

Strategic Planning Board

Agenda

Date:	Wednesday, 22nd May, 2013
Time:	10.30 am
Venue:	Council Chamber, Municipal Buildings, Earle Street, Crewe CW1 2BJ

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 an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests and for Members to declare if they have a pre-determination in respect of any item on the agenda.

3. Minutes of the Previous Two Meetings (Pages 1 - 14)

To approve the minutes of the previous two meetings as a correct record.

4. Public Speaking

Please Contact: Sarah Baxter on 01270 686462
E-Mail: sarah.baxter@cheshireeast.gov.uk with any apologies or request for further information
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. **12/4146C-Outline Application for the Erection of up to 95 Dwellings and formation of access point into site to serve the development, Land off Dunnocksfold Road, Alsager, Cheshire for The Morris Family & P.E. Jones CTRS** (Pages 15 - 38)

To consider the above application.

6. **12/3300N-Erection of 57 dwellings, landscaping including the creation of a newt corridor, new access and associated infrastructure, Land North of, Weston Lane, Shavington for David Wilson Homes (North West)** (Pages 39 - 84)

To consider the above application.

7. **13/0158M-Extension of time limit on planning permission 09/3413M - Outline application for B1(Business) units, renewal of application 06/0278P, Land to West of Kiln Croft Lane, Handforth, Wilmslow, Cheshire for Tesco Stores Ltd** (Pages 85 - 92)

To consider the above application.

8. **Forthcoming Appeal concerning application 12/3025C, Land at Goldfinch/ Kestrel Close - material changes since Board's 'Minded to approve' resolution on 5 December 2012 which require Board's further consideration during the life of the ongoing Appeal to enable Officer's to put forward the Council's current position to the forthcoming planning appeal** (Pages 93 - 130)

To consider the above report.

9. **Forthcoming Appeal concerning application 12/3028C, Land at The Moorings, Congleton - material changes since Board's 'Minded to approve' resolution on 5 December 2012 which require Board's further consideration during the life of the ongoing Appeals to enable Officer's to put forward the Council's current position to the forthcoming planning appeal** (Pages 131 - 168)

To consider the above report.

10. **Enforcement Review Progress** (Pages 169 - 182)

To consider the above report.

11. **Brereton Neighbourhood Area Application** (Pages 183 - 192)

To consider the Brereton Neighbourhood Area Application.

12. **Replacement Members** (Pages 193 - 196)

To consider the above report.

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

To consider passing a resolution under Section 100(A)(4) of the Local Government Act 1972 to exclude the public and press from the meeting for the following item(s) of business on the grounds that it involves the likely disclosure of exempt information in accordance with paragraph 5, pursuant to part 1 of Schedule 12 (A) of the Act.

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

14. **Update following the refusal of planning application 12/3329C, Land South of Old Mill Road, Sandbach** (Pages 197 - 202)

To consider the above report.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 24th April, 2013 at The Capesthorne Room - Town Hall,
Macclesfield SK10 1EA

PRESENT

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

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

OFFICERS IN ATTENDANCE

Ms P Cockroft (Principal Planning Officer), Ms S Dillon (Senior Lawyer), Mr B Haywood (Principal Planning Officer), Mr A Fisher (Strategic Planning and Housing Manager), Mr S Irvine (Development Management and Building Control Manager), Mr N Jones (Principal Development Officer), Ms S Orrell (Principal Planning Officer), Mrs E Tutton (Principal Planning Officer) and Mr P Wakefield (Principal Planning Officer)

175 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors D Brown and G Walton.

176 **DECLARATIONS OF INTEREST/PRE DETERMINATION**

In the interest of openness in relation to application 12/4837M, Councillor H Davenport declared that he was a Member of Disley Parish Council, but had taken no part in any discussion relating to the application.

In the interest of openness in relation to the same application, Councillor B Murphy declared that he was a resident in Disley and knew the Councillor speaking on behalf of Disley Parish Council.

In the interest of openness in relation to application, Councillors D Hough and B Murphy declared that they knew David Lloyd-Griffiths who was speaking at the meeting as an objector to the application.

177 **MINUTES OF THE PREVIOUS MEETING**

RESOLVED

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

178 **PUBLIC SPEAKING**

RESOLVED

That the public speaking procedure be noted.

179 **12/4390M-OUTLINE PLANNING APPLICATION FOR THE ERECTION OF UP TO 160 DWELLINGS WITH ALL MATTERS RESERVED, LAND OFF, MANCHESTER ROAD, TYTHERINGTON, MACCLESFIELD FOR AINSCOUGH STRATEGIC LAND LTD**

Consideration was given to the above application.

(Brian Jones, a Supporter and Richard Barton, 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 update to Board, the application be approved subject to the completion of a Section 106 Agreement securing the following Heads of Terms:-

- 30 % Affordable Housing of which 65% social or affordable rent, and 35% intermediate tenure
- Public Open Space, including formal and informal play & residents management company to maintain POS
- Commuted sum of £162,000 (based on 162 dwellings) for Recreation / Outdoor Sport (Rugby Drive playing field) in agreement with Local Ward Councillors
- Provision of Public Art contribution of £10,000 to be used on feature(s) within the green link proposals.
- Commuted sum of £2000 to mitigate against the loss of Barn Owl habitats
- Landscape and Habitat Management Plan

The staggered payments to be as follows:-

On or before first occupation of any of the dwellings to pay the Council:

- 50% of the Recreation / Outdoor Sport contribution
- 100% Barn Owl contribution

On or before occupation of 25% of the dwellings to pay the Council:

- The remaining 50% of the Recreation / Outdoor Sport contribution
- 100% Public Art contribution

And subject to the following conditions:-

1. A01TR - Tree retention
2. A02TR - Tree protection
3. A01LS - Landscaping - submission of details
4. A02LS - Submission of landscaping scheme
5. A04LS - Landscaping (implementation)
6. A19MC - Refuse storage facilities to be approved
7. Commencement of development
8. Time limit for submission of reserved matters (within 3 years)
9. Submission of reserved matters
10. Implementation of reserved matters
(Plans/reports/surveys/statements)
11. Compliance with parameter plans
12. The reserved matters application shall comprise no more than 162 dwellings
13. Existing and proposed site levels, contours and cross-sections plus details for any proposed retaining structures should be submitted with reserved matters application
14. Landscape Masterplan to be submitted with reserved matters application, to include POS landscape scheme
15. Submission of a detailed Public Open Space landscape management and maintenance plan
16. Submission of a detailed play provision scheme covering both formal enclosed LEAP play areas and the Incidental Play features
17. Provision of green link to be a minimum of 20m wide, to be completed prior to 1st occupation
18. Full Arboricultural Implication Study to be submitted with reserved matters application
19. Vehicular access to be taken from Manchester Road
20. Provision of ecological ponds within reserved matters application
21. Updated badger survey report to be submitted with reserved matters application & provision of badger tunnel under the link road, if necessary
22. Provision of a 2m wide wildlife corridor along the north eastern boundary of the site
23. Protection of nesting birds, and incorporation of features for breeding birds
24. Incorporation of features to house birds and bats to be submitted with reserved matters application

- 25. Construction Method Statement
- 26. Details of any pile driving to be submitted with Reserved Matters application
- 27. Hours of Construction
- 28. Information on walking, cycling and public transport to be provided in each building
- 29. Submission of lighting scheme with reserved matters application
- 30. 'Fabric first' approach to reduce emissions to be adopted
- 31. Submission of a foul/surface water drainage scheme with Reserved Matters application
- 32. Submission of SUDS with reserved matters application
- 33. No development shall commence until a scheme has been submitted to and approved in writing by the LPA, which sets out:

1. Arrangements made with the owners of the adjacent Business Park which secure delivery of the link road through the 2 sites as set out in the Development Brief and the UU of 20th June 1997.

2. A timetable for provision of the link road. The link road shall be completed to an adoptable standard prior to the construction of any dwellings to the north of the link road.

Development shall be carried out in accordance with the approved scheme.

Reason: To secure delivery of the link road as set out in the Masterplan and Development Brief.

- 34. Submission of a phase II investigation with reserved matters application
- 35. Verification of the remediation works, if required
- 36. Remediation strategy if contaminants are found during development phase
- 37. Noise mitigation measures to be carried out in accordance with SRL Technical Report
- 38. Submission of robust travel planning with reserved matters application
- 39. Submission of dust control scheme with reserved matters application
- 40. Submission of a construction management plan with reserved matters application
- 41. Submission of a site waste management plan with reserved matters application

180 **12/4837M-RESERVED MATTERS APPLICATION FOR THE
ERECTION OF 121 RESIDENTIAL DWELLINGS, INCLUDING DETAILS
OF APPEARANCE, SCALE, LAYOUT AND LANDSCAPING IN
RELATION TO OUTLINE PERMISSION 12/0165P (ORIGINAL
PERMISSION 08/2718P), FIBRESTAR LIMITED, REDHOUSE LANE,
DISLEY FOR ADELE SNOOK, PERSIMMON HOMES NORTH WEST**

(During consideration of the application, Councillor Mrs R Bailey arrived to the meeting, however she did not take part in the debate or vote on the application).

Consideration was given to the above application.

(Parish Councillor Mrs Pattison, representing Disley Parish Council and Adele Snook, representing 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 update to Board, the application be approved subject to a Deed of Variation of the Section 106 Agreement dated 8 June 2012 to provide the £285,000 (Indexed) for Highway Works before 50% rather than 90% of the development is provided and subject to the following conditions:-

1. A05RM - Time limit following approval of reserved matters
2. A02RM - To comply with outline permission
3. A01AP - Development in accord with revised plans
4. A02LS - Notwithstanding the submitted details -Submission of landscaping scheme
5. A10LS - Additional landscaping details required including street furniture, public art and interpretation; vehicular/pedestrian barriers; surfacing material; and secure railway boundary fencing
6. A04LS - Landscaping (implementation)
7. A13HA - Construction of junction/highways
8. A22GR - Protection from noise during construction (hours of construction)
9. A23GR - Pile driving details to be submitted and approved by LPA
10. Prior to commencement of development, a detailed play area scheme shall be submitted to and approved by LPA
11. Notwithstanding the submitted details - prior to commencement an updated Habitat Management Plan to include management of canal side vegetation to be submitted and approved by LPA

12. Development carried out in accordance with method statement for the protection of the SBI
13. Details of wheel washing facilities to be submitted and approved
14. Construction Management plan to be submitted and approved prior to commencement of construction on site.
15. Provision of bin storage
16. Submission and approval of scheme to minimise dust emissions prior to commencement
17. Prior to first occupation submission and approval of individual travel plan
18. Development to be carried out in accordance with Arboricultural Impact Assessment
19. Development in accordance with Invasive Species Management Plan
20. Materials in accordance with submitted schedule
21. Prior to commencement - submission and approval details of phasing and timing of provision of POS and play area
22. Prior to commencement of development, details of suitable trespass proof fencing to the boundary with the railway to be submitted and agreed.
23. Prior to commencement of development, details of how surface and foul water drainage will be directed away from the railway to be submitted and approved.
24. Prior to commencement full details of ground levels, earthworks, and excavation carried out near to the railway to be submitted and agreed.
25. Prior to the commencement of development a detailed remediation strategy to be prepared and submitted.
26. Prior to first occupation a validation report including remedial actions to pre and post construction to be submitted and approved.
27. Prior to the commencement of development an up-to-date Noise Impact Assessment (NIA) of noise from the Manchester to Buxton railway line shall be submitted to and approved in writing by the Local Planning Authority. The NIA shall include present and predicted noise levels for future operational changes.
28. Prior to the commencement of development a detailed scheme of sound insulation (including ventilation that will not compromise the acoustic performance of any proposals whilst meeting building regulation requirements) to any affected residential properties which are identified as a result of the above noise impact assessment shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall ensure that internal noise levels meet the 'good' standard of British Standard 8233: 1999 Sound insulation and noise reduction for buildings.

29. Any mitigation recommended in the Noise Impact Assessment report required by condition no.26 of this permission shall be implemented prior to the first occupation of the development hereby approved.

(The meeting adjourned for a short break. Prior to consideration of the following item, Councillor P Edwards arrived to the meeting).

181 **12/4874C-OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT, COMPRISING 50 HOMES, INCLUDING 15 AFFORDABLE HOMES TO INCLUDE AN AREA OF PUBLIC OPEN SPACE AND A CHILDREN'S PLAY AREA, LAND OFF HAWTHORNE DRIVE, SANDBACH, CHESHIRE FOR ADELE SNOOK, PERSIMMON HOMES NORTH WEST**

Consideration was given to the above application.

(Councillor S Corcoran, the Ward Councillor, Christine Smedley, representing Sandbach Heath Neighbourhood Forum, David Lloyd-Griffiths, an objector and Adele Snook, the agent for the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That the application be deferred for consideration of draft Masterplans submitted regarding proposed development from the M6 up to and including the application site, so that the site and its traffic generation can be considered in context.

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

(The meeting adjourned for lunch from 2.05pm until 2.45pm).

182 **13/0402C-PROPOSED INLAND WATERWAYS MARINA INCLUDING SUPPORTING FACILITIES BUILDING AND WORKSHOP, NEW WETLANDS, HABITAT CREATION, ECOLOGICAL AREAS, LANDSCAPING, FOOTPATHS, ROAD ACCESS AND ASSOCIATED CAR PARKING. RESUBMISSION, CHELLS HILL FARM, CHELLS HILL, CHURCH LAWTON FOR ED NIELD**

Consideration was given to the above application.

(Mr Jackson, 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 oral update to Board, the application be approved subject to the following conditions:-

1. Standard commencement
2. Plans
3. Materials -buildings and all hard surfaces
4. Tree survey
5. Notwithstanding the submitted landscaping details, prior to the commencement of development, full details of structural landscape planting/additional screen planting to be introduced on the site shall be submitted to and agreed in writing by the local planning authority
6. Full details of the works to deposit the excavated material on the site and finished site levels shall be submitted to and agreed in writing by the local planning authority.
7. Amended landscaping scheme including details of any boundary treatment inc replacement hedge/ all fencing to segregate marina from farmers field/ landscape management plans to be submitted
8. Implementation and maintenance of landscaping
9. Submission of 10 year habitat management plan
10. Detailed designs of new ponds
11. Provision of bat and bird boxes
12. Safeguarding breeding birds
13. Implementation of great crested newt mitigation, subject to Natural England licence.
14. Scheme to limit the surface water runoff generated by the proposed development, to be submitted to and approved
15. temporary protective metal fencing to be erected 5 metres from the Trent and Mersey Canal
16. Prior to first development the developer will provide a detailed highway access design from the B5079 Chell's Hill, based on a topographical survey, which will show standard junction geometry and be tracked to demonstrate safe turning movements and to the satisfaction of the LPA.
17. Prior to first development the developer will provide an amended plan showing intervisible passing places along the internal access road to the marina to the satisfaction of the LPA.
18. The existing field access onto the B5078 Chell's Hill to be permanently closed in accordance with the proposed access design drawing: 6049-05 Rev *
19. Workshop/ maintenance /repairs of canal boats only
20. Archaeology
21. Narrow boats within dry dock to be stored at ground level only and not stacked
22. No moorings to be used as sole or main residence and the site operator shall maintain an up-to-date register of the names and addresses of all owners and occupiers, and shall make this record available to the local planning authority at all reasonable times, upon request
23. Scheme to allow pedestrian access across the Trent & Mersey Canal at Pierpoints Bottom Lock (Lock 56) to be submitted
24. Bin store details
25. Amended lighting scheme – inc Full details, including design, position and lux levels of all lighting

- 26 Submission of amended tree protection plan required to reflect amendments to spoil disposition. Implementation.
- 27. Updated badger survey

(Councillor C Thorley left the meeting and did not return).

183 **13/0641N-CONSTRUCTION OF 21 TWO-STOREY RESIDENTIAL DWELLINGS, NEW SHARED ACCESS AND ASSOCIATED WORKS, LAND TO THE NORTH OF, CHEERBROOK ROAD, WILLASTON, CHESHIRE FOR WAINHOMES (NORTH WEST) LTD**

Consideration was given to the above application.

(Councillor B Silvester, the Ward Councillor and Mr Nick Smith, the agent for the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That the application be refused for the following reason:-

1. The proposal is located within the Open Countryside and Green Gap and would result in erosion of the physical gaps between built up areas, and given that there are other alternative sites, which could be used to meet the Council's housing land supply requirements, the proposal is considered to be contrary to Policies NE2 and NE.4 of the Borough of Crewe and Nantwich Replacement Local Plan, the National Planning Policy Framework and the emerging Development Strategy.

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.

Should this application be the subject of an appeal, authority be delegated to the Development Management and Building Control Manager in consultation with the Chairman of the Strategic Planning Board to enter into a planning agreement in accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

That the Board's concern about the sustainability of the site be noted as it only met a small number of criteria under the North West Sustainability checklist.

184 **13/0707C-APPROVAL OF APPEARANCE, LANDSCAPING, LAYOUT AND SCALE AS REQUIRED BY CONDITION 1 ATTACHED TO THE OUTLINE PERMISSION 11/4434C, LAND SOUTH OF TUDOR**

WAY, CONGLETON, CHESHIRE FOR PLANT DEVELOPMENTS LIMITED

(Prior to consideration of the item, Councillor Mrs R Bailey left the meeting and returned).

Consideration was given to the above application.

(Mr Nick Smith, 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 oral update to Board, the application be approved subject to the following conditions:-

1. Time limit
2. Plans
3. Materials to be in accordance with the submitted details

185 **WITHDRAWN-ERECTION OF 43 DWELLING HOUSES (INCLUDING 5 AFFORDABLE DWELLINGS), CREATION OF NEW ACCESS TO SHEPPENHALL LANE, ASTON AS ENABLING DEVELOPMENT TO SECURE THE RESTORATION OF COMBERMERE ABBEY**

This item was withdrawn prior to the meeting.

186 **WITHDRAWN-CHESHIRE EAST LOCAL PLAN - ADDITIONAL SITE OPTIONS CONSULTATION**

This item was withdrawn prior to the meeting.

The meeting commenced at 10.30 am and concluded at 4.10 pm

Councillor H Davenport (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 1st May, 2013 at Crewe Alexandra Football Club, Gresty
Road, Crewe, CW2 6EB

PRESENT

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

Councillors Rachel Bailey, D Brickhill, D Brown, J Hammond, P Hoyland,
J Jackson, P Mason, B Murphy, C G Thorley, G M Walton and J Wray

OFFICERS IN ATTENDANCE

Ms S Dillon (Senior Lawyer) and Mr A Fisher (Strategic Planning and Housing
Manager)

187 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors P Edwards and S
Wilkinson.

188 **DECLARATIONS OF INTEREST/PRE DETERMINATION**

In the interest of openness, Councillor Mrs Rachel Bailey declared that in
relation to the Audlem site she was connected to the site through
marriage.

In the interest of openness, Councillor D Brickhill declared that he was a
member of Haslington and Parish Council. Whilst he had discussed the
process in general he had not commented on individual sites.

In the interest of openness, Councillor J Hammond declared that he was a
Member of Haslington Parish Council. Some of the sites being put forward
for consultation were adjacent to the Parish Council he was a member of.

In the interest of openness, Councillor D Hough declared that he was a
member of Alsager Town Council. Some of the sites being put forward for
consultation were in Alsager.

It was also noted Members had received correspondence from a number
of people about the sites referred to in the report.

189 **PUBLIC SPEAKING**

RESOLVED

That the public speaking procedure be noted.

190 **CHESHIRE EAST LOCAL PLAN - ADDITIONAL SITE OPTIONS
PROPOSED BY DEVELOPMENT & LAND INTERESTS -
CONSULTATION**

(During consideration of the item, Councillor C Thorley left the meeting and did not return).

Consideration was given to the above report.

(Each of the following people spoke for 3 minutes in respect of the item:-

Councillor M Jones
Councillor W Fitzgerald
Councillor Mrs J Clowes
Councillor D Neilson
Councillor Mrs M Simon
Parish Councillor Cornell, Representing Weston & Basford Parish Council
Parish Councillor Heather Jones, Representing Audlem Parish Council
Parish Councillor Hovey, Representing Haslington Parish Council
Manuel Golding, 'Representing the Residents of Wilmslow'
Andy Bailey, Representing CW2 Community Group
Miles Palmer Representing Alsager Residents Action Group
Andy Bailey, speaking on his own behalf
Sonia Harris-Short
Jeremy Edwards
Viv Belcher
Stuart Redgard
Eileen Furr
Peter Yates
Brian Tolver
Jenny Moran

RESOLVED

1. That the Portfolio Holder considered the comments of the Strategic Planning Board on the proposed list of sites and consultation methodology.

2. That approval be given to the list of sites for Consultation as possible additional sites as detailed in Appendices 1 and 2 of the report to the Strategic Planning Board on 1 May 2013, subject to the deletion of reference to a potential gypsy and traveller site on site A; and subject to the separate consultation on employment areas A, B and C of Site I (Employment sites adjacent to Junction 16 of the M6).

3. That approval be given for the final form and wording of the Consultation Document to be delegated to the Strategic Planning & Housing Manager, in consultation with the Chairman of Strategic Planning Board, and the Portfolio Holder for Sustainable Communities.

(The meeting adjourned for lunch at 1.15pm and reconvened at 2.05pm. Councillor P Mason left the meeting during this break and did not return).

The meeting commenced at 10.30 am and concluded at 4.15 pm

Councillor H Davenport (Chairman)

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Application No: 12/4146C

Location: LAND OFF DUNNOCKSFOLD ROAD, ALSAGER, CHESHIRE

Proposal: Outline Application for the Erection of up to 95 Dwellings and formation of access point into site to serve the development.

Applicant: THE MORRIS FAMILY & P E JONES CTRS

Expiry Date: 15-Feb-2013

SUMMARY RECOMMENDATION**REFUSE****MAIN ISSUES****Impact of the development on:-**

Principal of the Development
Planning Policy and Housing Land Supply
Renewable Energy
Landscape
Affordable Housing
Highway Implications
Amenity
Trees and Hedgerows
Design
Ecology
Open Space
Education
Flood Risk and Drainage
Agricultural Land

REASON FOR REFERRAL

This application is referred to the Strategic Planning Board as it relates to a departure to the Congleton Borough Local Plan.

1. DESCRIPTION OF SITE AND CONTEXT

The site of the proposed development extends to 3.12 ha and is located to the north west of Alsager. The site is within open countryside. To the south and west is residential development. To the north is agricultural land. The former sports grounds of the MMU campus is located to the east of the site. A public footpath (Alsager No 3) runs to the north and east of the site.

The land is currently in agricultural use and there are a number of trees and hedgerow to the boundaries of the site.

2. DETAILS OF PROPOSAL

This is an outline planning application for up to 95 dwellings. Access is to be determined at this stage ,with all other matters reserved.

The access point to serve the site would be taken off Dunnocksfold Road. The site would include the provision of 30% affordable housing and public open space.

The development would consist of a mix of house types with the maximum height being two stories in height.

3. RELEVANT HISTORY

The site has no relevant planning history

4. POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

PS3 – Settlement Hierarchy
PS8 - Open Countryside
GR21- Flood Prevention
GR1- New Development
GR2 – Design
GR3 - Residential Development
GR4 – Landscaping
GR5 – Landscaping
GR9 - Accessibility, servicing and provision of parking
GR14 - Cycling Measures
GR15 - Pedestrian Measures
GR16 - Footpaths Bridleway and Cycleway Networks
GR17 - Car parking
GR18 - Traffic Generation
NR1 - Trees and Woodland
NR3 – Habitats
NR4 - Non-statutory sites
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

DP1 – Spatial Principles

DP2 – Promote Sustainable Communities
DP7 – Promote Environmental Quality
L4 – Regional Housing Provision
L5 – Affordable Housing
RDF1 – Spatial Priorities
EM1 – Integrated Enhancement and Protection of the Regions Environmental Assets
MCR1 – Manchester City Region Priorities
MCR 4 – South Cheshire

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
Draft Alsager Town Strategy Consultation

5. CONSULTATIONS (External to Planning)

Environment Agency: The Environment Agency has no objection in principle to the proposed development but would like to make the following comments:

The discharge of surface water from the proposed development is to mimic that which discharges from the existing site. The submitted Flood Risk Assessment prepared by RSK suggests that the disposal of surface water will be via infiltration where feasible. This is considered acceptable in principle. If following further investigation, surface water is to discharge to watercourse and a single rate of discharge is proposed, this is to be the mean annual runoff (Q_{bar}) from the existing undeveloped greenfield site. If surface water is to discharge to mains sewer, the water company should be contacted for confirmation of the acceptable discharge rate.

For discharges above the allowable rate, attenuation will be required for up to the 1% annual probability event, including allowances for climate change.

The discharge of surface water should, wherever practicable, be by Sustainable Drainage Systems (SuDS). SuDS, in the form of grassy swales, detention ponds, soakaways, permeable paving etc., can help to remove the harmful contaminants found in surface water and can help to reduce the discharge rate. As such the EA request that the following planning conditions are attached to any planning approval:

- A scheme to limit the surface water run-off from the site
- A scheme to manage the risk of flooding from overland flow

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

- A public sewer crosses this site and United Utilities will not permit building over it. United Utilities will require an access strip width of 6 metres, 3 metres either side of the centre line of the sewer which is in accordance with the minimum distances specified in the current issue of "Sewers for Adoption", for maintenance or replacement.

- This site must be drained on a total separate system, with the surface water flows generated from the new development discharging directly to soakaway/watercourse and or to the public surface water sewer at a maximum discharge rate as determined by United Utilities.

Strategic Highways Manager:

Following advice regarding development proposals that should be considered for the purposes of cumulative impact it has been concluded that the traffic impact of this site will not be severe. There are some concerns over the design of the site access and whether the visibility splays are appropriate. Should Members be minded to approve this application, conditions are suggested relating to collection of speed data in accordance with standards and an appropriate Road Safety Audit to properly inform site access design and visibility splays.

There are also concerns over the sustainability of the site and a contribution should be secured towards improving the frequency of the bus service. The travel plan submitted includes no firm proposals to significantly improve the sustainable credentials of this development proposal.

If Members are minded to approve this development proposal we would recommend the following conditions;

1. Prior to construction that details of provision of a footway along the entire frontage of the development are provided to the SHM to ensure a continuous footway along the highway and to avoid potential future gaps in the network.
2. Prior to construction details of provision of dropped kerb crossing points with tactile paving at the crossing points indicated on the site access drawing 6733-001 to provide for safe and convenient crossing of pedestrians.
3. Prior to construction that the applicant undertakes speed surveys, revised access design, and a road safety audit to the satisfaction of the SHM in order that a safe access to the development is provided.

The Strategic Highways Manager would also recommend that if Members are minded to approve this application that the applicant put forward a suitable costed set of measures and an agreed contribution to them as part of a S106.

Environmental Health: Conditions suggested in relation to hours of operation, pile foundations, an Environmental Management Plan, Travel Plan and contaminated land.

Public Open Space: Following an assessment of the existing provision of amenity greenspace accessible to the proposed development, if the development were to be granted planning permission there would be a deficiency in the quantity of provision.

Consequently there is a requirement for new Amenity Greenspace to meet the future needs arising from the development. Based on 95 dwellings the amount of open space required would be 2280sq.m. The actual amount of Public Open Space illustrated on the layout plan is not quantified. If the actual amount of Public Open Space is less than the minimum requirement then a financial contribution for the shortfall will be required.

More clarity is required by way of a detailed plan to clearly identify and differentiate between the areas of Public Open Space and the areas of Private Open Space. It is not clear which pieces of

incidental open space eg boundary hedges, trees, 'Green Buffers' and to what extent are to become Public Open Space and maintained as such.

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.

The layout design shows an equipped play area on the village green which is central to the site.

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. It is requested 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.

The open space and children's play space should be maintained by a management company.

Natural England: No comments received.

Public Rights of Way: The proposed development would affect Public Footpath No.3 Alsager. An advisory note should be attached to any approval.

Any variation to the above will require the prior consent of the PROW Unit. If the development will permanently affect the public right of way, then the developer must apply for a diversion of the route under the TCPA 1990 as part of the planning application.

If the development will temporarily affect the public right of way then the developer must apply for a temporary closure of the route (preferably providing a suitable alternative route). The PROW Unit will take such action as may be necessary, including direct enforcement action and prosecution, to ensure that members of the public are not inconvenienced in their use of the way both during and after development work has taken place.

The route appears on the ground as a well-used footpath with a rural feel, and forms part of a circular route that local residents will have devised and value as a facility. The development should therefore retain this link and ambience, for example by the accommodation of the footpath within a wide green corridor with natural surveillance from the fronts of houses, as is proposed in the Illustrative Site Layout. The width of this corridor would be required to be a minimum of 3 metres. A maintenance schedule would be required to be included within the open space management plan to include the cutting of vegetation on the surface and sides of the path. Details of any changes to the footpath will need prior approval from the Public Rights of Way team.

The public footpath currently has stiles as furniture for the crossing of the field boundaries of the site and along its length. The development proposal would add considerable footfall along this path and therefore the furniture on the path should be upgraded to accommodate the increased traffic and to make the route more accessible for prospective and existing residents. We would therefore request that the current stiles on the public footpath at each side of the site are replaced with two-way gates to British Standards. The PROW team would seek a contribution

towards the replacement of stiles with gates along the entire footpath between Dunnocksfold Road to Hassall Road for the same reason, landowner agreement permitting.

In addition, logged under the Rights of Way Improvement Plan is a request from members of the public that this footpath be upgraded to a bridleway so that cyclists and horse riders can use it in addition to pedestrians. If the length of the route were upgraded this would create a sensible travel link across the town and towards the Salt Line Country Park leisure and transport route, whilst avoiding the roads in the old campus area of the town. The route could provide a key link between the National Cycle Network route 5 to the north of the site and Regional Route 70 at the western end of Dunnocksfold Road. The developer could readily upgrade the section of the route within the site boundary and contribute to the upgrade of the rest of the route, landowner agreement permitting.

However, the southern 120m of the path (which is outside of the proposed development site) is not suitable for upgrade to public bridleway as it is a narrow enclosed path alongside a garden and continues down a driveway.

Therefore a pedestrian/cyclist/horserider facility, either on or off-road could be provided on an alignment within the proposed development site, connecting Dunnocksfold Road at the east side of Sunnyside Farm to link up with the footpath at the site's northern-western edge. Such a route could form a key spinal active travel route for the proposed development, thereby increasing its sustainability and permeability for non-motorised users. The existing public footpath would need to be retained on its current alignment.

The developer, should consent be granted, should be required to provide destination and distance signage for pedestrians and cyclists travelling to local facilities and also to provide information on local leisure walking and cycling routes within the home owners' information pack.

The Site Entrance – Preliminary Arrangement Drawing contained within the application shows the vehicular access into the site. Little detail is available as to how pedestrians would emerge from the footway/pavement alongside the estate road, and how they would then cross Dunnocksfold Road, although the Indicative Site Layout plan may depict a footway/pavement being provided along the road edge of the development. Consideration should be given to this as the pedestrian footway/pavement along the road is on the southern, opposite side to the development, as was noted in the public consultation responses.

Education: A contribution will be required towards primary provision on the basis of 95 dwellings = 16 primary aged pupils.

$$16 \times 11919 \times 0.91 = \text{£}173,540$$

No contribution is required for secondary school education.

Cheshire Fire Service: Access and facilities for the fire service should be in accordance with the guidance given in the Approved Document B supporting the Building Regulations 2000.

6. VIEWS OF THE PARISH COUNCIL

Alsager Town Council: Alsager Town Council strongly objects to this application on the following grounds:

- The site is not contained within the Alsager Town Strategy which is being used as an evidence base to inform Cheshire East Council's developing Local Plan.
- This is an intrusion into the surrounding countryside and no development should take place on greenfield sites 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.
- Once Greenfield sites are developed they are gone forever and the site should be saved to protect the local environment, open spaces and wildlife.
- The fundamental aim of Greenfield sites is to prevent urban sprawl by keeping land open and to prevent settlements from joining up
- The proposal in conjunction with other large residential developments around Alsager would have a serious detrimental impact upon highway infrastructure, education, doctor's surgeries, medical centres, local facilities and amenities. The proposal would be a threat to the character and atmosphere of the town as a whole.
- There is no requirement within Cheshire East for further dwellings as there is a 7.2 year land supply
- There are serious concerns about the impact upon the immediate road network especially at the junctions of Dunnocksfold Road/Church Road/Hassall Road and Hassall Road/Lodge Road at its junction with Crewe Road. Dunnocksfold Road is dangerous due to its narrow nature and the volume of traffic using it.
- The increase in traffic from this proposal would add to the congestion at school opening and closing times.
- There is no pedestrian footpath on the north side of Dunnocksfold Road and it would not be possible to create such a link adding to the safety risks.
- The ecological information submitted with this application is poor and inadequate and Cheshire East Council should survey the site
- The site has a planning history and development has been refused on this site previously specifically on highway grounds

7. OTHER REPRESENTATIONS

Letters of objection have been received from 124 local households raising the following points:

Principal of development

- The site is outside the settlement boundary
- The proposal is contrary to the NPPF which puts plan making first

- The Twyfords and MMU sites will deliver enough housing for Alsager
- The site is not identified for development in the Alsager Town Strategy
- The proposal would not result in a sustainable community
- The proposal would not be a rounding off of the settlement boundary
- Brownfield sites should be developed first
- The proposal is an attempt to subvert the local plan and core strategy
- This site was rejected as part of the Town Strategy
- 400 dwellings have recently been approved in Alsager
- There is a net surplus in dwellings
- There are a number of empty properties in Alsager
- This is another speculative housing application which is bombarding Alsager
- Loss of Greenfield land
- Approving dwellings on this site will not assist will exacerbate the deprived housing market in North Staffordshire.
- There is no need for more housing in Alsager
- The proposal is contrary to the Congleton Local Plan
- There is a lack of employment in Alsager
- Alsager has a 5 year housing land supply
- The application site is not sustainable
- There is a lack of detail of the proposed house types
- The development of this site was discounted as part of the local plan
- Priority should be given to brownfield sites
- The draft Town Strategy has identified that brownfield sites should be developed first
- The development would result in urban sprawl
- Loss of village life

Highways

- The access point is inadequate
- Dunnockfold Road is too narrow and in a poor state of repair
- Increased traffic congestion
- Increased traffic
- Additional street lighting is required
- There is no footpath on the northern side of Dunnockfold Road
- The road network in the area is not adequate
- Pedestrian access to the site is hazardous
- Increased danger to cyclists and pedestrians

Green Issues

- Open space should be protected to offset the pollution from the M6
- Loss of green land
- Impact upon wildlife
- Impact upon protected species
- Loss of trees
- The trees on the site should be protected
- Loss of agricultural land
- The Valley Brook is prone to flooding
- Increased flooding
- The impact upon the landscape
- Increased pollution

Infrastructure

- Increased pressure on local schools
- There are drainage problems and the existing properties on Dunnocksfold Road drain to a pumping station on Close Lane which regularly needs emergency servicing
- The local schools are full to capacity
- Doctors and dentists are full
- There is insufficient power with the power line being overloaded
- The sewage system is overstretched
- There is little in terms of leisure facilities

Amenity Issues

- Impact upon ramblers/walkers who use the site
- Impact upon air quality
- Noise and disruption from construction of the dwellings
- Increased noise caused by vehicular movements from the site
- Increased vehicle pollution
- Impact upon privacy
- Overlooking
- Increased light pollution
- Loss of outlook for surrounding properties

Other issues

- The density and style of development is not appropriate

8. APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Design and Access Statement (Produced by Jones Homes)
- Planning Statement (Produced by The Emerson Group)
- Transport Assessment (Produced by Sanderson Ltd)
- Extended Phase 1 Habitat Survey (Produced by CES Ecology)
- Hedgerow Survey (Produced by CES Ecology)
- Services Appraisal (Produced by Chris Lord)
- Site Waste Management Plan (Produced by SMART Waste Plan)
- Preliminary Tree Survey (Produced by Cheshire Woodlands)
- Flood Risk and Drainage Assessment (Produced by RSK)
- Consultation Report (Produced by The Emerson Group)
- Geo-Environmental Site Assessment (Produced by RSK)
- Agricultural Land Classification Report (Produced by ADAS)
- Air Quality Assessment (Produced by RSK)
- Affordable Housing Statement (Produced by The Emerson Group)
- S106 Heads of Terms

These documents are available to view on the application file.

