

Strategic Planning Board

Agenda

Date:	Wednesday, 8th January, 2014
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 Meetings (Pages 1 - 28)

To approve the minutes of the meetings held on 15 November 2013, 4 December 2013 and 9 December 2013.

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. **13/4675N-Outline application for proposed development of 47 houses of mixed type to include 30% affordable (Resubmission of 13/3018N), 414, Newcastle Road, Hough for David Wootton (Pages 29 - 52)**

To consider the above application.

6. **13/4627C-Erection of up to 95 dwellings and formation of access point into the site to serve the development (Resubmission of 12/4146C), Land off, Dunnocksfold Road, Alsager, Cheshire for The Morris Family & P.E. Jones (Pages 53 - 84)**

To consider the above application.

7. **13/4781C-Outline application with access for erection of up to 14 no. dwellinghouses with ancillary facilities and associated infrastructure, Land East of, Meadow Avenue, Congleton, Cheshire for Mr Robert Pedley (Pages 85 - 108)**

To consider the above application.

8. **13/2649N-Outline Planning Application for Proposed Residential Development of up to 300 Dwellings, Highway Works, Public Open Space and Associated Works, Land north west of Church Lane, Wistaston Crewe, Cheshire for Gladman Developments, Gladman Developments LTD (Pages 109 - 142)**

To consider the above application.

9. **13/4634C-Outline Application for up to 13 no. residential dwelling houses, associated infrastructure and ancillary facilities. (re-submission of refused planning application 13/1559C), Land East of, School Lane, Sandbach for Jean Pierpoint, Paul Ferguson, and Grant and Helen Dinsdale (Pages 143 - 160)**

To consider the above application.

10. **13/4603N-Outline application for up to 40 dwellings (resubmission of 13/1223N), Land to rear of 144, Audlem Road, Nantwich, Cheshire for Wainhomes (Northwest) Ltd (Pages 161 - 198)**

To consider the above application.

11. **13/4635N-Outline application for residential development at 30 dwellings per hectare net with Primary access off Sally Clarke's Lane and some other matters reserved. Resubmission of 13/1421N, Land to rear of Woodlands View, 20, Bridge Street, Wybunbury for Mr & Mrs Graham Poole (Pages 199 - 218)**

To consider the above application.

12. **Revocation of Certificate of Existing Lawful Use for the parking and storage of vehicles machinery and equipment, White Moss Quarry, Barthomley (Pages 219 - 240)**

To consider the above report.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Friday, 15th November, 2013 at Committee Suite 1 & 2, Westfields,
Middlewich Road, Sandbach CW11 1HZ

PRESENT

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

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

VISITING COUNCILLORS IN ATTENDANCE

Councillor G Baxendale, Councillor B Burkhill, Councillor Mrs Rhoda Bailey,
Councillor S Corcoran, Councillor S Hogben, Councillor M Jones,
Councillor D Mahon, Councillor A Moran and Councillor Mrs J Weatherill

OFFICERS IN ATTENDANCE

Ms S Binjal (Interim Monitoring Officer / Head of Legal Service), Mr A Fisher
(Head of Strategic & Economic Planning), Mr B Reed (Head of Governance
and Democratic Services) and Mrs C Simpson (Director of Economic Growth
& Prosperity)

108 **APOLOGIES FOR ABSENCE**

Apologies for absence were received from Councillors P Edwards and P
Hoyland.

Councillor B Murphy requested (for the purposes of the minutes) it be
noted that he queried the legality of holding the Board meeting at short
notice. It was confirmed that the Local Government Act 1972 Act,
establishes the normal requirement for agenda papers to be published at
least 5 working days before a meeting takes place, except where the
meeting in question is convened at shorter notice; accordingly the calling
of this meeting was lawful.

109 **DECLARATIONS OF INTEREST/PRE DETERMINATION**

None.

110 **MINUTES OF THE PREVIOUS MEETING**

RESOLVED

That the public minutes of the meeting of 6 November 2013 be approved as a correct record and signed by the Chairman.

111 PUBLIC SPEAKING

The Chairman noted that Councillor G Baxendale had registered to speak in advance of the meeting. Further to this request, the Chairman allowed members of the public to speak.

RESOLVED

Members of the public be permitted to speak for a maximum period of ten minutes.

Two members of the public spoke. Mr White and Mr Bates.

112 EXCLUSION OF THE PRESS AND PUBLIC

Pursuant to Section 100B (2) of the Local Government Act 1972, the report relating to the remaining item on the agenda had been withheld from public circulation and deposit on the grounds that the matters may be determined with the public and press excluded.

It was moved and seconded, pursuant to Section 100A (4) of the Local Government Act 1972 that the public and press be excluded from the remaining item of the Board's business on the grounds that the item involved the likely disclosure of exempt information as defined in Paragraph 5 (information in respect of which a claim to legal professional privilege could be maintained in legal proceedings) of Part 1 of Schedule 12A to the Local Government Act 1972, as amended, and that the public interest would not be served in publishing the information, and it was:-

RESOLVED

That the press and public be excluded from the remainder of the meeting for the reasons given.

113 EXEMPT ITEM MINUTE-6 NOVEMBER 2013

RESOLVED

That the exempt item minute be approved as a correct record of the proceedings of the 6 November 2013 and signed by the Chairman.

114 PLANNING APPEALS UPDATE

(Visiting Councillors, G Baxendale, S Corcoran, S Hogben, M Jones and A Moran spoke in respect of the item).

Consideration was given to an oral update (by Officers) that provided further information with regard to the Councils position in respect of the current Planning Appeals that may impinge upon the assessment of the Council's future (five year) supply of housing land for the Borough.

In response to a request from Members, Officers also undertook a further review of the Planning balance in respect of the four Planning appeals. Members reflected on the report of 6 November 2013 and the resolution made at that time. In the light of updated discussions the following decisions were taken:-

RESOLVED

(1) In respect of The Moorings, Congleton application 12/3028C appeal, it was agreed that the appeal be challenged for the following reasons:-

The proposal would be located within the Open Countryside, contrary to (i) 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 (ii) 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.

And it was further Resolved that:-

(iii) In addition it was agreed that the position on housing land supply and the relevant buffer (and any impact on past moratoria) would be kept under close review and if further material evidence could be put forward at a later date on the receipt of additional information then the authority to challenge the appeal on these grounds should be delegated to the Director of Economic Growth & Prosperity in consultation with the Chairman and Vice Chairman of the Strategic Planning Board.

(2) In respect of the Kestral Drive, Goldfinch Drive, Congleton application 12/3025C appeal, it was agreed that the appeal be challenged in accordance with the first reason as resolved on 22 May 2013 as follows:-

The proposal would be located within the Open Countryside, contrary to (i) 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 (ii) 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.

And it was further Resolved that:-

(iii) In addition it was agreed that the position on housing land supply and the relevant buffer (and any impact on past moratoria) would be kept under close review and if further material evidence could be put forward at a later date on the receipt of additional information then the authority to challenge the appeal on these grounds should be delegated to the Director of Economic Growth & Prosperity in consultation with the Chairman and Vice Chairman of the Strategic Planning Board.

(3) In respect of Land Rear of Rose Cottages, Brereton Heath application 12/3087C appeal, it was agreed that a statement of common ground be agreed with the appellants. For the avoidance of doubt the Council maintains its position regarding sustainability in this appeal. In addition it was agreed that the position on housing land supply and the relevant buffer would be kept under close review and if further material evidence could be put forward at a later date on the receipt of additional information then the authority to challenge the appeal on these (grounds) should be delegated to the Director of Economic Growth & Prosperity in consultation with the Chairman and Vice Chairman of the Strategic Planning Board.

(4) In respect of the Waterworks House, Dingle Lane, Sandbach application 12/1650C appeal, it was agreed that a statement of common ground with the appellants accordingly. For the avoidance of doubt the Council maintains its position regarding Ecological matters and impact on the Wildlife Corridor in this appeal. In addition it was agreed that the position on housing land supply and the relevant buffer would be kept under close review and if further material evidence could be put forward at a later date on the receipt of additional information then the authority to challenge the appeal on these (grounds) should be delegated to the Director of Economic Growth & Prosperity in consultation with the Chairman and Vice Chairman of the Strategic Planning Board.

It was then moved and seconded that the Exclusion Resolution be lifted and the meeting move back into Part 1-Matters to be considered with the public and press present.

Consideration was given to how decisions made at the meeting could be communicated to the public.

RESOLVED

(1) After lengthy discussion the Strategic Planning Board agreed to issue a statement communicating the decisions made at the meeting.

And that

(2) all future appeals relating to the Council's position with regard to its assessment of future housing supply be delegated to the Director of Economic Growth & Prosperity, to be considered in consultation with the

Chairman and Vice Chairman of the Strategic Planning Board. Any such delegation needs to be exercised consistently bearing in mind the discussions that had taken place earlier in the meeting by Members of the Strategic Planning Board.

(During consideration of the item the meeting adjourned for a short break).

The meeting commenced at 1.00 pm and concluded at 3.53 pm

Councillor H Davenport (Chairman)

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Wednesday, 4th December, 2013 at Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

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

Councillors D Brown, P Edwards, J Hammond, B Murphy, G M Walton,
S Wilkinson, J Wray and D Newton

OFFICERS IN ATTENDANCE

Mr N Curtis (Principal Development Officer), Ms S Dillon (Planning Lawyer),
Mr D Evans (Principal Planning Officer), Mr N Hulland (Planning Officer), Mr D
Malcolm (Southern Area Manager) and Miss E Williams (Principal Planning
Officer)

115 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mrs Rachel Bailey,
P Hoyland, Mrs J Jackson, P Mason and C Thorley.

116 DECLARATIONS OF INTEREST/PRE DETERMINATION

In the interest of openness in respect of application 13/2035 N, Councillor
J Hammond declared that he was a member of the Cheshire Wildlife Trust
who had been consulted on the application, however he had not made any
comments in respect of the application.

