units, the affordable housing requirement will be 30% of the total units with a tenure split of 65% social or affordable rent, and 35% intermediate tenure. The Affordable Housing Interim Planning Statement also requires that the affordable units should be tenure blind and pepper potted within the development; the external design - comprising elevation, detail and materials - should be compatible with the open market homes on the development, thus achieving full visual integration.

The Housing Need information taken from the Strategic Housing Market Assessment 2010 shows that for the Macclesfield & Bollington sub-area there is a need for 318 new affordable units per year, this is made up of need for 175 x 2 bed, 109 x 3 bed and 49 x 1/2 bed older persons. There was a slight oversupply of 1 and 4 bed units. The Strategic Housing Market Assessment also identified that the tenure preferences for affordable housing in Cheshire East were 65% social rent and 35% intermediate tenure.

Due to this, the Housing Strategy and Need Manager seeks the provision of 30% affordable housing on this site, split as 65% rented affordable units and 35% intermediate tenure units. As this application is up for up to 99 dwellings, this would equate to a requirement for 30 affordable units.

The applicant is only proposing 15% affordable housing, which does not meet the requirements of the Affordable Housing Interim Planning Statement in terms of the percentage of affordable housing provided or the tenure split required. However, a lower percentage of affordable housing has been considered to be acceptable, in this instance, as there are genuine viability issues, which has been independently verified.

The applicant is offering the intermediate affordable housing units on a discounted from open market basis with a discount of 30% applied to give a sales value of £130 000 to £135 000 for each affordable unit.

On the basis of the above, the Housing Strategy and Needs Manager raises no objection to the application.

**Design, layout, density and impact on residential amenity**



Design, appearance, layout and scale considerations are all reserved. They are therefore not the subject of decision here.

Local Plan policies BE1, H2, H13, DC1 and DC35 address matters of design and appearance.

Policy BE1 states that the Council will promote high standards of design and new development should reflect local character, use appropriate materials and respect form, layout, siting, scale and design of surrounding buildings and their setting.

Policy H2 requires new residential development to create an attractive, high quality living environment.

Policy DC1 states that the overall scale, density, height, mass and materials of new development must normally be sympathetic to the character of the local environment, street scene, adjoining buildings and the site itself.

It is considered that, in the context of this site, it should be possible to design a scheme which satisfies the policy requirements highlighted above. The indicative layout would confirm this and helps to illustrate that a decent landscaped setting can also be provided.

The indicative layout illustrates that satisfactory separation distances can be achieved between the existing medical centre adjacent to the site and the houses proposed within the new development. It is considered that it should be possible to design a scheme with separation distances which would comply with the requirements of Local Plan Policy DC38.

The basic principles have been outlined, but the content of the current design and access statement should not be assumed as an acceptable level of detail for design consideration. The basic parameters (i.e. number of storeys) identified are acceptable, but work will need to be undertaken to address a number of issues at the detailed design stage. Officers are confident that a high quality design package can be accommodated on the site.

### **Design and Access Statement**

The applicants have produced a Design and Access Statement which examines the indicative details for the final form of the development and this provides supporting information for the design of the scheme. Officers raised initial concerns with the applicant's agent and information has now been provided in relation to the loss of buildings of interest (i.e. the pavilion and stone office / lodge buildings), the relationship with the viaduct, the leat and more information has been provided on the linear park.

Officers have recommended that a map which shows the heritage assets surrounding the site should be submitted, as it will illustrate how the character and urban context has been arrived at.

### **Scaled parameters**

Bearing in mind:

- a) the scale of the buildings that currently exist in the vicinity of the site,
- b) factors such as distance standards, amenity and outlook (which will have to be satisfied on a reserved matters application).

The proposed maximum ridge height of 13.5m is considered unnecessarily high. It is therefore recommended that the ridge height of the dwellings be conditioned to scale parameters between 8.5 metres (for two storey dwellings) and 11.0 metres in height (for three storey dwellings).

The density and scale of the proposed housing is considered to present an adequate compromise between the need to make efficient use of land whilst respecting the character of the locality.

**Design layout which reduces overshadowing from the viaduct**

Concern is raised that properties are sited too close to the viaduct. Therefore, a condition is proposed which would give a minimum distance any house should be sited from the viaduct. This is for space and light purposes. The indicative layout shows houses within 10 metres. The height of the viaduct is approximately 15m. Therefore, having regard to the local plan policy DC38, it is suggested that there should be a minimum distance of 24 metres between the rear elevations of the dwellings backing onto the viaduct and the viaduct itself. This should, in addition, allow for issues relating to access for maintenance to the viaduct to be addressed. This will affect 4 no. plots. However, these should be comfortably accommodated on the site.

**Condition of the viaduct**

It is evident from the comments made by the Town Council and The Civic Society that there is little local support for Section 106 money to be secured for repairs/maintenance to the viaduct. This is largely due to the fact the structure is owned by Cheshire East Council. However, the Council does not currently have money allocated to undertake the necessary repairs and securing opportunities to repair and maintain an important local heritage asset should be seized where possible.

The structure is a local landmark and important historically. If money cannot be secured as a benefit of the development, the viaduct will deteriorate further, and may in time become a blight on the development, rather than a key character feature. Money could be sought for repairs to the viaduct, but at the very least funds should be secured for a maintenance strategy and watching brief to ensure works can be phased over a number of years. This would have to be secured under a Section 106 Agreement.

**Retention of the buildings associated with the mill**

Consideration has been given to the retention of the Gatehouse (reception) building and Sports Pavilion as these are considered to be heritage assets. The Gatehouse building was built in 1922. However, it is noted that retaining

these buildings would further affect the viability of the proposals. These buildings need to be recorded prior to demolition.

### **Possible future indicative layout**

An area was identified on the originally submitted plan to the rear of the medical centre. This “indicative layout” area should not be considered as part of the determination of this planning application and has been omitted from the revised plans. No comments have been made on this element of the site. Officers would suggest that any future developer for this part of the site, makes a pre-application enquiry with the Local Planning Authority to gain advice on its suitability for development.

### **Waterhouse Mill**

The sites history is important. The developer has agreed to the addition of interpretation boards on the site (potentially within the Linear Park), which will help reinforce the historic character of the site. This can be addressed by a condition. The interpretation panels should also focus on any findings once the site clearance works have begun.

### **Car parking**

It is recognised that this is a development within the centre of Bollington. However, where in-curtilage parking is desired, national guidance advises locating garages, or carports alongside houses, set back from the building line. Options generally need to be explored for reducing the amount and visual impact of cars parked in front gardens.

### **Highway Safety**

It is noted that the Strategic Highways Engineer raises no highway objections.

In considering the traffic impact of the development proposals, it is important to remember that there is an existing consent for industrial development that will have produced trips on the local highway network including HGV movements. Additionally, the existing Co-op store is being moved to the site from an existing central town location.

The applicant has assessed the trip rates for both the existing industrial / commercial and the proposed development and indicates that there will be a net increase of 33 trips am peak and 59 trips pm peak hours. The trip rate assessment submitted by the applicant is considered accurate and a reasonable assessment of the increase in traffic. As this was a commercial site, there was an element of trips being HGV's and this proposal will see a substantial reduction in lorry movements through Bollington.

The background traffic on the B5090 Wellington Road is around 800 vehicles (two-way) maximum in the evening peak hour and when the additional net traffic is added of 60 trips, it does not have any material impact on the road network

The proposed new access will provide a good standard of access. An emergency access route will be retained to the rear of the site and provides a

link to Adlington Road. This will be used on a daily basis as a footpath/cycle link.