9. OFFICER APPRAISAL

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 23rd March 2011 the Minister for Decentralisation Greg Clark published a statement entitled ‘Planning for Growth’. On 15th 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) in March 2012.

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. In December 2012, the Cabinet agreed the Cheshire East Local Plan Development Strategy for consultation and gave approval for it to be used as a material consideration for Development Management purposes with immediate effect. This proposes a dwelling requirement of 27,000 dwellings for Cheshire East, for the period 2010 to 2030, following a phased approach, increasing from 1,150 dwellings each year to 1,500 dwellings.

It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the emerging Strategic Housing Land Availability Assessment (SHLAA) February 2013. The SHLAA has put forward a figure of 7.15 years housing land supply. This document is to be considered by the Strategic Planning Board on 8th February and the Portfolio Holder on 11th February 2013.

Policy change is constantly occurring with new advice, evidence and case law emerging all the time. However, the Council has a duty to consider applications on the basis of the information that is pertinent at any given time. Consequently, it is recommended that the application be considered in the context of the 2013 SHLAA.

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 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 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.”*

However, given that Cheshire East can now demonstrate a five year supply of housing land, it is considered that policies H6 and PS8 which protect Open Countryside are not out of date and the provisions of paragraphs 49 and 14 do not apply in this case.

Emerging Policy

The Alsager Town Strategy considered a number of development options around the town. These were subject to consultation which closed on 2 April 2012. All comments were considered and the Strategy document was revised accordingly. The application site was not included in the Strategy which was approved on 31st July 2012.

The Cheshire East Development Strategy approved by Strategic Planning Board and Cabinet for consultation until 26 February 2013 and as a material consideration, directs additional housing in Alsager to two strategic sites: land at Twyfords – 450 dwellings and land at the former MMU Campus – 400 dwellings.

These sites have now been carried forward into the Draft Local Plan (development strategy) now the subject of consultation. The NPPF consistently underlines the importance of plan –led development. It also establishes as a key planning principle that local people should be empowered to shape their surroundings. Regrettably, the Secretary of State has often chosen to give less weight to these factors within his own guidance – and comparatively more to that of housing supply. These inconsistencies feature within the legal action that the Council is taking elsewhere.

In the recent Secretary of State decisions in Doncaster MBC (APP/R0660/A/12/2173294 refers), it was found that a development was to be premature even though the Development Plan was still under preparation. Important to this decision was the finding that a five year supply of housing land was available. There is nothing in national guidance to suggest prematurity and housing supply should be linked in this way, and logic might question how the two are interlinked, but this factor was evidently influential in this case. Given that the Council now has a 5 year supply of housing, it is considered that a pre-maturity case can be defended in this case.

Conclusion

The site is within the Open Countryside where under Policy PS8 and H6 there is a presumption against new residential development.

The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development 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 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 years and therefore the automatic presumption in favour of the proposal does not apply.

The proposal does not accord with the emerging Development Strategy. Previous Appeal decisions have given credence to such prematurity arguments where authorities can demonstrate a five year supply of housing land.

Location of the site

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 accessibility of the site shows that following facilities meet the minimum standard:

- Amenity Open Space (500m) – Open space would be provided on site
- Children’s Play Space (500m) – A LEAP would be provided on site
- Primary School (1000m) – 680m
- Leisure Facilities (leisure centre or library) (1000m) – 870m
- Community Centre/Meeting Place (1000m) – 820m
- Secondary School (1000m) – 870m
- Public Right of Way (500m) – Located 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 office (1000m) – 1800m
- Bus Stop (500m) – 870m
- Child Care Facility (nursery or crèche) (1000m) - 1480m
- Pharmacy (1000m) – 1460m
- Medical Centre (1000m) - 2100m
- Railway Station (2000m where geographically possible) – 2140m
- Public House (1000m) – 1300m

In summary, whilst the site does not comply with all of the standards advised by the NWDA toolkit, as stated previously, these are 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.

However, this is not untypical for suburban dwellings and will be the same distances for the residential development on the other side of Dunnocksfold Road (and the MMU site) from the application site. However, all of the services and amenities listed are accommodated within Alsager and are accessible to the proposed development on foot or via a short bus journey. Accordingly, it is considered that this small scale site is a sustainable site.

The highways officer has suggested that a contribution of £120,000 should be secured to provide an improved bus service to the site. Given that the site is considered to be sustainable, it is not considered to be reasonable to secure this contribution as it would not comply with the CIL tests.

Renewable Energy

RSS (Policy EM18) policy 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. Given that the application is in outline form a detailed scheme should therefore be secured at the Reserved Matter stage through planning condition.

Landscape

The application site is an irregular shaped field of approximately 3.12 hectares of agricultural land located along the western part of Alsager, bound to the south by Dunnocksfold Road, south of which is a large area of residential housing. To the west is a smaller triangular area of residential housing and kennels. To the east is a field, the central part of which has been developed and east of this another area of residential development. To the north is an extensive area of agricultural land.

There are no landscape designations on the application site and the landscape is located within the boundary of Character Type 11: Lower Farms and Woods, specifically in the Barthomley Character Area (LFW7) as defined by the Cheshire Landscape Character Assessment. This is a landscape of strong contrasts with many local variations, and in places the relatively dense settlement pattern is very obvious. In many places the relatively flat topography and low field boundaries means that the landscape appears quite open.

The application site is an attractive, relatively level agricultural landscape, characterised by hedgerows and a number of mature hedgerow trees, but influenced by the surrounding residential developments. The site has the landscape capacity to accommodate future residential development, providing that this is well planned and designed and takes due account of the existing landscape characteristics and features of the site. This is providing that the following measures are secured at the Reserved Matter stage:

- The development should respect existing landscape and townscape characteristics of the site (principally the mature trees and hedgerows)
- The development should conserve and enhance the vast majority of the existing mature trees and any notable hedgerows as an integral and structuring part of the Landscape Framework;
- The development should minimise any potential adverse landscape or visual effects through the application of best practice design principles and careful attention to design through all stages of the development process – particularly, attention to design and specification of landscape boundary treatments to the existing surrounding properties.

Affordable Housing

The Council's 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.

There are currently 130 applicants on our housing register applying for social rented housing who have selected Alsager as their first choice. These applicants require 44 x 1 beds, 43 x 2 beds, 25 x 3 beds and 3 x 4 beds. (14 applicants have not specified how many rooms they need).

Therefore as there is affordable housing need in Alsager, there is a requirement that a minimum of 30% of the total units at this site are affordable, which equates to 29 dwellings. According to the Planning Statement and Affordable Housing Statement the applicant is offering 30% affordable housing which is in line with the IPS.

The IPS also states that the tenure split the Council would expect is 65% rented affordable units and 35% intermediate affordable units. The affordable housing tenure split that is required has been established as a result of the findings of the SHMA. The tenure split should therefore be 19 dwellings as rented affordable homes (which can be provided as either social rent or affordable rent) and 10 provided as intermediate tenure.

The affordable Housing Interim Planning Statement requires that the affordable homes should be provided no later than occupation of 50% of the open market units, unless the development is phased and there is a high degree of pepper-potting in which case the maximum proportion of open market homes that may be provided before the provision of all the affordable units may be increased to 80%.

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, there are no further details about the affordable housing provision. The applicant will be required to submit details of their proposed affordable housing scheme at the first reserved matter stage and should include details of the affordable housing scheme, including the mix of unit types and how these meet the required tenure split of 65% rented affordable units and 35% intermediate tenure units. Affordable housing would be secured via a planning condition.

Highways Implications

The proposed access is by means of a simple priority junction with Dunnocksfold Road which is a 30mph road. The applicant has provided a speed survey and, although the highways officer considers that the sample is not great enough, the results do show that the mean speed in the eastbound direction is 31.2mph and in the westbound direction it is 30mph. Based on these results visibility splays of 2.4m x 50.1m to the right and 2.4m x 44.3m to the left out of the site are required by Manual for Streets and can be achieved according to the submitted plan.

The submitted plan does not show footways along the site frontage which has been requested by the Strategic Highways Manager. However, it is considered that such detail can be dealt with through the use of a planning condition to secure the details at the Reserved Matters stage. The benefit of doing this is that if an application comes forward on the adjacent MMU site in the mean time, it would be possible to ensure that the link between both sites is secured.

As part of this application, the applicant has submitted a Transport Assessment to assess the traffic impact of the proposed development. There is only one committed development in Alsager (12/0893C - 65 units off Crewe Road) but the Twyfords site (335 dwellings) has now received a resolution to approve, subject to the completion of a S106 Agreement.

The submitted TA includes an assessment of the following junctions:

- Dunnockfold Road/Hassall Road/Church Road
- Crewe Road/Hassall Road
- Church Road/Crewe Road/Station Road
- Sandbach Road/Lawton Road/Crewe Road
- Crewe Road/Radway Green

Dunnockfold Road/Hassall Road/Church Road

Although the highways officer has questioned the future years of assessment for this junction, the TA is clear that the junction would still operate with spare capacity if the development is approved.

Crewe Road/Hassall Road

The TA states that the *'predicted development traffic flow at this junction is such that a request for capacity analysis would be unreasonable and the model would be unlikely to distinguish any material difference between the traffic flow scenarios with and without the development'*. The Strategic Highways Manager accepts that the development is unlikely to have any significant traffic impact at this junction.

Church Road/Crewe Road/Station Road

The development will have some traffic impact at this location with an additional 25 to 27 development vehicles passing through the junction in the AM peak hour and 26 to 31 vehicles in the PM peak hour. This impact is not considered to be severe.

Sandbach Road/Lawton Road/Crewe Road

The additional traffic flow from this development is just 3 peak AM movements and 10 peak PM movements. As a result, the impact cannot be considered to be severe.

Crewe Road/Radway Green

The additional traffic flow from this development is just 14 peak AM movements and 7 peak PM movements. As a result, the impact cannot be considered to be severe.

As a result of the above it is not considered that the highways impact of the development will be severe which is the test contained within the NPPF. The proposed development is therefore acceptable in terms of its highway implications.

Amenity

In terms of the surrounding residential properties, these are mainly to the south and west of the site. Although the application is outline only, the indicative layout shows that adequate separation distances would be provided to these properties. The proposed dwellings would be of a density that is consistent with the surrounding area and would not be out of character in this area.

In terms of air quality, the Environmental Health Officer has requested a condition regarding an environmental management plan and travel plan to minimise the impact from the development in terms of the site preparation and construction phases.

The Environmental Health Officer has requested a condition in relation to noise during construction, pile driving and contaminated land. These conditions will be attached to the planning permission.

Trees and Hedgerows

Trees

There are a number of trees to the boundaries of the site. A Tree Survey has been produced and this identifies 7 individual trees and 6 groups of trees. Of the individual trees, 2 are graded Grade A (High Quality and Value), 3 are Grade B (Moderate Quality and Value) and 2 are Grade C (Low Quality and Value). The groups are rated 1 as Grade A, 1 as Grade A & B, 1 as Grade A-C and 3 as Grade C.

The applicant has stated that all trees would be retained as part of the proposed development and it is accepted that the site can accommodate 95 dwellings outside the Root Protection Areas (RPAs) of the trees on the site. As this application is in outline form, this issue will be assessed in more detail at the Reserved Matters stage.

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 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 application. Hedgerows are also a habitat subject of a Biodiversity Action Plan. The Regulations require assessment on various criteria including ecological and historic value.

Policy NR3 (Habitats) of the adopted Congleton Borough Local Plan First Review, states that proposals for development that would result in the loss or damage to important hedgerows will only be allowed if there are overriding reasons for allowing the development, and where the likely effects can be mitigated or the habitat successfully recreated on or adjacent to the site and there are no suitable alternatives. In order to comply with the policy, all of these criteria must be met.

In this case there will be significant hedgerow loss to the Dunnocksfold Road frontage and there has been no assessment of the hedgerow consequently it is unknown whether the hedgerow which would be lost is important. This issue will form a reason for refusal.

Design

The application is outline with details of scale, layout, appearance and landscaping to be determined at a later date. In support of this planning application a Design and Access Statement has been provided.

The importance of securing high quality design is specified within the NPPF and paragraph 61 states that:

“Although visual appearance and the architecture of individual buildings are very important factors, securing high quality and inclusive design goes beyond aesthetic considerations. Therefore, planning policies and decisions should address the connections between people and places and the integration of new development into the natural, built and historic environment.”

In this case the density of the site is appropriate and is consistent with that of the surrounding area. The indicative layout shows that the properties on the site would overlook the highway, parking areas and the public open space. The properties located at corner plots have the potential for dual-frontages.

To all sides of the site a boundary hedgerow would be provided/retained to act as a green buffer to the open countryside and surrounding residential properties. According to the indicative plan the open space would be located to the centre of the site with the LEAP which would be well overlooked by residential properties.

Although part of the layout does appear dated with the affordable housing grouped in distinct areas, it is considered an acceptable detailed design can be secured given the density of development on this site. This will be determined as part of the reserved matters stage.

Ecology

The submitted report identifies the site as having some potential to support species which are a Biodiversity Action priorities and hence a material consideration (hedgehog, polecat and some bird species). The Councils Ecologist advises that provided the existing hedgerows and mature trees around the site are retained, there is unlikely to be any significant ecological impacts on these species associated with the proposed development of this site.

The mature trees have however been identified as having potential to support roosting bats and the applicant has confirmed that these trees would not be removed as part of the proposed development. A condition is required to ensure the trees and hedgerows are retained as part of any finalised layout.

If planning consent is granted conditions are required to safeguard breeding birds and ensure some additional provision is made for nesting birds and roosting bats.

Public Open Space

The indicative layout shows that an area of POS would be provided centrally within the site. The Open Space Officer has stated that if the development is approved there would be a deficiency in the quantity of provision and the requirement for the site is 2,280sq.m. Although the area shown on the indicative plan does not meet this requirement the applicant has confirmed that the area will be adjusted at the Reserved Matters stage to ensure that 2,280sq.m would be provided.

In terms of children's play space, the Public Open Space Officer has requested the provision of a 5 piece LEAP. This would be provided centrally and secured as part of a S106 Agreement.

The open space and LEAP on site would be managed by a management company and this would be secured as part of a S106 Agreement.

Public Rights of Way

Public Footpath No.3 Alsager runs along the north-west boundary of the site. There would be no need for the diversion of the PROW which would run along its existing line. The indicative layout shows that a green buffer would be provided to the PROW with the properties facing it to provide natural surveillance.

The proposed development would result in increased use of the footpath and the PROW Officer has requested that the two stiles on the site are replaced which would be controlled via a planning condition. Four further styles require replacing along this route and these would need to be secured as part of a contribution of £1,164 which would be secured as part of a S106 Agreement.

Education

In terms of primary school education, the proposed development would generate 16 new primary places. As there are capacity issues at the local primary schools, the education department has requested a contribution of £173,540. The applicant has agreed to make this contribution and this would be secured via a S106 Agreement.

In terms of secondary education, the proposed development would be served by Alsager High School. There are surplus spaces at this school and there is no requirement for a secondary school contribution.

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 (FRA) has been submitted as part of this application.

The submitted FRA makes the following statements:

- Due to the topography of the site and the site's location outside of any known fluvial (river) floodplain, the site is considered to have a low risk of fluvial flooding
- Tidal flooding is not considered a risk to the site, due to its inland location

- There is no evidence that overland flooding will directly affect the site or has done in the past. Flooding from this source is considered low but will be considered in the layout of the site ensuring that the development is not an increased risk and overland routes will be created within the design of the site to ensure properties are not at risk of flooding from this source
- In terms of groundwater flooding there are no records that are considered as having 'significant harmful consequences' within Cheshire East. The Cheshire East Preliminary Flood Risk Assessment (PFRA) and the Congleton Strategic Flood Risk Assessment (SFRA) do not illustrate any instances of groundwater flooding in the vicinity of the site or Alsager as a whole
- In terms of flooding from sewer the PFRA and data from United Utilities do not record any instances of sewer flooding within the vicinity of the site. On the basis that any new foul water sewerage and surface water systems for the development will be designed to meet the requirements of United Utilities this should ensure that the systems have sufficient capacity to prevent overloading and the risk of flooding from the sewers is considered to be low
- There is no risk from canals, reservoirs and other artificial structures
- Given the low risk of flooding to the site from all sources the implications of climate change on the site are minimal

The FRA then goes on to state that SUDs based systems will be used on site to attenuate and discharge the generated surface water from the impermeable surfaces. Should any discharge from the development flow offsite this will be limited to the pre-development green field rate and the design of the system will be determined at the detailed design stage.

The Environment Agency and United Utilities have been consulted as part of this application and have raised no objection to the proposed development. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

Agricultural Land Quality

It is noted that Policy NR8 (Agricultural Land) of the Congleton Borough Local Plan has not been saved. However, the National Planning Policy Framework highlights that the use of such land should be taken into account when determining planning applications. It advises local planning authorities that, 'significant developments' should utilise areas of poorer quality land (grades 3b, 4 & 5) in preference to higher quality land.

An Agricultural Land Survey has been produced and this indicates that the application site is Grade 3b. As a result the loss of this land does not raise any issues.

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 requested highways contribution to provide improved bus services is not considered to meet the CIL tests as the application site is considered to be sustainably located.

The development would result in increased demand for primary school places in Alsager and there is very limited spare capacity. In order to increase capacity of the primary schools which would support the proposed development, a contribution towards primary school education is required. This is considered to be necessary and fair and reasonable in relation to the development.

The development would also result in increased use of the local PROW network and the existing stiles along Public Footpath No.3 Alsager are in a poor state of repair. Due to the increased use it is considered that this contribution is directly related to the development and the sum involved is fair and reasonable.

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

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

10. CONCLUSIONS

The site is within the Open Countryside where under Policies PS8 and H6 there is a presumption against new residential development. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development. However, the 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 years and therefore the automatic presumption in favour of the proposal does not apply.

The proposal does not accord with the emerging Development Strategy. Previous Appeal decisions have given credence to prematurity arguments where authorities can demonstrate a five year supply of housing land. The benefits of allowing development on this site are insufficient to outweigh the harm that would be caused in terms of the impact on the open countryside and as a result the proposal is considered to be unsustainable and contrary to Policy PS8 of the local plan and the provisions of the NPPF in this regard.

It is considered that the development is acceptable in terms of affordable housing provision. Matters of contaminated land, air quality and noise impact can also be adequately addressed through the use of conditions.

The issue of highway safety and traffic generation is considered to be acceptable and the development would not have a severe impact.

Although there would be some adverse visual impact resulting from the loss of open countryside, it is considered that, due to the topography of the site and the retention of existing trees and hedgerows, this would not be significant relative to other potential housing sites in the Borough.

With regard to ecological impacts, the Council's ecologist is satisfied with the proposed mitigation/compensation measures for protected species can be secured.

The scheme complies with the relevant local plan policies in terms of amenity and it is considered that an acceptable design and layout can be secured as part of a reserved matters application.

Policy requirements in respect of public open space provision can be met within the site, and therefore it is not considered to be necessary or reasonable to require further off-site contributions in this respect. A contribution has been secured to enhance primary school provision in the area to mitigate the proposed development.

The Flood Risk Assessment has not identified any significant on or off site flood risk implications arising from the development proposals that could be regarded as an impediment to the development

11. RECOMMENDATIONS

REFUSE:

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies PS8 and H6 of the Congleton Borough Adopted Local Plan First Review 2005 and the principles of the National Planning Policy Framework which seek to ensure development is directed to the right location and open countryside is protected from inappropriate development and maintained for future generations enjoyment and use. As such it and creates harm to interests of acknowledged importance. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework, consequently the application is premature to the emerging Development Strategy since there are no material circumstances to indicate that permission should be granted contrary to the development plan.**
- 2. Insufficient information has been submitted with the application to determine if the proposal would involve the removal of an “important” hedgerow as defined in the Hedgerow Regulations 1997. Policy NR3 of the adopted Congleton Borough Local Plan First Review, states that proposals for development that would result in the loss or damage to important hedgerows will only be allowed if there are overriding reasons for allowing the development. Therefore the scheme is contrary to Policy NR3 of the adopted Congleton Borough Local Plan First Review and guidance contained within the NPPF.**

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 Development Management and Building Control Manager 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.

Should this application be the subject of an appeal, authority should be delegated to the Development Management and Building Control Manager in consultation with the Chairman of the Strategic Planning Board to enter into a planning agreement in

accordance with the S106 Town and Country Planning Act to secure the Heads of Terms for a S106 Agreement.

[illegible]

Application No: 12/3300N

Location: Land North of, WESTON LANE, SHAVINGTON

Proposal: Erection of 57 dwellings, landscaping including the creation of a newt corridor, new access and associated infrastructure

Applicant: David Wilson Homes (North West)

Expiry Date: 10-Dec-2012

SUMMARY RECOMMENDATION

- **REFUSE**

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,
Impact on built heritage
Design
Amenity
Open Space
Drainage And Flooding,
Sustainability
Education

REFERRAL

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

1. SITE DESCRIPTION

The site is set back from Weston Lane on the north side and extends to an area of approximately 2.31 hectares. It is located to the north of Weston Lane, and to its west by Park Estate and North Way, an area of late 20th century residential development which backs onto the site. To the north of the site, the land is predominately a rural agricultural landscape consisting of green fields, with the exception of the A500 dual carriageway situated nearby. To the south of the site is a row of 20th century houses facing Weston Lane. This forms part of the larger housing estate to the west.

To the east of the site (although separated by a belt of mature trees) is Shavington Hall, a Grade II Listed property.

The site comprises primarily of flat, undulating ungrazed grassland which is bounded by high density trees along the eastern boundary to Weston Lane and by low density shrubbery and trees along the north and northwest boundary. The residential properties are separated from the site by fencing and low density sporadic hedging. The site is predominately level across its entirety. However, there is a slight rise towards the east and Shavington Hall.

The existing access to the site is a single track access road which currently provides access to the adjacent Shavington Hall and residential properties. The access road is bounded by high density trees on both sides and provides a sheltered and scenic approach to the site.

2. DETAILS OF PROPOSAL

The application is seeking full planning permission for 57 new residential properties, of which 17 will be affordable houses. A 'newt corridor' will be formed around the northern and eastern boundaries maintaining an undisturbed corridor beside the northern field boundary and existing trees along the eastern boundary. An area of public open space will be provided beside the corridor near to eastern boundary.

House types will be a mixture of sizes and types. Off-street parking will be provided to all homes mainly in private drive and garage arrangements,, with private courtyard parking for a few properties.

Access will be taken directly off Weston Lane which also serves as the existing access to the neighbouring properties at the rear of Shavington Hall (the Hall having a separate private drive further east). Improvements will be made to the Weston Lane entrance to widen the width of the opening, reconstructing the walls and entrance gate piers around the new entrance. Access to the existing properties will be taken at point further into the site onto their existing alignment.

3. RELEVANT PLANNING HISTORY

No relevant planning history

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
DP7 Promote environmental quality
DP9 Reduce emissions and adapt to climate change
RDF1 Spatial Priorities
L4 Regional Housing Provision
EM1 Integrated Enhancement and Protection of the Region's Environmental Assets
EM3 Green Infrastructure
EM18 Decentralised Energy Supply
MCR3 Southern Part of the Manchester City Region

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
SHLAA

Draft Development Strategy

4. OBSERVATIONS OF CONSULTTEES

Archaeology

- Note that the site lies immediately to the west of Shavington Hall, a late 19th-century Grade II Listed Building surrounded by the remnants of a formal garden (CHER 4195). The present hall was not, however, the first to be constructed on the site as there was definitely a building here in the earlier 19th century, as depicted on the 1840 Tithe Map. Shared Services Archaeology have previously been contacted by local residents with regard to other developments who have argued that the hall was the site of the main manor of Shavington. Shared Services Archaeology are not entirely convinced by this, however, as Shavington House, c 500m to the west was formerly surrounded by a moat and looks like a more convincing candidate. Nevertheless, the tithe map suggests that the site of the hall is of some interest and I note that some of the buildings depicted on the early mapping will be affected by the proposed development. These are located at SJ 7086 5229, at the point where the revised access track to the hall leaves the new estate access on the planning layout document.
- Shared Services Archaeology do not think that any of the above is sufficient to generate an objection to the development or to justify any further pre-determination work. They do advise, however, that if planning permission is granted, the sensitive area referenced above should be subject to a programme of archaeological mitigation to uncover and record any traces of the buildings depicted on the early mapping. A report on this work, which should represent a rapid and inexpensive exercise, will also need to be produced. The above programme of mitigation may be secured by condition.
- The use of such a condition is in line with the guidance set out in Paragraph 141, Section 12 (Conserving and Enhancing the Historic Environment) of the new National Planning Policy Framework. The Cheshire Archaeology Planning Advisory Service does not carry out archaeological work and the applicants will need to appoint an archaeological contractor to undertake the archaeological watching brief.

Environment Agency

- No objection subject to the following planning conditions being attached to any planning approval as set out below.
- The proposed development will only meet the requirements of the National Planning Policy Framework (NPPF) if the following measure(s) as detailed in the Flood Risk Assessment submitted with this application are implemented and secured by way of a planning condition on any planning permission.
 - Planning permission shall only be carried out in accordance with the approved Flood Risk Assessment
 - Submission / approval and implementation of detail design for a surface water regulation scheme
- Make the applicant aware that there are records of great crested newt (*Triturus cristatus*) in the area and the ponds adjacent to the site.

United Utilities

- No comments received at the time of report preparation.

Natural England

- No comments received at the time of report preparation.

Amenity Greenspace

- Request £25k for off site provision is for improvements to the Wessex Close (not Weston Close) children's play area in Shavington to make up for shortfall in on-site provision.

Highways

I raise no objection on Highways and Transportation grounds to the proposal to erect 57 dwellings on land at Shavington Hall, lying to the north of Weston Lane, Shavington, subject to the delivery of local improvements to the pedestrian environment that would serve to improve the connectivity of the site to local service provision lying to the west within Shavington.

Weston Lane runs in an east west direction between Shavington to the west and Basford and Weston to the east, serving a number of residential properties. It is lightly trafficked with peak hourly flows of circa 300 vehicles (two-way), and recorded vehicle speeds within the prescribed speed limit of 30mph (based on Cheshire East Data collected for the Crewe Green Link road). A 7.5 tonne weight limit is in force on Weston Lane from the junction of Crewe Road for its entire length.

The highway corridor is relatively narrow on the section of Weston Lane to the immediate west of the site, with carriageway widths varying between circa 4.9m and 5.5m. A continuous footway is provided alongside the eastbound carriageway between the proposed site and Shavington village; however, under existing conditions, it is considered to be of sub-standard width on sections of frontage property to the immediate west.

The proposed development would generate an additional demand of 34 two-way trips in the morning peak, and 37 two-way trips in the evening peak. This represents an additional demand of circa one vehicle every 100 seconds (two-way) within the peak periods.

The proposed access arrangement (Dwg: N22155-001 RevA) to the development is considered to be acceptable, in accordance with prescribed standards for a minor access road (<100 dwellings). The proposed access representation meets the visibility standards prescribed within Table 7.1 of Manual for Streets (2.4 x43m) for a road of this nature.

The proposed site is located within 1km of local service provision within Shavington, including retail provision and Shavington Primary School. As part of a wider review of the proposal, dialogue has been undertaken with Transport Policy officers within Cheshire East Council, as a means to ascertain the overall suitability of local walking routes with regard to access to

local education provision. As such, Weston Lane is classified as an 'available walking route to school', in accordance with Cheshire East Council's Walking Routes to School Policy and Road Safety GB Guidelines. Notwithstanding this, it is considered that improvements could be made to improve its attractiveness as a walking route of choice.

Dialogue has been undertaken with the applicant's transport consultant throughout this process, as a means to identify measures to improve the quality of local pedestrian routes. The following proposal has been submitted for consideration:

- Provision of localised amendments to the highway corridor on the residential frontage to the immediate west of the proposed development, as a means to improve the existing footway provision at specific pinch points, and provide a minimum width of 1 metre on this section. This measure would necessitate a marginal reduction in the available carriageway width on Weston Lane; however, it would remain in excess of suggested minimum widths for a route of this nature within Manual for Streets (4.8m) as identified within Table 7.1, and the existing minimum width of the highway. This is considered to be acceptable in view of the existing weight limit on Weston Lane, and the nature of vehicles using the route.

In addition, the applicant has offered to provide a controlled pedestrian crossing on Crewe Road, to facilitate movement on the pedestrian desire line between properties lying to the east of Crewe Road and Shavington Primary School. This measure has been identified following consultation with the local parish council, and is considered to be of potential benefit to the local pedestrian environment, and assist in facilitating safe travel on foot to the local primary school. The provision of a crossing is not considered to be necessary to mitigate the impact of the development; it cannot therefore be identified as a planning condition, as it would not comply with the regulations identified within the Community Infrastructure Levy (CIL).

Suggested Conditions

Condition 1:- Prior to first occupation the developer will provide and install the necessary agreed footway improvements to 'the road' as agreed with the Highway Authority. This will include for alterations to highway drainage and will form part of the off-site highway works and will be informed by the topographical survey of the related lengths of public highway, as detailed within Drawing: N22155-P002 RevA.

Condition 2:- Prior to first development the developer will provide a detailed suite of plans for all off-site highway works to the satisfaction of the LPA, including the provision of an appropriate Stage 1/2 Road Safety Audit.

Condition 3:- Prior to first development the developer will provide a detailed suite of construction specification plans for all adoptable highway infrastructure within the site to the satisfaction of the LPA

Informative:- Prior to first development the developer will enter into and sign a Section 278 agreement under the Highways Act 1980 with regard to all: 'offsite highway works' listed in

the above conditions. The detailed suite of plans conditioned at 3 above will serve the Section 278 process.

Informative:- Prior to first occupation the developer will enter into and sign a Section 38 agreement under the Highways Act 1980 and the detailed suite of plans conditioned at 3 above will serve the Section 38 process in agreement with Highway Authority engineers.

Environmental Health

No objection subject to the following conditions.

- In order to ensure that future occupants of the development do not suffer a substantial loss of amenity due to noise, submission of an acoustic assessment report in relation to road traffic noise from the A500.
- Any mitigation shown as part of the report must achieve the internal noise levels defined within the “good” standard within BS8233:1999.
- The scheme must also include provisions for ventilation that will not compromise the acoustic performance of any proposals whilst meeting building regulation requirements.
- 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
- All Piling operations shall be undertaken using best practicable means to reduce the impact of noise and vibration on neighbouring sensitive properties. 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
- Submission of a piling method statement, to include the following details:
 - Details of the method of piling
 - Duration of the pile driving operations (expected starting date and completion date)
 - Prior notification to the occupiers of potentially affected properties
 - Details of the responsible person (e.g. site manager / office) who could be contacted in the event of complaint
- Submission of details of external lighting
- Submission of a scheme to minimise dust emissions arising from construction activities on the site
- The application is for new residential properties which are a sensitive end use and could be affected by any contamination present.
- A further assessment into ground gases shall be carried out and the results submitted to, and approved in writing by, the Local Planning Authority (LPA).
- If the results of this further assessment indicate that remediation is necessary, then a Remediation Statement shall be submitted approved and carried out.
- If remediation is required, a Site Completion Report detailing the conclusions and actions taken at each stage of the works, including validation works, shall be submitted

Education

- A development of 57 dwellings will generate 9 primary aged children and 7 secondary age children.

- Primary Schools :-The primary schools are forecast to be oversubscribed from 2014 in light of this a contribution of $9 \times 11919 \times 0.91 = £97,617$ would be required to accommodate the pupils which are generated.
- Secondary Schools :- There is sufficient capacity within the local secondary schools to accommodate the pupils generated.

5. VIEWS OF THE PARISH / TOWN COUNCIL

Weston and Basford

This application is located within Shavington Parish and is in close proximity to the boundary of Weston & Basford Parish. The proposal would feed out on to Weston Lane, the main feeder road through Basford.

The Council strongly objects to this proposal on the following grounds:

- A. The application lies within the Green Gap as defined in the Borough of Crewe & Nantwich Replacement Local Plan 2011. The development of this site would result in the first stages of the erosion of the open area which separates the settlements of Basford and Shavington at this point. My Council strongly holds the view that it is essential to retain the intrinsic character and prevent the coalescence of the villages which form a collar around the southern and eastern boundaries of the urban core of Crewe
- B. The site feeds directly out on to Weston Lane where we are already experiencing considerable traffic problems. This is a very narrow and tortuous road with few footpaths and links Shavington with Weston. It forms a rat run particularly at peak times with traffic trying to avoid the already overloaded primary road network. Weston & Basford operate a speedwatch scheme along Weston Lane and a bid is currently in the Minor Highways programme for the investigation of traffic management measures to try to alleviate some of the problems along the whole length of this road. My Council considers that the addition of 57 residential units will only exacerbate an already fraught situation.
- C. It is also considered that the proposal would be likely to be prejudicial to the setting of Shavington Hall which is understood to be a listed building.