In the interest of openness and total transparency in respect of
applications 10/0692W and 13/3774W, Councillor J Hammond declared
whilst he had no involvement in discussions relating to these applications,
his appointment as a Director of the Shadow Board of ANSA
Environmental Services Ltd who would be delivering Waste Management
Services on behalf of the Authority could give the public perception that
the Company of which he was a Director of had a pecuniary interest. As a
result he left the room prior to consideration of both of the applications and
returned to the meeting only once the decision had been made.

In the interest of openness in respect of agenda item 8 (Consultation
report), Councillor P Edwards declared that he was a member of
Middlewich Town Council who had been a consultee on the application.

In the interest of openness in respect of the same item, Councillor S
Wilkinson declared that he had traded with some of the companies
involved in the report.

117 **PUBLIC SPEAKING**

RESOLVED

That the public speaking procedure be noted.

(During consideration of the following application, Councillor D Brown arrived to the meeting. He did not take part in the debate or vote on the application).

118 **13/2035N-OUTLINE PLANNING APPLICATION INCLUDING MEANS OF ACCESS FOR EMPLOYMENT DEVELOPMENT COMPRISING LIGHT INDUSTRY, GENERAL INDUSTRIAL AND STORAGE AND DISTRIBUTION USES (B1(C)/B2/B8 USE CLASSES) ON LAND AT THE FORMER WARDLE AIRFIELD, CHESHIRE, LAND AT THE FORMER WARDLE AIRFIELD, WARDLE, NANTWICH, CHESHIRE FOR PHILLIP POSNETT, HAUGHTON ESTATE**

Consideration was given to the above application.

(Dr Webster, representing Alpraham Parish Council, Parish Councillor Smith, representing Calveley Parish Council, Jo Kenwright, an objector, Mr Pearce, a Supporter and Conor Valleley, 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:-

- Applicant will provide a Travel Plan which will secure public transport improvements and a monitoring mechanism to address future employment user shift patterns and for the implementation of an extension to public bus services to serve the site for a period of 5 years at £20,000 per annum at a total sum of £100,000.
- Payment of £103,222 to address issues of highways safety, amenity and reduction in severance in the villages of Calveley and Alpraham including improved gateway features, matrix signs and pedestrian crossing. Also a £12,000 contribution to HGV weight restrictions and signage (to be enforced by a Traffic Regulation Order) on Calveley Hall Lane – The trigger is delegated to the Planning and Place Shaping Manager in consultation with the Chair of the Strategic Planning Board.
- Payment of £85,963 to address issues of highways safety, amenity and reduction in severance in the villages of Wardle and Barbridge to provide matrix signs and a pedestrian crossing – The trigger is delegated to the Planning and Place Shaping Manager in consultation with the Chair of the Strategic Planning Board.

- Payment of £28,500 towards junction improvements at Reaseheath Roundabout – financial contribution triggered at 45,000sqm of the development being complete and only in the circumstance where improvements to the Reaseheath Roundabout/A51 are not delivered through the North West Nantwich/Kingsley Fields scheme (application ref 13/2471N).
- Payments of £155,000 towards junction improvements at Alvaston Roundabout and £44,000 towards junction improvements at Peacock Roundabout – both financial contributions triggered at 65,000sqm of the development being complete.
- Payment of £448,602 towards provision of a new junction at Burford Crossroads – financial contribution triggered at 35,000sqm of the development being complete.

And subject to the following conditions:-

1. The subsequent approval by the Local Planning Authority before development of each phase commences of the appearance, layout and scale of the proposed building(s), structures and public art and the positions and the landscaping of the site, in accordance with the phasing defined in condition 5 below.
2. Application for reserved matters must be made not later than the expiration of three years from the date of this permission.
3. Development to be implemented within 3 years of the date of this outline permission or expiry of 2 years from final approval of the last of the reserved matters.
4. Approved Plans
5. Details of phasing to be submitted to the LPA for approval in writing
6. The uses of land and principles of development shall comply with the details shown on drawing number PL1132.PA.003 except that the building heights shall not exceed the limitations stated in condition 11 below. The development shall provide a maximum of 135,000sqm of floorspace in accordance of floorspace in accordance with the following ratios:
 - 40% B1 (c) Light industry
 - 20% B2 General industry
 - 40% B8 Storage and distribution
7. All reserved matters applications to include site survey and details of proposed site and slab levels.
8. Notwithstanding the submitted application, the first reserved matters application for the development hereby approved shall include the principles of the structure planting for the whole of the development site. The submission shall include the principles of planting together with a timetable for the implementation of the planting. The development shall proceed in accordance with the principles approved under this submission.
9. The structural planting for the whole site shall be completed in accordance with the details submitted and approved under the above condition prior to the first occupation of any units on this site.
10. Notwithstanding the submitted landscaping information, the first reserved matters application for each phase of the development shall include details of structure planting for each plot in that phase. The

submitted details shall include type of planting (eg whether frontage planting, hedgerow planting on boundaries between plots, corner planting, species etc) and shall make provision for maximising natural linkages across the development area.

11. Notwithstanding the submitted application and supporting information, and condition 6 above, the building heights shall not exceed the heights shown on the scale parameters plan reference PL1132.PA.001

12. No development shall take place within the application area until the applicant, or their agents or successors in title, has agreed a programme of archaeological mitigation in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the local planning authority. The work shall be carried out strictly in accordance with the approved scheme.

13. The provision of art work at the entrance to the site noting the historical role of the site should be submitted to the Local Planning Authority.

14. Prior to the commencement of development a detailed scheme for improvements to the canal towpath between the site and Barbridge shall be submitted to the LPA for approval in writing. The approved towpath improvements shall be provided prior to the occupation of any floor space above 30,000sqm details.

15. Submission of an Arboricultural Implications Assessment

16. Submission of an Arboricultural Method Statement

17. Details of tree protection measures as part of each phase of development

18. Detailed protected species mitigation method statements (barn owl and badger) to be submitted in respect of the appropriate reserved matters applications.

19. Submission of a Habitat Creation and management plan as part of the first reserved matters application

20. Prior to the commencement of each phase of development detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds including house sparrow and swifts shall be submitted to the LPA for approval in writing. The proposals shall be permanently installed in accordance with approved details.

21. Prior to undertaking works on any phase of the development between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds. A report of the survey and any mitigation measures required to be submitted and agreed by the LPA.

22. Prior to the development commencing, a Construction Environmental Management Plan shall be submitted and agreed by the planning authority. The plan shall address the environmental impact in respect of air quality and noise on existing residents during the demolition and construction phase.

23. Notwithstanding the submitted application and supporting documents, a lighting strategy shall be submitted with the first reserved matters application for each phase which shall include the principles of illumination to be used for all developments in that phase. Development shall operate in accordance with the principles of the approved details.

24. Details of the Hours of operation of the units on the site shall be submitted to the LPA prior to the occupation of the relevant unit

25. All reserved matters applications to include Framework Travel Plan, to be followed by a travel plan and its implementation.
26. Car parking, motorised cycle parking and covered secure cycle parking for each plot, with showers in each building for use by all staff.
27. No development shall take place until a detailed design of any buildings and boundary treatment within a 50 metre buffer of the committed composting site is agreed with the Planning Authority. The design shall show that there are no inlets of air to buildings (e.g. vents, open entrances or opening windows) and that there are no communal open areas within the buffer zone.
28. Phase II Contaminated Land Report
29. No development shall take place until a scheme for the provision and management of a Buffer zone alongside the canal shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme prior to the occupation of any units on the site (in accordance with conditions 8 and 9) and any subsequent amendments shall be agreed in writing with the local planning authority.
30. Development shall not begin until a surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.
31. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.
32. The route of the statutory public footpaths crossing the site shall be protected at all times during the course of the development to ensure that it is accessible by members of the public wishing to use it unless appropriate measures have been implemented for its closure, diversion or other alteration.
33. On each phase of the development the developer shall provide Electric Vehicle Infrastructure as part of this development. In addition a further number of parking spaces shall be provided with the necessary cabling and works to enable future provision of EV poles. These facilities shall be maintained throughout the lifetime of this development.
34. All infill materials brought onto the site for remodelling of the land or landscaping works shall be inert material.
35. Prior to being discharged into any watercourse, surface water sewer or soakaway system, all surface water drainage from car parking areas shall be passed through oil interceptors designed and constructed to have a capacity and details compatible with the site being drained. Roof water shall not pass through the interceptors.
36. The first reserved matters application for each phase of the development shall include details of driver overnight facilities to be provided to serve each B2/ B8 unit in that phase of the development,

whether at that specific unit, on that phase of the development or for the whole of the development.

37. Notwithstanding the submitted application each reserved matters application for all B1, B2 and B8 development shall include details of covered secure cycle parking (and where appropriate motor cycle parking) at the unit together with details of shower facilities within the building. The approved cycle/ motor cycle parking and showers shall be provided before the building is first occupied and shall thereafter be retained. The cycle parking and showers shall be made available for use by all members of staff working at the building.

38. Control of Japanese Knotweed on the site.

39. Submission of an amended layout for the site access to incorporate the changes suggested by the RSA. The approved scheme shall be implemented in accordance with the approved details.

40. Lay-by on the A51

41. A suitable employment travel plan, with appropriate measures and targets, will be agreed to the satisfaction of the SHM prior to construction of the development.

42. The site layout for the development will make allowance for bus provision on the site; including up to two shelters and a turning area for buses.

43. Establishment of a Public Liaison Group

44. Submission of a Construction Management Plan to include waste management and a wheel washing facility

45. Prior to implementation of the scheme further consultation to take place with town and villages beforehand.

In the event of any changes being needed to the wording of the Board's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning and Place Shaping 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 Board's decision.

Should this application be the subject of an appeal, authority be delegated to the Planning and Place Shaping 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.

(The meeting was adjourned from 12.40pm until 1.20pm for lunch).

119 **13/4462N-RE SUBMISSION OF 13/3058N FOR RESIDENTIAL DEVELOPMENT OF 40 HOUSES, LAND TO REAR OF, 11, EASTERN ROAD, WILLASTON FOR RICHARD LEE, RICHARD LEE LTD**

Consideration was given to the above application.