With regard to sustainable travel, there are a number of bus services close to the site. The site will provide a new cycle route between Wellington Road and Adlington Road and also link the Middlewood Way.

No comments are provided on the indicative layout as this is an outline application. Internal road design issues will be dealt with in the reserved matters submission.

As the Co-op is being relocated, there is potential for vehicles to park on Wellington Road and not use the dedicated car park within the site. Consequently, the Highways Engineer would seek a contribution of £4000 to install parking restrictions should problems with on-street parking occur.

### **Environmental Issues**

The Environmental Health Officer raises no objection to the application, subject to conditions in relation to construction, noise, and contaminated land.

A Phase II contaminated land investigation shall be required and any remediation required as necessary.

The proposed residential use is a sensitive end use. A report submitted with the application identified potential contamination and recommends further investigation.

### **Cycling and Rights of Way**

The proposed development should make adequate facilities for pedestrian and cyclist access to, from and within the site. The footpaths on the site connect with the Middlewood Way and the national cycle network and therefore will provide both pedestrian and cyclist routes for business and leisure journeys. It is important that the Middlewood Way is maintained in a satisfactory condition and that good access is maintained.

The documents refer to the creation of a new footpath / cycleway within the linear park and a new bridge link to the Adlington Road playground and Middlewood Way access.

### **Landscape, Greenspaces and Trees**

Landscape details are a reserved matter not for the consideration in this application, but at the detailed stage.

The Landscape Officer raised various concerns to the originally submitted scheme. However, the revised plan has addressed these issues.

The riverside 'Linear Park' has been widened and now has scope for new planting and other features. The 'active frontages' overlooking the riverside path and other open spaces would provide good surveillance of these areas.

These properties have been set back to provide more front garden space and a railing fence has been incorporated to separate them from the public areas.

Strong concerns were raised about the proximity of the plots adjacent to the viaduct. The viaduct would have an overbearing impact on these dwellings. The revised plans show how some of this area has been to be used as Public Open Space. Details for the proposed fencing and screen planting around the sub-station should be addressed as part of the landscape details at reserved matters stage.

The Arboricultural Officer raises no objections to the outline scheme in principle. This outline application is supported by an Arboricultural Implications and Method Statement which identifies those trees proposed for retention within the proposed scheme and those identified for removal due to their condition or for the purposes of development.

#### Unprotected Trees

The report identifies various individual and groups of semi mature and early mature trees located internally within the site which will require removal to accommodate the development or are not worthy of retention by virtue of their condition. The majority of these trees are not protected by the Tree Preservation Order, which protect selected trees within the site.

Discussions carried out with the Senior Arboricultural Officer, prior to the submission of the application, have agreed the removal of most of these unprotected trees in principle, including the removal of the linear group of Sycamore adjacent to the viaduct to the eastern boundary of the site. Some unprotected trees are to be retained; those of some note being a group of young Sycamore along the boundary of the adjacent sub station, which will provide some boundary screening to Plots 59-61.

The revised plan shows the retention of the existing Hornbeams along the Wellington Road frontage and planting of 7 additional trees, which is welcomed.

#### Protected trees

The removal of the protected Sycamore (T40 of the report) has been agreed on the basis of providing an optimum access position and to provide adequate radii and sight lines in accordance with highways requirements. The relocation of the access to accommodate the tree would have impacted on provision for car parking for the proposed Co-op building. In this regard, these reasons outweigh the loss of the protected tree. Mitigation for the loss of this tree is to be provided within the Linear Park / Village Green Area or adjacent to the new access into the site, adjacent to the existing group of protected Pine and the remaining Sycamore.

Removal of the dying protected Sweet Chestnut is accepted (T35 of the Arboricultural Report). The omission of Plot 85 and reconfiguration showing plots 77-79 on the revised plan now provides an acceptable relationship to the two protected Pine and Sycamore (T36, 38 and 39 of the report (G12 of the

Order). There should be no levels changes within the RPA of these trees and a condition should be attached for details of any retaining walls that may be necessary to retain soils.

The revisions to Plots 97-114 are noted. The exact positions of protected trees (G15 of the TPO) along the northern boundary of the site have not been plotted. Whilst Plots 90 - 93 appear to be located some 20 metres from this boundary, and appear to provide an acceptable relationship to those protected trees on the boundary, the steep nature of this site will likely necessitate significant level changes to accommodate slab levels and adequate garden space. The Arboricultural Officer has concerns with regard to Plot 94 in terms of its possible position in relation to boundary protected trees, the impact upon the rooting environment of trees and any proposed level changes required to accommodate necessary slab levels. A cross section of the site has been requested in order to demonstrate existing and proposed levels.

The revised plots 97 and 98 are now located closer to the eastern boundary of the site. The Arboricultural Officer has concerns that the position of these Plots will now impact upon the group of protected Lime trees located within Garden Street (G16 of the TPO). These trees need to be included in the report as they overhang the site and are therefore a material consideration. These details have been requested.

The revised access arrangements around G4 are acceptable. Details of porous driveway construction can be subject to an appropriate condition.

### **Ecology**

The Nature Conservation Officer raises no significant ecological issues in relation to the proposed development. The Nature Conservation Officer has commented as follows:

#### **Badgers**

An active main badger sett and a disused annex sett have been identified on the proposed development site. The main sett will be retained on site. However, it will be necessary to close the disused annex sett. The submitted ecological assessment advises that a Natural England license will be required to close the annex sett and makes some brief recommendations relating to the timing and supervision of the works.

The Nature Conservation Officer advises that the retention of the main badger sett and the closure of the annex sett is an acceptable approach as the main area of badger activity would be retained. However, as the current application is outline only, the Nature Conservation Officer recommends that a condition be attached to any permission granted requiring any future reserved matters application to be supported by an up to date badger survey and a detailed mitigation method statement.

#### **Loss of Woodland Habitat**

The submitted indicative layout would result in the loss of an area of woodland in the along the western boundary of the site. A development in accordance with the indicative layout would therefore be contrary to local plan policy NE7.

The submitted Phase One Habitat survey has identified this habitat as being plantation broad leaved woodland. From the Nature Conservation Officers site visit, there appeared to be no obvious evidence of the woodland originating from a plantation.

It would be useful for the applicant's ecological consultant to confirm why they considered this habitat to be plantation.

An additional survey of the woodland over the coming weeks would be useful to more fully assess the nature conservation value of the woodland.

#### Breeding birds

Conditions are suggested to safeguard breeding birds and to ensure some additional roosting/nesting potential is provided as part of the proposed development.

#### Hedgerows

Hedgerows are a priority habitat and hence a material consideration. The hedgerows on site do not appear to be particularly significant in terms of their nature conservation value. However, if any hedgerows are to be lost it must be ensured that their loss is compensated for through the creation of new native species hedgerows as part of any finalised landscaping scheme for the site.

#### Wet drain

The wet drain in the northern part of the site has some nature conservation value in the very local context. The Nature Conservation Officer recommends that consideration is given to retaining and modifying the drain as a feature of the proposed development.

#### Non-native invasive species

The non-native invasive plant species Himalayan balsam has been recorded on site. If planning consent is granted, the Nature Conservation Officer recommends that a condition is attached requiring the submission of a method statement for the eradication of this species from the site.