The Council urges the Local Planning Authority to refuse this application which to say the least is totally premature pending the outcome of the forthcoming Local Plan.

Shavington-cum-Gresty Parish Council

1.0 INTRODUCTION

- 1.1 This Planning Statement comprises an objection from Shavington-cum-Gresty Parish Council to a planning application submitted by David Wilson Homes for the erection of 57 dwellings on land to the north of Weston Lane, Shavington.
- 1.2 It is submitted alongside and in total support of the many other objections submitted by local residents of Shavington to the same planning application.

2.0 ISSUES

- 2.1 The proposed development is contrary to policy NE2 in that the site is located within the green gap – the Parish Council is opposed to any erosion of the green gap between Shavington and any other surrounding settlement.
- 2.2 In respect to sustainability the Parish Council has severe doubts as to the validity of the claim that the development could actually be sustainable.
- 2.3 Weston Lane is a narrow carriageway and used extensively as a rat run between Shavington to Weston and beyond. The proposed access road is in a location with limited visibility, and footpaths are either very narrow or non-existent.
- 2.4 Pressure on the existing infrastructure would be significant from an additional 57 dwellings – quite apart from the huge increase in the daily traffic movements along Weston Lane extra pressure would be placed on other utility supplies such as gas, electricity, water and drainage.
- 2.5 The proposed development is at odds with the National Planning Policy Framework and the Cheshire East Interim Planning Policy, and is premature given the consultation process currently being carried out by Cheshire East Council as part of the work to inform the Local Development Framework.

3.0 EXISTING PLANNING POLICY

Adopted Local Plan

- 3.1 The site lies within an area of open countryside and policy NE2 applies as set out below.
Policy NE.2: OPEN COUNTRYSIDE
ALL LAND OUTSIDE THE SETTLEMENT BOUNDARIES DEFINED ON THE PROPOSALS MAP (SEE ALSO POLICIES RES.5 AND RES.6) WILL BE TREATED AS OPEN COUNTRYSIDE.
WITHIN OPEN COUNTRYSIDE 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.
AN EXCEPTION MAY BE MADE WHERE THERE IS THE OPPORTUNITY FOR THE INFILLING OF A SMALL GAP WITH ONE OR TWO DWELLINGS IN AN OTHERWISE BUILT UP FRONTAGE.
- 3.2 Quite clearly the proposal for residential development does not comprises one of the uses set out in the policy which will be permitted nor is it a use which is appropriate to a rural area. Further it does not comprise a small gap in an otherwise built-up frontage. The proposal is contrary to policy NE2 of the Local Plan. The release of this site would represent an ad hoc expansion into Open Countryside.

The Interim Planning Policy (IPP)

- 3.3 This document was adopted by Cheshire East Council on 24th February 2011. Its purpose is

“To manage the release of additional land for residential development through the consideration of planning applications to maintain a five years supply as an interim measure pending the adoption of the Local Development Framework Core Strategy. The policy has been developed in a manner so that it would not prejudice the consideration of alternative options for the development strategy of the Local Development Framework.”

- 3.4 Cheshire East Council has recently published the Crewe Town Strategy for consultation as part of the LDF and this considers how the challenges facing towns and villages are to be addressed. It is inappropriate to consider the release of a significant housing site in Shavington at this time as this would clearly prejudice the consideration of alternative options for the development strategy of the LDF.
- 3.5 This is contrary to The Interim Planning Policy and as such this site should be rejected by the Council.
- 3.6 The release of this site would undermine the policies of the current Local Plan and pave the way for more challenges to its credibility. This would lead to an approach whereby planning permissions were helping to influence, drive and determine the strategy of the forthcoming LDF as it progresses towards the adoption of the Core Strategy. It would undermine public confidence in the LDF process and make a sham out of the public participation and consultation on which Cheshire East Council is placing so much emphasis.
- 3.7 The purpose of the Green Gap designation is to preserve that separate physical identity.
- 3.8 It is accepted that additional housing sites will be required over the LDF plan period. However sites of this scale should be considered through the LDF process.
- 3.9 The “call for sites” through the evidence gathering process of the SHLAA has resulted in the identification of sites in the Shavington area of over 2,000 dwellings which are the subject of planning applications submitted, being progressed or the subject of preliminary discussions with Cheshire East and Shavington Parish Council.
- 3.10 The plethora of such sites makes it essential for Cheshire East to resist the release of the application site and ensure that the consideration of such sites is undertaken through the LDF process and through consultation on the Crewe Town Strategy document.
- 3.11 On the proposals map of the local plan, the site is located outside the settlement boundary of Shavington. The site lies in open countryside and therefore policy NE2 is relevant.

4.0 CONCLUSION

- 4.1 The proposed development is in conflict with the Countryside Protection policies NE2 Open Countryside of the Crewe and Nantwich Replacement Local Plan which comprises the current statutory Development Plan for the area in which the application site is located.
- 4.2 The site’s release for development will make it more difficult to resist the release of other sites beyond the edge of the village of Shavington.
- 4.3 Planning legislation requires that planning applications are to be determined in accordance with the Development Plan unless material considerations dictate otherwise. It is not considered that such material considerations exist in this case.
- 4.4 Shavington-cum-Gresty Parish Council urges Cheshire East Council to refuse this planning application No 12/3300/N.

- 4.5 In addition it urges the Council to progress rapidly the LDF process and to remove the uncertainty and inconsistency which exists in the determination of planning applications for housing in the Crewe area. The Parish Council also wishes to actively engage in continued discussions with Cheshire East Council over the future planning policies for the Shavington area.

6. OTHER REPRESENTATIONS

Representations From Local Residents

Principle of Development and housing Need

- The NPPF states that planning decisions must “be genuinely plan-led”. No local plans support development on this land.
- Proposed buildings are not of a nature identified in recent Cheshire East reports – the area needs bungalows and not houses.
- The proposed design of buildings is inappropriate for the area. Three storey houses and four-house terraces would be totally uncharacteristic.
- The type of houses (3 storied) would affect the privacy of the existing properties which back onto the site.
- The proposed fencing around the site is inadequate and will allow existing properties to be overlooked.
- Any development south of the A500 will erode the essence of village life.
- The character of Shavington village will be destroyed
- There is already an excess of unoccupied family homes.
- The development would destroy the semi-rural local character of Park Estate and Weston Lane.
- The village is a good size already and does not need another large scale development.
- Un-finished town houses in Crewe should be completed before building on attractive fields.
- There are properties for sale in the village without the need for new properties.
- Many residents who are affected by this development were not notified by Cheshire East Council.

Highways

- Access to site is on a bend making egress and ingress difficult and potentially dangerous. Upon entering the site it would be difficult to see approaching traffic and upon exiting the site there is little time to see traffic approaching from the east.
- Weston Lane is heavily used and already too busy for the nature of the blind bends and absence of footpaths. It is poorly lit at night.
- Pavement in only a short section and is very narrow.
- Weston Lane is used by great number of pedestrians often taking children to school often having to walk on the road.
- The Transport Statement also documents that 'a footway is provided along Weston Lane which links to bus stops available on Crewe Road and Weston Lane'. It fails to point out how dangerous these routes are to the bus stops as a result of narrow and sometimes non-existent footpaths. The National Planning Policy Framework states that planning decisions should be used to 'actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling and focus significant development on locations which are or can be made sustainable'.
- The applicants did not take into account the very considerable pedestrian traffic in their assessment.
- There is no room to widen the footpath without making the road narrower.
- Weston Lane already used as a 'rat-run' and it is hazardous to pull out of Park Estate.
- Additional cyclists and walkers from the proposed development would pose a danger
- Heavy duty vehicles would make the roads dangerous during the construction period.
- Some local residents feel that it will be difficult to get out of their drives.
- The development will not encourage an investment in public transport and the new residents will simply add more cars to the overcrowded local roads.
- Extra traffic will be generated by families with children commuting to schools outside the area as the local school is already full.
- There are no traffic calming measures on Weston Lane and vehicles frequently exceed the 30 mph speed limit.
- In one part of Weston Lane it is not possible for two vehicles to pass without one of them having to stop.
- The figures shown on the developer's Transport Statement are very selective of only two 1 hour periods. Using the developer's own Trip Rate calculator would mean a figure of 313 additional vehicles daily.

- Would the weight restriction in Weston Lane have to be removed to cater for the construction vehicles?
- Sight lines to enable safe access to the development would require using land that is outside the developer's control and would lead to removal of more trees and hedges.

Infrastructure

- Houses will be built on boggy land and water table issues would cause concern.
- Extra strain will be placed on oversubscribed schools and doctor's surgery.
- It will impose an extra strain on infrastructure, particularly the water supply and already inadequate sewerage system.
- There are not enough parking spaces for all these extra cars in town.

Heritage

- The application seeks to downplay the importance of the Grade II listed building and will have an adverse effect upon the Hall and surrounding landscape, seeking to destroy the rear Listed entrance and gateposts.
- If application succeeds Shavington Hall, a grade II listed building will no longer enjoy the independent position it presently holds and would be surrounded by houses with little architectural merit.
- The distinct barrier between Shavington Hall and the rest of the village would be destroyed.
- The application seeks to use the conversion of the outbuildings of the Hall as a reason to suggest that the Hall and its Listing have been downgraded but the outbuildings have been converted with the importance of the Hall and its setting in mind at all times.
- Shavington-cum-Gresty is presently the subject of a parish-plan exercise which is shortly due to publish. At the same time local-strategy consultations have recently concluded for towns in East Cheshire including that for Crewe. In the Crewe plan, Shavington features significantly and is the subject of a number of development "challenges". The proposals for this and all other developments are, therefore, pre-emptive, in view of the fact that a public enquiry is likely to finalize a local plan for Crewe and its surroundings, including the provision of sites for housing.
- The gates to the site are Grade II listed and should be protected as they were damaged the last time that developers made application and were never properly repaired. Repair of the gates should be insisted upon before planning permission is given.

- Proposed look of site entrance will change the character of the driveway.
- The land is of historical interest being mentioned as a small farm in the Domesday Book.

Green Gap

- The development would be in a currently designated Green Gap which is there to separate Shavington from joining with Basford, Hough and Weston.
- Erosion of the Green Gap will lead to the merging of Shavington and Crewe.
- What is the point of defining Green Gap land if, at the first opportunity that consideration is swept aside in favour of further expansive development.
- Brown field sites should be used first.
- This land should continue to be used for agriculture as such land may well be required for food production in the future.

Ecology

- The area supports a population of Great Crested Newts which the developer has tried to mitigate with the use of a corridor. No evidence that newts will navigate around this new obstacle course.
- Removal of protected trees and hedges will have adverse effect on the beauty of the area and will remove habitat for wildlife. How many people can afford to wait 50 years for the trees which the developer proposes to plant to reach maturity and attain the attraction and amenity we currently enjoy?
- The area is a haven for wildlife including bats, newts, foxes, owls, sparrow-hawks toads and pheasants.
- The assessment process in respect of the CGN was severely limited both by access and surveying methods.
- There would be noise and dust pollution over the 3 years period that it is estimated to complete the development.

Flooding

- Our property on the boundary of this land has been subject to flooding over the last few years following the building of the Shavington By-pass and overdevelopment is likely to cause problems for both old and new properties.
- The road outside the proposed entrance to the site floods each time there is heavy rain causing motorists to swerve over the opposite side of the road.

Other

- Where will all these new residents do their shopping? There are no employment prospects in Crewe so where will they work?
- Elderly residents are stressed and worried by the proposal.
- We do not believe that this proposal satisfies the conditions of NE5 (nature conservation and habitat), NE9 (protected species) and NE12 (agricultural land quality).
- The development would breach policies NE4 and NE2
- It will adversely affect the value of existing properties.
- The site is outside the settlement boundary.
- It will adversely affect properties in Park Estate, Northway and Weston Lane due to the close proximity of the new houses.
- This development will affect my enjoyment of the open countryside which was why I moved into the area.
- Proposed houses do not make use of renewable energies or technologies.

Letter received from Edward Timpson M.P.

I wish to register the concerns of my constituents and their objection to the planning application 12/3300N which relates to building of 57 houses off Weston Lane in Shavington.

I have been contacted by and spoken to a significant number of local residents in large part living in close proximity to the proposed development and they have expressed the following concerns as strong reasons to refuse the application.

I can do no better than echo one of my constituents who has contacted me and is amongst the many who has published comments on the Cheshire East Planning website. He has summed up the views put forward by many.

“The development will result in significant harm to the rural character of the village and the surrounding landscape. The benefits of delivering housing will not be outweighed by the harm caused to the character of the village and to the surrounding landscape. E cannot see how this proposal could be considered “sustainable development” as set out in the National Planning Policy Framework and is contrary to policies in the Crewe and Nantwich Local Plan and the emerging draft Cheshire East Local plan. All consultation carried out by the local authority shows that the Green Gap is considered of great importance to local people. T provides an important physical barrier between villages and towns and helps maintain strong community identities.

It has not been demonstrated that the additional traffic from the proposed development can be accommodated safely and satisfactorily within the existing highway network. Nor has it been demonstrated that satisfactory arrangements will be put in place to safely accommodate the additional traffic generated by the development. No provision has been made for access to public transport services and other alternative means of transport to the car. As such, the proposals would result in the development having a severely detrimental impact upon the safe and efficient operation of the surrounding highway network. The proposal is therefore contrary to the provisions of the National Planning Policy Framework and the Crewe and Nantwich Local Plan. The entrance to the proposed development site is located on a tight bend on a narrow country road. From the entrance to the proposed development site the footway is very narrow and not wide enough for a pushchair or wheelchair. The National Planning Policy Framework clearly states that planning decisions should be used to “actively manage patterns of growth to make the fullest possible use of public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable” – as the site cannot be walked or cycled to safely and there is no safe access to public transport (which is, in any case, limited) the proposal cannot be considered a sustainable development

The application proposals would cause significant harm to wildlife and nature and would therefore have a negative impact on nature conservation. As a result, the proposals would fail to satisfy the requirements of both the Conservation of Habitats and Species Regulations 2012 and the National Planning Policy Framework. Nor would they accord with the provisions of the Framework and Policies contained within the Crewe and Nantwich Local plan and the emerging draft Cheshire East Local Plan. The site provides habitat for several protected species including barn owls, bats, badgers and great crested newts. The provision of newt corridor is acknowledged but this would not rectify the harm the development would cause to the newt population – their breeding ground is in the ponds surrounding the site but they spend much of their lives on the ground; the site, particularly the vole holes, provides the habitat they need to survive. Barn owls nest in the trees surrounding the site and hunt over the site on an almost daily basis. Bats also hunt and roost on the site. The destruction of this important habitat and the disruption caused by the construction of the proposed development would have a devastating impact on the population levels of these protected species.

The application would have a significant detrimental impact on the setting of Shavington Hall, a listed building. The proposals would significantly alter the historic entrance to the hall. The use of the hall has inevitably changed over time and the outbuildings have been converted but everything is still in keeping with the history and traditional setting of the hall. The proposals would change this forever. The benefits of delivering what is relatively little housing would not outweigh the detrimental impact on the hall and its setting. This would be contrary to the principals of sustainable development as set out in the National Planning Framework, particularly the requirement to “conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of this and future generations”.

The application would result in the felling of several trees along the driveway to Shavington Hall. These trees are subject to tree preservation orders. It is therefore already recognised that these trees provide significant local benefit and amenity. Their position also marks the line of the drive to Shavington hall, again adding to their amenity value. It also appears from the plan submitted that it is proposed to have some protected trees in private gardens; this is

not considered best practice and can lead to pressure for removal and inappropriate pruning, which is of particular concern given the orientation of the site.

The impact on local infrastructure does not appear to have been adequately addressed in the application. The local primary school is oversubscribed already, which would mean that children living on the site would have to travel by car to go to school (even if they get into Shavington primary they wouldn't be able to walk to school because there is no pavement). The Doctor's surgery is also full. The impact on the local sewerage system also does not appear to have been fully considered. As housing on this site has not been planned for locally it cannot be considered as sustainable development. The benefits of delivering housing will not be outweighed by the additional pressure it will cause on the local infrastructure and amenities. Given the size of the development it is unlikely that any of these factors could be mitigated by planning obligations."

I would urge the Strategic Planning Committee to listen to the views of local residents and reject this planning application.

Letter received from Councillor David Brickhill

I formally object to the application by Wilson Homes for 57 houses on land north of Weston Lane near Shavington Hall and require to speak at any committee hearing as the ward councillor, please. Shavington is a separate village and stands alone from Crewe. It has a village character and this part of the area is rural.

The site is outside the perimeter of the village on a green field site designated green gap between Shavington and Basford. It partially closes the gap separating the two communities with adverse effect to both.

Thus it contravenes policies N2 and N4 of the existing local plan and should be refused on these grounds alone.

However there are additional reasons for my objection:-

Highway safety. The site entrance is on a bend on a very narrow lane with little or no footpath and where two heavy goods cannot pass each other. It is a much used rat-run to M6 and elsewhere and the usual route into Crewe for Basford residents. It cannot and should not be subject to additional traffic.

Infrastructure:- The area suffers badly from poor infrastructure with lack of primary school places and doctor's appointments. Drains are at full stretch with sewage often overflowing in a nearby road. There is a large pond in the road by the site entrance in heavy rain causing vehicles to swerve. The voltage on the electricity falls with frequent power cuts. Water pressure is often reduced to a trickle. Additional houses will only make a very bad situation much worse. The applicant is not proposing any improvements.

There is no evidence of need in the light of the 1250 house applications in train for the Basford Industrial zones. These zones have already been approved in outline.

I am not satisfied that the protected bat, newt and owl population have been given proper alternative habitats. Ample evidence of their presence on and adjoining this site exists.

So this application should be refused.

I would be grateful if you would include this objection verbatim in the report to the committee.

7. APPLICANT'S SUPPORTING INFORMATION:

- Site Investigation
- Flood Risk Assessment
- Arboricultural Impact Assessment
- Community Involvement Statement
- Heritage Assessment
- Great Crested New Mitigation Strategy
- Design and Access Statement
- Agricultural Land Classification
- Noise Impact Assessment
- Habitat Survey
- Planning Statement
- Landscape and Visual Impact Assessment
- Transport Statement

8. OFFICER APPRAISAL

Main Issues

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 as well as matters of 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 Borough of Crewe and Nantwich Replacement Local Plan 2011, where policies NE.2 and RES.5 state that only development which is essential for the purposes of agriculture, forestry, outdoor recreation, essential works undertaken by public service authorities or statutory undertakers, or for other uses appropriate to a rural area will be permitted. Residential development will be restricted to agricultural workers dwellings, affordable housing and limited infilling within built up frontages.

The proposed development would not fall within any of the categories of exception to the restrictive policy relating to development within the open countryside. As a result, it constitutes a "departure" from the development plan and there is a presumption against the proposal, under the provisions of sec.38(6) of the Planning and Compulsory Purchase Act

2004 which states that planning applications and appeals must be determined “*in accordance with the plan unless material considerations indicate otherwise*”.

The issue in question is whether 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 23rd March 2011, the Minister for Decentralisation Greg Clark published a statement entitled ‘Planning for Growth’. On 15th 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) in March 2012.

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. In December 2012, the Cabinet agreed the Cheshire East Local

Plan Development Strategy for consultation and gave approval for it to be used as a material consideration for Development Management purposes with immediate effect. This proposes a dwelling requirement of 27,000 dwellings for Cheshire East, for the period 2010 to 2030, following a phased approach, increasing from 1,150 dwellings each year to 1,500 dwellings.

It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the emerging Strategic Housing Land Availability Assessment (SHLAA) February 2013. The SHLAA has put forward a figure of 7.15 years housing land supply. This document was considered by the Strategic Planning Board on 8th February and the Portfolio Holder on 11th February 2013.

Policy change is constantly occurring with new advice, evidence and case law emerging all the time. However, the Council has a duty to consider applications on the basis of the information that is pertinent at any given time. Consequently, it is recommended that the application be considered in the context of the 2013 SHLAA.

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 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 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.”*

However, given that Cheshire East can now demonstrate a five year supply of housing land, it is not considered that Policy NE.2 which protects Open Countryside is not out of date and the provisions of paragraphs 49 and 14 do not apply in this case.

Emerging Policy

The Crewe Town Strategy considered a number of development options around the town and these were subject to consultation that closed on the 1st October 2012. The results of that consultation were considered at a meeting of the Strategic Planning Board on the 6th December 2012. 1985 representations were received to the Crewe Town Strategy. This site was considered as site L2 in the Crewe Town Strategy. 95% of the 1985 representations responded to the question whether they agreed or disagreed with site L2 as a potential area of future development and of those 96% disagreed with site L2 being a potential area of future development. The recommendation at that meeting is that the future housing needs of Crewe are met by the following sites: –

- Crewe Town Centre (200 dwellings),
- West Street / Dunwoody Way (up to 700 dwellings),
- Basford East (1,000 dwellings),
- Basford West (300 dwellings)
- Leighton West (750 dwellings)

Sites are also proposed at settlements surrounding Crewe including:

- Shavington Triangle (300 dwellings)
- Shavington East (300 dwellings phased post 2020).

There are also proposals for new settlements at

- Crewe Hall / Stowford (1,000 dwellings – with potential additional development after the plan period)
- Barthomley (1,000 dwellings– with potential additional development after the plan period).

These sites have now been carried forward into the Draft Local Plan (development strategy), and are now the subject of consultation. The NPPF consistently underlines the importance of plan –led development. It also establishes as a key planning principle that local people should be empowered to shape their surroundings. Regrettably the Secretary of State has often chosen to give less weight to these factors within his own guidance – and comparatively more to that of housing supply. These inconsistencies feature within the legal action that the Council is taking elsewhere.

In the recent Secretary of State decision's in Doncaster MBC, it was found that a development was to be premature even though the Development Plan was still under preparation. Important to this decision was the finding that a five year supply of housing land was available. There is nothing in national guidance to suggest prematurity and housing supply should be linked in this way, and logic might question how the two are interlinked, but this factor was evidently influential in this case. Given that the Council now has a 5 year supply of housing, it is considered that a prematurity case can be defended in this case.

However, the 5 year supply is a minimum provision and not a maximum and, given that there remains presumption in favour of sustainable development, which according to the NPPF "*should be seen as a golden thread running through both plan-making and decision-taking*" it is still necessary to consider whether the proposal would constitute sustainable development and whether there would be any significant adverse impacts arising from the proposal.

Conclusion

- The site is within the Open Countryside where, under Policy NE.2, there is a presumption against new residential development.
- The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development 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 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 years. Therefore the presumption in favour of the proposal does not apply.
- The proposal does not accord with the emerging Development Strategy. Previous appeal decisions have given credence to such prematurity arguments where authorities can demonstrate a five year supply of housing land.
- However, the 5 year supply is a minimum requirement and the NPPF carries a presumption in favour of sustainable development. It is therefore necessary to consider whether the proposal is sustainable in all other respects.

Sustainability

The National Planning Policy Framework definition of sustainable development is:

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

Accessibility is a key factor of sustainability that can be measured. According to the Applicant’s submissions:

The site is accessible via a selection of sustainable modes, as follows:

- *The site is accessible by the existing public transport network with bus stops served by a number of services located within easy walking distance linking the site to Crewe, Nantwich and Leighton Hospital*
- *Pedestrian infrastructure in the vicinity is limited but a footway is provided along Weston Lane which links the site to the bus stops available on Weston Lane and Crewe road. The site is ideally located for trips by cycle and is within close proximity to the no.70 National Cycle Route.*

The selection of travel modes available to residents at the development also accords with the guidance set out in the NPPF. Paragraph 29 deals with promoting sustainable transport and set out the importance of reducing the need to travel as well as “giving people a real choice about how they travel”.

The NPPF also states, in paragraph 35, that “developments should be located and designed where practical to give priority to pedestrians and cycle movements, and have access to high quality public transport facilities” whilst being cognizant that “different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions will vary from urban to rural areas.”

As such, the proposed application site, located in a rural settlement can be considered as being highly accessible by non car modes.

An alternative methodology for the assessment of walking distance is that of the North West Sustainability Checklist, backed by the Department for Communities and Local Government (DCLG) and World Wide Fund for Nature (WWF). The Checklist has been specifically designed for this region and relates to current planning policies set out in the North West Regional Spatial Strategy for the North West (2008).

The Checklist can be used by both developers and architects to review good practice and demonstrate the sustainability performance of their proposed developments. Planners can also use it to assess a planning application and, through forward planning, compare the sustainability of different development site options.

The North West Sustainability Checklist is supported by Policy DP9: Reduce Emissions and Adapt to Climate Change of the Regional Spatial Strategy for the North West, which states that:

“Applicants and local planning authorities should ensure that all developments meet at least the minimum standards set out in the North West Sustainability Checklist for Developments (33), and should apply ‘good’ or ‘best practice’ standards wherever practicable”.

The Regional Spatial Strategy for the North West currently remains part of the Development Plan for Cheshire East.

The criteria contained within the North West Sustainability Checklist are also being used during the Sustainability Appraisal of the Cheshire East Local Plan. With respect to accessibility, the toolkit advises on the desired distances to local facilities which developments should aspire to achieve. The performance against these measures is used as a “Rule of Thumb” as to whether the development is addressing sustainability issues pertinent to a particular type of site and issue. It is NOT expected that this will be interrogated in order to provide the answer to all questions. The results of an accessibility assessment using this methodology are set out below.

Category	Facility	Weston Lane
Open Space:	Amenity Open Space (500m)	0m
	Children’s Play Space (500m)	1609m
	Outdoor Sports Facility (500m)	1931m
Local Amenities:	Convenience Store (500m)	644m
	Supermarket* (1000m)	4345m

	Post box (500m)	1287m
	Playground / amenity area (500m)	1609m
	Post office (1000m)	1287m
	Bank or cash machine (1000m)	644m
	Pharmacy (1000m)	3379m
	Primary school (1000m)	1448m
	Secondary School* (1000m)	1770m
	Medical Centre (1000m)	2092m
	Leisure facilities (leisure centre or library) (1000m)	1931m
	Local meeting place / community centre (1000m)	804m
	Public house (1000m)	1770m
	Public park or village green (larger, publicly accessible open space) (1000m)	5632m
	Child care facility (nursery or creche) (1000m)	4023,
Transport Facilities:	Bus stop (500m)	643m
	Railway station (2000m where geographically possible)	3701m
	Public Right of Way (500m)	644m
	Any transport node (300m in town centre / 400m in urban area)	3701m
<i>Disclaimers:</i>		
<i>The accessibility of the site other than where stated, is based on current conditions, any on-site provision of services/facilities or alterations to service/facility provision resulting from the development have not been taken into account.</i>		
<i>* Additional parameter to the North West Sustainability Checklist</i>		
<i>Measurements are taken from the centre of the site</i>		

Rating	Description
	Meets minimum standard
	Fails to meet minimum standard (Less than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m).
	Significant failure to meet minimum standard (Greater than 60% failure for amenities with a specified maximum distance of 300m, 400m or 500m and 50% failure for amenities with a maximum distance of 1000m or 2000m).

The site therefore fails against a significant number of the criteria in North West Sustainability checklist. However, these facilities are within either the village of Shavington or the town of Crewe, albeit only outside minimum distance and Crewe is a principal town in Core Strategy where development can be expected on the periphery. Development on the edge of a town will always be further from facilities in town centre than existing dwellings but, if there are insufficient development sites in the Town Centre to meet the 5 year supply, it must be accepted that development in slightly less sustainable locations on the periphery must occur.

Similar distance exist between the town centre and the existing approved sites and proposed local plan allocations at Rope Lane, the Triangle, Coppenhall, Leighton and Maw Green, and although some of these sites would probably be large enough have their own facilities, not all the requirements of the checklist would be met on site.

Accessibility is only 1 aspect and sustainability and the NPPF defines sustainable development with reference to a number of social, economic and environmental factors. However, these include the need to provide people with places to live and, on this basis, it is considered that the Council would not be successful in defending a reason for refusal on the grounds of lack of sustainability.

Furthermore, highways have commented that it is possible to improve the non-car mode accessibility through suitable Section 106 contributions.

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 to 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.

This is a full application and therefore, aspects of the design relating to climate change and sustainability are for consideration in detail at this stage. The applicant states that:

- *David Wilson Homes strives to constant seek to improve the operating efficiency of the homes and commercial properties which it builds. From trials in 2003, they have incorporated high efficiency condensing boilers as standard and all electrical application only use those with a B rating and above,. All toilets are now fitted with dual flush, which benefits both the customer and the environment.*
- *David Wilson Homes as responsible house builders, works as part of the protective research work in co-operation with the industry, trade organisations and academic institutions and this work is on-going.*

However, there is little meaningful information relating to the performance of the scheme, within the application information. Much more needs to be said and committed to in respect to both climate change mitigation and adaptation as part of a considered environmental design approach to the site. For example, the information provided, does not set out how the developer intends to meet the requirements of the RSS policy. However, a detailed scheme can be secured through the use of conditions and, as a result it is not considered that a refusal on these grounds could be sustained.

Ecology

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

(a) 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

(b) no satisfactory alternative and

(c) no detriment to the maintenance of the species population at favourable conservation status in their natural range

The UK has implemented the Directive in the Conservation (Natural Habitats etc) Regulations 2010 (as amended) which contain two layers of protection (i) a requirement on Local Planning Authorities ("LPAs") to have regard to the Directive's requirements above, and (ii) a licensing system administered by Natural England and supported by criminal sanctions.

Local Plan Policy NE.9 states that development will not be permitted which would have an adverse impact upon species specially protected under Schedules 1, 5 or 8 of the wildlife and Countryside Act 1981 (as amended), or their habitats. Where development is permitted that would affect these species, or their places of shelter or breeding, conditions and/or planning obligations will be used to:

- facilitate the survival of individual Members of the species
- Reduce disturbance to a minimum
- Provide adequate alternative habitats to sustain the current levels of population.

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 NPPF advises LPAs to conserve and enhance biodiversity: If significant harm resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) or adequately mitigated, or as a last resort, compensated for, planning permission should be refused.

Natural England's standing advice is that, if a (conditioned) development appears to fail the three tests in the Habitats Directive, then LPAs should consider whether Natural England is likely to grant a licence: If unlikely, then the LPA should refuse permission: If likely, then the LPA can conclude that no impediment to planning permission arises under the Directive and Regulations.

In this case specific advice has been sought from the Council's Ecologist who has made the following observations:

General Habitat Value

The proposed development site appears to be abandoned agricultural grassland which has some limited botanical diversity. The ecologist advises that the site has some limited nature conservation value in general habitat terms but, notwithstanding the presence of protected species, the site should be considered to be of relatively low nature conservation value in the context of the Borough. The boundary hedgerows and trees are however worthy of retention and incorporation into the proposed development.

Great Crested newts (GCN)

A full great crested newt survey undertaken in accordance with the Natural England Guidelines has not yet been completed but is currently underway. An initial amphibian survey and desk study of previous records has confirmed breeding by great crested newts at a number of ponds within 250m of the proposed development.

The likely presence of great crested newts on the application site has therefore been established but the size of the populations at the surrounding ponds is not confirmed but is highly likely to be 'medium'.

In the absence of mitigation, the ecologist advises that the proposed development would result in the loss of a moderately sized area of terrestrial great crested newt habitat. The proposed works also have the potential to kill or injure any newts present on site. An increased number of residential properties could also increase the risk of invasive species being introduced to any ponds with public access.

The submitted ecological assessment identifies the level of impact overall as being likely to be Low – medium.

To mitigate and compensate for the adverse impacts of the development the applicant's ecologist initially recommended a novel approach to mitigation which included both retention of habitat on site and a financial contribution amounting to £200,000. This financial contribution was to be used to fund habitat creation works off site.

Whilst this mitigation package was supported by CE officers, Natural England have indicated that such an approach would not be licensable. Consequently, as Natural England have indicated that a license application on this basis would be refused, the Council would also be required to refuse the planning application due to it being likely to fail the Habitat Regulation 'Tests'.

Whilst alternative mitigation proposals have been submitted to the Council, these are only indicative at present and are not supported by a detailed method statement or substantiated by any ecological data.

The Ecologist has therefore advised that at present the Council has insufficient information to be confident that the potential impacts of the proposed development on great crested newts will be satisfactorily addressed.

Badgers

The submitted phase one habitat survey has identified evidence of badger activity on site including a potential sett. To allow the Council to make an informed assessment of the potential impacts of the development upon badgers, a detailed badger survey is required. This survey does not appear to have been undertaken.

The Ecologist has therefore advised that at present the Council has insufficient information to confidently assess the potential impacts of the proposed development on badgers.

Bats

The submitted Phase One Habitat survey report states that the trees on site are unlikely to support roosting bats. All of the on-site trees appear to be retained with the exception of those associated with the proposed access. Whilst the Council ecologist did not inspect these trees in detail during his site visit, he can confirm that none had obvious potential to support roosting bats.

The submitted phase one habitat survey identifies the application site as providing 'medium' foraging potential for bats and recommends that a bat activity survey is undertaken to determine the level of bat foraging activity associated with the site. No such survey has been submitted in support of the application.

Hedgerows

Hedgerows are a BAP priority habitat and hence a material consideration. The hedgerows on site appear to be retained but are likely to be adversely affected by the proposed 1.8m screen fence which is proposed for the site boundary.

The Council ecologist recommends that additional new hedgerows are provided around the boundary of the site in accordance with the GCN mitigation strategy.

Breeding Birds

The site subject to this application is unlikely to support breeding birds potentially including the more widespread Biodiversity Action plan species which are a material consideration for planning. However, the ecologist advises that the breeding bird assemblage present at this site is unlikely to be significant.

Summary

In summary the Ecologist has advised that at present the Council has insufficient information to assess the potential impacts of the proposed development upon protected species.

Green Gap

As well as lying within the Open Countryside, the application site is also within the Green Gap. Therefore, as well as being contrary to Policy NE.2, it is also contrary to Policy NE.4 of the Local Plan which states that approval will not be given for the construction of new buildings or the change of use of existing buildings or land which would:

- result in erosion of the physical gaps between built up areas;
- adversely affect the visual character of the landscape.

In allowing a recent Appeal relating to a site at Rope Lane, which was also located within the Green Gap the Inspector determined that Policy NE.4 is not a freestanding policy; its genus is in Policy NE.2 and if Policy NE.2 is accepted as being out-of-date, then it must follow that Policy NE.4 must also be considered out-of-date for the purposes of applying Framework policy.