(Richard Lee, the applicant attended the meeting and spoke in respect of the application. In addition a statement was read out on behalf of the Ward Councillor B Silvester by the Southern Area Manager.).

RESOLVED

That for the reasons set out in the report and in the written update to Board the application be delegated to the Planning and Place Shaping Manager in consultation with the Chairman of the Strategic Planning Board for approval in order to consider any additional consultations received within the consultation period which closes on 4 December 2013, subject to the completion of a Section 106 agreement securing the following:-

1. A commuted payment of £17,795 towards off-site habitat creation/enhancement.
2. A commuted payment of £86,770 towards primary school education
3. A commuted payment of £67,000 towards the IDP Scheme of Improvement for the Peacock Roundabout
4. 30% Affordable Housing provision – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include: The numbers, type, tenure and location on the site of the affordable housing provision; The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing; The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved; The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
5. Public Open Space to be maintained by a private management company for the residents in perpetuity.
6. A commuted payment of a sum to be determined should be made towards providing a skate park or other children's play facility on the Parish Council owned open space on Wybunbury Road, Willaston

And subject to the following conditions:-

1. Time Limit (Outline)
2. Submission of reserved matters
3. Reserved Matters application made within 3 years
4. Approved plans
5. Prior submission of facing and roofing material details
6. Prior to first development the developer will provide a detailed suite of design plans for the development highway proposals which will inform the S38 agreement. Prior to first development the developer will provide a

detailed suite of design plans for the development highway proposals which will include the incorporation of cycling facilities which will inform the S38 agreement.'

7. Prior submission of a construction phase Environmental Management Plan (to include mitigation measures with regards to noise, waste and dust)
8. Hours of operation
9. The prior submission of a noise mitigation scheme
10. The prior submission of lighting details
11. Hours of piling
12. Prior submission of piling method statement
13. Prior submission of drainage details
14. Prior submission of a scheme to manage the risk of flooding from overland flow of surface water.
15. Prior submission of a traffic management plan for construction works
16. Prior submission of an Arboricultural Impact Assessment with fully updated Tree Survey, Tree Constraints and Tree Protection Plan
17. Trees which support roosting bats to be retained
18. Breeding birds
19. Prior submission of boundary treatment details
20. Submission of a Construction Method Statement to include car parking for construction vehicles
21. Prior submission of wheel wash facility details
22. Prior submission of Details of bin storage details

In the event of any changes being needed to the wording of the Board's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning and Place Shaping 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 Board's decision.

Should this application be the subject of an appeal, authority be delegated to the Planning and Place Shaping 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.

(This was a change in the Officer's recommendation from one of approval to one of delegate to approve).

(Councillor D Brown left the meeting and did not return).

120 **10/0692W-TO CARRY OUT DEVELOPMENT WITHOUT COMPLYING WITH CONDITIONS ATTACHED TO 7/P05/1326 TO EXTEND THE OPERATION LIFE OF THE MAW GREEN LANDFILL FACILITY TO 31 DECEMBER 2017, RESTORATION BY 31 DECEMBER 2018, PERMIT A VARIATION TO THE SEQUENCE OF PHASING OF OPERATIONS ALONG WITH MINOR RE-CONTOURING TO THE**

SOUTH EAST OF THE SITE, MAW GREEN LANDFILL SITE, MAW GREEN ROAD, CREWE FOR 3C WASTE LTD

Consideration was given to the above application.

RESOLVED

That for the reasons set out in the report and in the oral update to Board and subject to receiving confirmation from the Property Portfolio Manager that they have noted the reliance being placed on the legal easement to enter the Phase 1 land for the purposes of carrying out gas and leachate monitoring/maintenance the recommendation for approval should be maintained as per the Strategic Planning Board report dated 2 June 2010; subject to:-

(1) Deed of variation to the existing Section 106 Planning Obligation to the extent described in the report to secure:

- diversion and maintenance in perpetuity Fowle Brook;
- long-term management of the restored nature conservation area on Cell 9a for a period of 15 years following the restoration of Cell 9a
- monitoring and maintenance of the leachate control system;
- monitoring the generation and extraction of landfill gas;
- Heavy Goods Vehicle routing; and
- Maintenance and management of a length of Maw Green Road.

(2) Planning permission being granted subject to conditions covering in particular: -

- All the conditions attached to permission 7/P05/1326 unless amended by those below;
- Approved plans;
- Revisions to existing approved restoration plan – replace with in interim and final restoration plan and associated restoration conditions;
- Revisions to existing phasing plans and associated phasing conditions;
- Revisions to existing pre-settlement contours, and associated contouring conditions;
- Additional surface water lagoon plan;
- Extension of time to 31st December 2017 with interim restoration of the site within 12 months or no later than 31st December 2018
- Final restoration as final restoration plan to be no later than 12 months following the cessation of production of leachate and landfill gas;
- Interim and final restoration proposals to be amended to include rough tussocky grassland to provide suitable habitat for breeding skylarks;
- Approved Method statement for protected species;
- Liaison Committee Scheme;
- Noise limits;
- Noise Monitoring Scheme;

Best practical site management for noise/ dust/ odour/ flies/ vermin/ birds/ litter control as per ES.

121 **13/3774W-VARIATION OF CONDITION 6 OF PLANNING
PERMISSION 11/3389N - VARIATION OF CONDITION ON NO 9 ON
PERMISSION 7/2009/CCC1, WHITTAKERS GREEN FARM, PEWIT
LANE, BRIDGEMERE, CHESHIRE FOR MR F H RUSHTON**

Consideration was given to the above application.

RESOLVED

That for the reasons set out in the report the application to vary the wording of condition 6 of permission 11/3389N be approved as follows:-

The importation of green waste to the site and the unloading of green waste vehicles shall only take place within the following periods:

0800-1800hrs Monday to Friday between 1st March and 31st October.
0800-1200hrs Saturday.

0800-1600 Monday to Friday between 1st November and 29th February.
0800-1200hrs Saturday.

No importation of green waste taking place outside these times or on Sundays.

Bank Holidays:

Subject to the provisions below, the importation of green waste to the site and the unloading of green waste vehicles on Bank or Public Holidays shall only take place between the hours of 0830 – 1600.

No importation of green waste material or unloading is permitted outside of these hours or on Christmas Day, Boxing Day or New Years Day.

In addition the Board agreed to the addition of a planning condition requiring the erection of appropriate signs for speed restriction and warning of pedestrians.

In the event of any changes being needed to the wording of the Board's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Planning and Place Shaping 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 Board's decision.

Should this application be the subject of an appeal, authority be delegated to the Planning and Place Shaping 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.

- 122 **FULL APPLICATION FOR ERECTION OF A NEW AUCTION CENTRE FOR CHESHIRE AND ASSOCIATED LIVESTOCK ACCOMMODATION BUILDING, BARN AND PUMP HOUSE AND PARKING FOR CARS AND HGV'S WITH VEHICULAR ACCESS FROM A54. ESTATE ROAD AND ASSOCIATED INFRASTRUCTURE AND HARD AND SOFT LANDSCAPING. OUTLINE APPLICATION FOR FOOD INNOVATION AND ENTERPRISE CENTRE AND RELATED BUSINESS AND OFFICES, LIGHT INDUSTRIAL, MANUFACTURING AND DISTRIBUTION AREAS, MACHINERY DEALERSHIPS, HOTEL AND LEISURE AND RETAIL AREAS, FOOD COURT, CAFES, RESTAURANTS AND HOT FOOD ESTABLISHMENTS, LAND OFF HOLMES CHPAEL ROAD, MIDDLEWICH FOR CHESHIRE WEST & CHESTER COUNCIL**

Consideration was given to the above report.

RESOLVED

That subject to the following contributions to highway improvements and conditions as outlined below the scheme be fully supported:-

Contributions

A sum of £5000 to be provided to Cheshire East Council to improve the existing public footpath No 19 in Middlewich with a view to developing the right of way to encourage sustainable transport use to the development

A sum of £105,000 to be provided to the Cheshire East Council to allow for the improvements to the Leadsmithy/A54 junction or in the case where this junction has already been improved the sum to be used to assist in the delivery of the Middlewich eastern bypass

Suggested Conditions

General

- Time limits for detailed and reserved matters
- Details of materials
- Landscaping & Implementation
- Construction / Environmental Management Plan

Environmental Health

- Noise monitoring programme
- Hours of construction
- Odour control
- Provision of Electric vehicle infrastructure

Ecology

- 8m buffer alongside water courses
- Safeguarding breeding birds
- Compensatory planting for any loss of hedgerows

- Method statement for removal of Himalayan balsam

Commercial/Retail

- Define comparison and convenience goods floorspace
- Restricted goods for sale for each type of end user, e.g. garden centre, box park etc;
- Use classes in each “zone” of the development site
- Define the area of floorspace that may be used by particular types of end users;
- Prevent the subdivision of retail units or the merging together of smaller units;
- Prevent the introduction of mezzanine floors;
- Hours of operation/ trading for the business and retail units.

Highways

- A detailed scheme for the site access onto the A54 Holmes Chapel Road shall be submitted/approved
- A detailed scheme for the site access onto the Pochin Way (including relining of the cycle lane on Pochin Way carriageway and a pedestrian refuge) shall be submitted/approved
- Detailed scheme shall be submitted/approved for the off-site highway improvements on the A54 Holmes Chapel Road and Pochin Way roundabout.
- Detailed scheme shall be submitted/approved for the public right of way No 19 improvements between Pochin Way and Brooks Lane within Pochin Land ownership to include hard paving the surface and where possible widening of the footpath to accommodate cycles
- Details of Travel Plans to be submitted for each business

123 **NEWBOLD ASTBURY AND MORETON NEIGHBOURHOOD AREA APPLICATION**

This application was withdrawn from the agenda prior to the meeting.