#### **Open Space**

Formal comments are awaited from the Parks Management Officer in relation to the commuted sum which would be required from the developer towards the Borough Council's sports, recreational and open space facilities as required by policies in the Local Plan. The payment of the sum would be included in the legal agreement and would be based on guidance in the Section 106 SPG. Comments have been made in relation to the scheme in general.

The Parks Management Officer notes that no strategy for the open spaces and linear park has been submitted. This document should outline the purpose, aims and objectives to guide the design process, proposed look and feel of the space, contents, maintenance and quality. There should be seating or resting points at regular intervals, imaginative interpretation, signposting to other links / facilities, wildlife features, varied maintenance regimes, and bespoke and quality materials and detail. The linear park could take cues from Bollington Recreation Ground in terms of detail, signage and sculptures to provide some cohesion and connectivity.

Within the rearranged and improved open space adjacent to the viaduct, it is requested that a section of the mill leat is retained. This will enhance the diversity across the site and open space, provide a link to the past uses of the site for future residents and users and be an attractive feature.

The footbridge proposed over the River Dean is an important introduction to the site. It will provide a potential link through to Adlington Road and beyond, to facilities and enhance the network of green spaces. It also provides an opportunity to celebrate the site and its uses.

The gateway to the linear park is important and further work is required to explain and define the entrances and transition to open space. They also offer the opportunity to introduce bespoke features which celebrate and enhance the site, strengthening its individuality and sense of place.

It has been agreed that it is neither appropriate or desirable to provide children's play space or sport and recreation facilities on site. Amenity open space is being provided on site in the form of the linear park. A commuted sum for the offsite provision of children's play space and sport and recreation facilities will therefore be required.

## **OTHER MATERIAL CONSIDERATIONS**

It is considered that the majority of issues raised by the public are covered in the report above. In addition, the following observations are made with regard to their comments:

### Number and types of housing to be provided

The revised plan illustrates both a reduction in the number of properties on the site and includes up to 13 larger family dwellings.

### No new medical centre

It is understood that the developer attempted to work with the doctors at the medical centre. However, the doctors could not find a scheme which would have been viable for them. Consequently, within the current financial constraints they have to work within, it would not be possible to relocate the doctor's surgery onto the application site.

### Co-op relocation

This is considered to be a benefit of the scheme. The existing Co-op on Albert Road is on a corner and the community has concerns regarding its associated



parking and highway safety. The relocation of the community has largely been pursued by the developer at the request of the community.

Section 106 contributions

This matter is addressed in the Heads of Terms section below.

**HEADS OF TERMS**

**Viability**

A full viability appraisal has been submitted with the application. This identifies the costs of the development and expected returns. Land Values were supplied by CBRE, which take into account the following:

- Residential build cost.
- Retail build cost.
- Road infrastructure.
- Contingency.
- Abnormal costs.
- Aqueduct repairs.
- Professional fees.
- Finance rate.
- Marketing costs.
- Land value
- Coop purchase.
- Public Open Space.
- NW Electricity.

In order for redevelopment to take place, the value of the site for housing and the Co-op must exceed existing use values and the return for the landowner. In this instance, although British Vita has ceased to operate, there is still a significant period for their lease to run, which generates a return for the owner, which allows an existing site value to be calculated.

The Council has had the developer's viability appraisal independently assessed. Although the developer considered that the build costs of the development are significantly higher than those suggested by the Council's external assessor, the applicant has agreed to accept our conclusions.

The conclusion of our assessor was that unfortunately the development would not be viable if a full quota of Section 106 requirements were sought. As such, Officers have negotiated a package which would provide:

- 15% affordable housing,
- the relocation of the Co-op,
- £270 000 of contributions.

Initially, the developer proposed that the money should be spent on the viaduct and Bollington Youth Project.

Bollington Town Council also has views on how the money should be allocated.

The developer is supportive of the money being spent on local requirements for local people. However, it is of course essential to ensure that the contributions meet CIL regulations and are suitably linked to the proposed development.

Officers have considered the Council's SPG on Section 106 Agreements. It is considered that the money could be allocated for use of play (formal and informal) at:

- Adlington Road,
- Bollington Recreation Ground
- Coronation Gardens,

or improvements to the sports provision at Bollington Recreation Ground, including changing facilities and access improvements to the Middlewood Way.

Money could be sought for repairs to the viaduct, but at the very least funds should be secured for a maintenance strategy and watching brief to ensure works can be phased over a number of years. The Council can then engage with the local community, post decision on how best to utilise this money.

In addition, the developer has agreed to pay for a Traffic Regulation Order of £4 000 to ensure safe access and egress from the site.

There have been requests for the contributions from the development to go towards the Bollington Cross Youth Project, the Civic Hall and Bollington Arts Centre, as well as at Adlington Road and Bollington Recreation Ground.

All of the above groups make a valuable contribution to the community of Bollington.

The Supplementary Planning Guidance on Section 106 Agreements does allow for commuted sum payments to be requested for such facilities, separate to the requirements for public open space, sports and recreation, education etc. as required in national legislation. On this occasion, the viability study has demonstrated that the development could not make these contributions available.

For clarity the heads of terms are:

- 15% Affordable Housing = 15 units to be 65% social or affordable rent, and 35% intermediate tenure.
- A commuted sum would be required for offsite provision for use towards play (formal and informal) at Adlington Road, Bollington Recreation Ground and Coronation Gardens, improvements to the sports provision at

Bollington Recreation Ground, including changing facilities, and improvements to the Middlewood Way. Funds should be secured for a maintenance strategy and watching brief to ensure works to the viaduct are phased over a number of years. The commuted sum total is £270 000.

- Relocation of the Co-op.
- £4 000 for a Traffic Regulation Order.
- A 15 year sum for maintenance of the open space will be required IF the council agrees to the transfer of the open space to CEC on completion. Alternatively, arrangements for the open space to be maintained in perpetuity will need to be made by the developer, subject to a detailed maintenance schedule to be agreed with the council, prior to commencement

### **Community Infrastructure Levy (CIL) Regulations**

In order to comply with the Community Infrastructure Levy (CIL) Regulations 2010 it is 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 15% affordable housing is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

The commuted sum in lieu for off site provision of recreation / outdoor sport is necessary, fair and reasonable, as the proposed development will provide 99 dwellings, the occupiers of which will use local facilities, and there is a necessity to upgrade/enhance existing facilities. The contribution is in accordance with the Council's Supplementary Planning Guidance.

A commuted sum would be required for offsite provision for use towards play (formal and informal) at Adlington Road, Bollington Recreation Ground and Coronation Gardens, improvements to the sports provision at Bollington Recreation Ground, including changing facilities, and improvements to the Middlewood Way / viaduct is necessary, fair and reasonable to provide sufficient affordable housing in the area, and to comply with National Planning Policy.

The relocation of the Co-op is provided as a benefit of the scheme by addressing a traffic problem elsewhere in the town and is necessary to ensure that the site has an element of mixed use.

The £4 000 for a Traffic Regulation Order is necessary to ensure that the highway adjacent to the site is maintained safely.

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of development.

## **CONCLUSIONS**

This scheme is in outline form with all matters reserved for future consideration. There will be an opportunity to consider the detail raised in some of the comments expressed, at the time of the reserved matters application.