However, given that the Council now has a 5 year supply of housing land, it is no longer considered that Policy NE.2 is out of date. Therefore, following the Inspector's logic, Policy NE.4 must also still stand.

A development of the scale proposed will clearly erode the physical gap between Shavington and Crewe and the proposal would therefore clearly be contrary to Policy NE.4. The impact on the landscape is discussed in greater detail below.

Policy NE.4 goes on to state that exceptions to this policy will only be considered where it can be demonstrated that no suitable alternative location is available. Through the emerging Development Strategy it has been demonstrated that there are a number of sites on the periphery of Crewe which, although designated as Open Countryside, are not subject to Green Gap policy and can be used to address the Council's housing land supply shortfall and which would not contravene the provisions of Policy NE.4.

Landscape Impact

The application site is located to the east of Shavington and covers an area of approximately 2.31 ha. It is agricultural land that does not appear to have been managed for a period of time. To the north and east, the site boundaries have a good network of hedgerows plus a number of mature and distinctive hedgerow trees. The site is bound to the east by Shavington Hall and its grounds to the east, plus part of the access road, (characterised by stone entrance piers and walls). An avenue of mature trees also form part of the application site; a number of these trees also have TPOs.

To the south and south west of the application site are areas of residential development that mark the existing edge of Shavington. To the north is the route of the A500 and beyond this open countryside which also extends across to the north of the application area, and beyond the A500, towards the edge of Crewe.

The assessment refers to the Cheshire Landscape Assessment 2008, adopted March 2009 which identifies that this site is located in Landscape Type 10: Lower Farms and Woods; within this character type the application site is located within the Barthomley Character Area: LFW7. In addition, the assessment has also included a more specific local site specific character description of the site and surrounding area.

As part of the application, a Landscape and Visual Assessment has been submitted. This assessment states that it has been developed from a number of sources, including the Guidelines for Landscape and Visual Impact Assessment (2nd Edition). This assessment uses the submitted site specific description as the basis for the assessment and identifies the application site as LCT 1, - Shavington Townscape and Nucleated settlement - an area

characterised by a variety of development forms, primarily residential, rather than part of the wider agricultural, rural landscape. Shavington Hall (Listed grade II) and its associated grounds and gardens are also included within this character type.

The Council's Landscape Officer has considered the Assessment and does not consider that the methodology used, nor the site specific character description or visual assessment allows an accurate assessment of the landscape and visual effects that the proposed development would have. He feels that the proposals would have a far more significant landscape and visual impact than the assessment indicates.

In reality the proposed development would result in the area becoming part of the urban part of Shavington. As such, it would no longer have an agricultural character and would no longer be able to maintain its designated function as a Green Gap. The proposed development will clearly erode the physical gaps between the built up areas and fundamentally change the existing agricultural landscape character into an urban character and so in landscape terms is contrary to policy NE4.

The application site is located within the area designated as Green Gap under Policy NE.4 of the Crewe and Nantwich Replacement Local Plan 2011. This policy specifically states that approval will not be given for construction of new buildings or the change of use of existing buildings or land would:

- Result in erosion of the physical gaps between built up areas: or
- Adversely affect the visual character of the landscape.

In addition, the application site is adjacent to Shavington Hall: a Grade II listed building: Part of the access road and mature tree lined avenue also falls within the application site boundary. As part of the proposed development, part of the route would need to be realigned and this would result in the removal of the stone entrance piers and walls as well as a number of mature trees, a number of which have TPO's. The landscape and visual assessment submitted does not adequately assess the impact that the proposed development would have on the area surrounding Shavington Hall and it would be difficult to see how any examination and comparison of the proposed Photoviewpoint 1, with the existing Photoviewpoint 1, could be considered as described, *'Site access off Weston Lane, the overall visual experience and context will remain largely unchanged'* (4.28 Visual effects).

The Landscape Officer is of the opinion that the proposed development will also be contrary to Policy BE.9 of the Crewe and Nantwich Replacement Local Plan 2011. This policy specifically states that approval will not be given where a proposal detracts from the character or setting of the building concerned, especially with regard to its surrounding gardens, landscape, street scene or relationship with adjoining buildings and significant views.

Layout, Design and Conservation Issues

Context

Shavington Hall is a grade II listed country house which historically was served by a formal tree lined and landscaped driveway to the west of the hall from Weston Lane. This has evolved into a mature landscape with lakes on the eastern side as part of the Hall grounds

and an avenue of mature trees. The drive also serves some properties in converted barns to the north west of the Hall.

Historically the Hall would have been isolated from the village, but the 20th century saw the village expand toward it, with housing along Weston Lane and the construction of the Park Estate. But, the field that comprises the application site provides some green separation for the Hall from the encroachment by this more recent housing (hence its designation as part of the Green Gap in the Local Plan).

The historic entrance to the hall is defined by curved stone walling topped by iron railings and carved piers, framing the narrow driveway. This creates a distinctive and memorable entrance, although it has been overshadowed in recent times by a new entrance on the eastern side of the Hall's frontage. The historic access still provides the potential for access to the Hall and to the converted buildings to the rear. The condition of this historic entrance has deteriorated but it is still largely intact. The gateway entrance and the tree lined driveway leading from it create a strong sense of arrival to the site and are significant to the Hall and its setting, also helping to define and announce it on Weston Lane.

The proposal is for a development of estate houses on the farmland to the west of the hall. Vehicular access would be gained via the historic entrance and part of the driveway, deviating away from its alignment approx 20-25 metres into the site, leading to loss of several mature trees. The site also includes the land east of the driveway between it and the southernmost pond.

The proposed housing would be focused upon 3 cul-de-sacs situated off this new access, providing a mix of housing with de-formalised street arrangement within the cul-de-sacs themselves but with a formally designed principal street for much of its length. Housing along the eastern, northern and southern edge of the site is of a detached typology with clusters of higher density terraced, grouped and semi detached houses located in the western part of the site. The central cul-de-sac is focused upon an urban square arrangement whilst the other 2 are more conventional turning head designs. Much of the proposed parking is on plot but frontage parking does characterise the higher density parts of the site. A buffer of greenspace runs along the northern and eastern boundaries. Toward the south it captures some of the existing trees alongside the drive, whilst on the northern edge it includes mature trees along the northern field line. The housing designs are standard designs rather than bespoke to the site.

Built Heritage

There will be no impact upon the fabric of Shavington Hall itself. The proposals will impact significantly upon the gate piers, walling and railings at the historic entrance to Shavington Hall. These elements form part of the historic curtilage of the hall and an important part of its setting.

The supporting information states that the entrance is in poor condition and its significance in terms of the site has been reduced by it no longer being the hall's main entrance. It proposes that the gate posts and wall will be relocated and refurbished, on a revised alignment. It also states the revised entrance will *"allow the viewer to appreciate and interpret the entrance as*

forming the historic access to a house of some significance” and “the proportionality and arrangement of the walls and gate posts will remain, albeit re-sited”.

However, the images presented in the Design and Access Statement at page 27 clearly demonstrate the extent of change that would take place to the gateway and the extremely adverse impact this will have, both in terms of historic fabric and setting. This would amount to substantial harm to the setting a designated heritage asset, with little or no public benefit that would outweigh that harm.

The primary orientation of the Hall is to the south, with the historic working area to the rear to the north west. Historically, the Hall developed with access from the south west off Weston Lane (the point where access to the scheme is proposed) and with the main ornamental grounds to the south of the Hall. The access ran alongside ornamental lakes within this area, as it still does to this day.

The ‘polite’ arrangement of the access and drive and its associated gateway structures and trees/landscape play a major part in creating the sense of arrival to the hall, notwithstanding that a newer entrance has been created. Therefore, in terms of historic landscape and setting, the impressions created and how the asset is experienced from this feature are a key element of its setting. The proposals would fundamentally alter such impressions due to the unsympathetic modern estate road design, in place of an historic, tightly defined entrance. This entrance is presently channelled and narrowed by the gateway structures, as views are drawn along the drive by the mature tree lined route. This historic and characterful arrangement would be detrimentally affected by the proposed suburban approach illustrated in the Design and Access Statement.

These concerns have been brought to the attention of the developer, who has responded through the submission of a revised access arrangement which in their view strikes the planning balance to maintain the entrance feature and walls, albeit altered on the eastern side. The developer considers that the tree lined nature of the old access to the hall is not to be a formally planted avenue and that changes have occurred to the access and formation of the new hall access to the east changing the position. It is their case that the impact on the retained trees, loss of three TPO trees for the access, and new planting will not lead to significant visual impact or harm as alleged.

Whilst this plan was considered by officers to be the least harmful of the options tabled by the developer for access modifications, there are still heritage concerns including impact upon the setting of the Listed Hall arising from the reconfiguration of the access and the impact upon the mature trees that hold both heritage and wider amenity value. It is considered that this will still have a significant impact on the sense of arrival and appreciation of the hall, which are important aspects of both the historic and present day setting of the listed building.

Officers remain concerned about the need to modify the existing entrance pillar/walling but note the reduction in impact on this asset in option 2 both in terms of the impact on the entrance pillar wall as a non-designated heritage asset in its own right and the setting of the listed hall.

Paragraph 133 of the NPPF states:

“Where a proposed development will lead to substantial harm to or total loss of significance of a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.”

Paragraph 135 of the NPPF states:

The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

To a lesser extent the development of the land to the west of the Hall will impact upon its setting, partly as a consequence of the nature of the scheme as a relatively high density, suburban scheme. Whilst the landscape on the eastern edge of the site will soften the relationship, the housing will still be visible from the hall. This will lead to less than substantial harm.

Design considerations

The urban nature of the scheme sits uncomfortably in this historic setting. The density and nature of the housing is considered inappropriate in a location which, in essence, is open countryside. The design solutions within the layout reinforce an urban character with hard spaces such as the urban square. This is typified by the very urban approach to accessing the site.

The scheme utilises standardised design solutions rather than this being a bespoke design for this sensitive site. A lower density scheme, with an informal design philosophy, driven by its relationship to the hall and the rural location, would be far more sympathetic and positive.

In terms of the architecture, the designs are standard off the peg designs rather than architecture tailored to this sensitive site. Given this context, this type of bespoke design philosophy is considered essential if a housing scheme is to successfully integrate with the rural character of the area and relationship to the Hall and its grounds.

The scale of the development is generally 2 storey. This is considered to reflect the low rise character of the Shavington area. This will also help to ensure the primacy of the Hall.

The net effect of the proposal is of an ‘off the peg’ estate type development creating an urban housing character in proximity to the Listed Hall and its grounds and which, in essence, is in open countryside. This is completely at odds with the character of the area.

The landscape design seems to be driven by the ecological needs of the site as opposed to a more rounded view on the creation of quality landscape/public realm, that also responds positively to the landscape environs of the hall that are so important to its setting and sense of place. The loss of trees along the driveway to accommodate the access amplifies how far the scheme is out of sync with its context in design and landscape terms.

Within the layout, the street design is overly formal for the context and scale of scheme, reinforcing the urban characteristics that jar with the rural location and historic setting.

Summing up, the NPPF at Para 64 states: “*Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions*”. This proposal clearly does not meet this requirement.

The submission of the amendments to the scheme, both in terms of the revisions to the access arrangements and the changes made in order to make provision for the new mitigation area does not adequately address the aspect of the impact of the proposed development on the setting of the hall arising from the relationship of the proposed housing to it and its grounds, (particularly as a consequence of its density and the generic design of the proposal). Although of lesser significance than the impact of the access, it seems at odds with the rural edge context.

Given these issues, it is considered that, the cumulative heritage impact would remain significant and harmful to the setting of the hall as a listed building (despite the amended plans).

From a more general design perspective, there is still concern that the generic character of the scheme is not responding positively to the character of the site as a transition from village to countryside or its location in proximity to a listed building and its grounds. Consequently, it is not taking the opportunities available for improving the character and quality of the area and the way it functions. Therefore, it is not in accordance with paragraph 64 of the NPPF.

Conclusions

This proposal is detrimental in both built heritage and general design terms. When the various impacts are considered cumulatively, it will lead to substantial harm to designated heritage assets without substantial demonstrable public benefit. In design terms the scheme fails to capitalise on the characteristics and qualities of the site derived from its landscape setting, rural location and proximity to nearby heritage assets. As a consequence, the development is not considered to be sustainable within the context of the NPPF and should therefore be refused.

Impact upon trees

Direct losses

The revised proposals will result in the loss of three protected trees (a Lime, Sycamore and Ash) to accommodate the proposed access.

In assessing the loss of these trees, the original Arboricultural Impact Assessment stated that these removals represent the most significant visual impact (para 7.2). The subsequent Addendum (with reference to photographs at Appendix 1) now states that the visual impact of the removal of these trees can be described as minimal.

It is considered that the use of one view point in the photographic evidence to demonstrate the impact of the loss of the trees does not show adequately the loss and context, particularly in terms of the setting to the access and driveway.

Regard should be given to the original report that states that the Lime and Sycamore were given a B1 classification (in accordance with *BS5837:2012 Trees in Relation to Design Demolition and Construction: Recommendations*.) For the purposes of this categorisation these trees are a material constraint and worthy of retention. The Ash (T4) has been graded as a C1 low category tree, although there is no suggestion in the report that this tree is in anyway in an impaired condition that would warrant its inclusion within this particular category.

The magnitude of these losses has to be considered in the context of any temporary or permanent change, taking into account any mitigation measures proposed. In this regard, the addendum report states at 2.0 that *"it would be nonsensical to expect new planting to immediately recreate the extent of canopy cover from the trees removed"*. This statement clearly identifies and demonstrates that there is recognised harm and clearly represents an obvious change to a landscape element that has significance to the setting of the listed building and the access and driveway to the hall.

The Landscape Strategy Plan identifies proposals for replacement planting within the vicinity of the proposed access. Such planting is predominantly on the east side and will therefore not recreate the informal avenue of trees which currently exists. Much of the planting will be located close to existing retained mature trees and will be in competition from shading, water and nutrients availability. The proposed planting is proposed to be 'standard' nursery stock (2.5-3 metres in height). In this respect it is considered that the statement that *"replacement planting, which if properly maintained, can provide canopy closure relatively quickly"* is not a realistic proposition that would ensure appropriate mitigation for the long term loss of trees.

The addendum dismisses the significance of the trees in terms of their contribution to the setting of the listed building. It should be noted that whilst Government advice stresses the importance of trees in terms of the importance visually and appearance, other factors including contribution to the landscape setting and historic associations can legitimately be part of the trees amenity and are legitimate considerations.

A further four low (C2 Category) trees (T11-T14) are proposed for removal. It is accepted that the loss of these particular trees can probably be adequately mitigated as illustrated by planting within the defined POS.

Damage to roots

British Standard BS5837:2012 requires that structures should be located outside the Root Protection Areas unless there is an overriding justification. It still remains to be demonstrated that there is a technical solution that can maintain the integrity of the rooting and soil environment that would ensure the long term viability of the retained trees. Such solutions are required to be clearly demonstrated at the planning application stage that they are viable and achievable. In this regard the Arboriculturist states that impact on trees can be minimised by raising levels rather than excavating, but has not provided how these levels will be reasonably accommodated across the site without further impact and detriment to trees.

Conclusion

This proposal will result in the direct loss and the threat to the continued well being of trees protected by a Tree Preservation Order. These contribute to the amenity of the area and a designated heritage assets. The scheme fails to demonstrate that there would be adequate mitigation for the loss of trees, how the rooting and soil environment of retained trees can be adequately protected from damage, and that the health, long term viability and safe well being of these trees can be maintained.

Economic Growth Implications

The Written Ministerial Statement: Planning for Growth (23 March 2011) goes on to say *“when deciding whether to grant planning permission, local planning authorities should support enterprise and facilitate housing, economic and other forms of sustainable development.”* They should, inter alia, consider fully the importance of national planning policies aimed at:

- fostering economic growth and employment, given the need to ensure a return to robust growth after the recent recession;
- take into account the need to maintain a flexible and responsive supply of land for key sectors, including housing;
- consider the range of likely economic, environmental and social benefits of proposals;
- ensure that they do not impose unnecessary burdens on development.

It is clear that the proposed development will help to maintain a flexible and responsive supply of land for housing as well as bringing direct and indirect economic benefits to the town including additional trade for local shops and businesses, jobs in construction and economic benefits to the construction industry supply chain. However, this is not considered to outweigh the harm that would be caused in terms of impact on the Open Countryside and the Green Gap.

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 prepared by Soil Environment Services Ltd which concludes that the application site is a combination of 0.86ha of Grade 2 and 1.37ha of grade 3b agricultural land. It is therefore predominantly the poorer quality and less versatile grade 3b land. As such, it is considered that the proposal complies with the requirements of this policy without the need for assessment against the criteria. Consequently, the site is appropriate for development, in line with the sequential approach to the development of agricultural land, as set out in the NPPF.

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.

The applicant has submitted a geo-environmental investigation report with the planning application. Although the site is considered to be suitable for its proposed use with respect to soil contamination, the report recommends further work with respect to risks from ground gases. This can be secured by condition.

Environmental Health have also recommended that this report is passed to the Environment Agency for their comments on the Controlled Waters risk assessment. The Environment Agency has examined the application and raised no objection subject to the imposition of appropriate conditions.

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 close to the A500 Shavington bypass. Consequently, there is potential for noise disturbance to the occupants of the proposed dwellings. Therefore, Environmental Health have recommended that no development should commence until an assessment of this potential impact and, if necessary, a scheme for protecting the proposed dwellings from 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 can be summarised as follows:

- *The flood zone maps show that the site lies within Flood Zone 1, this means the site is at little or no risk of flooding with an estimated annual probability of river flooding of 1 in 1000 years (i.e. a less than 0.1% chance in any given year)*
- *In flood zone 1 all proposed land uses are appropriate as confirmed in tables 2 and 3 of the Technical Guidance to the NPPF*
- *Swill Brook, a tributary of Valley Brook is located approximately 0.3km south of the site.*
- *Ground Investigation work has identified the underlying geology to be interbeds of cohesive clay with shallow groundwater levels. Therefore infiltration drainage would not be viable form of drainage solution for the surface water from the proposed development.*

- *The geological maps show the site has superficial deposits of Lacustrine Deposits in the southwest of the site, with Glacial Till underlying the remainder. With solid geology comprising mudstones, siltstones and the Triassic aged Sidmouth Mudstone Formation. Made Ground was found in only one location on the eastern boundary of the site to a depth of 0.3m. Groundwater was discovered as low as 0.5m below ground level.*
- *It is proposed to drain surface water from the development to Swill Brook to the south of the site across the open arable land on the south of Weston Lane. The flow will be attenuated for all events up to a 1 in 30 year change storm even using oversized pipes beneath the proposed highway. Any additional surface water occurring in a 1 in 100 year storm event will; be retained above ground within the site boundary and the signed 450mm deep depression in the POS area in the north eastern corner of the site,.*
- *Discharge rates from the system will be controlled through the use of a Hydrobrake. The total flow from the site will be limited to the equivalent 1 in 1 year Greenfield raerte for the development of 10.6l/s for all return periods up to and including the 1 in 100 year +30% climate change event.*
- *It is proposed to discharge the foul sewerage from the site to the United Utilities public combined sewer to the south of West Lane. The northern portion of the site which sits at a lower level will drain to a pumping station located to the west of the site with a rising main out falling to the new section of gravity sewer which will serve the southern half of the development. Untied Utilities have confirmed capacity and that the necessary connection can be made.*

Although comments were awaited from United Utilities at the time of report preparation, 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.

Open space

Policy RT.3 requires that on sites of 20 dwellings or more, a minimum of 15sqm of shared recreational open space per dwelling is provided and where family dwellings are proposed 20sqm of shared children's play space per dwelling is provided. This equates to 855sqm of shared recreational open space and 1,140sqm of shared children's play space which is a total of 1,995sqm of open space.

The applicant states that a small area of open space will be provided within the site and that a Commuted Sum will be paid to provide additional open space off-site. The amount to be paid and exactly what this is to be for is not made clear.

The findings of the 'Local Service Centres Open Spaces Summary Report', for Shavington should also be noted-

- There is a shortage of outdoor sports facilities of 4ha.
- Residents on the eastern and southern edges of the village are more than 1km or 15-20 minutes walk from local pitch facilities.
- There is a lack of amenity green space, within the village, with only one site – the Vineyard.

- There is a shortage of children's play space of 2.13ha (there are only 2 play areas at Vine Tree Avenue and Wessex Close.)
- There is only one allotment site which is beyond the 15 to 20 minutes walking distance threshold for the majority of residents. Allotments are required in a more accessible location.

The Council's Greenspaces Officer has stated that in this case he would be willing to accept a contribution of £25,000 towards improvements at the Wessex Close play area in lieu of the shortfall in on-site provision. This could be secured through the Section 106 agreement along with a private resident's management company to maintain the on-site provision.

Amenity

It is generally considered that in New Residential Developments, a distance of 21m between principal windows and 13m between a principal window and a flank elevation is required to maintain an adequate standard of privacy and amenity between residential properties.

The submitted layout demonstrates that 54 dwellings could be accommodated on the site, whilst maintaining these minimum distances between existing and proposed dwellings. It also illustrates that the same standards can be achieved between proposed dwellings within the new estate.

A minimum private amenity space of 50sq.m is usually considered to be appropriate for new family housing. The indicative layout indicates that this can also be achieved. 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.

Education

The Council's Education Officer has examined the application and concluded that a development of 57 dwellings will generate 9 primary aged children and 7 secondary age children. There is sufficient capacity within the local secondary schools to accommodate the pupils generated. However, the primary schools are forecast to be oversubscribed from 2014 and in light of this a contribution of £97,617 would be required to accommodate the pupils which are generated. This can be secured through the Section 106 Agreement.

Highway Safety and Traffic Generation

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

- *The site is accessible by non-car travel modes and will provide a sustainable development.*
- *The site access point on Weston lane will provide a safe point of entry into the site for all road users including pedestrians and cyclists.*
- *The site will enable servicing to take place without causing any detriment to the adjoining highway network.*
- *The proposed parking provision across the site will adequately cater for the needs of the development*

- *The development provides road users with a good range of alternative travel options to the private car thus according with paragraph 32 of the NPPF*
- *The proposal will not have a material impact on the adjoining highway network.*
- *In conclusion, the report demonstrates that against national and local highways design standards there should be not technical objections on highways and transportation grounds relating to the proposal.*

The Strategic Highways Manager has examined the application and raised no objection subject to the provision of improvements to the existing footway along Weston Lane to the west of the site, detailed plans for all off-site highways works and proposed on-site access roads. These could be secured through conditions attached to any approval.

The developer has offered to provide a controlled pedestrian crossing on Crewe Road, to facilitate movement on the pedestrian desire line between properties lying to the east of Crewe Road and Shavington Primary School. This measure has been identified following consultation with the local parish council, and is considered to be of potential benefit to the local pedestrian environment, and assist in facilitating safe travel on foot to the local primary school. The proposed location of the crossing would be approximately 180m to the south of the priority junction with Weston Lane.

Whilst the developer is offering to provide this facility as a good-will gesture to the local community, they do not consider that is necessary in order to make the development acceptable in planning terms. The Strategic Highways Manager has concurred with this view, and therefore to include it as a requirement within the planning conditions or the terms of the Section 106 Agreement would not comply with the requirements of Circular 11/95 "Use of Conditions in Planning Permission" and the CIL Regulations respectively. However, if the developer wishes to provide the crossing, there would be no objection from the Highways Department to its installation.

Affordable Housing

The Council's housing officer has commented that it is unclear whether the affordable housing offer meets the required tenure split of 65% rented affordable housing, 35% intermediate. The Planning Statement suggests the affordable homes will be for first time buyers, indicating that the required tenure split would not be met.

The site is located in Shavington-cum-Gresty which is in the Wybunbury and Shavington sub-area. The SHMA 2010 has identified a requirement for 31 new affordable homes per year between 2009/10 – 2013/14 made up of a need for 5 x 1 beds, 10 x 2 beds, 4 x 3 beds, 7 x 4/5 beds and 4 x 1/2 bed older person dwellings.

In addition to this information, Cheshire Homechoice, which is used as the choice based lettings method of allocating social rented accommodation across Cheshire East, indicates that there are currently 89 applicants on the housing register who have selected Shavington as their first choice. These applicants require 26 x 1 bed, 38 x 2 bed, 16 x 3 bed and 5 x bed properties.

The Affordable Housing IPS states that on all sites over 15 units the affordable housing requirement will be 30% of the total units with the tenure split as 65% social rent, 35%

intermediate tenure. This equates to a requirement of 17 affordable units in total on this site, split as 11 for social or affordable rent and 6 for intermediate tenure.

The Planning Statement indicates that the applicant is offering provision of 17 affordable dwellings, which meets 30% affordable housing provision required. Whilst the tenure split is unclear, the required mix could be secured through the Section 106 Agreement. The revised layout reduces the total number of homes from 57 to 54 which means that the number of affordable homes reduces from 17 to 16 in line with the 30% policy requirement.

The Affordable Housing IPS 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 and also that the affordable housing should be provided no later than occupation of 50% of the open market dwellings.

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 design and construction of affordable housing should also take into account forthcoming changes to the Building Regulations which will result in higher build standards particularly in respect of ventilation and the conservation of fuel and power.

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 Council's 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"

It is therefore the preferred option that the developer undertakes to provide any social or affordable rented affordable units through a Registered Provider who are registered with the Tenant Services Authority to provide social housing. This can be secured through the Section 106 agreement.

9. CONCLUSIONS

The site is within the Open Countryside where, under Policy NE.2, there is a presumption against new residential development. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development. However, the 2013 SHLAA shows that the Borough has an identified a deliverable housing supply of 7.15 years and therefore the automatic presumption in favour of the proposal does not apply.

The proposal does not accord with the emerging Development Strategy. Previous Appeal decisions have given credence to such prematurity arguments where authorities can demonstrate a five year supply of housing land.

The proposal would have a far more significant landscape and visual impact than the applicants Visual Impact Assessment indicates. They would adversely affect the visual character of the landscape and would result in erosion of the physical gaps between built up areas. Given that there are other alternative sites which are not subject to Green Gap policy which could be used to meet the Council's housing land supply requirements, the proposal is considered to be contrary to Policy NE.4.

Furthermore, the proposed development would also be contrary to Policy BE.9 of the Crewe and Nantwich Replacement Local Plan 2011. This policy specifically states that approval will not be given where a proposal detracts from the character or setting of the building concerned, especially with regard to its surrounding gardens, landscape, street scene or relationship with adjoining buildings and significant views.

This proposal will result in the direct loss and the threat to the continued well being of trees protected by a Tree Preservation Order that contribute to the amenity of the area and a designated heritage assets. The scheme fails to demonstrate that there would be adequate mitigation for the loss of trees, how the rooting and soil environment of retained trees can be adequately protected from damage, and that the health, long term viability and safe well being of these trees can be maintained.

The proposal will also lead to substantial harm to the setting of Shavington Hall as a consequence of the alterations to the gateway and drive, (including changing the dimensions and character of the entrance and driveway, plus loss of important trees.) There is no demonstrable public benefit to outweigh this. The nature and quality of the new housing will adversely impact upon the setting of Shavington Hall, namely views out from the Hall over the site. It is considered that when taken cumulatively, the proposals will lead to substantial harm to the heritage asset, its curtilage and its setting with no demonstrable public benefit. This is contrary to the provisions of the NPPF, rendering the development unsustainable. The quality of the proposal is not sufficiently high in design terms to meet the requirements of the NPPF in respect to delivering sustainable development.

The applicant has also failed to demonstrate that the scheme will not have an adverse impact on Great Crest Newt populations living on or adjacent to the site, which is contrary to both Local Plan policy and the provisions of the NPPF.

In terms of sustainable design, the scheme does not adequately demonstrate its performance in terms of climate change mitigation and adaptation. However, this could be dealt with by condition.

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 monies towards the future provision of primary school education.

The proposal is considered to be acceptable in terms of its impact upon residential amenity, highways, drainage/flooding. 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, all such facilities are accessible to the site, and it is not considered that a refusal on sustainability grounds could be justified.

Whilst the proposal will result in the loss of 0.86ha of Grade 2 agricultural land, the majority of the site (1.37ha) is grade 3b. It is therefore predominantly the poorer quality and less versatile grade 3b land that will be lost and it is considered that the proposal complies with the requirements of this policy without the need for assessment against the criteria. Therefore, the site is also appropriate for development in line with the sequential approach to the development of agricultural land as set out in the NPPF.

However, these are considered to be insufficient to outweigh the harm that would be caused in terms of the impact on the open countryside and the Green Gap, protected trees and the setting of Shavington Hall. As a result, the proposal is considered to be unsustainable and contrary to policies NE2 and NE4 of the local plan and the provisions of the NPPF in this regard.

10. RECOMMENDATION

REFUSE for the following reasons:

- 1. The proposal is located within the Open Countryside and Green Gap and would result in erosion of the physical gaps between built up areas. Given that there are other alternative sites which could be used to meet the Council's housing land supply requirements, the proposal is considered to be contrary to Policies NE2 and NE.4 of the Borough of Crewe and Nantwich Replacement Local Plan, the National Planning Policy Framework and the emerging Development Strategy which seek to protect its intrinsic character and beauty.**
- 2. The proposed development would result in the area becoming part of the urban part of Shavington, As such, it would no longer have an agricultural character and would no longer be able to maintain its designated function as a Green Gap. The proposed development will clearly erode the physical gaps between the built up areas and fundamentally change the existing agricultural landscape character into an urban character and so in landscape terms is contrary to policy NE.4 of the Borough of Crewe and Nantwich Replacement Local Plan which seeks to maintain the definition and separation of existing communities and prevent Crewe and Shavington merging into one another.**

3. The proposed development by virtue of its size and siting would result in the direct loss of existing trees which are the subject of the Crewe and Nantwich Borough Council (Weston Lane, Shavington) TPO 1979. The loss of these trees is considered to be unacceptable because of the impact upon the general amenity and character of the area in which the application site is located contrary to Policy NE.5 (Nature Conservation and Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the provisions of the National Planning Policy Framework.
4. The proposed development by virtue of its size and siting would result in a threat to the continued well being of existing trees which are the subject of the Crewe and Nantwich Borough Council (Weston Lane, Shavington) TPO 1979. The loss of these trees is considered unacceptable because of the impact upon the general amenity and character of the area in which the application site is located contrary to Policy NE.5 (Nature Conservation and Habitats) of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the provisions of the National Planning Policy Framework which seeks to conserve and enhance biodiversity and the prevent loss or deterioration of irreplaceable habitats including trees.
5. The alterations to the gateway and drive, including changing the dimensions and character of the entrance and driveway, loss of important trees, the nature and quality of the new housing and relationship of the proposed housing to the Grade II Listed Shavington Hall and its grounds, when taken cumulatively, will lead to substantial harm to the setting of the heritage asset, with no demonstrable public benefit. The quality of the proposal is not sufficiently high in design terms and detracts from the character or setting of the building concerned, especially with regard to its surrounding gardens, landscape, street scene or relationship with adjoining buildings and significant views and fails to take the opportunities available for improving the character and quality of the area and the way in which it functions contrary to Policy BE.9 of the Crewe and Nantwich Replacement Local Plan 2011 and the provisions within the NPPF, rendering the development unsustainable.
6. The application fails to provide sufficient information to quantify and mitigate any impact on species protected under the Wildlife and Countryside Act 1981 and Habitat Regulations in accordance with Policies NE.5 (Nature Conservation and Habitats) and NE.9: Protected Species of the Crewe and Nantwich Replacement Local Plan 2011, Policy DP7 (Promote Environmental Quality) of the North West of England Plan Regional Spatial Strategy to 2021 and the provisions of the National Planning Policy Framework.

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Application No: 13/0158M

Location: LAND TO WEST OF KILN CROFT LANE, HANDFORTH, WILMSLOW, CHESHIRE

Proposal: Extension of time limit on planning permission 09/3413M - Outline application for B1(Business) units, renewal of application 06/0278P

Applicant: Tesco Stores Ltd

Expiry Date: 07-Mar-2013

Date Report Prepared: 8 May 2013

SUMMARY RECOMMENDATION

Approve subject to conditions and s106

MAIN ISSUES

- Whether there have been any material changes in policy or circumstances since the previous application

REASON FOR REPORT

The application site area covers approximately 3 hectares. As such under the terms of the Council's constitution the proposal needs to be determined by the Strategic Planning Committee.

DESCRIPTION OF SITE AND CONTEXT

The application site comprises two open areas of land on opposite sides of Lower Meadow Road. The majority of the site is designated as an Existing Employment Area and the southernmost part is identified as Proposed Open Space in the Macclesfield Borough Local Plan.

DETAILS OF PROPOSAL

This application seeks to extend the time limit on application 09/3413M for the erection B1 use class units (outline with all matters reserved).

The previous permission was also subject to a s106 planning obligation requiring:

- Contributions to offsite outdoor sport and recreation facilities
- Provision of public open space
- Submission of a site travel plan

- Financial contribution (to Stockport MBC) for off site highways improvements at Earl Road / Stanley Road junction

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

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

The provision of a travel plan, public open space and contributions towards offsite outdoor sport and recreation facilities are necessary, fair and reasonable to provide a sustainable form of development, to contribute towards sustainable, inclusive and mixed communities and to comply with local and national planning policy.

The development would result in increased impact on highways within the Stockport MBC area. The commuted payment towards a highway scheme is required to improve traffic flows in the area of Earl Road and Stanley Road. This is considered to be necessary and fair and reasonable in relation to the development.

All elements are necessary, directly relate to the development and are fair and reasonable in relation to the scale and kind of the development

RELEVANT HISTORY

06/0278P – Erection of B1 (use class) units (outline) – Approved 26.10.2006

09/3413M - Erection of B1 (use class) units (outline) – Renewal of 06/0278P – Approved 15.01.2010

POLICIES

Regional Spatial Strategy

DP1 (Spatial principles applicable to development management)

DP2 (Criteria to promote sustainable communities)

DP3 (Promotion of sustainable economic development)

DP4 (Making the Best Use of Existing Resources and Infrastructure)

DP5 (Manage Travel Demand; Reduce the Need to Travel, and Increase Accessibility)

DP7 (Promote Environmental Quality)

DP9 (Reduce Emissions and Adapt to Climate Change)

W1 (Strengthening the Regional Economy)

W3 (Supply of Employment Land)

RT2 (Managing Travel Demand)

RT3 (Public Transport Framework)

RT9 (Walking and Cycling)

EM17 (Renewable Energy)

MCR3 (Southern Part of the Manchester City Region)

The Secretary of State for Communities and Local Government has announced that North West Regional Strategy will be revoked. An Order will be laid in Parliament to formally revoke the strategy, until that happens the policies should still be given weight as part of the Development Plan according to their degree of consistency with the NPPF.