The meeting commenced at 10.30 am and concluded at 3.00 pm

Councillor H Davenport (Chairman)

CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Strategic Planning Board**
held on Monday, 9th December, 2013 at Council Chamber, Municipal
Buildings, Earle Street, Crewe CW1 2BJ

PRESENT

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

Councillors D Brown, J Hammond, J Jackson, P Mason, C G Thorley,
G M Walton, S Wilkinson, J Wray and D Brickhill (Substitute)

OFFICERS IN ATTENDANCE

Ms P Cockroft (Principal Planning Officer), Mr D Malcolm (Southern Area
Manager), Ms S Dillon (Senior Lawyer), Mr A Fisher (Head of Economic and
Strategic Planning), Mr B Haywood (Principal Planning Officer), Mr N Jones
(Principal Development Officer) and Ms S Orrell (Principal Planning Officer)

124 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Mrs R Bailey, P
Edwards and B Murphy.

125 DECLARATIONS OF INTEREST/PRE DETERMINATION

In the interest of openness in respect of applications 13/4092C and
13/3032C, Councillor D Hough declared that whilst he was a Member of
Alsager Town Council he had not taken part in any of the debates on the
applications.

In the interest of openness in respect of application 13/4092C, Members
declared that they had received correspondence from the Action Group.

(During consideration of the item, Councillor D Brown arrived to the
meeting).

126 PUBLIC SPEAKING

RESOLVED

That the public speaking procedure be noted.

127 WITHDRAWN-12/0112M - LAND ADJACENT TO THE SILK ROAD AND BLACK LANE, MACCLESFIELD, CHESHIRE, SK10 2AQ - PART DETAILED/PART OUTLINE PLANNING APPLICATION FOR A

REPLACEMENT TESCO SUPERSTORE AND ERECTION OF RETAIL WAREHOUSE UNITS FOR TESCO STORES LTD

This application was withdrawn by the applicant prior to the meeting.

128 13/4092C - LAND SOUTH OF HALL DRIVE, ALSAGER, CHESHIRE - OUTLINE APPLICATION FOR ERECTION OF UP TO 125 DWELLINGS WITH ASSOCIATED INFRASTRUCTURE (RESUBMISSION OF 12/4150C) FOR RENEW LAND DEVELOPMENTS LTD

Consideration was given to the above application.

(Councillor R Fletcher, Ward Councillor, Emma Nawoor, representing Hall Drive Action Group (HDAG), Peter Bower, an objector and Rawdon Gascoigne, 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:-

- 33 affordable units (21 rented and 12 intermediate)
 - Type and number of bedrooms to be agreed at reserved matters
 - Affordable units to be tenure blind and pepper potted within the development.
 - no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided, with the exception that the percentage of open market dwellings that can be occupied can be increased to 80% if the affordable housing has a high degree of pepper-potting and the development is phased
 - Housing to be transferred to and managed by a Registered Provider as set out in the defined in the Housing & Regeneration Act 2008
- LEAP including at least 5 items of equipment. Specification to be submitted to and agree by the Council.
- Provision for a private residents management company to maintain the on-site amenity space / play area and all incidental areas of open space not within the adopted public highway or domestic curtilages
- Detailed management plan for the above Open Space be submitted and approved.
- Highways contribution of £146,000 in mitigation at Hassall Road/ Crewe Road junction and the signal junction in the town centre at Sandbach Road / Crewe Road.
- Contribution of £206,080 towards education.

And subject to the following conditions:-

1. Standard Outline
2. Submission of reserved matters
3. Plans
4. Limit number of dwellings to 109
5. Submission / approval and implementation of programme of archaeological works
6. Reserved matters to include no development within yellow line on BAE Safeguarding Plan
7. Development to be of traditional brick / tile construction and of no more than 12m in height
8. Reserved matters to make provision for development fronting footpaths within site
9. Submission / approval and implementation of works to improve and enhance footpath no.8 / 10 including upgrading to cycle way and improvements to discourage use of the level crossing to the west of the site and to encourage the use of the safe crossing at the under bridge.
10. Provision of signage within the site for cyclists and pedestrians
11. Piling operations shall be restricted to: Monday – Friday 09:00 – 17:30 hrs Saturday 09:00 – 13:00 hrs Sunday and Public Holidays Nil
12. Submission, approval and implementation of a piling method statement
13. Submission, approval and implementation of an Environmental Management Plan
14. Construction works (and associated deliveries to the site) are restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil
15. Any mitigation measures applied must achieve the internal noise levels defined within the “good” standard within BS8233:1999. Habitable rooms within the "Noise Mitigation Zone" marked on plan WYGA083386SK07 dated 18 September 2013 with a south or south west aspect should have a means of ventilation that is alternative to reliance upon open windows.
16. Submission, approval and implementation of a residential travel plan
17. Provision of Electric Vehicle infrastructure on the properties.
18. Submission and approval of a Phase II investigation shall be carried out and the results submitted to, and approved in writing by, the Local Planning Authority (LPA).

- If the Phase II investigations indicate that remediation is necessary, then a Remediation Statement to be submitted, and approved
 - If remediation is required, a Site Completion Report to be submitted and approved.
19. Site to be drained on a separate system with only foul drainage connected into the public foul sewerage system. Surface water should discharge directly in to the adjacent watercourse
 20. Reserved matters to include no buildings or alteration of existing ground levels within Flood Zone 3
 21. Reserved matters to include finished floor levels of proposed buildings to be set at a minimum of 600mm above the 1 in 100 year (1% AEP) plus climate change flood level,
 22. All proposed access roads, parking and pedestrian areas are to be set at a minimum of 300mm above the 1 in 100 year (1% AEP) plus climate change flood level,
 23. Submission, approval and implementation of a scheme to limit the surface water runoff
 24. The discharge of surface water from the proposed development to mimic that which discharges from the existing site.
 25. Submission, approval and implementation of attenuation for discharges above 1% annual probability event, including allowances for climate change
 26. Submission, approval and implementation of Sustainable Drainage Systems (SuDS).
 27. Submission, approval and implementation of a scheme to manage the risk of flooding from overland flow of surface water,
 28. The site layout to be designed to contain any such flooding within the site, to ensure that existing and new buildings are not affected.
 29. Reserved matters to include the provision of an undeveloped buffer zone (at least 8 metres wide), between the banktop of Valley Brook and any built development,
 30. Submission, approval and implementation of a scheme for landscaping and management of the buffer zone
 31. Submission, approval and implementation of boundary treatment
 32. Submission, approval and implementation of ground levels, earthworks and excavations.
 33. Tree protection & retention
 34. Arboricultural Impact Assessment
 35. Arboricultural Method Statement

36. Reserved matters to make provision for buffer zones along railway
37. Retention of hedgerow on western boundary
38. No works in bird nesting season without survey
39. Provision of features for breeding birds

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 Planning and Place Shaping 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 Board's decision.

(The meeting adjourned for lunch from 12.50pm until 1.30pm. Councillor J Wray left the meeting and did not return).

129 **13/2055N - 138 SYDNEY ROAD AND LAND TO THE NORTH EAST OF SYDNEY ROAD, CREWE CW1 5NF - OUTLINE APPLICATION FOR UP TO 240 RESIDENTIAL DWELLINGS, OPEN SPACE AND NEW ACCESS OFF SYDNEY ROAD FOR MULLER PROPERTY GROUP**

Consideration was given to the above application.

(Pat Downes, the agent for the applicant, Carl Davey, the applicant and Mr J Parkinson, an objector 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:-

- 466,390 towards primary education and £506,623 towards secondary education
- Highways contribution of £1,576,000 for Sydney Road Bridge and/or Crewe Green Roundabout. 50% to be provided on occupation of 75 dwellings and 50% to be provided on occupation of 150 dwellings
- £43,000 for off-site public footpath/cycleway improvements
- Minimum of 8,400sq.m of open space to include:
 - An equipped children's play area to cater for both young and older children - 6 pieces of equipment for young, plus 6 pieces for older children.
 - A Multi Use Games Area
 - Specification for the above to be as set out in the Greenspaces consultation response

- Private Residents Management Company to maintain all open space on site including amenity greenspace, play space, incidental open space, footpaths and cycleways.
- 20% affordable housing (48 units) with a tenure split 65% rented housing and 35% intermediate affordable housing in line with the Council's Interim Planning Policy on Affordable Housing. (The mix of type of affordable dwellings to be 15 x 1 beds, 15, x 2 beds (not flats), 15 x 3 beds and 3 x 4 beds.)
- affordable units to be tenure blind and pepper potted within the development.
- no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided, with the exception that the percentage of open market dwellings that can be occupied can be increased to 80% if the affordable housing has a high degree of pepper-potting and the development is phased
- Housing to be transferred to and managed by a Registered Provider as set out in the defined in the Housing & Regeneration Act 2008

And subject to the following conditions:-

1. Standard Outline
2. Submission of reserved matters
3. Plans
4. Submission / approval and implementation of archaeological programme
5. Submission, approval and implementation of a scheme to limit the surface water runoff generated by the proposed development
6. Submission, approval and implementation of a scheme to manage the risk of flooding from overland flow of surface water,
7. Submission, approval and implementation of a scheme to to dispose of foul drainage
8. Piling operations shall be restricted to: Monday – Friday 09:00 – 17:30 hrs Saturday 09:00 – 13:00 hrs Sunday and Public Holidays Nil
9. Submission, approval and implementation of piling method statement
10. Submission, approval and implementation of a detailed scheme of glazing and ventilation mitigation measures, together with any mitigation measures required for garden areas or outdoor living areas, at the Reserved Matters application stage.
11. Construction works taking place during the development (and associated deliveries to the site) restricted to: Monday – Friday 08:00 to 18:00 hrs Saturday 09:00 to 14:00 hrs Sundays and Public Holidays Nil

12. Submission, approval and implementation of residential Travel Plan
13. Electric Car Charging Points shall be provided
14. Submission, approval and implementation of Environmental Management Plan to include dust control measures.
15. Submission and approval of a Phase II investigation including a thorough gas risk assessment.
 - If the Phase II investigations indicate that remediation is necessary, then a Remediation Statement shall be submitted, approved and implemented
 - 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 and approved
16. Reserved matters to make provision for protection and enhancement of public footpath 4 across the site. To include house fronting on to right of way.
17. Reserved matters to include a statement of sustainable design principles and features and features.
18. Important Trees / Hedges to be incorporated into reserved matters layout and hedgerows to be enhanced
19. Submission and approval of scheme of tree / hedge protection
20. Implementation of tree / hedge protection
21. Submission, approval and implementation of materials
22. Submission, approval and implementation of boundary treatment.
23. Submission, approval and implementation of features for use by breeding birds
24. No development in bird nesting season without prior survey
25. Submission, approval of Feasibility study into providing pedestrian crossing over Sydney Road. Provision of crossing if feasible
26. The properties must be constructed on raft foundations if recommended by Cheshire Brine Board

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

(The meeting adjourned for a short break).