Overall, the scheme is considered to be sustainable development as:

- The application site comprises previously allocated land in a sustainable location, with access to local services, including shops, schools and good public transport links.
- The proposal would bring environmental improvements.
- The proposed development comprises a maximum of 99 dwellings, 15% of which would be affordable dwellings (because of viability issues). A good mix of house types and sizes are proposed and the development helps meet the Councils housing targets. A viability appraisal has been independently assessed to ensure that the development is deliverable.
- The indicative layout and scale of the development would make efficient use of this previously allocated site and provide a residential scheme that would contribute to the housing needs of the area. Although the access, layout and scale would be a reserved matter, the indicative details submitted would have an acceptable impact on the character of the area and it is considered that it would be possible to comply with the distance standards between properties contained within the Local Plan.
- It is considered that the extent to which the proposal would impact on neighbouring residential amenity would be acceptable.
- The Council's Arboricultural Officer accepts the general principles of the development in relation to the impact on trees. However, concerns are raised with regard to the submitted layout plan due to the relationship between some of the protected trees and some of the proposed dwellings, with specific reference to plots 94, 97 and 98. The applicant has been made aware of this issue and revised plans, taking into account the Arboricultural Officers concerns has been requested. These will be the subject of an update report.
- The Council's Nature Conservation Officer largely supports the proposals. However, further information has been requested in relation to the Loss of Woodland Habitat

In summary, for the reasons outlined, it is considered that the principle of residential use on the site is acceptable.

Although the proposal does not comply strictly with policy, it is considered that there is still an adequate supply of employment land available across the

Borough that the loss of this site will not lead to an inadequate supply in this area.

Consequently, a recommendation of approval is made, subject to conditions and a S106 Agreement.

1. A06OP - Commencement of development
2. A03OP - Time limit for submission of reserved matters (within 3 years)
3. A01OP - Submission of reserved matters
4. A02OP\_1 - Implementation of reserved matters
5. A09OP - Compliance with parameter plans
6. A08OP - Ground levels to be submitted
7. A01LS - Landscape - submission of details
8. A04LS - Landscaping (implementation)
9. A01GR - Removal of permitted development rights
10. A02HA - Construction of access
11. A04HA - Vehicular visibility at access to be approved
12. A32HA - Submission of construction method statement
13. A19MC - Refuse storage facilities to be approved
14. At least 10% of the energy supply of the development shall be secured from decentralised and renewable or low-carbon energy sources
15. Protection of breeding birds
16. Provision of bird boxes
17. Submission of further badger survey in support of any reserved matters application.
18. Submission of method statement for the eradication of non-native invasive species.
19. Details of lighting to be approved
20. Piling - contractor to be members of the Considerate Construction Scheme
21. Times of Piling
22. Hours of construction/noise generative works
23. Noise mitigation
24. Dust mitigation
25. Contaminated land
26. Mitigation to follow submitted air quality assessment
27. Submission of a drainage scheme including details in respect of surface water run-off

28. Development to accord with Flood Risk Assessment
29. Number / type of dwellings
30. Method statement for the removal of the weir should be submitted for approval
31. Method statement for any bank works, including reprofiling, should be submitted for approval
32. Management lan for the buffer riparian/linear park area adjacent to the River Dean should be submitted for approval
33. Management plan for the eradication or management of the invasive plant species on site should be submitted for approval
34. Scheme to dispose of foul and surface water
35. a scheme to deal with the risks associated with contamination of the site shall each be submitted to and approved
36. A verification report demonstrating completion of the works set out in the approved remediation strategy
37. Piling and foundation design to be submitted
38. Minimum width of linear park to be 12m in accordance with the indicative layout
39. Implementation of public open space areas.
40. Arboricultural Implication Study required





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Application No: 12/1113M

Location: LAND OFF SPINKS LANE, PICKMERE

Proposal: The use of Land as a Private Gypsy and Traveller Caravan Site  
Comprising 3 Mobile Homes, 3 Touring Caravans and Associated  
Hardstandings

Applicant: MESSRS FELIX, THOMAS & MIKEY DORAN

Expiry Date: 28-May-2012

**Date Report Prepared: 20 July 2012**

#### **SUMMARY RECOMMENDATION**

REFUSE

#### **MAIN ISSUES**

- **Effect on the Green Belt**
- **Effect on environmental quality**
- **Effect on biodiversity**
- **Effect on highway safety**
- **Suitability of the site**
- **Compliance or conflict with the development plan and national policy**
- **General need**
- **Alternative sites**
- **Personal circumstances of the applicants**

#### **REASON FOR REPORT**

The application is being considered by the Strategic Planning Board due to the planning history and public interest in this case.

#### **DETAILS OF PROPOSAL**

The planning application seeks retrospective planning permission for the change of use of land as a private Gypsy and Traveller caravan site comprising of 3 mobile homes, 3 touring caravans and associated hardstandings.

In the Design and Access statement it states that a temporary permission is sought although the length of the temporary period applied for has not been specified.

## **DESCRIPTION OF SITE AND CONTEXT**

The site lies within the North Cheshire Green Belt. The site is approximately 0.6 hectares in area and is located within agricultural land at the eastern end on the south side of Spinks Lane. Prior to the unauthorised development taking place the site itself was undeveloped and formed part of the adjoining agricultural fields. The site itself is relatively flat, as are the surrounding fields, which become slightly more undulating to the south and east. The site is bounded on its northern and eastern sides by a public right of way

Spinks Lane is a narrow single lane track that merges with Pickmere Lane approximately 400 metres west of the appeal site. It is an attractive rural track bounded by hedgerows and mature trees and forms part of the rural public footpath network which continues south across fields at the east termination of Spinks Lane. The character of the surrounding land is attractive rural countryside with mature hedgerows, trees and open fields out to pasture, reflecting its status within the North Cheshire Green Belt.

There is no development on the fields adjacent to the site. A horticultural structure is the nearest form development which is located approximately 200 metres from the site on a field near to Pickmere Lane.

Pickmere itself is a small rural settlement that lies on the western border of the boroughs of Cheshire East and Cheshire West. The site is also near to the village of Wincham which contains a limited level of local services including a shop, post office and primary school.

## **RELEVANT HISTORY AND BACKGROUND**

On 3rd and 4th October 2008, six caravans were brought onto the land and works to create tracks and areas of hardstanding were undertaken. Works were also undertaken on Spinks Lane which involved the deposit of large amounts of hardcore. An extended family of adults and young children commenced occupation of the land as a Gypsy and Traveller site. On 6th October 2008, it was established that a related planning application (reference 08/2196P) had been submitted to the Council during the afternoon of Friday 3rd October 2008.

The Council obtained an interim Injunction ('without notice') at Chester County Court on Tuesday 7th October 2008 which effectively 'froze' the situation until the date of the full hearing

A full injunction was obtained on 10th October 2008. The injunction remained in effect until "final determination of the application for planning permission... including a decision in respect of any appeal by the Claimant against any refusal of the planning application and any decision in respect of any subsequent appeal application to the High Court"

The purpose and effect of the final injunction was to maintain the 'status quo' on the site until the planning application was finally determined, and, as such allowed those occupying the site at the time of the injunction to remain there.

Planning Application 08/2196P and related Enforcement Notice

Planning application 08/2196P was refused by the Planning Committee of the former Macclesfield Borough Council on Monday 23rd March 2009. An appeal was lodged on 23rd April 2009

An enforcement notice (reference 08/00573E) was issued and served on 31st March 2009. The Notice required the cessation of the residential use of the site, the removal of the caravans, hardstandings and other equipment related to the unauthorised use, and the reseedling of the land. An appeal was lodged on 29th April 2009

Both appeals were heard together at a six day Public Inquiry held 20th -22nd October 2009 and 5th – 7th May 2010. The Secretary of State's decision was issued on 11th June 2010. Both appeals were dismissed. However, the two time periods for compliance with the enforcement notice were extended by five months. The two compliance dates were 11th April (to cease the residential use and remove caravans from the land) and 11th May 2011(to remove hardstandings and reseed the land).