Local Plan Policy

NE9 (River corridors)

NE11 (Nature conservation interests)

BE1 (Design principles for new developments)

E1 (Employment land)

E3 (Employment land – business)

E4 (Employment land – industry)

T3 (Improving conditions for pedestrians)

T5 (Provision for cyclists)

RT1 (Open space)

RT6 (Proposed open space)

IMP1 (Provision for infrastructure)

IMP2 (Need for transport measures)

DC1 (High quality design for new build)

DC2 (Design quality for extensions and alterations)

DC3 (Protection of the amenities of nearby residential properties)

DC5 (Natural surveillance)

DC6 (Safe and convenient access for vehicles, special needs groups and pedestrians)

DC8 (Requirements to provide and maintain landscape schemes for new development)

DC9 (Tree protection)

Other Material Considerations

National Planning Policy Framework (the Framework)

CONSULTATIONS (External to Planning)

Strategic Highways Manager – No objections

Public Rights of Way – It appears unlikely that the proposal would affect the public right of way, therefore no objections subject to advice note

Manchester Airport – Not been possible to undertake a full assessment of the proposal from an airport safeguarding aspect (due to outline nature of proposal)

Environment Agency – As with application 09/0278M, no objections

Stockport MBC – No objections subject to completion of a S106 Agreement (or UU) to secure a financial contribution towards the costs of highway improvements within the vicinity and imposition of appropriate planning conditions.

VIEWS OF THE PARISH / TOWN COUNCIL

Handforth Parish Council – Support the application

OTHER REPRESENTATIONS

None received

APPLICANT'S SUPPORTING INFORMATION

A planning policy update assessment and an updated badger survey and assessment report have been submitted with the application.

OFFICER APPRAISAL

Principle of development

For an extension to time limit application such as this, the Government's advice is for Local Planning Authorities to take a positive and constructive approach towards applications that improve the prospects of sustainable development being brought forward quickly. The development proposed will, by definition, have been judged acceptable in principle at an earlier date. It is the Government's advice that Local Planning Authorities should only look at issues that may have changed significantly since that planning permission was previously considered to be acceptable in principle.

The development was previously approved in 2010 and was extant at the time the application was submitted to the Local Planning Authority. The previously approved scheme was considered to have an acceptable impact on the character and appearance of the surrounding area, neighbouring amenity, nature conservation interests, open space and highway safety.

No changes have occurred to Local Plan policy since the application was previously approved. Changes have occurred to regional planning policy however this is not considered to have any implications for this application. Similarly, the Framework has been introduced, which outlines the Government's commitment to secure economic growth. The proposed employment use is consistent with this objective.

Nature Conservation

Great Crested Newts are known to occur at a pond some distance from the application site. However, the nature conservation officer does not anticipate that the potential impacts of the proposed development on this species will have materially changed since the grant of the previous planning consents. No additional action is therefore required in respect of this species.

A significant badger sett was previously present adjacent to the proposed development. Surveys undertaken to inform the previous planning consent found this sett to be inactive. As badgers can frequently abandon and then reuse sett an updated badger survey has been submitted, which has recorded an increase in badger activity both on-site and within the adjacent woodland.

One outlying badger sett is likely to be directly affected by the proposed development. To facilitate the proposed development it is necessary to close this sett under license from Natural England. In addition as some aspects of the proposed development will occur within 20m of a number of the off-site setts the development is likely to have an indirect impact upon them.

To address the potential impacts of the proposed development upon badgers a mitigation method statement has been developed by the applicant's ecologist which will be subject to a Natural England license.

The nature conservation officer advises that the submitted survey and mitigation method statement is acceptable. As there may be a further delay between the grant of this extension of time application and any future reserved matters application it is recommended that a condition be attached requiring any future reserved matters application be supported by an updated badger survey and mitigation method statement.

CONCLUSIONS AND REASON(S) FOR THE DECISION

The previously approved application was considered to comply with relevant local, national and regional planning policy. Whilst the Framework has been introduced since the previous approval, no changes have occurred to planning policy that would result in a different decision. Therefore the application is recommended for approval subject to conditions and a s106 planning obligation.

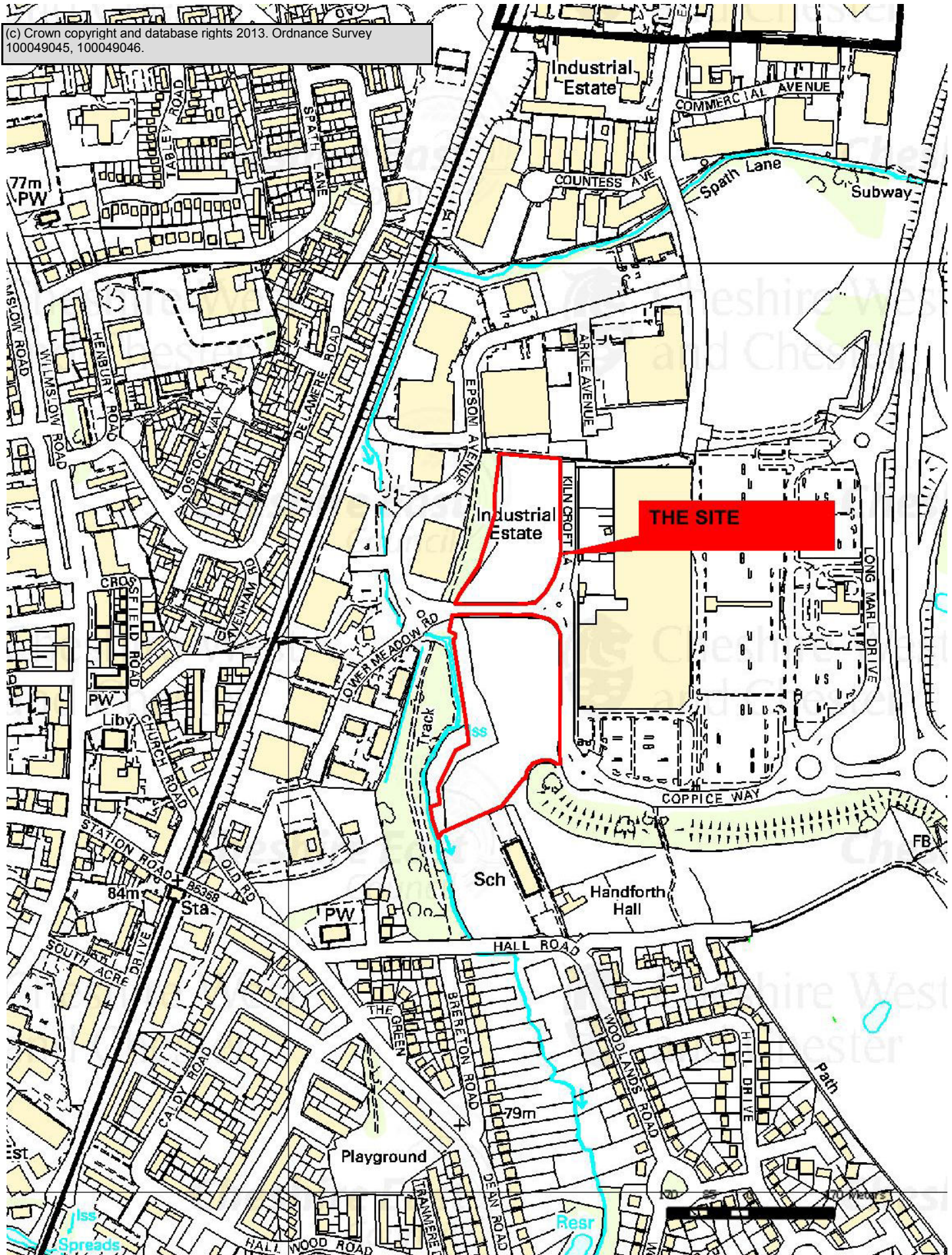
Application for Extension to Time Limit

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

1. A01AP - Development in accord with approved plans
2. A01OP - Submission of reserved matters
3. A02OP - Submission of reserved matters
4. A03OP - Time limit for submission of reserved matters
5. A04HP - Provision of cycle parking
6. A05HA - Pedestrian visibility at access (dimensions)
7. A05HP - Provision of shower, changing, locker and drying facilities
8. A06OP - Commencement of development
9. A07HA - No gates - new access
10. A09HP - Pedestrian visibility within car parks etc
11. A13HA - Construction of junction / highways
12. A21HA - Submission of details of turning facility
13. A30HA - Protection of highway from mud and debris
14. Access available for use before occupation
15. Maximum floor area of 9,500 sq m with upper limit of 80% B1a Use (offices)

16. No 3 storey development south of line parallel to south elevation of M & S
17. No development shall exceed 12m and 3 storeys and no more than 30% of buildings on sites A and B shall be more than 2 storey
18. Reserved matters application to incorporate public right of way route, unless diverted/extinguished
19. Surface water regulation system
20. Additional landscaping to be provided on south and west boundaries of Site A
21. Habitat creation including mitigation if appropriate
22. Provision of measures to mitigate impact on badger set/habitat
23. Reserved matters to identify trees to be retained
24. Provision of signing/carriageway marking on Coppice Way/A34
25. Development to be carried out in accordance with FRA
26. 10% Renewable Energy
27. Protection of breeding birds
28. waste audit to be submitted

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CHESHIRE EAST COUNCIL**STRATEGIC PLANNING BOARD**

Date of meeting: 22 May 2013
Report of: Steve Irvine – Development Management and Building Control Manager
Title: Forthcoming Appeal concerning application 12/3025C, Land at Goldfinch/ Kestrel Close - material changes since Board's 'Minded to approve' resolution on 5 December 2012 which require Board's further consideration during the life of the ongoing Appeal to enable Officer's to put forward the Council's current position to the forthcoming planning appeal.

1.0 Purpose of Report

- 1.1 To appraise Members of the implications for the two forthcoming appeals having regard to the publication and adoption of the Development Strategy on 6 December 2012 and the 2012 SHLAA on 11 February 2013. This report concerns one of the sites.
- 1.2 The Appeals are presently proceeding on the basis of a Public Inquiry on a date yet to be confirmed.

2.0 Decision Required

- 2.1 To authorise Officers to contest the forthcoming planning appeal in respect of the site at Goldfinch/Kestrel Close, Congleton, as set out in the recommendation below.

3.0 Background

- 3.1 Members will recall that two outline planning applications for up to 40 dwellings per site with associated open space and infrastructure were submitted in August 2012. Both applications applied for their respective accesses but all other matters were reserved for future consideration.
- 3.2 The Officers recommendation was one of 'Approve subject to S106 and conditions', in the main, on the basis that at the time the Council was unable to demonstrate a 5 year housing land supply. However, this was subsequently amended to one of being 'Minded to Approve subject to S106 and conditions' in the light of the fact that the Applicant had lodged an appeal with the Planning Inspectorate. This transferred the decision making

ability on the application to the Planning Inspectorate. Members subsequently resolved to accept the Officers recommendation and not to contest the Appeals.

- 3.3 Since 5 December 2012, there have been a number of changes in the Council's policy position with regard to the Housing Land Supply as well as the publication and adoption of both the emerging Development Strategy and the most recent SHLAA (2012) which have significant implications for forthcoming appeals. In this case the appeal is presently being contested in the light of the Committee resolution on 5 December 2012 of being 'Minded to Approve' the application.
- 3.4 Leading Counsel has advised that the changes in the Housing Land Supply as expressed in the 2012 SHLAA is a material change in circumstances which requires a fresh consideration of the case by the Committee. However, it is important to remember that this is not an opportunity to revisit other issues which have previously been deemed acceptable. Consequently, this assessment considers material changes in housing land supply policy only.

Housing Land Supply

- 3.5 It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the emerging Strategic Housing Land Availability Assessment (SHLAA) February 2013. The SHLAA has put forward a figure of 7.15 years housing land supply. This document was considered by the Strategic Planning Board on 8th February and the Portfolio Holder on 11th February 2013.
- 3.6 The Council's housing policy position is constantly moving with new advice, evidence and case law emerging all the time. However, the Decision Maker (the Inspector) has a duty to consider applications on the basis of the information that was pertinent at determination time. By virtue of the fact that the Appeal is still ongoing and a decision has yet to be reached, this application has yet to be determined by the Inspector. It is therefore appropriate that the Strategic Planning Board consider the position that it takes at the forthcoming Appeal in the light of the changed circumstances. Consequently, it is recommended that the application be reconsidered in the context of the 2013 SHLAA.
- 3.7 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 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 years.

3.8 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.”

3.9 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.”*

3.10 However, given that Cheshire East can now demonstrate a five year supply of housing land, it is considered that policies H6 and PS8 which protect Open Countryside are not out of date and the provisions of paragraphs 49 and 14 no longer apply in this case.

3.11 The Cheshire East Development Strategy was approved by Strategic Planning Board on 6 December 2012 and Cabinet for consultation until 26 February 2013. It is a material consideration which directs additional housing in Congleton to 4 strategic sites:

- Back Lane and Radnor Park
- Congleton Business Park Extension
- Giantswood Lane to Manchester Road
- Manchester Road to Macclesfield Road

3.12 The NPPF consistently underlines the importance of plan led development. In the recent Secretary of State decision in Doncaster MBC (APP/R0660/A/12/2173294 refers), it was found that a development was to be premature even though the Development Plan was still under preparation. Important to this decision was the finding that a five year supply of housing land was available. There is nothing in national guidance

to suggest prematurity and housing supply should be linked in this way, and logic might question how the two are interlinked, but this factor was evidently influential in this case. Given that the Council now has a 5 year supply of housing, it is considered that a pre-maturity case can now be defended in this case.

Conclusion – Housing land Supply

- 3.13 The site is within the Open Countryside where under Policy PS8 and H6 there is a presumption against new residential development. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development 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.

- 3.14 The 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 years and therefore the automatic presumption in favour of the proposals does not apply in this case.
- 3.15 The appeal proposal does not accord with the emerging Development Strategy on open countryside and loss of agricultural land grounds. Previous Appeal decisions have given credence to such arguments where authorities can demonstrate a five year supply of housing land. On the basis of this material change in circumstances it is recommended that the Council **changes its stance** in respect of the forthcoming Appeal from one of being “minded to approve” to being “**minded to refuse**”.

Loss of Agricultural Land

- 3.16 In the original consideration of this application, it was resolved that the lack of a 5 year supply of housing outweighed the loss of the Grade 3a agricultural land present on the site. Appeal decisions, both locally and nationally, have considered the loss of best and most versatile agricultural land but have shown the lack of a 5 year housing land supply would outweigh the loss of agricultural land on the Appeal sites. Therefore it was not considered that a reason for refusal could be sustained on these grounds.

- 3.17 The Appeal decisions for Loachbrook Farm and Abbeyfields amongst others make it clear that, in situations where authorities have been unable to demonstrate a 5 year supply of housing, the need for housing land has been accepted by Inspectors as outweighing the loss of agricultural land in the planning balance.
- 3.18 However, given that Cheshire East has a 7.15 year supply of housing, it is considered that this argument does not apply in either of these sites and that the loss of the agricultural land contributes to the un-sustainability of the proposal by using open countryside when there is no necessity in housing land supply terms to use that land for that purpose.

Conclusion

- 3.19 Since this application was brought before Strategic Planning Board on 5 December 2012, there has been a material change in circumstances as a result of the publication of the 2012 SHLAA, which demonstrates a 7.15 year supply of housing land.
- 3.20 On this basis, the provisions of paragraphs 14 and 49 of the NPPF no longer apply and consequently, it is recommended that Board amend its previous resolution to be one of '**minded to refuse**' on the basis that the proposal is contrary to open countryside policy and housing policies.
- 3.21 Furthermore, Appeal decisions both locally and nationally have made it clear that in situations where authorities have been unable to demonstrate a 5 year supply of housing, the need for housing land outweighs the loss of agricultural land.
- 3.22 However, given that Cheshire East has a 7.15 year supply of housing it is considered that this argument does not apply and that the loss of the agricultural land contributes to the un-sustainability of using open countryside for housing purposes when there is no necessity in housing land supply terms to use the land for that purpose.

4.0 Proposed Recommendation

- 4.1 In the light of the above, it is recommended that the 'Minded to Approve' recommendations in respect application 12/3025c be changed to one of being '**Minded to refuse**' and Officers be authorised to contest the Public Inquiry on the basis of the following;

The proposal would be located within the Open Countryside, contrary to Policies PS8 and H6 of the Congleton Borough Adopted Local Plan First Review 2005, which seek to ensure that only appropriate development in a rural area is allowed and the core principles of the NPPF which seek to protect the intrinsic character and beauty of the countryside. Moreover, the proposal would also result in a loss of Grade 3a Agricultural Land, contrary to Policy PS8 and H6 of the Congleton Borough Adopted Local Plan First Review 2005, which seek to protect such land from inappropriate use and ensure an adequate supply of agricultural land.

The Local Planning Authority can demonstrate a five year land supply of housing, in accordance with the requirements of the NPPF. Consequently, the Development Plan is up to date and there are no material circumstances to indicate that permission should be granted contrary to the Development Plan. As such the proposal is an unsustainable form of development, contrary to the 'golden thread' of the NPPF

5 Financial Implications

- 5.1 There is a danger that the Appellant will seek costs in respect of any new evidence which the Council seek to introduce at the Planning Appeal if it is unreasonable.
- 5.2 It is not considered that the change in the Housing Land Supply position during the life of this appeal can be regarded as being unreasonable given that it is a matter to which the Decision Maker must have regard to in determining the appeal.

6 Legal Implications

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

7 Risk Assessment

- 7.1 There are no risks associated with this decision.

8 Reasons for Recommendation

- 8.1 To allow the Council to contest the forthcoming appeal in respect of this application.

For further information:

Portfolio Holder: Councillor Les Gilbert
Officer: Susan Orrell – Principal Planning Officer
Tel No: 01625 383702
Email: sue.orrell@cheshireeast.gov.uk

Background Documents:

- *Application 12/3025c. and Committee Update Report*

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APPENDIX ONE

Application No: 12/3025C

Location: LAND OFF GOLDFINCH CLOSE AND KESTREL CLOSE, CONGLETON, CHESHIRE

Proposal: ERECTION OF UP TO 40 DWELLINGS, OPEN SPACE, ASSOCIATED LANDSCAPING, INFRASTRUCTURE AND ACCESS

Applicant: Michael Johnson, Seddon Homes Limited

Expiry Date: 02-Nov-2012

SUMMARY RECOMMENDATION

APPROVE subject to Section 106 Agreement and Conditions

MAIN ISSUES

**Planning Policy And Housing Land Supply
Sustainability
Affordable Housing,
Impact on Good Quality Agricultural land
Highway Safety And Traffic Generation.
Flood risk and drainage
Layout and design
Amenity
Landscape Impact and Hedge and Tree Matters
Ecology
Education Infrastructure
Renewable Energy**

REFERRAL

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

Another application for up to 40 dwellings submitted by the same Applicant at the same time as this application for a nearby site at the Moorings (12/3028C) is reported elsewhere on this Agenda.

1. SITE DESCRIPTION

The application site is some 1.83 hectares of land to the west of Goldfinch Close and Kestrel Close, Congleton with all matters other than access reserved for future determination. The Congleton Borough Council (Canal Road, Congleton) Tree Preservation Order 1986 affords protection to a number of selected Oak and Sycamore trees within existing field hedgerow boundary enclosures.

The application site is surrounded by open countryside to the north, south and west and by residential properties to the east, with Goldfinch Close and Chaffinch Close forming cul de sacs adjacent to the eastern boundary of the site, both roads lead to Canal Road further to the east. Lambert Lane is located to the south of the field on the southern boundary of the site. The site has a network of existing hedgerows and trees and although agricultural land, has not been managed for a period of time.

1. DETAILS OF PROPOSAL

Outline planning permission is sought for the erection of up to 40 dwellings with open space and associated infrastructure. Approval is also sought for the means of access from the existing housing estates via Goldfinch And Kestrel Drives. All other matters, including appearance, landscaping, layout and scale are reserved for a subsequent application.

2. RELEVANT PLANNING HISTORY

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

3. 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

Of the remaining saved Cheshire Structure Plan policies, only policy T7: Parking is of relevance.

Cheshire Replacement Waste Local Plan (Adopted 2007)

Policy 10 (Minimising Waste during construction and development)
Policy 11 (Development and waste recycling)

Regional Spatial Strategy

DP4 Make best use of resources and infrastructure
DP5 Managing travel demand
DP7 Promote environmental quality
DP9 Reduce emissions and adapt to climate change
RDF1 Spatial Priorities
L4 Regional Housing Provision
EM1 Integrated Enhancement and Protection of the Region's Environmental Assets
EM3 Green Infrastructure
EM18 Decentralised Energy Supply
MCR3 Southern Part of the Manchester City Region

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 Regional Development Agency Sustainability Checklist

5. OBSERVATIONS OF CONSULTEES

Environment Agency

No objection in principle subject to the following comment

The discharge of surface water from the proposed development is to mimic that which discharges from the existing site. A variable discharge rate is acceptable, although if a single rate of discharge is proposed, this is to be the **mean annual run-off (Q_{bar})** from the existing undeveloped greenfield site. This is contrary to what is included in the submitted Flood Risk Assessment (FRA), which explains that the discharge is to be restricted to the 1 in 30 years event.

And the following conditions:

- a scheme to limit the surface water run-off generated by the proposed development
- manage the risk of flooding from overland flow of surface water
- 5m minimum ecological buffer to the stream

United Utilities

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

- This site must be drained on a separate system in accordance with the Flood Risk Assessment

County Archeologist :

No objection subject to condition that the site should be subject to a scheme of archaeological mitigation. This should consist of a programme of supervised metal detecting across the rest of the area to identify and record any artefacts present. If particular concentrations of material are located, more intensive work may be required at these specific localities. If only a general spread of artefacts is located, no further fieldwork is likely to be required. A report on the work will need to be produced and the mitigation may be secured by the condition given below:

Amenity Greenspace

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 Amenity Greenspace to meet the future needs arising from the development. Some areas of Open Space (formal and informal) are indicatively illustrated within the application. These should be a minimum of 960m² in area in accordance with the Interim Policy Note on Public Open Space.

Based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

Maintenance:	£ 11, 352.00 (for 960m ²)
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Children and Young Persons Provision

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. Whilst there is a requirement for new open space, the existing facilities within the vicinity of the development are substandard in quality including a poor range of facilities for the needs of the local community. An opportunity has arisen for upgrading of an existing facility at Townsend Road.

Given that an opportunity has been identified for upgrading the capacity and quality of Children and Young Persons Provision, based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

Enhanced Provision:	£ 8,790.72
Maintenance:	£ 28, 656.00

Strategic Housing Manager

The Affordable Housing IPS 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 rent, 35% intermediate tenure. This equates to a requirement of 12 affordable units in total on this site if the development results in the maximum of 40 units. This would be split as 8 for social or affordable rent and 4 for intermediate tenure.

Strategic Highways Manager

The traffic impact of this proposal does not constitute a major development impact and the site is sustainably located. There are sections of footway that are narrow on Canal Road and these cannot be widening as the carriageway width in that section of road would be compromised. However, there is a minimal footway width available and this does allow pedestrians to walk without needing to use the carriageway.

No objections are raised subject to a scheme of Highways improvements on Canal Road, Canal Street and High Street, a scheme of improvements which include the provision of pedestrian refuges. The creation of a right turn lane on Canal Road into the estate as recommended in the Transport Statement is accepted. The right turn lane will also incorporate a pedestrian refuge.

Overall, the improvements put forward for Canal Road are considered appropriate to the scale of the development.

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

- 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.

Education

- The proposal will have a material impact upon education provision in the locality. In the primary sector this will result in a need for provision for 6 additional pupils.

The contribution being sought for primary provision is $6 \times 11,919 \times 0.91 = \text{£65,078}$

Within the Secondary sector the proposal will generate 5 Secondary Aged pupils. Education Department calculations indicate that there will be sufficient capacity in the local secondary school to accommodate the secondary aged pupils which will be generated.

Ecology

No objection subject to conditions.

Public Right of Way

Proposed developments may present an opportunity to improve walking and cycling facilities in the area for both travel and leisure purposes.

To the south of the site is public bridleway No. 1, known as Lambert's Lane. This public right of way is an important resource for travel and leisure and it is noted the proposal refers to the creation of a future link to Lamberts Lane. This is supported in principle

3 points arise:-

- Any proposal for housing could benefit in terms of permeability, accessibility and therefore sustainability were it to have a pedestrian and cyclist access onto public bridleway No. 1. The public bridleway is a key link east – west route for non-motorised users, connecting the canal towpath and railway station amongst other facilities and avoiding the town centre roads. Encouraging non-motorised travel is captured within the policies of the Local Transport Plan and Rights of Way Improvement Plan.
- The public bridleway forms part of the Congleton Southern fringes project which enhanced and promoted the network of public rights of way for leisure purposes: research for the statutory Rights of Way Improvement Plan has shown that residents want local circular walks. A link from the proposed development sites to the public rights of way network would offer this opportunity. Encouraging active leisure activities such as walking and cycling is captured within the policies of the Local Transport Plan, Rights of Way Improvement Plan and Ambition for All.

6. VIEWS OF THE PARISH / TOWN COUNCIL

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

- Long term traffic issues created by an estimated extra 320 vehicle journeys entering and leaving the estate on a daily basis. The entrance to the estate next to the Wellspring church can already be inaccessible at times due to hospital workers parking on one side.
- Increased traffic volume on Canal Street. This road is not suitable for heavier traffic flow due to its two narrower road sections heading towards the town centre creating pinch points.
- Concern at safety of pedestrians on Canal Road due to the extremely narrow pavement alongside Burns Garage and the likelihood of more accidents occurring.
- Impact on flora, fauna and wildlife in the area

7. OTHER REPRESENTATIONS

97 Letters and emails of objection have been received, full copies of which can be seen on the application file, many of these comments have also been applied by the same respondent to application 12/3028C. The following points are made:

Principle

- Loss of green field
- Loss of grade 3 agricultural land
- The houses are not needed. Many empty houses which need to be filled first
- Hundreds of houses are for sale, there is no need for more
- People are struggling to sell houses/get mortgages in the current economic climate
- Any shortfall can be met by the Brownfield sites
- 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.
- Development site 'F' (Congleton Town Strategy) is a Low Priority Development Area . Areas A-E in the Strategy should be developed first and F should be released after these areas have been developed.

- New dwellings in Congleton would be better placed in the northern sections of the town – where the Congleton Strategy seeks to direct growth together with the proposed bypass
- Not in line with the interim policy on the release of housing land
- The site is not as sustainable as the Application suggests
- Why should residents be punished for the lack of a local plan being in place

Highways

- Both Seddons applications are too large to be supported by the road network without a massive investment in infrastructure. All recent developments filter onto Canal Road. This will worsen an already bad situation
- The developments that have been approved in the area and this application will result in 200,000 traffic movements on Canal Road
- 71 dwellings have been developed in the local area – all using Canal Road
- The first part of Kestrel Close to Canal Street is frequently obstructed by parked vehicles (overspill from The War Memorial Hospital and Amory's Garage) reducing this section of carriageway to one lane.
- The footpath on Canal Road has pinch points where it is already very narrow and difficult for pedestrians, especially those with pushchairs, wheelchairs – the added traffic will worsen this
- Existing visibility to Canal Road from Kestrel Drive is inadequate
- Increase in traffic on Canal Road
- No further developments should not take place until Canal Road/Canal Street are brought up to modern traffic and pedestrian requirements.
- Pedestrian safety on Canal Road. Pedestrians have already been hit by passing vehicles wing mirror due to lack of pavement width and any increase in traffic will add to the congestion
- Pedestrian safety within the existing estate will be compromised by the additional traffic generated
- Construction traffic will have to enter and exit from the town centre thereby creating more traffic problems for an extended period of time.
- The site is in the wrong position for future growth

Infrastructure

- Schools can not cope
- There is no employment in the Town and residents will work elsewhere
- Increase in demand on drainage and sewage infrastructure in an area which has had problems
- Increased surface water run off could lead to town centre flooding

Loss of Open Countryside

- Loss of countryside view
- The land should be protected for future generations, once built upon it would be lost forever.
- Valuable green finger into the centre of Congleton

Amenity

- The development would have a negative impact on the quality of life of the existing populations
- Overlooking from new houses to existing houses
- Quality of life will be severely affected during construction
- Impact of scheme on landscape character has not been adequately assessed by the Applicant

Ecology

- The area is rich in ecology and protected species and other species such as frogs/toads/pheasants and partridges which are not protected but this area forms their habitat
- There are bats, owls, badgers, foxes, Pipistrelle Bats and nesting birds which are protected.
- Great crested newts are known to be within the general area . they could well be living in these fields as well. The Council should investigate this possibility.
- Lamberts Lane is a wildlife corridor
- The area has established protected trees and hedgerows. 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.
- The land is immediately adjacent to the Congleton wildlife corridor and increasing housing in this area will have a devastating effect on that population

Drainage and Flooding

- The has been serious flooding down Canal Road in the past. How can the system cope with the addition demands to be placed upon it?

Other matters

- Congleton War Memorial Hospital is not a full medical centre and is incorrectly assessed as part of the application
- Application Information is misleading

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 Heads Of Terms
- Agricultural Land Classification Assessment

- Affordable Housing Statement
- Planning Statement
- Ecological Survey
- Tree Survey
- Statement of Community Involvement

Copies of these documents can be viewed on the application file.

8. OFFICER APPRAISAL

Main Issues

Given that the application is submitted in outline form with only the access points being applied for, 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 and the sustainability of the location, affordable housing, highway safety and traffic generation, landscape impact, hedge and tree matters, ecology, amenity, open space and drainage.

Principle of Development.

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 these 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 23rd March 2011 the Minister for Decentralisation Greg Clark published a statement entitled ‘Planning for Growth’. On 15th 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) in March 2012.

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”.

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.

The SHLAA 2010, identifies the site as part of a larger site with capacity of up to 120 units, as a *“Greenfield site on edge of settlement, considered to be sustainably located”*. It also states that it is a suitable site, with policy change. In addition the site is also described as available, achievable and developable (in years 6-10 onwards).

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 as required by the NPPF is added, the Borough has an identified deliverable housing supply of 3.75 years.

With respect to the housing supply within Congleton specifically, there has been a low number of completions in the town of 346 units in the last 5 years, which equates to 69 units per annum. There is also a low level of commitments – currently there are full planning permissions for 147 net dwellings. There are outline permissions for 13 net dwellings, and on sites under construction there are 243 net dwellings remaining. There are also 149 dwellings 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. 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.

In September 2012 Congleton Town Council approved the final version of the Congleton town Strategy. This advocated that priority should be given to developing sites on the north side of Congleton that would support and facilitate the northern link road. This application forms part of a wider site identified as having a potential housing development for circa 300 houses (Area F) during the preceding Town Strategy Consultation. However the stakeholder Panel identified that priority should be given to those sites (Areas A,B,C,D) that contribute to the delivery of the northern relief road.

Members should also be aware of the recent appeal decision at Loachbrook Farm Congleton. In this case the inspector gave significant weight to the lack of a 5-year housing land supply and approved the development for up to 200 dwellings. In the Inspectors view, the site which is within the open countryside and a departure from the Local Plan, would harm the character and appearance of the countryside and would result in the loss of the best and most versatile agricultural land. However, the Inspector found that these issues were outweighed by the need

to secure a 5-year supply of deliverable housing land that would also contribute to providing affordable and low cost housing.

In terms of prematurity the Inspector found that it would not be premature or prejudice the development of other sites. However the Council is now challenging this decision via the high court and a decision on the case is still awaited. Equally decisions are awaited on appeals in Sandbach which also raise vital issues of prematurity.

In this case however a clear distinction can be drawn between those appeal proposals and the present application. Those applications relate to sites of a scale, nature and location such that they might be considered strategic development sites and thus could influence the future pattern of growth of a town. The same cannot be said of the current proposal which is much more modest in its scale, scope and impact.

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 site is considered to be available, suitable and achievable
- The Cuddington Appeal in Cheshire West and Chester plus others else where in the country indicate that significant weight can 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.”*

- 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 which form a much larger incursion of built development into the surrounding open countryside.

In the light of these decisions and the primacy of the NPPF in the light of the lack of a 5 year housing land supply, it is considered that a refusal of planning permission for this site on the housing land supply grounds would not be sustainable.

Location of the site

The site is considered to be sustainable by the SHLAA. To aid the assessment as to whether this site comprises sustainable development, 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. However, as stated previously, these are just guidelines and are not part of the development plan.

The toolkit sets maximum distances between the development and local amenities. These comprise of everyday services that a future inhabitant would call upon on a regular basis, these are:

- 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:

- post box (400m), Daven Road
- bank / cash point (900m) (High Street)
- primary school (550m), (Daven Primary School)
- Railway Station (1100m) (Congleton Station)
- public house (400m), Wharf Inn
- public park / village green (770m), Congleton Community Garden
- child care facility (480m),
- railway station (1400m).
- bus stop (350m) Canal; Road
- Public Open Space (300m) St Peters Road
- Pharmacy (850m) Park Lane
- local meeting place / community centre (250m), (Wellspring Methodist Church)
- medical centre Lawton House Surgery on Bromley Road. (960m)

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 office (1200m), Mill Street
- leisure facilities (1200m), Congleton Leisure Centre
- a local shop selling food or fresh groceries (800m) Canal Road

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.

Notwithstanding neighbours challenge to whether the War Memorial Hospital can be considered to be a medical centre, all of the services and amenities listed are accommodated within the town centre and are accessible to the proposed development on foot via Canal Road and therefore it is considered that this small scale site is sustainable within the context of the Checklist Guidance.

Overall, it is concluded that the site is sustainably located and the presumption in favour of sustainable development in the light of Paragraph 49 of the NPPF should apply.

The application turns, therefore, on whether there are any **significant** and **demonstrable** adverse effects, that indicate that the presumption in favour of the sustainable housing development should not apply; this is considered in more detail below.

Affordable Housing

The Affordable Housing IPS 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 rent, 35% intermediate tenure.

If the maximum number of 40 units as applied for were to be built on this site, this equates to a requirement of 12 affordable units in total on this site, split as 8 units for social or affordable rent and 4 for intermediate tenure.