- 130 **13/3032C - LAND OFF CREWE ROAD, ALSAGER CHESHIRE ST7 2JL -OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT COMPRISING 110 HOMES, INCLUDING 33 AFFORDABLE HOMES, TO INCLUDE AN AREA OF PUBLIC OPEN SPACE AND CHILDREN'S PLAY AREA FOR PERSIMMON HOMES NORTH WEST**

Consideration was given to the above application.

(Councillor R Fletcher, the Ward Councillor, Honorary Alderman Derek Bould, representing Alsager Residents Action Group (ARAG), Mrs Dykes, an objector and Adele Snook, agent for the applicant attended the meeting and spoke in respect of the application).

RESOLVED

That the application be deferred for further information on the pylons, noise, dust and highways contributions.

(This decision was contrary to the Officers recommendation of approval. The meeting adjourned for a short break. Councillor C Thorley left the meeting and did not return).

- 131 **DEFERRED - 13/2471N - LAND AT KINGSLEY FIELDS, NORTH WEST OF NANTWICH, HENHULL, CHESHIRE - OUTLINE APPLICATION FOR RESIDENTIAL DEVELOPMENT OF UP TO 1,100 DWELLINGS, UP TO 1.82HA OF CLASS B1 BUSINESS USE, A POTENTIAL PRIMARY SCHOOL, COMMUNITY FACILITIES AND LOCAL CENTRE (USE CLASSES A1, A2, A3, B1 AND D1), ALLOTMENTS, RECREATIONAL OPEN SPACE AND ASSOCIATED LANDSCAPING, HIGHWAYS, ACCESS ROADS, CYCLEWAYS, FOOTWAYS AND DRAINAGE INFRASTRUCTURE FOR NORTH WEST NANTWICH CONSORTIUM**

This application was deferred to a future meeting prior to the meeting.

- 132 **13/3764C - LAND OFF WAGGS ROAD, CONGLETON CHESHIRE - THE ERECTION OF 104 RESIDENTIAL DWELLINGS, INCLUDING OPEN SPACE, TOGETHER WITH ASSOCIATED WORKS INCLUDING LANDSCAPING, THE FORMATION OF ACCESS, SITE WORKS AND OTHER NECESSARY WORKS FOR BELLWAY HOMES LTD**

Consideration was given to the above application.

(Town Councillor Bates, representing Congleton Town Council 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 refused for the following reason:-

The proposed development is located within Open Countryside and would have a severe adverse impact on Waggs Road and Fol Hollow due to the sub-standard nature of these two highway routes. This severe adverse impact would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policies GR1(V), GR18, PS8 and H6 of the Congleton Borough Local Plan First Review 2005 and to a core planning principle of the National Planning Policy Framework (paragraph 17), which recognises the intrinsic character and beauty of the countryside.

The meeting commenced at 10.30 am and concluded at 5.20 pm

Councillor H Davenport (Chairman)

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Application No: 13/4675N

Location: 414, NEWCASTLE ROAD, HOUGH, CW2 5JF

Proposal: Outline application for proposed development of 47 houses of mixed type to include 30% affordable (Resubmission of 13/3018N)

Applicant: David Wootton

Expiry Date: 07-Feb-2014

SUMMARY RECOMMENDATION

Approve subject to S106 Agreement and conditions

MAIN ISSUES

Impact of the development on:-

Principal of the Development
Location of the Site
Landscape
Affordable Housing
Highway Implications
Amenity
Trees and Hedgerows
Design
Ecology
Public Open Space
Education
Flood Risk and Drainage

REASON FOR REFERRAL

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

The application also received a call-in request from Cllr Brickhill on the following grounds:

- 1. There are already several thousand houses being applied for or approved in Shavington to more than double the population*
- 2. Highways grounds as entry/exit is on a main road just by a garage with backland nursery and a blind bend*
- 3. Overcrowding of housing onto the site*
- 4. Out of keeping with the housing and density opposite*

5. Unsustainable on the grounds of already overloaded infrastructure. Power cuts, low water pressure, congestion on the roads and in doctors surgeries, sewage overflowing into Main road.

1. DESCRIPTION OF SITE AND CONTEXT

The site of the proposed development extends to 1.17 ha and is located to the south of Newcastle Road. The site is rectangular in shape and within the open countryside as defined by the Crewe and Nantwich Replacement Local Plan.

To the north of the site is residential development which fronts Newcastle Road. To the east of the site are an existing petrol station and a group of commercial units. To the south of the site is open countryside and to the west of the site is residential development which fronts Stocks Lane.

The land is currently in agricultural use and is bound by hedgerow and trees. The site includes an existing dwelling and group of barns. The land levels on the site are generally flat.

1. DETAILS OF PROPOSAL

This is an outline application for a residential development of up to 47 dwellings.

All matters are reserved, but an indicative plan shows an indicative access point to the centre of the site.

2. RELEVANT HISTORY

13/3018N - Outline application for up to thirty nine houses of mixed type to include 30% affordable – Withdrawn 1st October 2013

3. POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

NE.2 (Open countryside)

NE.5 (Nature Conservation and Habitats)

NE.9: (Protected Species)

NE.20 (Flood Prevention)

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

RES.5 (Housing in the Open Countryside)

RES.7 (Affordable Housing)

RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)

TRAN.3 (Pedestrians)

TRAN.5 (Cycling)

Other Considerations

The EC Habitats Directive 1992

Conservation of Habitats & Species Regulations 2010

Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

Interim Planning Statement Affordable Housing

Interim Planning Statement Release of Housing Land

Cheshire East Development Strategy

Cheshire East SHLAA

4. CONSULTATIONS (External to Planning)

United Utilities: No objection providing that the following conditions are met:

- This site must be drained on a separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the soakaway/watercourse/surface water sewer

Strategic Highways Manager: This application is a resubmission of a previous application for residential development although the number of units proposed has increased from 39 to 47.

The position of the access has also been relocated away from the nearby petrol filling station. The design of the access has not changed and technically is suitable to serve a development consisting of 47 units. There are no issues with visibility as the Newcastle Road is straight along the site frontage.

Although the number of units has increased by 8 from the previous application the traffic generation from the development remains a minor impact and is not sufficient to warrant a severe impact on traffic grounds.

There are concerns regarding the indicative layout of the site as it does not accord with a Manual for Streets design. As this is an outline application then this issue regarding the design can be dealt with at reserved matters

There is a requirement for a footway to be provided along the whole site frontage and the existing road signage needs to be increased in height, these works need to be conditioned to be delivered prior to occupation of the site.

There are no highway objections subject to securing the works to the frontage of the development.

Environmental Health: Conditions suggested in relation to noise mitigation, hours of works, dust control, travel plan and contaminated land. Informative suggested in relation to contaminated land.

Environment Agency: Having reviewed the revised FRA the EA are now able to remove the previous objection subject to the imposition of a condition in relation to surface water management.

PROW: The proposed site plan indicates a pedestrian access onto Newcastle Road from the north-western end of the development site. It could be anticipated that demand for this route would

arise from cyclists in addition to pedestrians, and therefore the route should be design and constructed for both types of user. The plan also indicates a pedestrian crossing at this location. Cyclist facilities at the Newcastle Road/Crewe Road junction should also be assessed and improved as necessary to facilitate cyclist's journeys from the proposed development site to the employment and facilities of Shavington and Crewe.

The developer should be tasked to provide new residents with information about local routes for both leisure and travel purposes.

Public Open Space: A commuted sum payment of £25,000 for off-site provision should be secured. Specifically, to make improvements to the existing equipped children's play area at Wessex Close, Shavington.

Natural England: Statutory Sites – No objection. Natural England advises that the proposal, if undertaken in strict accordance with the details submitted, is not likely to have a significant effect on the interest features for which West Midlands Mosses SAC, Midland Meres & Mosses Phase 1 Ramsar has been classified.

The application is in close proximity to the Wybunbury Moss SSSI Site of Special Scientific Interest (SSSI). However, given the nature and scale of this proposal, Natural England is satisfied that the proposed development being carried out in strict accordance with the details of the application, as submitted, will not damage or destroy the interest features for which this site has been notified. Natural England advise that this SSSI does not represent a constraint in determining this application.

It is noted that a survey for European Protected Species has been undertaken in support of this proposal. Natural England does not object to the proposed development. On the basis of the information available the Natural England advice is that the proposed development would be unlikely to affect bats and GCN.

We have not assessed the survey for badgers, barn owls and breeding birds², water voles, white-clawed crayfish or widespread reptiles. These are all species protected by domestic legislation and you should use our protected species standing advice to assess the adequacy of any surveys, the impacts that may results and the appropriateness of any mitigation measures.

For all other advice protected species refer to the Natural England standing advice.

Education: A development of 47 dwellings will generate 8 primary and 6 secondary.

A developer contribution of £86,770 is required towards accommodating the primary pupils generated by this development.

5. VIEWS OF THE PARISH COUNCIL

Shavington Parish Council: Object to the application on the following grounds:

- The land at present forms part of the open countryside to the south of Newcastle Road.
- There are just 5 residential properties on the South Side of the Newcastle Road between Pit Lane and Stock Lane with quite substantial open spaces between them; this could not be accurately described as ribbon development.