None of the requirements of the enforcement notice were complied with within the required time period. Therefore, a decision was taken to commence legal proceedings against the two members of the family that own the land with Summonses being served on 20th April 2011. After initially pleading not guilty at the Magistrates Court, both defendants opted for trial at the Crown Court. At the Plea and Directions Hearing on 14th October 2011, they both acknowledged their guilt by changing their pleas to guilty and were fined £2,000 each. The Council were awarded 50% of their costs.

Planning application 11/0333M

Planning application 11/0333M was submitted in January 2011 for 2 stable blocks and the retention of the existing hardstandings and was refused by the Northern Planning Committee on 4th May 2011.

Planning Application 11/2434M

In September 2011, the Council used its powers under s.70 of the Town and Country Planning Act 1990 (TCPA) to decline to determine planning application 11/2434M for the use of the land as a private gypsy and traveller caravan site for 3 mobile homes and 3 touring caravans with associated hardstandings for a temporary period of one year.

**CONSULTATIONS (External to Planning)**

**Strategic Highways & Transportation Manager: Recommend Refusal**

There have been changes made to the speed limit where Spinks lane emerges onto Pickmere Lane. The previous limit of 40mph has been reduced to 30mph.

Spinks Lane is very narrow and is only suitable of single file traffic. The application proposes 3 pitches that the applicant estimates will generate between 10 and 12 movements per day.

Traffic generation figures agreed at the inquiry were in the range of 8 and 14/16 movements per day.

The main highway issue relating this application concerns the junction of Pickmere Lane/ Spinks Lane and the very limited visibility in both directions. In order to determine the required visibility, speed surveys have been undertaken by the applicant and Cheshire East Council has also undertaken their own survey to assess traffic speeds. The applicant's results show 85%ile speeds of 36.9mph southbound and 38.8mph northbound, our own survey indicates 85%ile speeds of 42.4 southbound and 39.8 northbound.

This is a rural road that, despite the speed limit being 30mph, has high recorded traffic speeds. As such the visibility requirements as set out in DMRB (Design Manual for Roads and Bridges) should be used. Based upon these speeds the minimum visibility that should be provided is 2.4m x 120m in each direction. It can be seen that due to the close proximity of the hedgerows the available visibility is not more than 20m in each direction to the nearside kerb. It is therefore woefully short of the requirement.

In summary, the junction of Pickmere Lane/Spinks Lane falls well below standards, not only in terms of width, but also visibility. I would not wish to see the use intensified. Therefore, I would recommend that the application is refused on grounds that access to the site is unsafe and fails to meet design standards.

#### **Environmental Protection:**

The environmental health officers have raised numerous points which relate to the layout and servicing of the site in respect of normal requirements for a site licence. These are not directly planning matters but do emphasise the requirement for appropriate servicing facilities on the site.

They are concerned about the existing method of foul sewage removal as the applicant has ticked other method for disposal of foul sewage in section 11 of the application form. In addition the applicant is not proposing to connect to the existing drainage system. The site should be provided with access to mains water, electricity supply, drainage and sanitation. Electrical generators are prohibited.

Each caravan standing should be connected to foul drainage. There must be provision of a foul drainage system approved by the LPA and consideration should be given to the suitability of any system from the Environment Agency.

Each caravan standing should have its own water supply, W.C, W.H.B, shower or bath (hot & cold water).

Where the WC and related WHB facilities are not present, or there is a cultural aversion to these facilities being provided with/in a caravan/mobile home they should be provided in a building that complies with Building Regulations, thus giving it suitable insulation and frost protection.

#### **VIEWS OF THE PARISH COUNCIL**

Pickmere Parish Council: **Recommend refusal.**

This is a retrospective application and subject to two previous applications and a planning appeal. The main objections are:

1. Inappropriate development in the green belt
2. The loss of openness to the green belt
3. The adverse impact on important habitat of protected species on and around the site
4. Adverse impact on recognised valuable biodiversity
5. The exacerbation of a very dangerous junction between Pickmere Lane and Spinks Lane which is dangerous for road users and pedestrians
6. The loss of visual amenity
7. Light and noise pollution in a green belt location
8. Non-compliance with Local Plan or National Planning Policy Framework

The Council sees no very special circumstances being made in this application. It is identical to the application refused and dismissed on appeal. The Inspector found that no purpose would be served by a temporary planning permission. The Parish Council also considers it unacceptable that this application is being considered given there is wilful non-compliance with the Enforcement Notice.

## **OTHER REPRESENTATIONS**

110 letters of objection from individual addresses have been received. The objections are summarised under the following key issues:

### The occupation of the site is in breach of the law and planning rules are being ignored

- There is no change from the refused application which has been dismissed at appeal. The enforcement notice has been upheld by the Inspector but is being ignored by the applicants.
- The same reasons for refusal and objections still apply

### Green Belt & Countryside

- The proposal is inappropriate development in the green belt
- Harm to the openness of the green belt
- Harm to the visual amenity of the green belt and countryside
- Harm to the character and appearance of the rural area
- Contrary to national planning policy for traveller sites (March 2012)
- Green belt sites should only be granted through the plan making process and not in response to a planning application
- There are no very special circumstances to justify the development

### Environment & Ecology

- Harm to ecology including barn owls, protected species and wildlife

- Damage to trees and hedgerows has been caused
- Noise and light pollution
- Operation of noisy plant and machinery
- Can no longer enjoy walking the footpath due to fear for safety

#### Highway Safety

- The Spinks Lane / Pickmere Junction is unsafe due to poor visibility
- Visibility has not been improved
- Lack of recorded accidents does not justify the increased use of the access
- The “Fall Back” position of the applicants would not result in the same level of use

#### Other matters

- There is no need for the development in this location
- The site is often unoccupied
- Not a sustainable location and not near any local services.

Full details of representations are available on the Council’s website.

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

The application is accompanied by a Design and Access Statement and a statement on Highway issues. These documents are available on the online file as background documents.

The Design and Access statement sets out the applicants’ case that the proposal is compliant with saved policy HOU6 of the Cheshire Replacement Structure Plan to 2016 and draft RSS policy L6. The document sets out the applicants’ case that there are very special circumstances which clearly outweigh the harm caused by inappropriateness. The matters relied on, cumulatively and individually, are:

- i) The need for further sites for Gypsies and Travellers nationally, regionally, locally and personally for these families
- ii) The unavailability of suitable alternative sites
- iii) The families’ personal circumstances in particular their health and education needs
- iv) Deficiencies with Development Plan policy provision for Gypsy and Traveller caravan sites in Cheshire East
- v) The consequence of the application being dismissed for the families
- vi) Human Rights consideration.

### **OFFICER APPRAISAL**

#### **Policy**

#### The Development Plan

The development plan for the area consists of the North West of England Plan Regional Spatial Strategy to 2021, the saved policies of the Structure Plan Alteration Cheshire 2016, and the saved policies of the Macclesfield Borough Local Plan.

In the RSS, Policies DP7 and DP5 identify criteria to apply principles (i) to promote environmental quality, and (ii) to manage travel demand, reduce the need to travel and increase accessibility.