The SHMA 2010 shows that for Congleton there is a net requirement for 33 new affordable units per year, this is made up of 7 x 1 beds, 3 x 3 beds, 13 x 4/5 beds and 15 x 1/2 bed older persons accommodation. The SHMA identified an over supply of 5 x 2 bed properties which is why the total net requirement is 33 new units per year.

In addition to this information taken from the SHMA 2010, Cheshire Homechoice is used as the choice based lettings method of allocating social rented accommodation across Cheshire East, there are currently 452 applicants on the housing register who require properties in Congleton or Congleton Town Centre, the number of bedrooms these applicants need are 175 x 1 beds, 142 x 2 beds, 70 x 3 beds and 6 x 4 beds. 59 applicants have not specified the number of bedrooms required. 109 of the applicants who require a 1 bed and 42 applicants who require a 2 bed have indicated they would consider a flat.

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 preference is that the affordable housing is secured by way of the Planning Inspectorates model condition on affordable housing. The Applicant cites the Loachbrook Farm decision as justification for this.

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"

Loss of Agricultural Land

The applicant has submitted an agricultural land classification study which concludes that the proposal would involve the loss of 1.1 hectares of Grade 3A land (38% of the site) whilst the remainder of the site comprises Grade 3b.

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.

These are where there is need for the development in the local plan, the development cannot be accommodated on land of lower agricultural quality and does not break up viable agricultural holdings

There is also guidance contained within the NPPF which states at paragraph 112 that:

'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality'

The area of high quality farmable land is not significant, measuring only 1.1 ha. At present, the site is extensively unmanaged and overgrown, with some significant areas of spoil left over from the previous housing development adjacent.

The remaining portion is of poorer quality. Due to its limited size and the existing site constraints separated from the larger open fields by mature trees and hedgerows and Lamberts Lane), it does not offer a contribution to the high quality agricultural land in the area.

Thus, whilst the proposal would result in the loss of a small quantity (1.1hect) of Grade 3A agricultural land, the loss would not be 'significant' and would not outweigh the benefits that would come from delivering this small scale development and assisting with the Council's housing land supply situation helping to relive pressure on less sustainable and preferential Greenfield sites elsewhere.

The lack of a 5 year housing land supply would outweigh the loss of agricultural land on this site and a reason for refusal could not be sustained on these grounds. This is supported by a recent decision made by the Secretary of State at Bishop's Cleeve, Gloucestershire where two developments (one of up to 450 homes and another of up to 550 dwellings) were approved outside the settlement boundary with one being located on the best and most versatile agricultural land and the recent decision at Loachbrook Farm, Congleton which comprised a significantly larger development area (over 10hectares) of Grade 2 and 3a land.

At Loachbrook Farm, the Inspector considered that the 3500 additional houses to be provided in Congleton by 2030, as indicated the emerging Core Strategy (as being the Councils preferred sites for future development) and categorised as being developable by the SHLAA involved a preponderance of the best quality agricultural land in the area. The Inspector concluded that the loss of the agricultural land carried neutral weight, given that other preferred sites would involve a similar loss of the best agricultural land around the Congleton area.

Highway Safety and Traffic Generation.

Policy GR9 states that proposals for development requiring access, servicing or parking facilities will only be permitted where a number of criteria are satisfied. These include adequate and safe provision for suitable access and egress by vehicles, pedestrians and other road users to a public highway.

Paragraph 32 of the National Planning Policy framework states that:-

'All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment and that any plans or decisions should take into account the following;

- *the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;*
- *safe and suitable access to the site can be achieved for all people; and*
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.
- Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The Transport Statement considers the accessibility of the site in terms of a choice of means of transport, including cycling, proximity to public transport facilities and walking and concludes that the site is highly accessible. With the additional infrastructure improvements proposed as part of this scheme, in the form of the Right turn lane into the site from Canal Road, and the proposed link into the Lamberts Lane cycleway from within this site.

The Transport Statement (TS) confirms that the development peak hour two way flows even in the busiest hour of the day would be around 30 vehicles. This equates to one additional two way trip every two minutes even at the busiest period of the day. This level of traffic is considered as imperceptible within the context of the traffic flow to this site.

The existing road layouts were originally designed to enable further development to take place and both Goldfinch and Kestrel Close comprise highways of 5.5m width with 2m pavements. As such there are no design or capacity reasons why 40 units cannot take place in either capacity or safety terms. The junction with Canal Road is of a reasonable standard and provides adequate visibility to meet standards.

The most common concern expressed within the comments received as part of the neighbour consultation process is whether Canal Road can accommodate any further development feeding onto it, having specific concern about the safety of the pedestrian environment on Canal Road. Much comment is made about existing deficiencies in the pavement width outside Burns Garage, referred to as a pinch point. The Strategic Highways Manager accepts these points but concludes that these are existing deficiencies to which this proposal would not make any worse.

It should also be noted that the applicant has offered to undertake a number of improvements within Canal Road, such as a pedestrian refuge within the right turn lane into the site and another pedestrian refuge on High Street, the Provision of formal kerbed 'build-outs' to improve pedestrian safety.

Canal Road is a major road within Congleton that not only links with Leek Road at the A527 but serves an existing mixture of both residential and commercial development. Whilst, there are points on Canal Road where the footways are narrow these are existing deficiencies in the existing road infrastructure and it has to be considered whether this development (either in isolation or conjunction with the other application submitted on the Agenda by the same Applicant) have such impact that it warrants refusal of permission.

The site can be accessed by foot and also by public transport and is not far from Congleton town centre and the location is well within national guidance distances for accessing non car mode services. The Highways Manager concludes that the site is located in a sustainable location.

The Strategic Highways Manager has considered the Transport Statement submitted with the application and considered the objections raised by respondents very carefully and reached the conclusion that the level of traffic generation which could be attributable to up to 40 additional dwellings does not produce a level of trips that can be considered material given the background traffic flows. Although it is accepted that Canal Road is busy especially as it enters the town centre, no over-capacity issues arise as a direct result of this application (either when considered in isolation or in conjunction with the Applicant's other planning application for a similar development on this Agenda).

The applicant however, having noted the concern of the Town Council in this regard, has submitted a scheme to change the priority at the junction with the High Street that gives northbound traffic on Albert Place priority thereby reducing any queuing travelling north into the town centre.

The Highways Engineer acknowledges that there are sections of footway that are narrow on Canal Road. It is his view that these cannot be widening as the carriageway width in that section of road would be compromised as would the Conservation Area. However, there is a minimal footway width available and this does allow pedestrians to walk without needing to use the carriageway, whilst this situation is not ideal, in the light of the guidance within Para 32 of the NPPF about only refusing development on highways grounds where the cumulative impacts are severe, the Highways manager could not recommendation refusal on this issue.

Overall, with the improvements put forward by the Applicant to Canal Road, which includes the provision of a pedestrian refuge in the right turn lane at the main site access with Canal Road would be an improvement to the existing situation for people living on this estate.

The Applicant's Highways Consultants has put forward a number of suggested alterations to the High Street which do not tie in with the Congleton Public Realm Strategy. In many respects the mitigation as put forward is highly engineered and fails to address the Public Realm in a sympathetic manner, however, a S106 commuted sum payment of £750 per dwelling (to a maximum of £30000) has been put forward by the Applicant as mitigation for the town centre impacts. This is offered as a Public Realm Contribution and is reasonably related to the development and is acceptable to the Highways Engineer.

Flood Risk and Drainage

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. The submitted Flood Risk assessment (FRA) models the risk of flooding from the site as being very low (1 in 1000 years) and concludes that the risk posed to the site of flooding is very low.

Upstream sewers are located on the adjacent estate road, which appear to have been designed to accommodate further flows from this site in conjunction with foul flows in the separate foul sewer.

In terms of surface water drainage the FRA identifies Sustainable Drainage Options (SUDS) will be used and that the detailed design of this would be agreed at the detailed design stage in consultation with the Environment Agency and the Local Planning Authority.

The Environment Agency have been consulted as part of this application and have raised no objection to the proposed development. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

Layout and design

The landscape of the area is considered to be the priority consideration in the overall design of this site. The site slopes away from the higher levels at goldfinch Close and Kestrel Close. Four areas of open space are provided indicatively which could be enhanced in the end layout to address other issues such as ecology.

Scale parameters are submitted with zones of 2 storey dwellings immediately adjacent to the existing residential estate in Kesrel Close and Goldfinch Close , with a further zone, interspersed with areas of Public Open Space, of up to 2 and a half storeys as the site falls away.

Although layout, external appearance and design are also reserved matters and the proposal seeks permission for up to 40 units, it is considered that an appropriate design and layout can be achieved whilst ensuring that the landscape is the primary influence. The existing design of the residential estate to the immediate north of the site is not considered to be the benchmark for this development.

Amenity

The Environmental Health Officer has requested a condition in relation to noise during construction, pile driving and contaminated land. These conditions will be attached to the planning permission.

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 up to 40 dwellings could reasonably 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 could be accommodated in amenity terms and would comply with the requirements of Policy GR1 of the Local Plan.

Landscape Impact and trees/hedgerows

The site is currently unused agricultural land located immediately adjacent to a residential area. An overgrown mound of spoil left over from the previous housing development adjoins the residential boundary. There are well established hedgerows and tree belts to several of the boundaries. A number of mature hedgerows and trees are located around the periphery of the site. The land falls away 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.

There are no landscape designations on the application site. Within the Cheshire Landscape Character Assessment the application site is located on the boundary of the Lower Farms and Woods landscape, specifically the Brereton Heath Area.

Although the site displays some of the characteristics of the Brereton Heath Character Area, the character of the site is significantly influenced by the existing development of housing along the entire eastern boundary. The topography of the application site generally falls from east to west, towards The Howty, apart from a bund located along the north east boundary of the site.

The site has a network of existing hedgerows and trees and although is agricultural land, has clearly not been managed for a period of time, nevertheless the existing vegetation and trees provide an attractive setting and significant screen to the periphery of the site, particularly from Lamberts Lane. The site is strongly influenced by the existing boundary hedgerows and trees, so that visually the site is very well self contained with a Landscape Zone of Visual Influence that is limited to the existing surrounding boundaries and residential properties to the east of the site.

The Congleton Borough Council (Canal Road, Congleton) Tree Preservation Order 1986 affords protection to a number of selected Oak and Sycamore trees within existing field hedgerow boundary enclosures.

There are seven protected trees within and immediately adjacent to the application site (assessed as A and B moderate high category trees) in addition to a number of other unprotected trees and hedgerows.

The indicative site layout illustrates three of these protected trees (two Oak and a Sycamore) to be located within formal public open space which is to be welcomed. It would appear that the internal road infrastructure as illustrated generally respects root protection areas of retained trees.

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 and important trees (other than to accommodate the main access points) 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.

Ecology

The application has been the subject of a number of series for European protected species and other protected species such as the badger. The surveys have been updated as part of the application consideration in accordance with the requirements of the Councils Ecologist.

It is the Councils Ecologists advice that;

Bats

No evidence of roosting bats was recorded during the submitted survey and bat activity on site appears to be low. The Council's ecologist therefore considers that the proposed development is unlikely to have a significant adverse impact upon bats. However, any reserved matters application should aim to retain the existing trees and hedgerows to preserve the available bat habitat.

A number of trees have been identified within the submitted survey as offering potential roosting opportunities for bats. The Council's Ecologist has commented that a number of trees have been identified as offering potential roosting opportunities for bats. It appears from the indicative site layout that these trees will be retained within small areas of open space. A condition requiring the retention of these trees is appropriate.

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.

Habitats

The site also exhibits features that are considered as Biodiversity Action Plan Priority habitats and hence a material consideration. These include hedgerows, badger habitat and breeding birds.

The impacts of the indicative layout of the proposed development upon the badger are significant so that a 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 ecological information and mitigation. 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 should that be deemed necessary.

The proposed development site is likely to support breeding birds as well as provide badger habitat. The retention of the hedgerows within the proposed areas of open space (as ecological enhancement) will mitigate the impact of the development on breeding birds and badgers to some extent. If planning consent is granted, the Council's Ecologist advises that conditions be imposed to retain an ecological buffer to the western boundary of the site.

Education Infrastructure

In terms of primary schools, there are 9 primary schools within the 2 mile distance considered by the Council to be capable of serving this development. Whilst there is currently some capacity in these local schools, by 2015 the Council is expecting there to be 26 more pupils than places available at these schools. In light of this the will require a sum for every primary aged pupil generated of $6 \times 11,919 \times 0.91 =$ towards primary provision. This development, if fully developed up to the maximum 40 units a proposed would generate an additional pupil yield of 6 pupils.

As there is a capacity issue at the local primary schools, the education department have requested a contribution of £65,078 towards enhancing the capacity, based on the maximum development as applied for. This has been agreed by the applicant and would form part of the S106 Agreement should this application

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

Renewable Energy

The Applicant has submitted a Sustainability Statement in support of the application, which amongst other things, makes a commitment to develop a scheme which exceeds the requirements of the Building Regulations with respect to energy efficiency. It is also considered that the physical characteristics of the site is that buildings can be arranged within the site to maximise solar efficiency and to achieve a development that allows for a choice of means of transport to be used by future occupiers.

However, it is a requirement within RSS Policy EM17 for all development to incorporate on-site renewable energy technologies. As this application is in outline form with all matters reserved except for access, no details of renewable energy proposals have been submitted. Accordingly, it is necessary to impose a condition to require a renewable energy scheme to be submitted at the Reserved Matters stage, and subsequently implemented

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 school places at the primary schools within the catchment area which have very limited spare capacity. In order to increase capacity of the schools which would support the proposed development, a contribution towards primary school education is required based upon the maximum units applied for. This is considered to be necessary and fair and reasonable in relation to the development.

The contribution of £30,000 to the Public realm Strategy will mitigate for the impacts of the additional traffic using the local highway infrastructure in the town centre.

As explained within the main report, affordable housing, POS and children's play space would help to make the development sustainable and is a requirement of the Interim Planning Policy, local plan policies and the NPPF. It is directly related to the development and is fair and reasonable.

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 be an important benefit – and this application achieves this in the context of a smaller, non strategic land release attached to an existing estate.

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 will be required to provide for highway works to improve the pedestrian environment on Canal Road/Canal Street

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 no significant failure to meet these and all such facilities are accessible to the site. The improvements to the Canal Road pedestrian environment will encourage more walking. The development is therefore deemed to be sustainable.

Whilst the proposal will result in the loss of some grade 3a agricultural land, this is not a significant part of the site and the site is main 3b land 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. Much of the sites identified within the SHLAA would also result in the loss of the better grades of agricultural 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.

In a negative sense, however, 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 given the impact upon the area of the existing housing development will to some extent be screened by the existing topography of the site and the rather than a large scale intrusion into the open countryside, this remains an important adverse impact.

Overall, it is considered that the adverse impacts of the development – in terms of conflict with the development plan Countryside policy and the loss of agricultural land are outweighed by the benefits of the proposal in terms of residential provision and the provision of 30% of the units as affordable housing. 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.

9. RECOMMENDATION

APPROVE subject to a Section 106 Legal Agreement to Secure:

- Amenity green space contribution for on site provision:

Maintenance: £ 11,352.00

Children and Young Persons Provision,

Enhanced Provision: £ 8,790.72
Maintenance: £ 28, 656.00

- Education Contribution in lieu of primary provision of £65,078 (based on 40 units)
- 12 affordable units in total (or 30% of total), split as (65%) or 8 units for social or affordable rent and 35% or 4 for intermediate tenure
- Contribution to Public realm Strategy (£30000)

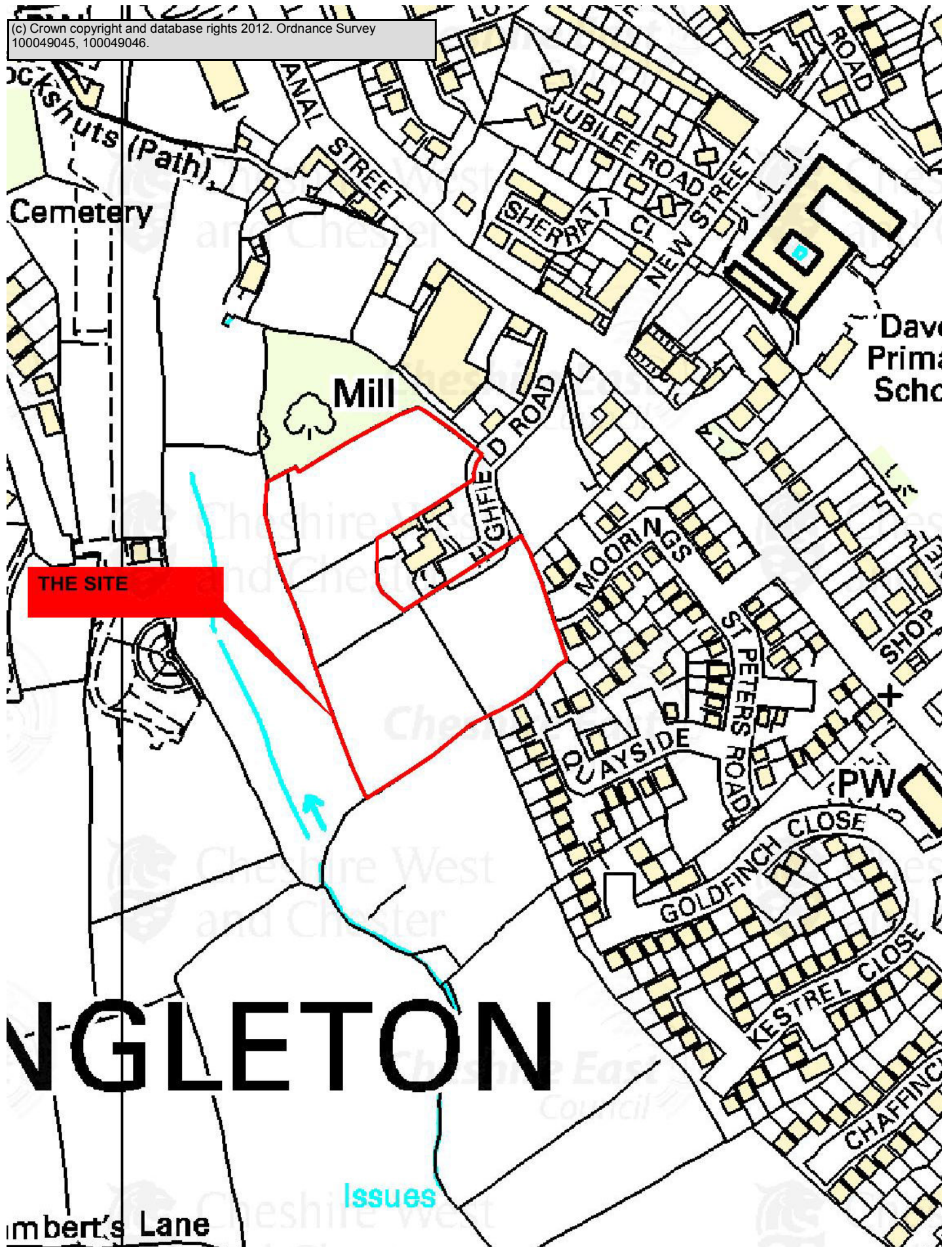
And the following conditions

1. Commencement – within 1 years of reserved matters
2. Submission of reserved matters (all matter other than access) within 18 months or 12 months after the last reserved matter (whichever is later)
3. Plans
4. Tree and hedgerow protection measures
5. Arboricultural Method statement
6. Landscape maintenance and management
7. Boundary treatment to be submitted with reserved matters
8. Breeding Bird Survey for works in nesting season
9. Bats and bird boxes
10. Provision and management of at least a 5 metre wide buffer zone alongside the stream
11. Updated protected species survey and method statement prior to commencement
12. Submission of a scheme to limit the overland flow generated by the proposed development,
13. 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.
14. Submission of a scheme of Sustainable Urban Drainage
15. 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.
16. This site to be drained on a total separate system, with only foul drainage connected into the public foul sewerage system.
17. The reserved matters application submitted pursuant to this outline planning permission shall provide a feasibility study, framework and schedule to improve pedestrian and cycling links between the site and Lamberts Lane

18. 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
19. 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
20. Submission of scheme to minimise dust emissions arising from construction activities on the site
21. Submission of a Contaminated Land Phase II investigation.
22. Submission of Construction Management Plan
23. Reserved Matters to include details of bin storage.
24. Reserved matters to include 10% renewables
25. Landscaping to include replacement hedge planting/ use native species
26. Arboricultural Impact Assessment and Tree Protection Plan to form part of the reserved matters
27. Implementation of a programme of archaeological work in accordance with a written scheme of investigation
28. Reserved matters to incorporate existing and proposed levels and boundary treatments
29. Reserved matters to including design coding as per the Design and Access statement
30. Pedestrian refuge Canal Rd to be provided prior to 1st occupation
31. Any reserved matters application to be supported by a Badger Mitigation Strategy. The strategy to include detailed proposals for the provision and location of an artificial sett and appropriate linking habitat provision to ensure the sett has appropriate habitat links to the adjacent open countryside. The strategy is to be informed by the results of a further detailed badger survey which includes a bait marking study.

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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STRATEGIC PLANNING BOARD – 5/11/ 2012

UPDATE TO AGENDA

APPLICATION NO: 12/3025C

LOCATION: LAND AT KESTREL DRIVE AND GOLDFINCH CLOSE

UPDATE PREPARED 3 DECEMBER 2012

PROCEDURAL

In the period between the SPB Agenda being published and this update being prepared, the applicants have appealed against non-determination of this application. In such cases the matter is now taken out of the hands of the Local Planning Authority and the determination is made by the Secretary of State.

LOCATION PLAN

It is noted that the incorrect location plan is attached to the Committee report. A corrected site location plan is attached.

APPLICANTS FURTHER INFORMATION

The Applicant wishes to confirm that they accept the provision of affordable housing by S106 Agreement rather than condition and have provided Heads of Terms to this effect.

The Applicant wishes to confirm the extent of Grade A agricultural land is 0.71ha and not the 1.1ha reported in the Committee report

RECOMMENDATION

The recommendation is amended to 'minded to approve subject to the satisfactory completion of a S106 Agreement'

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CHESHIRE EAST COUNCIL**STRATEGIC PLANNING BOARD**

Date of meeting: 22 May 2013
Report of: Steve Irvine – Development Management and Building Control Manager
Title: Forthcoming Appeal concerning application 12/3028C, Land at The Moorings, Congleton - material changes since Board's 'Minded to approve' resolution on 5 December 2012 which require Board's further consideration during the life of the ongoing Appeal to enable Officer's to put forward the Council's current position to the forthcoming planning appeal.

1.0 Purpose of Report

- 1.1 To appraise Members of the implications for the two forthcoming appeals having regard to the publication and adoption of the Development Strategy on 6 December 2012 and the 2012 SHLAA on 11 February 2013. This report concerns one of the sites.
- 1.2 The Appeals are presently proceeding on the basis of a Public Inquiry on a date yet to be confirmed.

2.0 Decision Required

- 2.1 To authorise Officers to contest the forthcoming planning appeal in respect of the site at The Moorings, Congleton, as set out in the recommendation below.

3.0 Background

- 3.1 Members will recall that two outline planning applications for up to 40 dwellings per site with associated open space and infrastructure were submitted in August 2012. Both applications applied for their respective accesses but all other matters were reserved for future consideration.
- 3.2 The Officers recommendation was one of 'Approve subject to S106 and conditions', in the main, on the basis that at the time the Council was unable to demonstrate a 5 year housing land supply. However, this was subsequently amended to one of being 'Minded to Approve subject to S106 and conditions' in the light of the fact that the Applicant had lodged an appeal with the Planning Inspectorate. This transferred the decision making

ability on the application to the Planning Inspectorate. Members subsequently resolved to accept the Officers recommendation and not to contest the Appeals.

- 3.3 Since 5 December 2012, there have been a number of changes in the Council's policy position with regard to the Housing Land Supply as well as the publication and adoption of both the emerging Development Strategy and the most recent SHLAA (2012) which have significant implications for forthcoming appeals. In this case the appeal is presently being contested in the light of the Committee resolution on 5 December 2012 of being 'Minded to Approve' the application.
- 3.4 Leading Counsel has advised that the changes in the Housing Land Supply as expressed in the 2012 SHLAA is a material change in circumstances which requires a fresh consideration of the case by the Committee. However, it is important to remember that this is not an opportunity to revisit other issues which have previously been deemed acceptable. Consequently, this assessment considers material changes in housing land supply policy only.

Housing Land Supply

- 3.5 It is considered that the most up-to-date information about housing land supply in Cheshire East is contained within the emerging Strategic Housing Land Availability Assessment (SHLAA) February 2013. The SHLAA has put forward a figure of 7.15 years housing land supply. This document was considered by the Strategic Planning Board on 8th February and the Portfolio Holder on 11th February 2013.
- 3.6 The Council's housing policy position is constantly moving with new advice, evidence and case law emerging all the time. However, the Decision Maker (the Inspector) has a duty to consider applications on the basis of the information that was pertinent at determination time. By virtue of the fact that the Appeal is still ongoing and a decision has yet to be reached, this application has yet to be determined by the Inspector. It is therefore appropriate that the Strategic Planning Board consider the position that it takes at the forthcoming Appeal in the light of the changed circumstances. Consequently, it is recommended that the application be reconsidered in the context of the 2013 SHLAA.
- 3.7 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 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 years.

3.8 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.”

3.9 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.”*

3.10 However, given that Cheshire East can now demonstrate a five year supply of housing land, it is considered that policies H6 and PS8 which protect Open Countryside are not out of date and the provisions of paragraphs 49 and 14 no longer apply in this case.

3.11 The Cheshire East Development Strategy was approved by Strategic Planning Board on 6 December 2012 and Cabinet for consultation until 26 February 2013. It is a material consideration which directs additional housing in Congleton to 4 strategic sites:

- Back Lane and Radnor Park
- Congleton Business Park Extension
- Giantswood Lane to Manchester Road
- Manchester Road to Macclesfield Road

3.12 The NPPF consistently underlines the importance of plan led development. In the recent Secretary of State decision in Doncaster MBC (APP/R0660/A/12/2173294 refers), it was found that a development was to be premature even though the Development Plan was still under preparation. Important to this decision was the finding that a five year supply of housing land was available. There is nothing in national guidance

to suggest prematurity and housing supply should be linked in this way, and logic might question how the two are interlinked, but this factor was evidently influential in this case. Given that the Council now has a 5 year supply of housing, it is considered that a pre-maturity case can now be defended in this case.

Conclusion – Housing land Supply

- 3.13 The site is within the Open Countryside where under Policy PS8 and H6 there is a presumption against new residential development. The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies are out of date and there is a presumption in favour of development 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.

- 3.14 The 2013 SHLAA shows that the Borough has an identified deliverable housing supply of 7.15 years and therefore the automatic presumption in favour of the proposals does not apply in this case.
- 3.15 The appeal proposal does not accord with the emerging Development Strategy on open countryside and loss of agricultural land grounds. Previous Appeal decisions have given credence to such arguments where authorities can demonstrate a five year supply of housing land. On the basis of this material change in circumstances it is recommended that the Council **changes its stance** in respect of the forthcoming Appeal from one of being “minded to approve” to being “**minded to refuse**”.

Loss of Agricultural Land

- 3.16 In the original consideration of this application, it was resolved that the lack of a 5 year supply of housing outweighed the loss of the Grade 3a agricultural land present on the site. Appeal decisions, both locally and nationally, have considered the loss of best and most versatile agricultural land but have shown the lack of a 5 year housing land supply would outweigh the loss of agricultural land on the Appeal sites. Therefore it was not considered that a reason for refusal could be sustained on these grounds.

- 3.17 The Appeal decisions for Loachbrook Farm and Abbeyfields amongst others make it clear that, in situations where authorities have been unable to demonstrate a 5 year supply of housing, the need for housing land has been accepted by Inspectors as outweighing the loss of agricultural land in the planning balance.
- 3.18 However, given that Cheshire East has a 7.15 year supply of housing, it is considered that this argument does not apply in either of these sites and that the loss of the agricultural land contributes to the un-sustainability of the proposal by using open countryside when there is no necessity in housing land supply terms to use that land for that purpose.

Conclusion

- 3.19 Since this application was brought before Strategic Planning Board on 5 December 2012, there has been a material change in circumstances as a result of the publication of the 2012 SHLAA, which demonstrates a 7.15 year supply of housing land.
- 3.20 On this basis, the provisions of paragraphs 14 and 49 of the NPPF no longer apply and consequently, it is recommended that Board amend its previous resolution to be one of '**minded to refuse**' on the basis that the proposal is contrary to open countryside policy and housing policies.
- 3.21 Furthermore, Appeal decisions both locally and nationally have made it clear that in situations where authorities have been unable to demonstrate a 5 year supply of housing, the need for housing land outweighs the loss of agricultural land.
- 3.22 However, given that Cheshire East has a 7.15 year supply of housing it is considered that this argument does not apply and that the loss of the agricultural land contributes to the un-sustainability of using open countryside for housing purposes when there is no necessity in housing land supply terms to use the land for that purpose.

4.0 Proposed Recommendation

- 4.1 In the light of the above, it is recommended that the 'Minded to Approve' recommendations in respect application 12/3028c be changed to one of being '**Minded to refuse**' and Officers be authorised to contest the forthcoming Public Inquiry on the basis of the following;

The proposal would be located within the Open Countryside, contrary to Policies PS8 and H6 of the Congleton Borough Adopted Local Plan First Review 2005, which seek to ensure that only appropriate development in a rural area is allowed and the core principles of the NPPF which seek to protect the intrinsic character and beauty of the countryside. Moreover, the proposal would also result in a loss of Grade 3a Agricultural Land, contrary to Policy PS8 and H6 of the Congleton Borough Adopted Local Plan First Review 2005, which seek to protect such land from inappropriate use and ensure an adequate supply of agricultural land.

The Local Planning Authority can demonstrate a five year land supply of housing, in accordance with the requirements of the NPPF. Consequently, the Development Plan is up to date and there are no material circumstances to indicate that permission should be granted contrary to the Development Plan. As such the proposal is an unsustainable form of development, contrary to the 'golden thread' of the NPPF

5 Financial Implications

- 5.1 There is a danger that the Appellant will seek costs in respect of any new evidence which the Council seek to introduce at the Planning Appeal if it is unreasonable.
- 5.2 It is not considered that the change in the Housing Land Supply position during the life of this appeal can be regarded as being unreasonable given that it is a matter to which the Decision Maker must have regard to in determining the appeal.

6 Legal Implications

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

7 Risk Assessment

- 7.1 There are no risks associated with this decision.

8 Reasons for Recommendation

- 8.1 To allow the Council to contest the forthcoming appeal in respect of this application.

For further information:

Portfolio Holder: Councillor Les Gilbert
Officer: Susan Orrell – Principal Planning Officer
Tel No: 01625 383702
Email: sue.orrell@cheshireeast.gov.uk

Background Documents:

- *Application 12/3028c . and Committee Update Report*

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APPENDIX ONE

Application No: 12/3028C

Location: LAND OFF, THE MOORINGS, CONGLETON

Proposal: ERECTION OF UP TO 40 DWELLINGS, OPEN SPACE, ASSOCIATED LANDSCAPING, INFRASTRUCTURE, ACCESS AND DEMOLITION OF PORTAL SHED

Applicant: Michael Johnson, Seddon Homes Limited

Expiry Date: 09-Nov-2012

SUMMARY RECOMMENDATION

APPROVE subject to Section 106 Agreement and Conditions

MAIN ISSUES

**Planning Policy And Housing Land Supply
Sustainability
Affordable Housing,
Impact on Good Quality Agricultural land
Highway Safety And Traffic Generation.
Flood risk and drainage
Layout and design
Amenity
Landscape Impact and Hedge and Tree Matters
Ecology
Education Infrastructure
Renewable Energy**

REFERRAL

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

Another application (12/3025C) for up to 40 dwellings submitted by the same Applicant for a nearby site at Kestrel Close and Goldfinch Close Congleton is reported elsewhere on this Agenda.

SITE DESCRIPTION

The application site is some 1.74 hectares of land to the west of The Moorings, Congleton and to the west of Highfield Road, Congleton with all matters other than access reserved for future determination.

The application site is surrounded by open countryside to the south and west and by residential properties to the east, with the Moorings forming a cul de sac adjacent to the eastern boundary of the site and existing dwellings with Quayside forming the boundary to the south east of the site. Both roads lead to Canal Road further to the east. Dense mature woodland abuts the northern boundary of the site. The site is in agricultural land use for grazing (sheep). There are distinct levels difference within the site with the land sloping upwards away from the Moorings has a undulating character and a central depression. Land levels further fall away from the site towards the cemetery in the wider distance. The site has a network of existing hedgerows and trees to the perimeter which provide an attractive setting and the site is strongly influenced by these characteristics.

DETAILS OF PROPOSAL

Outline planning permission is sought for the erection of up to 40 dwellings with open space and associated infrastructure. Approval is also sought for the means of access from the existing housing estate via The Moorings. All other matters, including appearance, landscaping, layout and scale are reserved for a subsequent application.

RELEVANT PLANNING HISTORY

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

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

Of the remaining saved Cheshire Structure Plan policies, only policy T7: Parking is of relevance.

Cheshire Replacement Waste Local Plan (Adopted 2007)

Policy 10 (Minimising Waste during construction and development)
Policy 11 (Development and waste recycling)

Regional Spatial Strategy

DP4 Make best use of resources and infrastructure
DP5 Managing travel demand
DP7 Promote environmental quality
DP9 Reduce emissions and adapt to climate change
RDF1 Spatial Priorities
L4 Regional Housing Provision
EM1 Integrated Enhancement and Protection of the Region's Environmental Assets
EM3 Green Infrastructure
EM18 Decentralised Energy Supply
MCR3 Southern Part of the Manchester City Region

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 Regional Development Agency Sustainability Checklist

OBSERVATIONS OF CONSULTEES

Western Power (Infrastructure)

A 33kV High Voltage overhead line crossing the site to the north of Highfield House. It is likely that this will need to be diverted.

Environment Agency

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

- No development shall commence until a scheme to limit the surface water run-off generated by the proposed development, has been submitted to and approved
- 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

United Utilities

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

- This site must be drained on a separate system in accordance with the Flood Risk Assessment
- Access for operating and maintaining a 6" PVC water main which crosses the site will need to be retained . Therefore, a modification of the (indicative) site layout, or diversion of the main at the applicant's expense, will be necessary.