- The proposal could also not be accurately described as ribbon development as there is a service road which feeds to double development behind the first row of the proposals at the front. The second and third row of the proposed development faces onto open countryside.
- The access to the petrol filling station and other retail and business activities is just before the proposed entrance for the development. The Parish Council has grave concerns over highway safety as there have been numerous accidents and near misses involving vehicles leaving the petrol station. There is a bend in the road as you approach the petrol station from the direction of Hough village and a further 80 vehicles accessing and egressing the proposed site at this location will only exacerbate the hazards. The previous proposal to construct a Tesco convenience store at the petrol filling station site was refused, at least in part on the grounds of traffic concerns and pedestrian safety.
- The Parish Council understands that the recently approved development at the Triangle site already adequately fills the quota for affordable housing in the immediate vicinity. This understanding is also reinforced by the recent refusal of a similar application for residential development at Hough – the Pit Lane/Newcastle Road application was refused since the quota for affordable housing in the area had been met both by the Triangle site and other affordable housing proposed in Shavington.
- The plan of the proposed development shows two open access points to the fields beyond and this gives the impression that the development will be capable of being extended further into fields behind, and into more open country side.
- The current PPG for development on this land indicates that it could be used for infill with a maximum of three properties only.
- The highway proposals submitted as part of the application are over-engineered and give an inaccurate picture of the effect of this development on the Newcastle Road.
- Surface water from the development will put extra pressure on the highway drain which will already be under significant additional pressure from the additional 300 properties to be built at the Triangle site.
- Residents crossing over the Newcastle Road on foot or by bicycle could only safely do so at the Goodall's Corner traffic lights. These do have central reservations but these are for the lights only and not designed for pedestrian use.
- The only Primary and Secondary Schools in foot fall distance are in Shavington so children would need to cross the very busy Newcastle Road.
- In the SHLAA this area is classified as a 'Blue' site and only sites identified as 'Pink' are designated for development under the current strategic plan.

Wybunbury Parish Council: Object on the following grounds:

- Currently there are 3 major development sites totalling in excess of 1000 new dwellings that have already been approved or are in the latter stages of approval within the Shavington parish.
- There are 5 Residential properties on the south side of Newcastle Rd from Pit lane to Stock Lane, with quite substantial open spaces between them. All but two of the above properties are pre 1900. These new houses would not be in keeping with the area.
- This application is not for ribbon development as there is a service road which feeds to double development behind the first row of development at the front. The second & third row of development faces onto open country side and are not developed land in any shape or form.
- The plan of the proposed development shows two open access points to the fields beyond giving the impression that the development will be extended further into the fields behind this development again into open country side.

- According to the SHLAA this site is marked blue and only sites identified in Pink are designated for development under the strategic plan
- The current PPG for development on this land says it would be in fill with a maximum of three properties only.
- The site as proposed is totally over engineered. The previous application was for 44 dwellings and it was difficult to see how that would work. 47 dwellings is a totally inappropriate number. They are cramped together in an overly dense manner
- The proposed design provides no turning circle for utility or emergency vehicles
- There is no green space and no children's playing facilities.
- The local primary school is over-subscribed and some Shavington families currently have to send their children to other schools in surrounding villages. The potential approval of this application would add further to the shortfall in capacity.
- There are similar problems with the local Doctor's surgery and dental facilities.
- The local road infrastructure is under significant pressure and this will be exacerbated by the Shavington Triangle development. There are already significant travel delays between Shavington and Crewe during peak hours in this area, due to the bottle neck along Gresty Road and South Street. This proposed development would add significantly to the congestion.
- There is a petrol station & retail/leisure development access point next to the proposed entrance to the development. This is a dangerous access point and there have been several accidents involving vehicles leaving the petrol station in the past. Visibility is poor due to the bend in the road as vehicles approach the petrol station from the direction of Hough village. Vehicles leaving the proposed development could potentially be masked by vehicles leaving the petrol station, as cars enter & exit the petrol station by either entrance.
- The various developments on the site of the Petrol station have had to go to appeal on access grounds, safety, air pollution & screening was a condition imposed due to the open country side on the south side of the developments.
- Pedestrian access at the traffic lights in close proximity is unsafe
- The only school at Primary stage in foot fall distance is Shavington, so children would need to cross a very busy road. The same would apply to older children attending Shavington High School.
- The air quality consultant supplied by the applicant has recommended refusal based on air quality.
- The highway proposals submitted as part of the application are over engineered & give a misleading picture of the effect of this development on the Newcastle Rd.
- The property runoff water will be disposed via each property soak away or to a water course, and will go through the same infrastructure as the triangle development. It will put unacceptable levels of pressure on the ground water levels.
- The hedgerows, trees and grassland on the site have significant wildlife value. The ecology report on application L2/3LL4N for the Shavington Triangle which is less than a few hundred yards away identified two badger setts on the site, both of which will be destroyed by that approved development. The argument was put forward by that developer that the badgers would migrate to surrounding sites, of which this is the nearest.

Hough and Chorlton Parish Council: Object on the following grounds:

- Currently there are 3 major development sites totalling in excess of 1000 new dwellings that have already been approved or are in the latter stages of approval within the Shavington parish.

- There are 5 Residential properties on the south side of Newcastle Rd from Pit lane to Stock Lane, with quite substantial open spaces between them. All but two of the above properties are pre 1900. These new houses would not be in keeping with the area.
- This application is not for ribbon development as there is a service road which feeds to double development behind the first row of development at the front. The second & third row of development faces onto open country side and are not developed land in any shape or form.
- The plan of the proposed development shows two open access points to the fields beyond giving the impression that the development will be extended further into the fields behind this development again into open country side.
- According to the SHLAA this site is marked blue and only sites identified in Pink are designated for development under the strategic plan
- The current PPG for development on this land says it would be in fill with a maximum of three properties only.
- The site as proposed is totally over engineered. The previous application was for 44 dwellings and it was difficult to see how that would work. 47 dwellings is a totally inappropriate number. They are cramped together in an overly dense manner
- The proposed design provides no turning circle for utility or emergency vehicles
- There is no green space and no children's playing facilities.
- The local primary school is over-subscribed and some Shavington families currently have to send their children to other schools in surrounding villages. The potential approval of this application would add further to the shortfall in capacity.
- There are similar problems with the local Doctor's surgery and dental facilities.
- The local road infrastructure is under significant pressure and this will be exacerbated by the Shavington Triangle development. There are already significant travel delays between Shavington and Crewe during peak hours in this area, due to the bottle neck along Gresty Road and South Street. This proposed development would add significantly to the congestion.
- There is a petrol station & retail/leisure development access point next to the proposed entrance to the development. This is a dangerous access point and there have been several accidents involving vehicles leaving the petrol station in the past. Visibility is poor due to the bend in the road as vehicles approach the petrol station from the direction of Hough village. Vehicles leaving the proposed development could potentially be masked by vehicles leaving the petrol station, as cars enter & exit the petrol station by either entrance.
- The various developments on the site of the Petrol station have had to go to appeal on access grounds, safety, air pollution & screening was a condition imposed due to the open country side on the south side of the developments.
- Pedestrian access at the traffic lights in close proximity is unsafe
- The only school at Primary stage in foot fall distance is Shavington, so children would need to cross a very busy road. The same would apply to older children attending Shavington High School.
- The air quality consultant supplied by the applicant has recommended refusal based on air quality.
- The highway proposals submitted as part of the application are over engineered & give a misleading picture of the effect of this development on the Newcastle Rd.
- The property runoff water will be disposed via each property soak away or to a water course, and will go through the same infrastructure as the triangle development. It will put unacceptable levels of pressure on the ground water levels.
- The hedgerows, trees and grassland on the site have significant wildlife value. The ecology report on application L2/3LL4N for the Shavington Triangle which is less than a few hundred yards away identified two badger setts on the site, both of which will be destroyed by

that approved development. The argument was put forward by that developer that the badgers would migrate to surrounding sites, of which this is the nearest.

6. OTHER REPRESENTATIONS

Letters of objection have been received from 25 local households raising the following points:

Principal of development

- There is no need for more housing
- There are too many housing developments proposed in Shavington
- No need for additional housing in Hough
- Loss of village identity
- There are a numerous dwellings for sale in Shavington
- Plenty of safer alternatives to build housing
- Unsustainable location
- No need for affordable housing
- Edward Timpson is opposed to applications of this kind
- Loss of the buildings on this site
- No RSL for the affordable dwellings
- No need for affordable housing in Hough
- The proposed HS2 route runs through the area
- No facilities in Hough
- Lack of jobs in the area
- The site is not a preferred site within the SHLAA
- The development is not infill
- The Triangle will meet the needs of Shavington
- Loss of open countryside
- Contrary to Local Plan Policy NE.2

Highways

- Increased traffic within the village
- Newcastle Road already suffers from congestion
- Increased traffic when heading into Crewe along Gresty Road
- Pedestrian safety
- Highway safety
- People cannot get out of their drives
- The proposed access is dangerous
- An additional access onto Crewe Road
- No suitable public transport
- Safety problems crossing Newcastle Road
- Proximity to the access for the existing petrol station
- Lack of public transport
- Proximity to the Esso garage
- Proximity to the existing cross roads
- The access is at an accident black-spot
- Overdevelopment of the site
- Speeding vehicles in the vicinity of the site
- Parking/delivery issues for the proposed dwellings

Green Issues

- Impact upon hedgerows
- Impact upon Badgers
- No breeding bird survey
- The site is subject to flooding
- Impact upon protected species
- Loss of agricultural land
- Loss of wildlife
- Impact upon Barn Owls
- Loss of hedgerow
- Impact upon Wybunbury Moss

Infrastructure

- Local schools are already full
- The Doctors surgery is full
- Lack of infrastructure
- The site floods
- Lack of services in Shavington
- Loss of power

Amenity Issues

- Increased pollution
- Impact upon air quality
- Loss of outlook
- Noise and disruption
- Too close to the existing petrol station
- Loss of privacy

Other issues

- Increased flood risk
- The Environment Agency previously objected to this application
- Inappropriate design

The full content of the objections is available to view on the Councils Website.

7. APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Design and Access Statement (Produced by Oligra Town Planning)
- Planning Statement (Produced by Oligra Town Planning)
- Acoustic Report (Produced by Cheshire Environmental Associates)
- Transport Statement (Produced by Bob Hindhaugh Associates)
- Flood Risk Assessment (Produced by Bob Hindhaugh Associates)
- Bat and Great Crested Newt Survey (Produced by EVR Ecology)
- Phase I Land Contamination Report (Produced by Peak Associates)
- Arboricultural Impact Assessment (Produced by Buckland Tree Care)
- Agricultural Land Classification Report (Produced by Solum Environmental)

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Main Issues

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

Principle of Development

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 concerns.

In addressing this, members should be mindful of the key principles of the National Planning Policy Framework

This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

“*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.”

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

Housing Land Supply

The National Planning Policy Framework (NPPF) states at paragraph 47 that there is a 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 October 2013 the Cabinet Member agreed the Cheshire East Local Plan Pre-Submission Core 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, an annual average of 1350 homes per year. This figure represents not only the objectively assessed need for housing based on the latest household projections but also a policy “boost” to allow for an enhanced level of economic development once the downturn recedes.

However the most up to date position on the Councils 5-year housing land supply figure is following the recent appeal decisions. As part of the consideration of the Congleton Road and

Sandbach Road North decisions, the Inspector found that the housing land supply over 5 years is 5750 dwellings. It is necessary to add to this figure the existing backlog 1750 dwellings and a 20% buffer for a record of persistent under delivery which gives a total requirement of 9000 dwellings over 5 years or 1800 per annum. This calculation took account of the High Court judgement in the Hunston Properties case (subsequently reinforced at the Court of Appeal). For whilst the RSS has clearly been revoked, it remains the only examined housing figure for the current period and itself represented a step change in housing growth when it was adopted (reversing the previous policy of restraint). Accordingly the three Appeal decisions published on 18 October 2013 all use the RSS base.

In terms of the existing supply the Inspector found that there is currently:

'a demonstrable supply, taking the generous approach to Council estimates, which is likely to be in the region of 7000 to 7500 dwellings at most' (Sandbach Road North Appeal)

This demonstrable supply therefore equates to a figure of 4.0 to 4.2 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:

- n 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*
- n specific policies in the Framework indicate development should be restricted."*

As it has been found that Cheshire East cannot demonstrate a five year supply of housing land, the provisions of paragraphs 49 and 14 apply in this case. It is therefore necessary to carry out a balancing exercise in this case to assess whether the harm 'significantly and demonstrably' outweighs its benefits.

Emerging Policy

Clarification has been given on the weight which can be attributed to the emerging Local Plan as part of recent appeal decisions for Abbeyfields, Sandbach and Congleton Road, Sandbach and Sandbach Road North, Alsager. As part of the decision for the Abbeyfields site the SoS stated that:

'As the emerging LP is still at an early stage the Secretary of State accords it limited weight in his decision making'

As part of the appeal decision for Congleton Road, Sandbach and Sandbach Road North, Alsager the Inspector found that:

'There is a draft Local Plan, variously described as the Core Strategy and Development Strategy, which is moving towards a position in which it can be submitted for examination. The Council is seeking to achieve this in late 2013. The current state of the plan is pre submission. It is not disputed that there are many outstanding objections to the plan, and to specific proposals in the plan. Hence it cannot be certain that the submission version of the plan will be published in the timescale anticipated. The plan has already slipped from the intended timetable. In addition there can be no certainty that the plan will be found sound though I do not doubt the Council's intentions to ensure that it is in a form which would be sound, and I acknowledge the work which has gone into the plan over a number of years.

Nonetheless I cannot agree that the draft Local Plan should attract considerable weight as suggested by the Council. There are many Secretary of State and Inspector appeal decisions which regard draft plans at a similar stage as carrying less weight. The Council's own plan has been afforded little weight in the earlier months of 2013, and although the plan has moved on to an extent, it has not moved on substantially. For these various reasons I consider that the draft Local Plan can still attract no more than limited weight in this case'

Since then the Council has published the Pre-Submission Core Strategy which is supported by fuller evidence and takes account of the 16,000 comments made during the two consultations in 2013. Accordingly its weight should correspondingly increase in decision making. Never the less, given the stance taken in the above appeals the emerging Local Plan can only be given moderate weight in the determination of this planning application.

Conclusion

- The site is within the Open Countryside and is subject to Policy NE.2 (Open Countryside) where 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 for the supply of housing land 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.
- Cheshire East has a housing land supply figure of in the region of 4.0 to 4.2 years
- Only moderate weight can be applied to the emerging Local Plan.
- As the Council cannot demonstrate a 5 year housing land 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 as part of the planning balance.

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:

- Post office (1000m) – 965m
- Cash Point (1000m) – 150m
- Primary School (1000m) – 1000m
- Local meeting place (1000m) – 800m
- Convenience Store (500m) – 150m
- Bus Stop (500m) – 320m
- Public Right of Way (500m) – 235m

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:

- Public House (1000m) – 1100m
- Amenity Open Space (500m) – 800m
- Children’s Play Space (500m) – 800m
- Post Box (500m) – 965m

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 4000m
- Secondary School (1000m) – 1770m
- Medical Centre (1000m) - 2090m
- Pharmacy (1000m) – 2090m
- Child Care Facility (nursery or crèche) (1000m) - 1770m
- Leisure Centre (1000m) – 1770m
- Outdoor Sports Facility (500m) – 1770m

In summary, the site does not comply with all of the standards advised by the NWDA toolkit. However, as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Shavington, 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. Nevertheless, this is not untypical for a sustainable village (Shavington is classed as a local service centre in the Cheshire East Local Plan Policy Principles document) and will be the same distances for the residential development on Newcastle Road from the application site. However, all of the services and amenities listed are accommodated within Shavington, Nantwich or Crewe and are accessible to the proposed development via a short bus journey. Accordingly, it is considered that this small scale site is a sustainable site.

Landscape

The site is situated in open countryside outside the settlement boundary line to the south east of Shavington and to the south of Newcastle Road. It has associated policy protection in the relevant Local Plan. There are no landscape designations on the site but a large proportion is currently undeveloped agricultural land. In the Cheshire Landscape Character Assessment it lies within Type 10 Lower Farms and Woods, specifically LFW7 Barthomley. It is a relatively level landscape overlooked to some extent by residential development on Newcastle Road. The roadside hedge restricts views of part of the site from Newcastle Road.

The application is an outline application and the illustrative plan is of a poor quality. It is not possible to offer any assessment of how landscape treatment could enhance the visual amenity of the site if development was permitted and this issue would be dealt with at the Reserved Matters Stage.

The following objectives which would help to reduce the landscape impact could be secured at the reserved matters stage should the application be approved:

- Respect existing landscape and characteristics of the site (principally any significant trees and hedgerows);
- Conserve and enhance existing trees worthy of retention and any notable hedgerows as an integral and structuring part of a Landscape Framework;
- 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.

Affordable Housing

The Interim Planning Statement: Affordable Housing states that in areas with a population exceeding 3,000 the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or than 0.4 hectare in size.

The SHMA Update 2013 identified a requirement for 270 new affordable homes between 2013/14 – 2017/18 in the Wybunbury & Shavington sub-area, which is made up of a requirement for 8 x 1 bed, 20 x 2 bed, 7 x 3 bed, 12 x 4+ bed and 1 x 1 bed older persons dwelling & 7 x 2+ older persons dwellings.

There are currently 53 applicants on the housing register with Cheshire Homechoice (which is the choice based lettings system for allocation social & affordable rented housing in Cheshire East) who have selected Shavington as their first choice, these applicants require 23 x 1 bed, 17 x 2 bed, 9 x 3 bed & 3 x 4 bed properties (1 applicant hasn't set the number of bedrooms they require).

If this application is approved there is an affordable housing requirement of 30% of the total dwellings with 65% provided as affordable or social rented dwellings and 35% as intermediate tenure dwellings. Based on the proposal for up to 47 dwellings this equates to a requirement for 14 affordable dwellings, with 9 provided as social or affordable rent and 5 provided as intermediate tenure.

The applicant has offered 30% of the total dwellings as affordable and providing an indicative mix of affordable units as just 3 bed houses. However this does not reflect the type of affordable property there is the highest need for in the Wybunbury & Shavington sub-area which is 2 bed properties. As the submitted plan is indicative the type of property to be provided as affordable housing could be agreed when any reserved matters application is submitted if this outline is approved.

The affordable housing should also be provided no later than occupation of 50% of the open market dwellings

Highways Implications

The application is in outline form and the access would be determined at the Reserved Matters stage. In this case the site has a long frontage to Newcastle Road (which has a 40mph speed limit) which is relatively straight along the front of the site with a wide grass verge. In addition vehicle speeds are likely to be relatively slow as they approach the signal junction with Stock Lane/Crewe Road. As a result it is considered that an adequate single access point could be achieved with the required visibility splays as part of the Reserved Matters Application.

In terms of the highway impact of development the NPPF states that:

‘Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe’

In this case the predicted traffic generation from this development is 33 trips in the morning peak hour and 36 vehicles in the evening peak hour. Of these it is predicted that 30 vehicles would turn left and use the signalled junction at Newcastle Road/Crewe Road/Stock Lane. This number of vehicles is very minor during the peak hour and the impact of the development cannot be classed as severe.

The highways impact of the development is therefore considered to be acceptable and an acceptable access could be secured at the Reserved Matters stage. Conditions would be attached to any permission relating to the provision of a footway and a scheme for replacement signage.

Amenity

In terms of the surrounding residential properties, the main properties affected are those which front onto Newcastle Road to the north of the site and the property known as 396 Crewe Road to the west.