Policy HOU6 is a saved policy of the Structure Plan and contains a list of criteria to be satisfied in respect of gypsy caravan sites, including a proven need, that it is not located in the Green Belt unless no alternative location is available, relationship to services and community facilities, suitability for Gypsies and satisfactory access. This policy was prepared in light of the advice in Circular 1/94, since superseded by 01/2006 and now superseded by *Planning Policy for Traveller Sites, March 2012*.

Similarly policy DC31 of the Local Plan also predates current national guidance. The policy states that planning permission for a gypsy caravan site will normally be granted subject to 10 criteria. The criteria include:

- accessibility to shops, schools and essential services;
- compliance with other policies of the Local Plan;
- adequate access and parking;
- development not being prominent in public vantage points;
- retention of mature trees and hedgerows;
- protection of residential amenity;
- protection of landscapes and habitats of designated importance;
- and sympathetic design of buildings.

Other relevant policies of the Local Plan include DC1 (Design), DC3 (Amenity), DC6 (Circulation and Access), DC8 (Landscaping), DC9 (Tree Protection) and NE11 (Nature Conservation).

### GTAA and Partial Review of RSS

The findings of the Cheshire Partnership Area Gypsy and Traveller Accommodation and Related Services Assessment (GTAA) were published in May 2007. The study looked at the current position on authorised sites, together with evidence of unauthorised developments and encampments, and carried out consultation with key stakeholders in order to estimate concealed households, household formation and potential movement from bricks and mortar housing. The study identified a need of one pitch for the former Macclesfield Borough Council up to 2016.

The study identified a need in Cheshire East for 27 – 42 Gypsy and Traveller pitches between 2006 and 2011 and further 19 - 22 pitches from 2011 to 2016. (A pitch is generally defined as space for two trailers and a vehicle – a family unit). Since May 2007, eight pitches have been supplied on privately owned sites and a further two are being developed on the local authority owned site in Astbury. In Cheshire East there are a total of 13 private sites, with (112 permanent pitches and 2 transit pitches), one council run site (with 16 pitches) and 2 under

construction and 1 site (8 pitches) with temporary permission. There are also 2 Travelling Showpersons sites in the borough with 4 pitches.

In addition to this the draft *North West Plan Partial Review* July 2009 identified a requirement for 60 pitches in Cheshire East for the period 2007 to 2016 under policy L6. However, given the anticipated revocation of the Regional Spatial Strategy, and its general uncertainty since 2010, policy L6 has never been adopted and therefore is considered by officers to carry limited weight. However, the level of need and the provision required by draft policy L6 is similar to the higher figure identified in the GTAA for the Cheshire East area. There is clearly an identified need for additional gypsy and traveller sites across the Borough and this was clearly acknowledged in the Appeal Decision

## **Government Advice**

### Planning Policy for Traveller Sites (March 2012)

The document sets out the Government's up to date planning policy for traveller sites. It states that, *"The Government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community."*

The policy makes it clear that Traveller sites (temporary or permanent) in the Green Belt are inappropriate development.

The policy states that LPAs should consider the following issues amongst other relevant matters when considering planning applications for traveller sites:

- a) the existing level of local provision and need for sites
- b) the availability (or lack) of alternative accommodation for the applicants
- c) other personal circumstances of the applicant
- d) that the locally specific criteria used to guide the allocation of sites in plans or which form the policy where there is no identified need for pitches/plots should be used to assess applications that may come forward on unallocated sites
- e) that they should determine applications for sites from any travellers and not just those with local connections

### National Planning Policy Framework

Whilst independent national guidance is provided for Traveller Sites, policies in the Framework are still a material consideration in the determination of the application.

The document sets out the presumption in favour of sustainable development. Sustainable development has three dimensions: economic, social and environmental. Paragraph 14 of the Framework sets out that development proposals that accord with the development plan should be approved without delay. Where the development plan is absent, silent or or relevant policies are out of date permission should be granted unless:



- any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
- specific policies in this Framework indicate development should be restricted.

The footnote to this policy sets out that Green Belt policy is an example of where development may be restricted.

The Framework sets out the purposes of including land in the Green Belt and re-enforces previous guidance that openness is the most important attribute of the Green Belt.

The Framework also confirms that inappropriate development is harmful to the Green Belt and should not be approved, except in very special circumstances. Substantial weight should be given to the harm to the Green Belt. 'Very Special circumstances' will not exist unless the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

### **Other Material Considerations**

#### Appeal Decisions ref APP/R0660/C/092103368, 2103369 AND 2103773

The conclusions from the recent enforcement and planning appeal decisions are material to the assessment of this application. (This document shall be referred to throughout this report as the Appeal Decision).

#### Human rights

The European Convention on Human Rights should be considered as an integral part of local authorities' decision making – including its approach to the question of what are material considerations in planning cases. LPAs should consider the consequences of refusing or granting planning permission on the rights of the individuals concerned, both gypsies and travellers and local residents. However, the obligation on public authorities to act compatibly with Convention rights does not give gypsies and travellers a right to establish sites in contravention of planning control.

Strasbourg case law places particular emphasis on the special, and vulnerable, position of Gypsies as a minority racial group. In reaching planning decisions on individual cases there is therefore an obligation to give special consideration to the needs of Gypsies and their different lifestyle. Against this background, recent planning case law instructs that personal circumstances relating to the needs of Gypsies, even though potentially commonplace, are capable in law of being regarded as a 'very special' factor. Particular weight should be given to the health and educational needs of children.

#### Equality Act 2010

The Act does not define race. However case law has established that Roma gypsies and Irish travellers are covered by the protected characteristic of race for the purposes of the Equality Act 2010. Local authorities have a duty under section.149 of the Act to actively have regard to the need to eliminate unlawful discrimination, advance equality of opportunity and promote good race relations.

### Children Act

Local Planning Authorities also have a duty to safeguard and promote the welfare of children under section 11 of the Children's Act 2004. In addition, the recent judgment of the Supreme Court in ZH (Tanzania) was that all local authorities are under a duty to consider the best interests of the children.

Section 11 of the Act states that Local Authorities must have regard to the need to safeguard and promote the welfare of children.

### **Impact of the development**

The physical impact of the development and the constraints / characteristics of the site remain unchanged since the Appeal Decision. Similarly the general picture of need for Gypsy and Traveller sites across Cheshire East and the availability of alternative sites have not changed to any material degree. No new personal circumstances have been advanced by the applicant with this proposal.

The key argument of the applicant's agent is that the policy has changed and that the safety of the junction of Spinks Lane and Pickmere Lane should be revisited in the light of new policy and information.

The headings set out below reflect the assessment made in the Appeal Decision. Members must consider whether the planning balance has altered sufficiently to enable a temporary planning permission to be granted or not.

### **Effect on the Green Belt**

The development is classed as inappropriate development in the green belt for which there is a presumption against. Members must also consider the level of actual harm to the green belt. The site used to be part of a larger agricultural field that was open in character and appearance with the absence of any built form. The use of the land as a Gypsy caravan site has introduced incongruous and visually intrusive features into the landscape which are readily visible from public vantage points along Spinks lane and the adjoining public footpath.

The result is a serious and harmful loss of openness due to the structures and hardstanding on the site. Maintaining openness is the fundamental aim of green belt policy.

There is an open character to the surroundings outside the delineated villages of Wincham and Pickmere. Development of the site in this way amounts to an encroachment into the countryside. Preventing encroachment is one of the purposes of including land in the green belt and therefore this harm is also significant.

### **Effect on environmental quality**

In the Appeal Decision the Inspector commented in relation to the tranquil rural setting of the site that "the use of the site for residential purposes is out of character with this traditional

land use pattern". The spread of development across the site and extensive areas of hardstanding have exacerbated the impact.