County Archeologist :

No objection subject to condition that the site should be subject to a scheme of archaeological mitigation. This should consist of a programme of supervised metal detecting across the rest of the area to identify and record any artefacts present. If particular concentrations of material are located, more intensive work may be required at these specific localities. If only a general spread of artefacts is located, no further fieldwork is likely to be required. A report on the work will need to be produced and the mitigation may be secured by the condition given below:

Public Right of Way (Countryside Development Officer)

Proposed development may present an opportunity to improve walking and cycling facilities in the area for both travel and leisure purposes.

To the south of the site is public bridleway No. 1, known as Lambert's Lane. This public right of way is an important resource for travel and leisure and it is noted the proposal refers to the creation of a future link to Lamberts Lane. This is supported in principle

3 points arise:-

- Any proposal for housing could benefit in terms of permeability, accessibility and therefore sustainability were it to have a pedestrian and cyclist access onto public bridleway No. 1. The public bridleway is a key link route east –west for non-motorised users, connecting the canal towpath and railway station amongst other facilities and avoiding the town centre roads. Encouraging non-motorised travel is captured within the policies of the Local Transport Plan and Rights of Way Improvement Plan.

- The public bridleway forms part of the Congleton Southern fringes project which enhanced and promoted the network of public rights of way for leisure purposes: research for the statutory Rights of Way Improvement Plan has shown that residents want local circular walks. A link from the proposed development sites to the public rights of way network would offer this opportunity. Encouraging active leisure activities such as walking and cycling is captured within the policies of the Local Transport Plan, Rights of Way Improvement Plan and Ambition for All.
- The public bridleway No. 1 is in need of some drainage improvement works in order to ensure year round access for all for the predicted future usage. Contributions from any development at this site would be a key part in enabling proposed residents to access the public rights of way network in the area.

Amenity Greenspace

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 Amenity Greenspace to meet the future needs arising from the development. Some areas of Open Space (formal and informal) are indicatively illustrated within the application. These should be a minimum of 960m² in area in accordance with the Interim Policy Note on Public Open Space.

Based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

Maintenance:	£ 11, 352.00 (for 960m ²)
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Children and Young Persons Provision

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. Whilst there is a requirement for new open space, the existing facilities within the vicinity of the development are substandard in quality including a poor range of facilities for the needs of the local community. An opportunity has arisen for upgrading of an existing facility at Townsend Road.

Given that an opportunity has been identified for upgrading the capacity and quality of Children and Young Persons Provision, based on the Council's Guidance Note on its Draft Interim Policy Note on Public Open Space Requirements for New Residential Development the financial contributions sought from the developer would be;

Enhanced Provision:	£ 8,790.72
Maintenance:	£ 28, 656.00

Strategic Highways Manager

The traffic impact of this proposal does not constitute a major development impact and the site is sustainably located. There are sections of footway that are narrow on Canal Road and these cannot be widening as the carriageway width in that section of road would be compromised. However, there is a minimal footway width available and this does allow pedestrians to walk without needing to use the carriageway.

No objections are raised subject to conditions. The creation of a right turn lane and pedestrian refuge on Canal Road into the estate as recommended in the Transport Statement is accepted. A condition is suggested The Developer, in seeking to mitigate impacts upon the highway network as a result of additional movements closer to the town centre attributable to this development has undertaken to provide a financial contribution as a contribution to a scheme of improvements as part of the Congleton Urban Realm Strategy. This has been put forward being £750 per unit. If the 40 units as applied for were to be developed this would equate to £30,000.

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.
- No development shall take place until a scheme to minimise dust emissions arising from construction activities on the site has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of all dust suppression measures and the methods to monitor emissions of dust arising from the development. The construction phase shall be implemented in accordance with the approved scheme, with the

approved dust suppression measures being maintained fully functional for the duration of the construction phase.

Education

- There are 9 primary schools within the 2 mile distance considered by the Council to be within the catchment. Education department information indicates that whilst there is currently some capacity in these local schools, by 2015 the Council is expecting there to be 26 more pupils than places available at these schools.
- The proposal will have a material impact upon education provision in the locality. In the primary sector this will result in a need for provision for 6 additional pupils.

The contribution being sought for primary provision is $6 \times 11,919 \times 0.91 = \text{£65,078}$

Within the Secondary sector the proposal will generate 5 Secondary Aged pupils. Education Department calculations indicate that there will be sufficient capacity in the local secondary school to accommodate the secondary aged pupils which will be generated.

Ecology

No evidence of roosting barn owls has been recorded at any of the trees around the site and no owls have been recorded during the various surveys undertaken. Therefore I advise that based on the information currently available the proposed developments are unlikely to have a significant impact upon barn owls.

Updated Ecological Surveys have been submitted during the course of the application. The Ecologist has considered the further information and raised no objection subject to conditions.

VIEWS OF THE PARISH / TOWN COUNCIL

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

- Long term traffic issues created by an estimated extra 320 vehicle journeys entering and leaving the estate on a daily basis. The entrance to the estate next to the Wellspring church can already be inaccessible at times due to hospital workers parking on one side.
- Increased traffic volume on Canal Street. This road is not suitable for heavier traffic flow due to its two narrower road sections heading towards the town centre creating pinch points.
- Concern at safety of pedestrians on Canal Road due to the extremely narrow pavement alongside Burns Garage and the likelihood of more accidents occurring.
- Impact on flora, fauna and wildlife in the area

OTHER REPRESENTATIONS

112 Letters and emails of objection have been received, full copies of which can be seen on the application file, many of these comments have also been applied by the same respondent to application 12/3025C, although some are specific to this application. The following points are made:

Principle

- Loss of green field
- Loss of grade 3 agricultural land
- The houses are not needed. Many empty houses which need to be filled first
- Hundreds of houses are for sale, there is no need for more
- People are struggling to sell houses/get mortgages in the current economic climate
- Any shortfall can be met by the Brownfield sites
- East Cheshire should not be bullied into speculative development by ill thought out government targets
- Needs of the elderly should be the priority, not executive homes
- Development site 'F' (Congleton Town Strategy) is a Low Priority Development Area. Areas A-E in the Strategy should be developed first and F should be released after these areas have been developed. The sites closer to that proposed link road would be more suitable for development.
- New dwellings in Congleton would be better placed in the northern sections of the town – where the Congleton Strategy seeks to direct growth together with the proposed bypass
- Not in line with the interim policy on the release of housing land
- The site is not as sustainable as the Application suggests
- Why should residents be punished for the lack of a local plan being in place
- This planning application is developer-led. It lacks the management and co-ordination that plan-led developments would offer and which are needed for Congleton's growth.

Highways

- Both Seddons applications are too large to be supported by the road network without a massive investment in infrastructure. All recent developments filter onto Canal Road. This will worsen an already bad situation
- The developments that have been approved in the area and this application will result in 200,000 traffic movements on Canal Road
- 71 dwellings have been developed in the local area – all using Canal Road
- The footpath on Canal Road has pinch points where it is already very narrow and difficult for pedestrians, especially those with pushchairs, wheelchairs – the added traffic will worsen this
- Existing visibility from the Moorings to Canal Road is inadequate
- Increase in traffic on Canal Road
- No further developments should not take place until Canal Road/Canal Street are brought up to modern traffic and pedestrian requirements.

- Pedestrian safety on Canal Road. Pedestrians have already been hit by passing vehicles wing mirror due to lack of pavement width and any increase in traffic will add to the congestion
- Pedestrian safety within the existing estate will be compromised by the additional traffic generated
- Construction traffic will have to enter and exit from the town centre thereby creating more traffic problems for an extended period of time.
- The site is in the wrong position for future growth

Infrastructure

- Schools can not cope
- There is no employment in the Town and residents will work elsewhere
- Increase in demand on drainage and sewage infrastructure in an area which has had problems with such issues in the past
- Increased surface water run off could lead to town centre flooding

Loss of Open Countryside

- Loss of countryside view
- The land should be protected for future generations, once built upon it would be lost forever.
- Valuable green finger into the centre of Congleton
- Impact on protected trees and removal of hedgerows

Amenity

- The development would have a negative impact on the quality of life of the existing populations
- Overlooking from new houses to existing houses
- Quality of life will be severely affected during construction
- Impact of scheme on landscape character has not been adequately assessed by the Applicant

Ecology

- The area is rich in ecology and protected species and other species such as frogs/toads/pheasants and partridges which are not protected but this area forms their habitat
- There are bats, barn owls, buzzards, badgers, foxes, Pipistrelle Bats and nesting birds which are all protected.
- Great crested newts are known to be within the general area . they could well be living in these fields as well. The Council should investigate this possibility.
-
- The area has established protected trees and hedgerows. 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.

- The land is immediately adjacent to the Congleton wildlife corridor and increasing housing in this area will have a devastating effect on that population

Drainage and Flooding

The has been serious flooding down Canal Road in the past. How can the system cope with the addition demands to be placed upon it?

Other matters

- Congleton War Memorial Hospital is not a full medical centre and is incorrectly assessed as part of the application
- Application Information is misleading

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 Heads Of Terms
- Agricultural Land Classification Assessment
- Affordable Housing Statement
- Planning Statement
- Ecological Surveys including confidential material pertaining to badgers, bat report, barn owl report
- Tree Survey
- Statement of Community Involvement

Copies of these documents can be viewed on the application file.

OFFICER APPRAISAL

Main Issues

Given that the application is submitted in outline form with only the access points being applied for, 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 and the sustainability of the location, affordable housing, highway safety and traffic generation, landscape impact, hedge and tree matters, ecology, amenity, open space and drainage.

Principle of Development.

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 these 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 23rd March 2011 the Minister for Decentralisation Greg Clark published a statement entitled ‘Planning for Growth’. On 15th 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) in March 2012.

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”.

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.

The SHLAA 2010, identifies the site as part of a larger site with capacity of up to 120 units, as a *“Greenfield site on edge of settlement, considered to be sustainably located”*. It also states that it is a suitable site, with policy change. In addition the site is also described as available, achievable and developable (in years 6-10 onwards).

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 as required by the NPPF is added, the Borough has an identified deliverable housing supply of 3.75 years. With respect to the housing supply within Congleton specifically, there has been a low number of completions in the town of 346 units in the last 5 years, which equates to 69 units per annum. There is also a low level of commitments – currently there are full planning permissions for 147 net dwellings. There are outline permissions for 13 net dwellings, and on sites under construction there are 243 net dwellings remaining. There are also 149 dwellings 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. 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.

In September 2012 Congleton Town Council approved the final version of the Congleton town Strategy. This advocated that priority should be given to developing sites on the north side of Congleton that would support and facilitate the northern link road. This application forms part of a wider site identified as having a potential housing development for circa 300 houses (Area F) during the preceding Town Strategy Consultation. However the stakeholder Panel identified that priority should be given to those sites (Areas A,B,C,D) that contribute to the delivery of the northern relief road.

Members should also be aware of the recent appeal decision at Loachbrook Farm Congleton. In this case the inspector gave significant weight to the lack of a 5-year housing land supply and approved the development for up to 200 dwellings. In the Inspectors view, the site which is within the open countryside and a departure from the Local Plan, would harm the character and appearance of the countryside and would result in the loss of the best and most versatile agricultural land. However, the Inspector found that these issues were outweighed by the need to secure a 5-year supply of deliverable housing land that would also contribute to providing affordable and low cost housing.

In terms of prematurity the Inspector found that it would not be premature or prejudice the development of other sites. However the Council is now challenging this decision via the high court and a decision on the case is still awaited. Equally decisions are awaited on appeals in Sandbach which also raise vital issues of prematurity.

In this case however a clear distinction can be drawn between those appeal proposals and the present application. Those applications relate to sites of a scale, nature and location such that they might be considered strategic development sites and thus could influence the future pattern of growth of a town. The same cannot be said of the current proposal, even when considered in conjunction with application 12/3025C, (reported elsewhere) which is much more modest in its scale, scope and impact.

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 site is considered to be available, suitable and achievable
- The Cuddington Appeal in Cheshire West and Chester plus others else where in the country indicate that significant weight can 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.”*

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 which form a much larger incursion of built development into the surrounding open countryside.

In the light of these decisions and the primacy of the NPPF in the light of the lack of a 5 year housing land supply, it is considered that a refusal of planning permission for this site on the housing land supply grounds would not be sustainable.

Location of the site

The site is part of a larger site which is considered to be sustainable by the SHLAA. To aid the assessment as to whether this site comprises sustainable development, 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. However, as stated previously, these are just guidelines and are not part of the development plan.

The toolkit sets maximum distances between the development and local amenities. These comprise of everyday services that a future inhabitant would call upon on a regular basis, these are:

- 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:

- post box (440m), Daven Road
- bank / cash point (720m) (High Street)
- primary school (400m), (Daven Primary School)
- Railway Station (1100m) (Congleton Station)
- public house (600m), Wharf Inn
- public park / village green (700m), Congleton Community Garden
- railway station (1400m).
- bus stop (400m) Canal; Road
- Public Open Space (250m) St Peters Road
- Pharmacy (850m) Park Lane
- local meeting place / community centre (350m), (Wellspring Methodist Church)
- medical centre (960m) Lawton House Surgery on Bromley Road
- post office (980m), Mill Street
- leisure facilities (1000m), Congleton Leisure Centre
- playground/amenity area 620m (Thames Close)

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. This is one such amenity :

- a local shop selling food or fresh groceries (810m) Canal Road

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.

Notwithstanding neighbours challenge to whether the War Memorial Hospital can be considered to be a medical centre, all of the services and amenities listed within the checklist are accommodated within the town centre and are accessible to the proposed development on foot via Canal Road and therefore it is considered that this small scale site is sustainable within the context of the Checklist Guidance.

Overall, it is concluded that the site is sustainably located and the presumption in favour of sustainable development in the light of Paragraph 49 of the NPPF should apply.

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.

Affordable Housing

The Affordable Housing IPS 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 rent, 35% intermediate tenure.

If the maximum number of 40 units as applied for were to be built on this site, this equates to a requirement of 12 affordable units in total on this site, split as 8 units for social or affordable rent and 4 for intermediate tenure.

The SHMA 2010 shows that for Congleton there is a net requirement for 33 new affordable units per year, this is made up of 7 x 1 beds, 3 x 3 beds, 13 x 4/5 beds and 15 x 1/2 bed older persons accommodation. The SHMA identified an over supply of 5 x 2 bed properties which is why their total net requirement is 33 new units per year.

In addition to this information taken from the SHMA 2010, Cheshire Homechoice is used as the choice based lettings method of allocating social rented accommodation across Cheshire East, there are currently 452 applicants on the housing register who require properties in Congleton or Congleton Town Centre, the number of bedrooms these applicants need are 175 x 1 beds, 142 x 2 beds, 70 x 3 beds and 6 x 4 beds. 59 applicants have not specified the number of bedrooms required. 109 of the applicants who require a 1 bed and 42 applicants who require a 2 bed have indicated they would consider a flat.

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 preference is that the affordable housing is secured by way of the Planning Inspectorates model condition on affordable housing. The Applicant cites the Loachbrook Farm decision as justification for this.

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 Council's 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”

Loss of Agricultural Land

The applicant has submitted an agricultural land classification study which concludes that the proposal would involve the loss of 0.4 hectares of Grade 3A land (25% of the site) whilst the remainder of the site comprises Grade 3B.

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.

These are where there is need for the development in the local plan, the development cannot be accommodated on land of lower agricultural quality and does not break up viable agricultural holdings

There is also guidance contained within the NPPF which states at paragraph 112 that:

‘Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality’

The area of high quality farmable land is not significant, measuring only 0.4 ha. At present, the site is used for sheep grazing by a tenant farmer, who will relocate to other agricultural land within the vicinity. Although the Applicant has been asked where this is to be, no further information has been received.

The remaining portion is of poorer quality. Due to its limited size and the existing site constraints separated from the larger open fields by mature trees and hedgerows, the cemetery and golf course and Lamberts Lane), it does not offer a significant contribution to the high quality agricultural land in the area.

Thus, whilst the proposal would result in the loss of a small quantity (0.4hect) of Grade 3A agricultural land, the loss would not be ‘significant’ and would not outweigh the benefits that would come from delivering this small scale development and assisting with the Council’s housing land supply situation helping to relive pressure on less sustainable and preferential Greenfield sites elsewhere.

The lack of a 5 year housing land supply would outweigh the loss of agricultural land on this site and a reason for refusal could not be sustained on these grounds. This is supported by a recent decision made by the Secretary of State at Bishop’s Cleeve, Gloucestershire where two developments (one of up to 450 homes and another of up to 550 dwellings) were approved outside the settlement boundary with one being located on the best and most versatile

agricultural land and the recent decision at Loachbrook Farm, Congleton which comprised a significantly larger development area (over 10 hectares) of Grade 2 and 3a land.

At Loachbrook Farm, the Inspector considered that the 3500 additional houses to be provided in Congleton by 2030, as indicated the emerging Core Strategy (as being the Councils preferred sites for future development) and categorised as being developable by the SHLAA involved a preponderance of the best quality agricultural land in the area. The Inspector concluded that the loss of the agricultural land carried neutral weight, given that other preferred sites would involve a similar loss of the best agricultural land around the Congleton area.

Highway Safety and Traffic Generation.

Access is being formally applied for with this application. This is to be via the existing highway network within the Moorings.

Policy GR9 states that proposals for development requiring access, servicing or parking facilities will only be permitted where a number of criteria are satisfied. These include adequate and safe provision for suitable access and egress by vehicles, pedestrians and other road users to a public highway.

Paragraph 32 of the National Planning Policy framework states that:-

'All developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment and that any plans or decisions should take into account the following;

- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
- safe and suitable access to the site can be achieved for all people; and
- improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development.
- Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

The Transport Statement considers the accessibility of the site in terms of a choice of means of transport, including cycling, proximity to public transport facilities and walking and concludes that the site is highly accessible. With the additional infrastructure improvements proposed as part of this scheme, in the form of the right turn lane into the site from Canal Road, and the proposed link into the Lamberts Lane cycleway from within this site.

The Transport Statement (TS) confirms that the development peak hour two way flows even in the busiest hour of the day would be around 30 vehicles. This equates to one additional two way trip every two minutes even at the busiest period of the day. This level of traffic is be considered as imperceptible within the context of the traffic flow to this site.

The existing road layouts were originally designed to enable further development to take place and the Moorings comprise highways of 5.5m width with 2m pavements. As such there are no design or capacity reasons why 40 units cannot take place in either highway capacity or safety terms. The junction with Canal Road is of a reasonable standard and provides adequate visibility to meet standards.

The most common concern expressed within the comments received as part of the neighbour consultation process is whether Canal Road can accommodate any further development feeding onto it, having specific concern about the safety of the pedestrian environment on Canal Road. Much comment is made about existing deficiencies in the pavement width outside Burns Garage, referred to as a pinch point. The Strategic Highways Manager accepts these points but concludes that these are existing deficiencies to which this proposal would not make any worse.

It should also be noted that the applicant has offered to undertake a number of improvements within Canal Road, such as a pedestrian refuge within the right turn lane into the site and another pedestrian refuge on High Street, the Provision of formal kerbed 'build-outs' to improve pedestrian safety.

Canal Road is a major road within Congleton that not only links with Leek Road at the A527 but serves an existing mixture of both residential and commercial development. Whilst, there are points on Canal where the footways are narrow these are deficiencies in the existing road infrastructure and it has to be considered whether these developments have such impact that it warrants objection. The sites can be accessed by foot and also by public transport and is not far from Congleton town centre and the location is well within national guidance distances for accessing non car mode services. The Highways Manager concludes that the site is located in a sustainable location.

The Strategic Highways Manager has considered the Transport Statement submitted with the application and considered the objections raised by respondents very carefully and reached the conclusion that the level of traffic generation which could be attributable to up to 40 additional dwellings does not produce a level of trips that can be considered material given the background traffic flows. Although it is accepted that Canal Road is busy especially as it enters the town centre, no over-capacity issues arise as a direct result of this application (either when considered in isolation or in conjunction with the Applicant's other planning application for a similar development on this Agenda).

The applicant however, having noted the concern of the Town Council in this regard, has submitted a scheme to change the priority at the junction with the High Street that gives northbound traffic on Albert Place priority thereby reducing any queuing travelling north into the town centre.

There are sections of footway that are narrow on Canal Road and these cannot be widening as the carriageway width in that section of road would be compromised as would the Conservation Area. However, there is a minimal footway width available and this does allow pedestrians to walk without needing to use the carriageway, whilst this situation is not ideal, in the light of the guidance within Para 32 of the NPPF about only refusing development on

highways grounds where the cumulative impacts are severe, the Highways manager could not recommendation refusal on this issue.

Overall, with the improvements put forward by the Applicant to Canal Road, which includes the provision of a pedestrian refuge in the right turn lane at the main site access with Canal Road would be an improvement to the existing situation for people living on this estate.

The Applicant's Highways Consultants has put forward a number of suggested alterations to the High Street which do not tie in with the Congleton Public Realm Strategy. In many respects the mitigation as put forward is highly engineered and fails to address the Public Realm in a sympathetic manner, however, a S106 commuted sum payment has been put forward by the Applicant as mitigation for the town centre. This is offered as a Public Realm Contribution and is reasonably related to the development and is acceptable to the Highways Engineer.

Flood Risk and Drainage

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. The submitted Flood Risk assessment (FRA) models the risk of flooding from the site as being very low (1 in 1000 years) and concludes that the risk posed to the site of flooding is very low.

Upstream sewers are located on the adjacent estate road, which appear to have been designed to accommodate further flows from this site in conjunction with foul flows in the separate foul sewer.

In terms of surface water drainage the FRA identifies Sustainable Drainage Options (SUDS) will be used and that the detailed design of this would be agreed at the detailed design stage in consultation with the Environment Agency and the Local Planning Authority.

The Environment Agency have been consulted as part of this application and have raised no objection to the proposed development. As a result, the development is considered to be acceptable in terms of its flood risk/drainage implications.

Layout and design

The housing estate to the east of the site is characterised by rising streets which hits a plateau when it reaches the application site and thereafter is gently undulated until it starts to fall away. The landscape of the area is considered to be the priority consideration in the overall design of this site. The south west and eastern boundary are indicated to be Informal Open Space and an area of formal open space are provided indicatively which could be enhanced in the final layout to address other issues such as ecology. It is stated that protect trees and hedgerows will be retained

Scale parameters are submitted with zones of 2 and 2 and ½ storey dwelling indicated within the central portion of the site, enclosed with areas of Public Open Space, of up to 2 and a half storey's as the site falls away.

Although layout, external appearance and design are also reserved matters and the proposal seeks permission for up to 40 units, it is considered that an appropriate design and layout can be achieved whilst ensuring that the landscape is the primary influence. The existing design of the residential estate to the immediate north of the site is not considered to be the benchmark for this development. It is important that the rural fringe location is the primary focal point for this scheme and this can only be achieved by a design coding condition.

Amenity

The Environmental Health Officer has requested a condition in relation to noise during construction, pile driving and contaminated land. These conditions will be attached to the planning permission.

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 up to 40 dwellings could reasonably 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 could be accommodated in amenity terms and would comply with the requirements of Policy GR1 of the Local Plan.

Landscape Impact and trees/hedgerows

The site is currently agricultural land located immediately adjacent to a residential area. An electricity pylon traverses the site. There are well established hedgerows and tree belts/woodland to several of the boundaries. A number of mature hedgerows and trees are located around the periphery of the site. The land falls away 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.

There are no landscape designations on the application site. Within the Cheshire Landscape Character Assessment the application site is located on the boundary of the Lower Farms and Woods landscape, specifically the Brereton Heath Area.

Although the site displays some of the characteristics of the Brereton Heath Character Area, the character of the site is significantly influenced by the existing development of housing along the entire eastern boundary. The topography of the application site generally falls from east to west, towards The Howty, apart from a bund located along the north east boundary of the site.

The site has a network of existing hedgerows and trees to its boundaries and is in agricultural use. The application information indicates that all protected trees within and on the perimeter of the site will be retained, and that all unprotected trees will be retained as far as the indicative Masterplan allows. The existing vegetation and trees provide an attractive setting and the site is strongly influenced by these.

The site is strongly influenced by the existing boundary hedgerows and trees, so that visually the site is very well self contained with a Landscape Zone of Visual Influence that is limited to the existing surrounding boundaries and residential properties to the east of the site.

The Congleton Borough Council (Canal Road, Congleton) Tree Preservation Order 1986 affords protection to a number of selected Oak and Sycamore trees within existing field hedgerow boundary enclosures.

Tree comments

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 and important trees (other than to accommodate the main access points) 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.

Ecology

The application has been the subject of a number of series for European protected species and other protected species such as the badger. The surveys have been updated as part of the application consideration in accordance with the requirements of the Councils Ecologist.

It is the Councils Ecologists advice that;

Habitats

The site also exhibits features that are considered as Biodiversity Action Plan Priority habitats and hence a material consideration. These include hedgerows, badger habitat and breeding birds.

Badgers

The level of additional survey work undertaken by the Applicant is acceptable. It is clear that the additional land located between the two proposed development sites has been subject to an acceptable level of survey.

The Ecologist is satisfied that the proposed development will not lead to a significant loss of badger foraging habitat. The supporting information submitted by the Applicant will adequately mitigate for any adverse impact of the development upon the identified badger sett. However as the application is outline a condition would be appropriate to ensure that any reserved matter application is supported by an updated badger survey and a revised/updated mitigation strategy.

Barn owls

Whilst barn owls have been reported as being active near this site by local residents there is currently no conclusive evidence of barn owls roosting/breeding on site and the grasslands on site provide very limited foraging opportunities for this species. A barn owl report has been submitted as part of the application and the Ecologist is satisfied that it is unlikely that the proposed development would have a significant adverse impact on barn owls.

Bats

No evidence of roosting bats was recorded during the submitted survey and bat activity on site appears to be low. The ecologist is of the opinion that the proposed development is unlikely to have a significant adverse impact upon bats. However, any reserved matters application should aim to retain the existing trees and hedgerows to preserve the available bat habitat.

Hedgerows

Hedgerows are a biodiversity action plan priority habitat and hence a material consideration. The submitted indicative layout will result in the loss of some of the existing hedgerows on site. If planning consent is granted a condition is necessary to ensure that the loss of hedgerow is compensated for through the planting of new native species hedgerows.

Breeding Birds

If planning consent is granted conditions will be required to safeguard breeding birds and to ensure additional provision is made for breeding birds and roosting bats.

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.

Education Infrastructure

In terms of primary schools, There are 9 primary schools within the 2 mile distance considered by the Council to be capable of serving this development. Whilst there is currently some capacity in these local schools, by 2015 the Council is expecting there to be

26 more pupils than places available at these schools. In light of this the will require a sum for every primary aged pupil generated of $6 \times 11,919 \times 0.91 =$ towards primary provision. This development, if fully developed up to the 40 units a proposed would generate an additional pupil yield of 6 pupils.

As there is a capacity issue at the local primary schools, the education department have requested a contribution of £65,078 towards enhancing the capacity. This has been agreed by the applicant and would form part of the S106 Agreement should this application

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

Renewable Energy

The Applicant has submitted a Sustainability Statement in support of the application, which amongst other things, makes a commitment to develop a scheme which exceeds the requirements of the Building Regulations with respect to energy efficiency. It is also considered that the physical characteristics of the site is that buildings can be arranged within the site to maximise solar efficiency and to achieve a development that allows for a choice of means of transport to be used by future occupiers.

However, it is a requirement within RSS Policy EM17 for all development to incorporate on-site renewable energy technologies. As this application is in outline form with all matters reserved except for access, no details of renewable energy proposals have been submitted. Accordingly, it is necessary to impose a condition to require a renewable energy scheme to be submitted at the Reserved Matters stage, and subsequently implemented

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 school places at the primary schools within the catchment area which have very limited spare capacity. In order to increase capacity of the schools which would support the proposed development, a contribution towards primary school education 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 would help to make the development sustainable and is a requirement of the Interim

Planning Policy, local plan policies and the NPPF. It is directly related to the development and is fair and reasonable.

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 be an important benefit – and this application achieves this in the context of a smaller, non strategic land release attached to an existing estate.

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 will be required to provide for highway works to improve the pedestrian environment on Canal Road/Canal Street

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 no significant failure to meet these and all such facilities are accessible to the site. The improvements to the Canal Road pedestrian environment will encourage more walking. The development is therefore deemed to be sustainable.

Whilst the proposal will result in the loss of some grade 3a agricultural land, this is not a significant part of the site and the site is main 3b land 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. Much of the sites identified within the SHLAA would also result in the loss of the better grades of agricultural 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.

In a negative sense, however, 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 given the impact upon the area of the existing housing development will to some extent be screened by the existing topography of the site and the rather than a large scale intrusion into the open countryside, this remains an important adverse impact.

Overall, it is considered that the adverse impacts of the development – in terms of conflict with the development plan on Countryside and the loss of agricultural land are outweighed by the benefits of the proposal in terms of residential provision and the provision of affordable housing. 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.

RECOMMENDATION

APPROVE subject to a Section 106 Legal Agreement to Secure:

- Amenity green space contribution for on site provision:

Maintenance: £ 11,352.00

Children and Young Persons Provision,

Enhanced Provision: £ 8,790.72
Maintenance: £ 28, 656.00

- Education Contribution in lieu of primary provision of £65,078 (based on 40 units)
- 12 affordable units in total (or 30% of total), split as (65%) or 8 units for social or affordable rent and 35% or 4 for intermediate tenure
- Contribution to Congleton Public Realm Strategy of £30,000

And the following conditions

- 1. Commencement – within 1 years of reserved matters**
- 2. Submission of reserved matters (all matter other than access) within 18 months or 12 months after the last reserved matter (whichever is later)**
- 3. Plans**

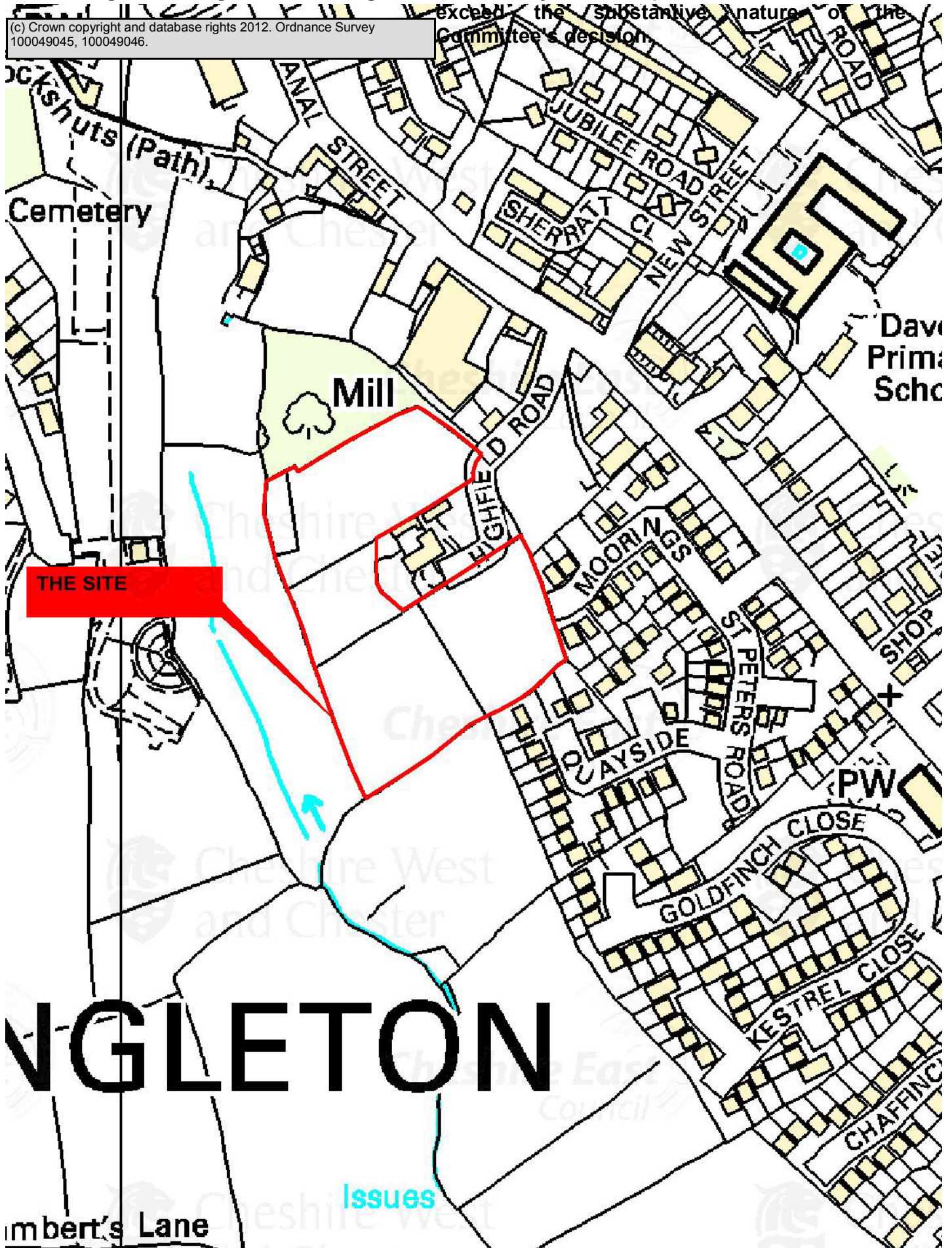
4. Reserved matters to include design coding in accordance
5. Tree and hedgerow protection measures
6. Arboricultural Method statement
7. Landscape maintenance and management
8. Boundary treatments to be submitted with reserved matters
9. Reserved matters to make provision for habitat creation within indicative areas of open space
10. Breeding Bird Survey for works in nesting season
11. Bats and bird boxes
12. Updated badger survey and method statement prior to commencement
13. Reserved matters to include details of 10% renewable energy provision
14. Submission of a scheme to limit the surface water run-off generated by the proposed development,
15. 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.
16. Submission of a scheme of Sustainable Urban Drainage
17. 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.
18. This site must be drained on a separate system, with only foul drainage connected into the public foul sewerage system.
19. 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
20. 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
21. Submission of scheme to minimise dust emissions arising from construction activities on the site
22. Submission of a Contaminated Land Phase II investigation.
23. Submission of Construction Management Plan
24. Right turn lane/Pedestrian refuge Canal Rd into to be provided prior to 1st occupation
25. The reserved matters application submitted pursuant to this outline planning permission shall provide a feasibility study, framework and schedule to improve pedestrian and cycling links between the site and Lamberts Lane
26. Landscaping to include replacement hedge planting
27. Arboricultural Impact Assessment and Tree Protection Plan to form part of the reserved matters
28. Implementation of a programme of archaeological work in accordance with a written scheme of investigation
29. Reserved matters to incorporate existing and proposed levels and boundary treatments
30. Reserved matters to incorporate design coding

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

except the substantive nature of the Committee's decision.