The inspector also commented on the works to facilitate the development that have led to a change in the character of Spinks Lane itself to the detriment of the appearance and a character and countryside in this location. Nothing has changed to alter this conclusion and the development has caused a significant harm to the rural character of the site and surroundings.

### **Effect on biodiversity**

The site and adjoining fields are not subject to any specific ecological designation. However, evidence from the last Inquiry gave strength to arguments about the potential impacts on protected species including Great Crested Newts and Bats (European Protected Species) and Barn Owls. The natural habitats in the form of native hedgerows and trees have also been damaged. Planting taking place around the site also includes invasive non-native species.

Whilst the Council's ecologist raised no direct objection to the development, this was subject to a level of mitigation taking place. Nothing has been put forward by the applicant (bearing in mind the impacts were clearly set out in the Appeal Decision) to try and mitigate this harm. The evidence suggests that harm may well have been caused to habitats of protected species and this is a harm which must weigh against the development, particularly in the absence of any mitigation or compensation for the damage caused.

Conditions for landscaping and nature conservation could potentially secure some improvements over the existing situation. However, the effect over a temporary period is likely to be limited. The Inspector also noted the damage caused along Spinks Lane would be outside the scope of any potential planning conditions and that the environmental damage would be hard to repair.

### **Effect on highway safety**

The real issue in respect of highway safety is the junction between Pickmere / Spinks Lane. The junction is substandard in respect of lateral visibility splays. The residential use of the site on Spinks lane has served to intensify the use of this junction causing a highway safety risk.

A key contention of the applicant's agent is that the conditions around highway safety have altered to the extent that the development should now be allowed. It is claimed that the lack of a recorded accident to date, the reduction in speed limit to 30 mph along Pickmere Lane, the introduction of Manual for Streets 2 (MfS2) and the fall back position to other uses of the site should warrant a reconsideration over the safety of the junction in respect of the planning application. Their main argument is that, whilst the lateral visibility splays from Spinks Lane are substandard, forward visibility splays on Pickmere Lane are sufficient to observe traffic coming out of the junction and react accordingly within the appropriate Sight Stopping Distance (SSD). They advocate that these are principles supported in MfS2 and that this supports the case that the intensification of the use of the junction will not result in a highway safety issue.

A speed survey was undertaken by the applicants and has been submitted in support of the application. That speed survey indicates speeds well above 30 mph. The Council has undertaken its own speed survey and confirms even higher speeds at the 85 percentile (42.4 mph southbound and 39.8 northbound). The Strategic Highways & Transportation Manager is clear that DMRB should be the framework guidance to assess the visibility splays required. The visibility splays are substandard at 20 metres when 120 metres is required. Even if the MfS methodology is applied (which is considered to be the wrong approach) then the junction still does not provide the recommended visibility by some distance. It should also be noted that both MfS2 and DMRB provide a framework of guidance for assessing the situation, but a judgement on the safety of the junction on the ground still needs to be made. Experience of using the junction, as confirmed by more than one previous Inspector in relation to proposed developments along Spinks Lane, is that it requires extreme caution and its use should not be intensified further.

Furthermore, the Inspector considered the safety of the junction in the light of a potential reduction in speed limit from 40 mph to 30 mph and also in relation to MfS principles and the relevant stopping sight distance of 59 metres. The conclusion was still that the use of the junction should not be intensified further. It should also be noted that the Inspector concluded that the number of daily vehicle movements to and from the site was likely to be above those suggested by the applicants and would involve a significant increase in the number of vehicle movements. In comparison, the number of vehicle movements required in relation to an alternative use of the site, such as the grazing of horses, would only be about 4 movements per day.

In summary, the development involves a significant increase in the use of a junction which has inadequate visibility and increases the risk of a collision or serious accident. The arguments put forward by the applicant's agent and introduction of MfS2 do not alter the conclusion that this is unsafe and contrary to Local Plan policy DC6.

There appears to be no way a condition could be applied to improve visibility. The hedges lie outside the applicant's control, and even when cut back previously the visibility has not been adequate.

### **Suitability of the site**

National planning policy states that LPAs should ensure that traveller sites are sustainable economically, socially and environmentally. Applications should be assessed and determined in accordance with the presumption in favour of sustainable development.

The primary school, Spar shop and post office are within walking distance of the site in Wincham and there are bus stops on Pickmere Lane. Whilst the site is in rural area, it is served by a limited level of local service and transport. The relationship of the development with local services is considered sufficient to satisfy the criteria in Policy HOU6.

The relative isolation of the site has proved problematic for on-site services. The temporary provision of on-site services, in the form of oil tank, generator and toilet block has contributed to a loss of amenity on the site and from the public footpath. Electricity poles would be required to permanently service the site, but, as a permanent permission is not now being applied for, this would not be relevant. If a temporary permission was granted the "status quo"

would therefore be maintained and this would continue to detract from amenity to some extent. The Inspector, at public inquiry, concluded that there would be no evidence of undue pressure on local infrastructure resulting from the development and nothing has changed in this respect.

In terms of wider sustainability, the development enables easier access to health and education services. Although evidence suggests that only one of the families is benefiting from regular attendance at the local primary school. Balanced against this, it is evident from the previous appeal and continued objections from local residents that, good community relations have not been promoted through the development.

### **Conclusions on the development plan**

In respect of the relevant Development Plan policies, the same criteria apply when compared to the Appeal Decision. Policies are met in respect of meeting a proven need, accessibility, housing quality and vehicle parking. Policy HOU6 is still not fully satisfied because the site does achieve safe and easy access. Similarly policy DC6 is contravened because of the unsafe access. The harmful landscape, amenity, ecological and green belt impacts mean that Local Plan policies NE11, DC31 and DC8 are not complied with. The Regional Spatial Strategy, whilst part of the Development Plan, arguably carries less than full weight due to the intentions for it to be abolished. However, policies DP5 and DP7 are not met, again due to the lack of safe access and harm to environmental quality.

### **General need and alternative sites**

The section earlier in this report under the heading “GTAA and Partial Review of RSS”, sets out that there is clearly an unmet need for gypsy and traveller housing. The unmet need should be given substantial weight in favour of the proposal.

Paragraph 25 of the national guidance Planning Policy for Traveller Sites states that:

*“Subject to the implementation arrangements at paragraph 28, if a local planning authority cannot demonstrate an up-to-date five-year supply of deliverable sites, this should be a significant material consideration in any subsequent planning decision when considering applications for the grant of temporary planning permission.”*

Paragraph 28 confirms that the policy set out in paragraph 25 only applies to applications for temporary planning permission for traveller sites made 12 months after the policy comes into force.

Paragraph 25 therefore does not apply as it is well within 12 months since the policy was introduced in March 2012. This appears to confirm the Government's intentions to place more protection on the Green Belt and ensure that sites in the Green Belt are only allocated through plan making process and not in response to individual planning applications.

Notwithstanding this, Members are advised that the unmet need for Gypsy and Traveller pitches within Cheshire East and the lack of alternative site provision is a material consideration in favour of the proposal that should be accorded significant weight. Article 8 of the ECHR imposes a positive obligation to facilitate the Gypsy way of life. If the applicants are

refused permission and unable to remain on the site they may become homeless, which would be an interference with their human rights which would need to be justified in the public interest.

### **Personal circumstances of the applicants and accommodation needs**

Little has changed in this respect since the Appeal Decision. The applicants satisfy the definition of a Gypsy and Traveller for the purposes of Annex 1 of Planning Policy for Traveller Sites.

The information from the public inquiry revealed an uncertainty over previous accommodation of the families and their potential accommodation options.

All three families have young children and access to health care and education is a very important consideration. Felix Doran's daughter is in regular attendance at the local primary school. However, the children of the other families either do not attend the local school or have a low attendance rate. However, a refusal of planning permission will be likely to have an adverse effect on the ability of these children to receive consistent education. No new health considerations have been put forward since the Appeal Decision and there are not known to be any specifically significant health considerations which could be considered an exceptional circumstance. Members should be aware that Mr & Mrs F Doran have recently had a baby. A refusal of planning permission is likely to have an adverse effect on the ability of these families to have regular access to healthcare.

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

### **Balancing harm against other considerations**

The development is inappropriate development in the green belt. There is also significant actual harm to the green belt resulting from loss of openness, encroachment and visual intrusion. Ecological damage has been caused in formation of the development and this weighs against the proposal, particularly in the absence of any proper mitigation. The tranquillity and rural character of the site and surroundings has suffered as a result of the development.

Since the Appeal Decision, there has been a reduction in speed limit on Pickmere Lane from 40 mph to 30 mph and the introduction of MfS2. However, the objections to the development on highway safety grounds remain as the junction of Pickmere Lane and Spinks Lane remains substantially deficient in acceptable lateral visibility.

Very special circumstances must be demonstrated by the applicants in order for planning permission to be granted, even for a temporary period. Substantial weight should be given to the unmet need for Gypsy and Traveller accommodation and the lack of alternative site provision. Particularly noting the young children present on the site, the uncertainty over future accommodation for the family must weigh significantly in favour of the proposal.

However, these are factors that remain substantially unchanged from the Appeal Decision, where it was determined that there are strong environmental and public safety reasons why the development should not be allowed, even for a temporary period. The harm has already

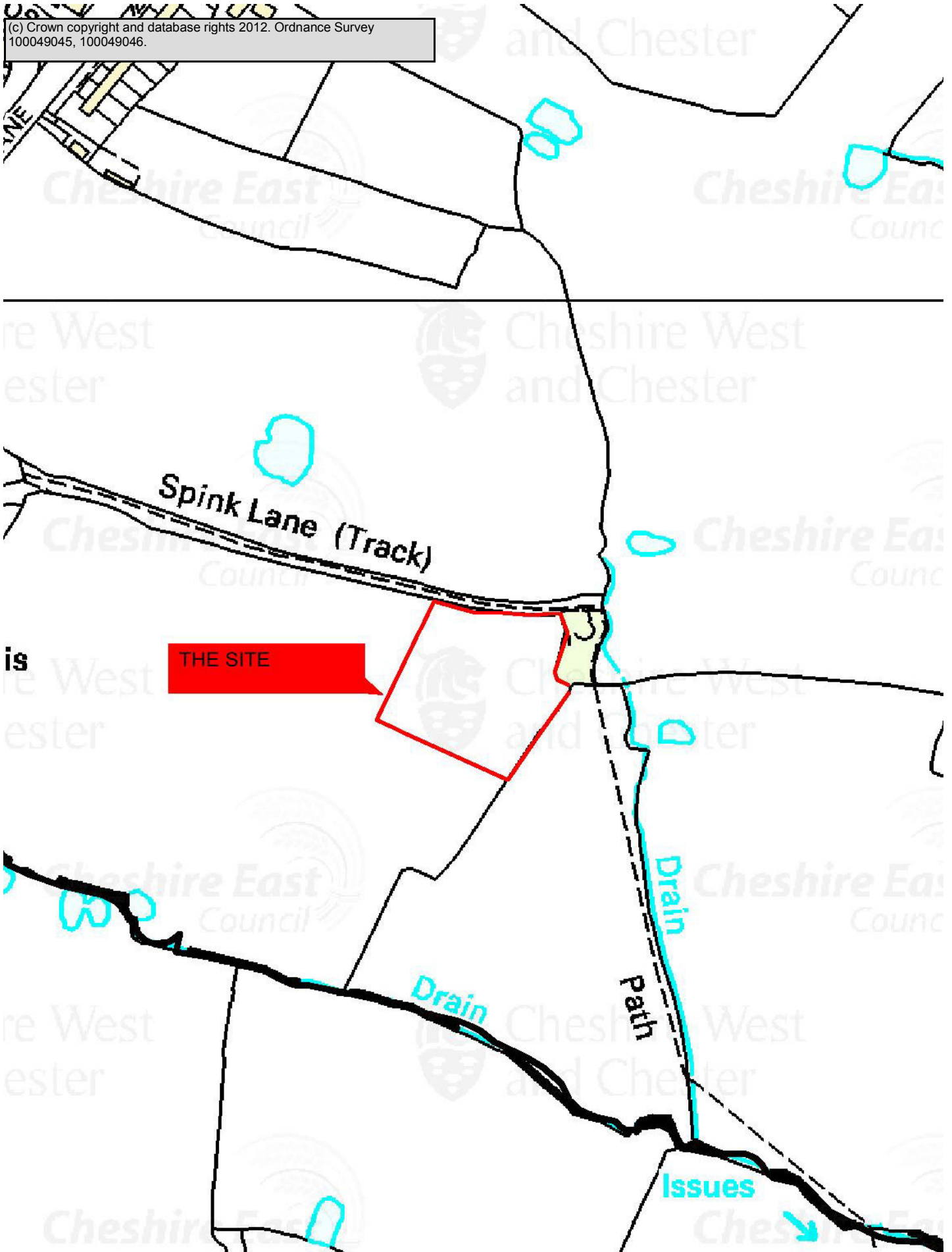
subsisted for nearly 4 years and it should be a consideration that any further temporary period is lengthening the period of harm.

Members must be aware that refusing permission could lead to an interference with the applicant's human rights. However it would be in the pursuit of the legitimate aims of protecting the environment and public safety.

## **RECOMMENDATION**

Refuse for the following reasons:

1. The site lies within the North Cheshire Green Belt as defined by the Development Plan. The proposed development is inappropriate development in the Green Belt, which should only be approved in very special circumstances. The development causes significant harm to the openness and visual amenity of the Green Belt and does not accord with the purposes of including land within the Green Belt. It is not considered that the material considerations advanced by the applicant in favour of the proposal amount to very special circumstances that would clearly outweigh the harm to the Green Belt by reason of inappropriateness, loss of openness, encroachment and visual intrusion. As such the proposal is contrary to the National Planning Policy Framework and Planning Policy for Traveller Sites.
2. The development is a visually intrusive, prominent and incongruous form of development that seriously damages the character, appearance, tranquillity and biodiversity of the site and surrounding open countryside. It is not considered that conditions could be applied that would overcome this harm. The development is therefore contrary to policies NE11, DC8 and DC31 and policies DP1 and DP7 of the North West of England Plan Regional Spatial Strategy to 2021.
3. The proposal is contrary to the interests of highway safety by reason of inadequate visibility at the point of access from Spinks Lane onto Pickmere Lane. The number of turning movements into and out of the site that would result from the development would result in an increased danger to other road users on the highway network in the vicinity of the site and in particular to users of Pickmere Lane. Approval of the development would therefore be contrary to advice in policy DP5 of the North West of England Plan Regional Spatial Strategy to 2021, policies DC6 and DC31 of the Macclesfield Borough Local Plan, and policy HOU6 of the Cheshire 2016: Structure Plan Alteration.





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