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STRATEGIC PLANNING BOARD – 5/11/ 2012

UPDATE TO AGENDA

APPLICATION NO: 12/3028C

LOCATION: LAND AT THE MOORINGS CONGLETON

UPDATE PREPARED 3 DECEMBER 2012

PROCEDURAL

In the period between the SPB Agenda being published and this update being prepared, the applicants have appealed against non-determination of this application. In such cases the matter is now taken out of the hands of the Local Planning Authority and the determination is made by the Secretary of State.

APPLICANTS FURTHER INFORMATION

The Applicant wishes to confirm that they accept the provision of affordable housing by S106 Agreement rather than condition and have provided Heads of Terms to this effect.

RECOMMENDATION

The recommendation is amended to 'minded to approve subject to the satisfactory completion of a S106 Agreement'

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CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of Meeting: 22nd May 2013

Report of: Building Control Manager

Subject/Title: Enforcement Review Progress

Portfolio Holder: Cllr Rachel Bailey

1 Purpose of Report

- 1.1 To update members of the Strategic Planning Board on the progress of the planning enforcement review, highlighting the proposed recommendations.
- 1.2 To consider the performance measures which are proposed together with associated reporting arrangements to the Strategic Planning Board.

2 Decision Required

- 2.1 To note the progress made by the Planning Enforcement Task & Finish Group.
- 2.2 To agree the performance reporting measures in paragraph 3.3 below, providing quarterly returns for Strategic Planning Board.

3.0 Background

- 3.1 A report submitted to the Audit and Governance Committee on the 14th June 2012 recommended a number of management actions following the internal audit report into the “Waste Transfer Station” (Lyme Green). As part of the report, action B7 recommended that a task and finish group on Planning Enforcement be established with the Environment & Prosperity Scrutiny Committee subsequently agreeing the terms of reference for the group. These included:

- To review the current scope of service delivered through the planning enforcement function;
- To review performance against service standards;
- To review resources aligned to Planning Enforcement and recommend changes in service standards/scope of services and working practices to improve overall performance;

- To review the relationship between Planning Enforcement and other Planning Functions to ensure structures do not compromise conflicting demands;

3.2 A review of performance has been undertaken with a draft report currently being finalised which will be presented to the relevant portfolio holder, highlighting a number of recommendations. These recommendations include:

- i) That a revised planning enforcement policy/protocol be developed and implemented. This policy/protocol shall reduce the current 4 priorities to a more relevant 3 (indicated in Appendix B) which shall include the following;

High Priority cases

Initial Assessment should be made the same day.

Medium Priority cases

Initial Assessment should be made within 5 working days

Low Priority cases

Initial Assessment should be within 15 working days

- ii) The service should be encouraged and designed to operate as a single team working across the whole region, thereby creating a culture of case management within the enforcement team, bringing together the responsibility for enforcement with the professional officers of the team. A structure should be developed to provide clear decision making processes, with appropriate delegation to a single lead officer.
- iii) Relationships with other services should be further developed to enhance service delivery, with particular emphasis on the development of a service level agreement between the planning enforcement function and the legal services functions.
- iv) New performance reporting measures as detailed within Table 1 of Appendix A shall be included within normal day to day practices and reported to the relevant planning committee every 3 months.
- v) Improve customer interactions through the website as indicated within table 1 of Appendix A.

- vi) The provision of technical support staff to support the planning enforcement team should be made available from existing support teams
- vii) The service should be encouraged to improve the use of technology, moving towards a paperless environment and working to adopted operations procedures
- viii) The inclusion within the corporate calendar for regular training sessions for all elected members relating to the planning enforcement function
- ix) The service lead will require the development of a service culture, improving customer relationships through the positive use of available media.

3.2 Currently the performance of the planning enforcement team is not presented formally to the board and this has been raised as a matter of importance throughout the course of the review with the following measures being suggested;

- The number of total complaints received within the period
- The average time taken to respond to the complaints
- The average time taken for determination/initial site assessment per priority
- The number of enforcement notices served
- The average time taken to resolve a case
- The outcomes of enforcement cases
- The number of cases resolved without the need for formal enforcement action.

3.4 Measures considered appropriate to the achievement of the recommendations are highlighted within the table contained in Appendix A.

4. Reasons for Recommendations

- 4.1 The recommendations, once implemented will address issues raised through the review process, providing a management focussed approach to service delivery including a transparent decision making process. Working practices will be aligned which will in turn, improve performance monitoring and allow for efficiencies. The adoption of a co-ordinated approach to the process, whilst promoting cross working skills will provide a service fit for purpose, ensuring information will be readily available to those who need to it, when they need it.
- 4.2 Throughout the process considerations have been made to the original terms of reference set and agreed by the group, with the final recommendations considered to achieve a framework and vision on which the service can build

to improve service delivery whilst providing clarity within the decision making process.

- 4.3 Whilst the current driving force for the enforcement function since the service was formed in 2009 has been to meet targets set within the “Planning Enforcement Protocol”, the need for change has been recognised to ensure service delivery is considered fit for purpose.
- 4.4 Specific reasons considered appropriate to each specific recommendation are highlighted in Table 1 of Appendix A.

5. Ward Affected

- 5.1 All

6. Local Ward Members

- 6.1 All

7. Policy Implications (including carbon reduction and health)

- 7.1 None

8. Financial Implications (authorised by Director of Finance and Business Services)

- 8.1 None.

9. Legal Implications (authorised by Borough Solicitor)

- 9.1 None

10. Risk Management Implications

- 10.1 A reviewed policy will ensure that a transparent and clear approach to planning enforcement matters is pursued by the Council

Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.001	A revised planning enforcement policy should be implemented and agreed.	PER.001.a	Include a formal progress reporting process directly to the relevant scrutiny committee	To assist in the decision making process, establishing priorities, making service commitments as well as acting as a key document in the development of an effective enforcement management model. To provide the opportunity to refer for scrutiny the decision making process.	B7(i) and B7(ii)
		PER.001.b	Development of new priorities, condensing the current list to 3 categories. Low, medium and High. Where complaints involve operational development that has already progressed this would need to be reclassified as a high priority in the first instance. Where several complaints or elected members have been contacted this should result in the breach being moved up in the priority list.	Currently the majority of complaints focus on only two of the 4 priorities, with priority 4 response being limited. Condensing into 3 will provide a more focussed approach to prioritisation.	
		PER.001.c	The development of an enforcement management model, including a clear decision making process.	To provide a logical system that assists officers to make enforcement decisions in line with the agreed policy, applying fundamentally the principle that enforcement should be proportional to the harm caused. The model should not be a procedure in its own right but promote enforcement consistency by confirming some parameters and the relationships between the many variables in the decision making process. The model should provide a framework for making decisions transparent, ensuring those who make decisions are accountable for them;	
		PER.001.d	The development of a quality management system	A robust quality management system can provide focus and control to service operations, setting targets to improve performance, effectiveness and efficiency.	

Notes to the above:					
The frameworks mentioned above, would provide					
<ul style="list-style-type: none"> • A clear and organised approach to the planning enforcement service, aiding all those involved in the making of effective and accurate decisions. • Act as a supporting document enabling officers to determine the most expedient and proportionate course of action in any particular circumstances • Set out who takes the decision and how • Include factors that “will” and “will not” influence judgements • Act as a framework to manage workflow • Provide a framework for regular monitoring reports 					
The documents should also differentiate between active and proactive enforcement actions.					
Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.002	Encourage a dedicated single enforcement team which does not need to compete for attention within a Development Management Team			To provide a management focussed approach to casework within the service which is not affected by alternative performance management criteria within the development management process.	B7(iii) and B7(iv)
		PER.002.a	Create a culture of case management responsibility within the enforcement team. Bring together the responsibility for enforcement with the professional officers of the team.	This would allow for a co-ordinated approach to enforcement, enabling those within other teams to act as consultants to the process. This should include all planning related enforcement functions such as hedgerows and unauthorised works to TPO's. To provide an effective performance management database. The inclusion of the Waste & Minerals enforcement should also be considered, as the current arrangements place high risk to service delivery and performance monitoring.	
		PER002.b	Maintain a close working relationship with other development management teams such as DM, Heritage & Design and Building Control. Acting as consultants	Professional advice is essential when determining the course of action to be taken. Each team in its own right has something to contribute to the operations of an effectively managed enforcement process.	

<p>Notes for PER.002</p> <p>A dedicated single team managed by one individual would ensure consistent working operations across professional disciplines and enable development of improvements to service delivery without the distraction of high profile development management cases.</p>					
Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.003	Improve relationships with other service providers which affect the decision making process			Robust and reliable relationships remain key to efficient service delivery	B7 (iv)
		PER.003.a	The development of a service level agreement between the planning enforcement team and the legal service team	To create a greater awareness of the interests/expectations of others, including magistrates and the planning inspectorate. To embrace a recognition of the need to promote the value and success of the service	
		PER.003.b	Develop the potential to share database information directly with the legal service team		
		PER.003.c	Make consideration to a closer working relationship with the Building Control team.	The Building Control team have officers who regularly undertake site visits throughout the Borough and may be able to assist in the role of initial response and compliance monitoring	
		PER.003.d	Provide opportunity for Enforcement officers to comment on proposed standard planning conditions	To allow for the validity of conditions to be set and ensure those drafted would be suitable for enforcement.	
<p>Notes for PER.003</p>					

Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.004	Improve Performance measures			To provide focus on operational outcomes rather than response actions.	B7 (iii)
		PER.004.a	Develop a new suite of performance measures to include; <ul style="list-style-type: none"> • The number of total complaints received within the period • The average time taken to respond to the complaints • The average time taken for determination/initial site assessment per priority • The number of enforcement notices served • The average time taken to resolve a case • The outcomes of enforcement cases • The number of cases resolved without the need for formal enforcement action. 	To provide an overall view to service provision, clarifying the differences between proactive and reactive enforcement. To enable appropriate stage rule development To assist workflow To improve performance monitoring, including scrutiny	
		PER.004.b	Provide an overall target to achieve recommended course of action within 8 weeks	To clarify expectations of all interested parties. To focus teams on priorities. To enable effective organisation	
		PER004.c	Proactively benchmark performance against others	To clearly compare performance of teams with others	
Notes for PER.004 A robust set of performance measure can be used to determine not only service performance and customer satisfaction but always enhance team and individual performance enabling the recognition of endeavours.					

Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.005	Improve customer interactions through the website				B7(iii)
		PER.005.a	The inclusion on the website of an interactive form which links to the back office system	This allows for a more robust method of complaint notification and management of such with minimal need for staff support.	
		PER.005.b	The functionality to enable uploading of images to the website attached to the deposited complaint	This will allow a more accurate and co-ordinated response to the complaint	
		PER.005.c	The development of appropriate stage rules for each case type published to the website	Allowing members of the public to “self-serve” in terms of updating progress of the complaint.	
		PER.005.d	The adoption of an online Enforcement register	To comply with statutory obligations and to provide information freely across the region. Promoting transparency.	
		PER.005.e	Improve initial access to the web pages	To make direction to planning enforcement pages more concise and direct	
		PER.005.f	Improve “Plain English” information to those wishing to make a complaint and include service delivery expectations	This would assist in the development of expectations and highlight to those with any interest. This would also reduce the number of unnecessary chase up calls requesting progress information	
<p>Notes for PER.005</p> <p>The current ICT database system has been found to include the facility to provide the above services, although certain works are required to commence functionality of these areas. In particular the link between the back office system and the website has been established for planning applications and the same approach should be</p>					

implemented/commissioned for enforcement cases.					
The inclusion of an interactive front end form may reduce the number of inaccurate/inappropriate reports received which will focus the efficient operations within the team.					
Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.006	Improve the provision of technical support to professional staff			Ensure satisfactory allocation of professional resources	B7(iii)
		PER.006.a	Provide support to assist the process of history searches for professional officers	To improve response times to members of the public	
		PER.006.b	Utilise technical support staff and knowledge to act as a "First Contact" facility for professional officers		
		PER.006.c	To answer initial basic telephone queries		
		PER.006.d	To provide a support role when dealing with electronic submission of complaints, making reference to gazetteer and associated systems	To provide a focussed approach to the receipt of complaints	
Notes for PER.006					

Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.007	Improve the use of technology within teams			To improve efficiency, performance and capacity management	B7(iii)
		PER.007.a	All caseload to be entered into the current database system. i.e. Swift Lg	To allow robust performance management and reporting	
		PER.007.b	Development of the current mapping system	Enforcement notices to include maps indicating locality	
		PER.007.c	The adoption of touch screen technology for site staff	Removing duplication of data entry	
		PER.007.d	Move to a paperless environment	To enable greater flexibility and transfer of data between sites. This will also remove the burden of officers needing to be at managers disposal to answer certain questions	
		PER.007.e	Utilise the database diary functionality	To ensure that management responsibility and health & Safety requirements are fulfilled	
		PER.007.f	Development of the cost based process within the current database system	To identify the true costs of enforcement cases.	
		PER.007.g	Improvement of the mapping facility within the back office system	To allow direct inclusion within enforcement notices to enable website publishing.	
		PER.007.h	Development of on-line receipt of complaints	To remove administrative burden.	
Notes for PER.007					

Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.008	Provide regular training sessions				B7(iv)
		PER.008.a	Identify within support teams knowledge and experience	The age profile within the current teams contains an older profile than some teams and therefore the service should encourage a training development approach to plan for future resource needs.	
		PER.008.b	Provide regular update training for all elected members on the considerations of enforcement measures. This should be in the form of a workshop environment.	The participation within a workshop training event will recognise the decision making principles and enhance the relationships between elected members and officers.	
Notes for PER.008					
Report Ref:	Recommendations	Consideration Ref:	Measures	Reason	Ref referred to above
PER.009	Improve customer relationships	PER.009.a	Adopt a procedure to inform residents where complaints impacts are considered high.		B7 (iii)
			Where planning applications are received, apply a check within the process to see if an enforcement case exists.	To enable those with an interest to be notified	
			Develop a positive use of media	To ensure the general public are aware of the enforcement system and the actual good work that is being carried out on their behalf	

High Priority – To include;

Unauthorised demolition, partial demolition or significant alteration of a building, which it is essential to retain (e.g. a listed building or building within a Conservation Area.) or any other development that causes irreversible demonstrable harm.

Unauthorised works to trees covered by a tree preservation order (TPO) or in a Conservation area

Development causing immediate/irreparable harm to protected ecology or causing serious danger to the public

Breach of Enforcement Notice or Breach of Condition Notice

Medium Priority – To include;

Any unauthorised development/activity which, causes clear, immediate, and continuous harm or danger to the locality including the living conditions of adjoining residents

Breach of a condition, which results in serious demonstrable harm to amenity in the neighbourhood

Unauthorised development in an AONB, SSSI (or other national *or local* designation of nature conservation), or Conservation Area or where an article 4 direction has been issued.

Unauthorised development, which is the source of significant public complaint (significant public complaint can be quantified as 5 or more independent sources complaining about the same alleged breach of planning control).

Removal of Hedgerows over 20m in length

Low Priority – To include;

Any unauthorised development where the time limit for enforcement action will expire within the next 6 months

Unauthorised development/use, which is *not* the source of significant public complaint or demonstrable harm

The display of unauthorised advertisements

Untidy Land

Unauthorised development/use, which would be likely to receive planning permission/approval (e.g. if a planning application were to be submitted or S106 agreement completed) or would be unlikely to result in formal enforcement action being instigated.

Developments that are potentially unlikely to require planning permission

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CHESHIRE EAST COUNCIL

Strategic Planning Board

Date of Meeting:	22 nd May 2013
Report of:	Strategic Planning and Housing Manager
Subject/Title:	Brereton Neighbourhood Area Application

Portfolio Holder	Cllr David Brown – Strategic Communities
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1. Report Summary

- 1.1 Neighbourhood Planning was introduced via the Localism Act 2011 and allows communities to prepare plans relevant to their local areas. A Neighbourhood Plan cannot conflict with the strategic priorities identified in the Local Plan and is subject to an independent examination and referendum. Once adopted, a Neighbourhood Plan holds equal weight to the Local Plan for decision making purposes
- 1.2 The first stage of preparing a Neighbourhood Plan is the designation of a Neighbourhood Area, the geographic area to which a Neighbourhood Plan will apply. The body preparing a Neighbourhood Plan must apply to the Local Planning Authority to award this designation.
- 1.3 Cheshire East Council has received their first application to designate a Neighbourhood Area, from Brereton Parish Council, covering the area within the parish boundary.

2. Decision Requested

- 2.1 That the Strategic Planning Board gives consideration to the report and the Neighbourhood Area application.
- 2.2 That the Strategic Planning Board is recommends that the Portfolio Holder for Strategic Communities approves the designation of Brereton Parish as a Neighbourhood Area for the purposes of preparing a Neighbourhood Plan.

Reasons for Recommendations

- 2.3 Under the Town and Country Planning Act 1990, as amended by the Localism Act 2011, every planning authority must consider applications to designate Neighbourhood Areas for the purposes of Neighbourhood Planning. Failure to do so would be a failure to meet statutory requirements.

3 Wards Affected

3.3 Brereton Ward

4 Local Ward Members

4.3 Cllr John Wray

5 Policy Implications

5.3 The designation of Brereton Parish as a Neighbourhood Area will enable Brereton Parish Council to prepare a Neighbourhood Plan for this area. Any Neighbourhood Plan cannot conflict with strategic priorities and policies identified in the emerging Cheshire East Core Strategy.

6 Financial Implications

6.3 The designation of a Neighbourhood Area for Brereton will not incur direct costs to the Council.

6.4 At a later stage the Council is required to hold an independent examination of the proposed Neighbourhood Plan and a referendum on the plan.

6.5 Under the Neighbourhood Planning (General) Regulations 2013, costs of the examination and referendum are required to be met by the Council. The more Neighbourhood Plans the council receive, the greater the implications of these costs to the Council.

6.6 There are also implications for future revenue collection from the Community Infrastructure Levy (CIL), a charge levied on new development after the adoption of a CIL charging schedule by the planning authority.

6.7 The CIL Regulations 2013 require local authorities to pass on 15% of CIL collected within the boundary of a local council, to the local council. In areas with an adopted Neighbourhood Plan, this rises to 25% of relevant CIL receipts.

6.8 The body preparing a Neighbourhood Plan can, where they wish to do so, enter into an agreement with the Local Planning Authority to return all, or part of funds received via the CIL.

6.9 In areas without a Neighbourhood Plan, CIL payments are capped at £100 per dwelling. There is no cap in areas with a Neighbourhood Plan.

7 Legal Implications

7.3 Under the Town and Country Planning Act 1990, as amended by the Localism Act 2011, every planning authority must consider applications to designate Neighbourhood Areas for the purposes of Neighbourhood Planning.

8 Risk Management

8.3 The Council has a statutory duty to make a decision on Neighbourhood Area applications. Failure to make a decision means the Council is at risk of failing to meet its statutory requirements.

8.4 Increased applications to designate Neighbourhood Areas will divert more resources from the Spatial Planning Team to deal with them. The Council has currently received one Neighbourhood Area application and is aware of a growing interest in the process across the Borough.

9 Background and Options

9.3 Neighbourhood Planning was introduced by the Localism Act 2011 to enable communities to prepare their own development plan documents relevant to a specific geographic area.

9.4 A Neighbourhood Plan is a Development Plan Document prepared by a relevant body (either a town/parish council or a neighbourhood forum) which allows communities to allocate land and write policies which relate to the development of land. A Neighbourhood Plan is subject to an independent examination and a local referendum and, once adopted, will hold equal weight to the Local Plan for decision making purposes.

9.5 The preparation of Neighbourhood Plans is supported by the National Planning Policy Framework (NPPF); they are required to be prepared in accordance with the NPPF, the strategic policies of the Local Plan and all relevant legislation and national policy.

9.6 To date, three Neighbourhood Plans (Upper Eden, Exeter St. James and Thame) have been adopted across the country; more are due to follow. The Brereton Parish Council Neighbourhood Area Application is the first received by Cheshire East Council.

9.7 The Council publicised the application for a period of six weeks from 26th February 2013 to 9th April 2013 during which representations on the proposals were invited. Nine responses were received, eight of which support the application. One response was submitted as comment only; no objections were received. A full report of representations received is included in Appendix 3.

9.8 A Neighbourhood Area application must meet the requirements of section 61G of the 1990 Town and Country Planning Act (as amended by the Localism Act 2011) and the Neighbourhood Planning (General) Regulations 2012. An application must include a map which identifies the proposed area, a statement explaining why this area is considered appropriate and a statement explaining why the applicant is a relevant body to make the application. Brereton Parish Council have met these requirements.

9.9 The Council is not required to consider whether it is appropriate for a community to produce a Neighbourhood Plan, only whether the Neighbourhood Area is appropriate for the purposes of producing a Neighbourhood Plan. In determining this application the authority must have regard to the desirability of designating the whole of the area of a parish council as a Neighbourhood Area.

9.10 The proposed Neighbourhood Area covers the entirety of Brereton Parish and does not include any proposed strategic sites as identified in the emerging Cheshire East Core Strategy. No objections to the application were received and, as this is the first application

received by Cheshire East Council, the application does not conflict with any existing Neighbourhood Areas.

10 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

Name: Thomas Evans

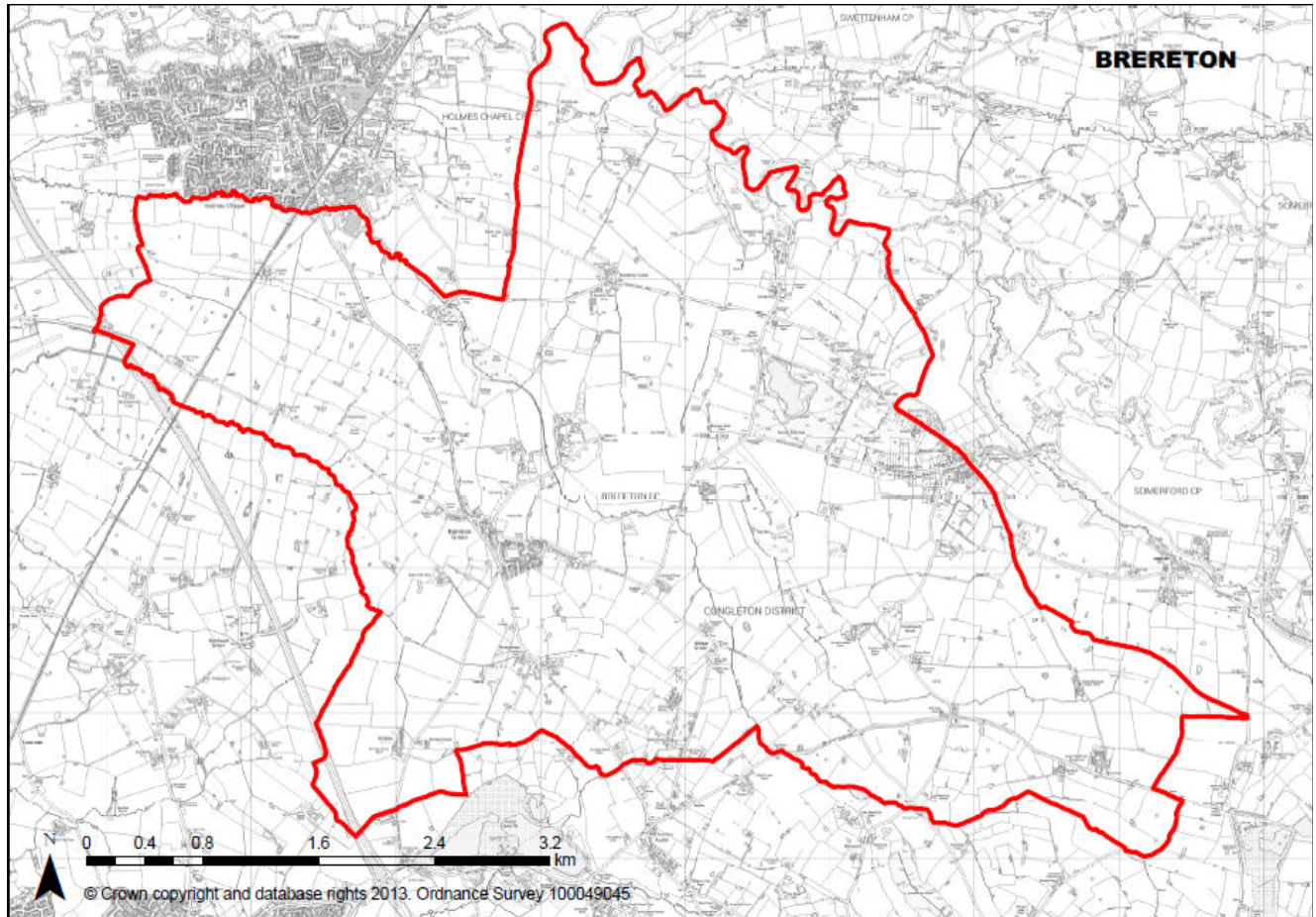
Designation: Planning Officer

Tel No: 01625 383709

Email: thomas.evans@cheshireeast.gov.uk

11 Appendices

12.1 Appendix 1: Brereton Parish Boundary



12.2 Appendix 2: Statement Submitted in support of Brereton Neighbourhood Area Application

Brereton Parish Council submitted a statement in support of their application to designate Brereton Parish as a Neighbourhood Area. It reads:

'Brereton is a civil parish within the Brereton Rural Ward of Cheshire East, and includes the isolated settlements of Brereton Green, Brereton Heath, Bagmere, Brindley Green, Brownedge, Hazelshawe, Illidge Green, Medhurst Green, Sandlow Green and Smethwick. The application to proceed with the development of a Neighbourhood Plan for a Neighbourhood Area comprising the area of our parish in its entirety is appropriate for the following reasons:

People in Brereton value the rural, agricultural economy and environment that they have now and want to keep it that way. They do not want to become a crowded dormitory area for the nearby towns and cities.

Our people wish to have more influence over the use of land in their area rather than letting others make these decisions without this local input. In particular, our people have a desire to

ensure development is sustainable, which is a challenge given the distances between the many settlements and communities.

The Neighbourhood Area will sit comfortably with the electorate and the existing sense of community that currently exists.'

12.3 Appendix 2: Results of Consultation

The Localism Act 2011 introduced amendments to the Town and Country Planning Act 1990 to devolve planning powers to a local level and allow communities to produce Neighbourhood Plans with equal weight to Local Plans.

The first stage in preparing a Neighbourhood Plan requires a local council, or neighbourhood forum, to apply to the Local Planning Authority to designate a Neighbourhood Area. This is the geographic area within which a future Neighbourhood Plan can take effect.

Brereton Parish Council submitted an application to designate the Parish of Brereton as a Neighbourhood Area in January 2013. A consultation on this application was held between 26th February 2013 and 9th April 2013.

The application was published within Brereton Parish and via Cheshire East Council's website. In total, nine representations were made to the application. Eight comments were received in support of the application, one representation was received as comment only. No objections were received to the application.

The full range of representations is detailed below:

Full Name	Organisation Details	ID	Type - Please indicate whether you support, object or wish to make a comment.	Comment - Please provide details:
Mr Martin de Kretser		NP-BR2	Support	In accordance with the Localism bill this will give Brereton Parish Council control of implementing the local plan and resisting inappropriate development. I concur with the boundary proposed.
Dr P. Smith		NP-BR3	Support	I wish them well in this endeavour which is very appropriate in safe guarding the area and giving greater strength to local decisions and the Localism Act.
Mr Andrew		NP-BR4	Support	I support Brereton Parish in applying for designation to

Full Name	Organisation Details	ID	Type - Please indicate whether you support, object or wish to make a comment.	Comment - Please provide details:
Lindsay				produce a neighbourhood plan for their area. I think this is a key step under Localism for the people of the parish to become even more involved in shaping their own future.
Mr Alastair Strang		NP-BR5	Support	A worthwhile project.
Dr Elizabeth Love		NP-BR6	Support	I fully support this application which is an important step in ensuring that the residents have a strong voice in shaping the future of Brereton Parish
Mr David Brown		NP-BR7	Support	I consider this an opportunity for local residents to have a very positive say in the future development and maintenance of Brereton. Hopefully CEC will take more notice of local views than in the past and consult with us BEFORE making decisions in future. This will save considerable expense in backtracking and help CEC achieve transparency
Mrs Shirley Strang		NP-BR8	Support	
Mr Donald Muir	Chairman Sandy Lane Action Group	NP-BR9	Support	Sirs I strongly support this application by Brereton PC to designate a Neighbourhood Area and thereafter to create a Neighbourhood Plan. This action will enable Brereton to create a plan that is sensitive to the aspirations and need of the local community, whilst still being in general conformance with Cheshire East's emerging

Full Name	Organisation Details	ID	Type - Please indicate whether you support, object or wish to make a comment.	Comment - Please provide details:
				<p>Local Plan.</p> <p>In doing so, Brereton will have relieved Cheshire East of the burden of preparing detailed plans for the designated area, which would inevitably miss many of the residents' preferences.</p> <p>Cheshire East's legal obligation to support Brereton, imposed by the Localism Act, will be more than offset by government grants (which should be shared with Brereton Parish).</p> <p>I call on Cheshire East not only to approve the Neighbourhood Area Designation, but to be generous rather than parsimonious in their support for Brereton PC.</p> <p>Yours faithfully Donald Muir</p>
Mr Dave Sherratt	LDF Assessor United Utilities	NP-BR10	Comment	<p>Dear Spatial Planning Team</p> <p>Proposal:</p> <p>Cheshire East Council ~ Brereton Parish Council's Application to Designate a Neighbourhood Area</p> <p>Thank you for your consultation and seeking our views in this process.</p> <p>We support growth and sustainable development within the North West and would like to build a strong partnership with you and neighbourhood forums to aid sustainable development and growth.</p> <p>Our aim is to proactively share our information; assist in the development of sound planning strategies, to identify future development needs and to secure the necessary long-term infrastructure investment.</p>

Full Name	Organisation Details	ID	Type - Please indicate whether you support, object or wish to make a comment.	Comment - Please provide details:
				<p>At this stage we have no specific comments to make on the Brereton Parish Council's application to designate a Neighbourhood Area, but wish to be included in further consultations and where necessary, the development of the Brereton Parish Council's Neighbourhood Area Plan.</p> <p>We would like to highlight that areas of the Neighbourhood Area may be served by private wastewater treatment and water supply facilities; which you will need to take into consideration when drafting your development plans and supporting policies.</p> <p>Our historical consultation responses to Cheshire East Council's Local Development Framework consultations; planning applications and pre developer enquiries are still valid and should be taken into consideration when developing your Neighbourhood Area Plan and supporting policies.</p> <p>If you wish to discuss this in further detail please do not hesitate in contacting me or Jenny Hope.</p> <p>Yours sincerely Dave Sherratt Local Development Framework Assessor</p>

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CHESHIRE EAST COUNCIL

REPORT TO: STRATEGIC PLANNING BOARD

Date of Meeting: 22nd May 2013

Report of: Head of Governance and Democratic Services

Subject: Replacement Members

Portfolio Holder: Councillor Rachel Bailey

1.0 Report Summary

- 1.1 This report responds to requests from Planning Board and Committee members that new arrangements should be put in place which would regulate the participation of “replacement members” in determining planning matters.

2.0 Decision Requested

- 2.1 That the Board consider whether to support the proposals contained in this report.
- 2.2 If the proposals contained in the Report are supported, the Board should decide whether:
- 2.2.1 It is felt that formal constitutional change should take place. If so, it should resolve that officers report the Board’s views to the Constitution Committee, together with appropriate recommendations for changes to the Council Procedure Rules.
- 2.2.2 It considers that the principles contained in the Report can effectively be observed by members by way of informal working arrangements; in which case, it should resolve that this should take place and that endorsement of the approach be sought from the Member Training and Development Panel and political Group Leaders.

3.0 Wards and Local Members affected

- 3.1 All Wards and local members are affected.

4.0 Policy Implications

- 4.1 If the proposals set out in this report were to be agreed, and if members wished to see them formalised, changes would need to be made to the Constitution.

5.0 Financial Implications

- 5.1 No financial implications would appear to arise as a consequence of the proposals set out in this report.

6.0 Legal Implications

- 6.1 Any change to the Constitution would require a recommendation from the Constitution Committee, and a resolution of full Council.

7.0 Risk Management

- 7.1 The proposals contained in this report may result in a reduced risk of challenge to planning application decisions.

8.0 Background and Options

- 8.1 Some Planning Board and Committee members have asked that new arrangements be put in place which would regulate the participation of “replacement members” in determining planning matters.
- 8.2 At present, the only relevant rules require that members put forward to participate in the decision-making business of planning committees as “reserve members” must be “appropriately trained”. Training is provided from time to time through the Member Training and Development Programme.
- 8.3 Some planning members have concerns that there is insufficient rigour around the existing rules. For example, a member might have received “appropriate” training, but that training might not be up to date. Also, a member might qualify under the rules, but may have been asked to participate in a planning meeting as a reserve member at short notice, thereby not having had a proper opportunity to read relevant paperwork/conduct site visits etc.
- 8.4 At a recent meeting of the Planning Chairman, it was suggested that a report should be made to the Strategic Planning Board with a request that the existing rules should be reviewed.
- 8.5 Suggestion was made that reserve members for the planning committees or Board should:
- 8.5.1 Be referred to as “Replacement Members”.
 - 8.5.2 Be drawn only from the membership of the existing planning committees or Board.
 - 8.5.3 Have received appropriate planning training within the preceding 3 months
 - 8.5.4 Perhaps only be allowed to participate as a Replacement Member in circumstances where the period of replacement was at least three months.

8.6 If the Board finds favour with the proposals set out in paragraph 8.5, it is asked to make comment on the detail. If the Board feels that the Council Procedure Rules should be formally amended to take account of the agreed proposals, it should agree that officers prepare a report to the Constitution Committee, which may then result in changes to the Constitution.

8.7 However, the Board may feel that the proposals contained in paragraph 8.5 can effectively be incorporated into the working arrangements of Members and that it is not necessary to change the Constitution in order for these to be observed. This would obviate the need for a report to the Constitution Committee, and to Council, and could perhaps be given some degree of senior member endorsement by the Member Training and Development Panel, and the political Group Leaders.

9.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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