An indicative layout plan has been provided in support of this application and this shows that from the front elevation of the proposed dwellings to the front elevation of the existing dwellings which front onto Newcastle Road there would be a separation distance of approximately 30 metres. This distance exceeds the separation distance of 21 metres between principle elevation as set out in the SPD on Development on Backland and Gardens. The impact upon the properties which front Newcastle Road is therefore considered to be acceptable.

To the west of the site is a detached dwelling known as 396 Crewe Road. The indicative layout shows that the nearest dwelling on the application site would have a side elevation facing 396

Crewe Road with a separation distance of approximately 8 metres. This relationship between side elevations is considered to be acceptable.

Due to the separation distances involved, no other residential properties would be affected.

In terms of the amenities of the future occupiers there is the potential for noise from Newcastle Road, the petrol station and the children play world. The report suggests that's the use of glazing measures, acoustic fencing and ventilation. This is accepted by the Councils Environmental Health Officer who has raised no objection to the development subject to the imposition of a condition.

The Environmental Health Officer has requested conditions in relation to contaminated land, hours of construction, waste provision, travel plans and air quality. These conditions will be attached to the planning permission.

Trees and Hedgerows

Trees

The application is supported by an arboricultural impact assessment which covers 59 Individual trees and 8 lengths of hedge. Eight of the tree are Grade A (High quality and value) and 14 are Grade B (Moderate quality and value) and the report indicates there is current and future value to trees on site. The view is expressed: *'There is a large area suitable for development, if the design of the development respects RPA's and shade areas of the existing BS5837:2012 Category A and B trees (as described in the tree schedule and plans accompanying this report), the development will benefit from the existence of the trees and they may be utilized as screening'*

In this case some of the Grade A trees are ornamental trees and relatively young. As a result it is considered that some losses would be acceptable and the trees do not have or warrant TPO protection. The application is in outline form with all matters reserved. It is considered that a development of up to 47 dwellings (at 40 dwellings per hectare) could be accommodated on the site. Further details about tree retention on the site would be secured as part of the reserved matters application.

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.

The Planning Statement contains a response from Cheshire Shared Services Archives and Local Studies which indicates that a hedgerow on site is important under criterion 5a of the Regulations. The response states there is evidence to suggest that the hedgerow in question, adjoining the ancient road or highway between Nantwich and Newcastle under Lyme, would have formed an integral part of a field system pre-dating the Enclosure Acts.

There is no evidence of a consultation to the Cheshire Archaeologist in relation the historic criteria in the Regulations and no indication that the hedgerow has been assessed under the ecological criteria.

In this case the hedgerow regulations assessment is incomplete but it can be concluded from the response which has been received that the hedgerow would qualify as important under 1 of the criteria. The loss of this hedgerow will be considered as part of the planning balance.

Design

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 at 40 dwellings per hectare is appropriate and is consistent with that of the surrounding area of Shavington. The development would have a linear form that would respect the existing dwellings which front Newcastle Road.

The indicative layout is poor and it significant improvements would be required as part of the Reserved Matters Stage. The properties would follow the ribbon of development which is located along Newcastle Road and Stock lane. The scheme would allow for dwellings to front onto Newcastle Road which is appropriate and a hedgerow boundary could be provided to Newcastle Road.

To the open countryside to the south, the boundary hedgerow could be provided/retained to act as a green buffer to the open countryside.

Although there are some weaknesses with the indicative design, it is considered that an acceptable scheme could be agreed at the Reserved Matters stage and would comply with Policy BE.2 (Design Standards) and the NPPF.

Ecology

Wybunbury Moss SSSI

The proposed development is located within 1km of Wrenbury Moss which holds a number of statutory nature conservation designations. Natural England have been consulted on this application and have advised that the proposed development is not likely to have an adverse impact upon the features for which the site was designated and they advise that an appropriate assessment under the Habitat Regulations is not required.

A Habitat Regulations Screening Assessment has been undertaken by the Councils Ecologist and this has concluded that the proposed development is not likely to have a significant impact upon Wybunbury Moss and its designation as a SAC and RAMSAR site.

Habitats

Hedgerows

Hedgerows are a UK Biodiversity Action Plan priority habitat and a material consideration. There are currently hedgerows along the northern and southern boundaries. The indicative layout shows that there would be some removal along the northern boundary and replacement planting could be secured to mitigate this loss.

Great Crested Newts and Bats

No evidence of these two protected species was recorded during the submitted survey although it should be noted that a full great crested newt survey has not been undertaken. Natural England has advised in their consultation response that the proposed development is unlikely to affect these two protected species. The Councils Ecologist advises that no further action in respect of these two protected species is required.

Breeding Birds

In order to safeguard breeding birds the Councils Ecologist has suggested the use of conditions relating to the timing of works and bird boxes.

Other Protected Species

Local residents have raised concerns about the impact upon Badgers and Barn Owls. However the submitted protected species report did not record any field signs of these two protected species and states that the site is unsuitable for sett excavation and that the buildings are not particularly suitable for Barn Owls. The Councils Ecologist has no reason to question the conclusion of the submitted surveys so in the absence of any information to the contrary it is not anticipated that the proposed development will have an impact upon these two species.

Public Open Space

Policy RT.3 states that, where a development exceeds 20 dwellings, the Local Planning Authority will seek POS on site. The Policy does also state that where sufficient recreational open space is already available in close proximity, the LPA may require the developer to enhance that Open Space instead.

In terms of children's play space Policy RT.3 states that the local planning authority will accept a contribution towards play equipment if easily accessible from the site.

In this case there is POS and children's play space within the village. This area is easily accessible from the application site and the POS Officer has suggested a contribution of £25,000 towards upgrading this site. The applicant has accepted this contribution and this will be secured as part of a S106 Agreement.

Education

In terms of primary school education, the proposed development would generate 8 new primary places. As there are capacity issues at the local primary schools, the education department has requested a contribution of £86,770. 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 generate 5 new secondary school places. There has been no request for a secondary school contribution from the education officer as there is capacity at local schools to take the children.

Agricultural Land

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (Grades 1, 2 and 3A) will not be permitted unless:

- The need for the development is supported by the Local Plan;
- It can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non-agricultural land;
- Other sustainability considerations suggest that the use of higher quality land is preferable.

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 assessment has been undertaken of the agricultural land (excluding the dwelling, barns, associated curtilage and the access) and this shows that the site is classified as Grade 2 agricultural land. This issue will form part of the planning balance.

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 is more than 1 hectare, a Flood Risk Assessment (FRA) is required as part of this application.

The submitted FRA identifies that there is no historic or current issues with regard to water level on this site. Any surplus water which flows from the infrastructure from rainwater or run-off from the adjacent hard standing will be discharged via the developments agreed drainage strategy.

Surface water from ancillary areas of the site (roads/footpaths) will be dealt with by soakaways. The areas of car parking will discharge to the approved drainage system via petrol interceptors in accordance with UU standards. Further details of the drainage scheme will be secured at the Reserved Matters stage.

In this case both the Environment Agency and UU have been consulted and raised no objection to this application.

LEVY (CIL) REGULATIONS

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

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

The development would result in increased demand for primary school places and there is 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, POS and children's play space is a requirement of the Local Plan Policy RT.3. As no provision would be made on site it is necessary to provide improvements off-site. This contribution 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 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. Following the recent appeal decisions the Council can no longer demonstrate a 5 year housing land supply it is therefore necessary to consider whether the proposal is sustainable in all other respects as part of the planning balance.

In terms of the flood risk/drainage implications an acceptable solution could be secured at the Reserved Matters stage. The Environment Agency and United Utilities have been consulted and raised no objection to this development.

The application is in outline form and although the layout shown on the indicative plan is not acceptable it is considered that an acceptable design solution can be secured and the development would not have a significant impact upon the landscape.

A safe access could be secured at the Reserved Matters stage and the development would not have a detrimental impact upon highway safety or cause a severe traffic impact.

In terms of Ecology, it is not considered that the development would have a significant impact upon ecology or protected species.

Following the successful negotiation of a suitable Section 106 package, the proposed development would provide an adequate contribution in lieu of open space on site.

The necessary requirement for affordable housing would be provided and would be secured through the use of a planning condition.

The education impact can be mitigated through a contribution which the applicant is willing to make and would be secured via a S106 Agreement.

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

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

Given the scale and location of the development, its relationship to the urban area and its proximity to other services, and no objections being raised by the relevant consultees, it is not considered that the 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.

11. RECOMMENDATIONS

APPROVE subject to completion of Section 106 Legal Agreement to secure the following:-

1. A scheme for the provision of 30% affordable housing (14 units)– 65% to be provided as social rent/affordable rent (9 units) with 35% intermediate tenure (5 units). The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

2. A contribution of £25,000 for improvements to the existing equipped children's play area at Wessex Close, Shavington.

3. Education contribution £86,770 for primary education

And the following conditions

- 1. Standard Outline**
- 2. Submission of Reserved Matters**
- 3. Time limit for submission of reserved matters**
- 4. Approved Plans**
- 5. Hours of construction limited to 08:00 to 18:00 Monday to Friday, 09:00 – 14:00 Saturday and not at all on Sundays**

6. The Reserved Matters applications(s) shall include details of noise mitigation measures
7. Dust Control measures
8. Contaminated land
9. A scheme for surface water management
10. Prior to undertaking any works between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds. A report of the survey and any mitigation measures required to be submitted and agreed by the LPA.
11. Prior to the commencement of development the applicant to submit detailed proposals for the incorporation of features into the scheme suitable for use by breeding birds. Such proposals to be agreed by the LPA. The proposals shall be permanently installed in accordance with approved details.
12. The reserved matters application shall include details of replacement hedgerow planting
13. Reserved Matters application to include an Arboricultural Impact Assessment and Tree Protection Measures
14. Reserved matters application to include details of existing and proposed levels
15. Reserved Matters application to include details of a footway across the front of the site
16. Prior to the commencement of development details of replacement signage to the front of the site to be provided

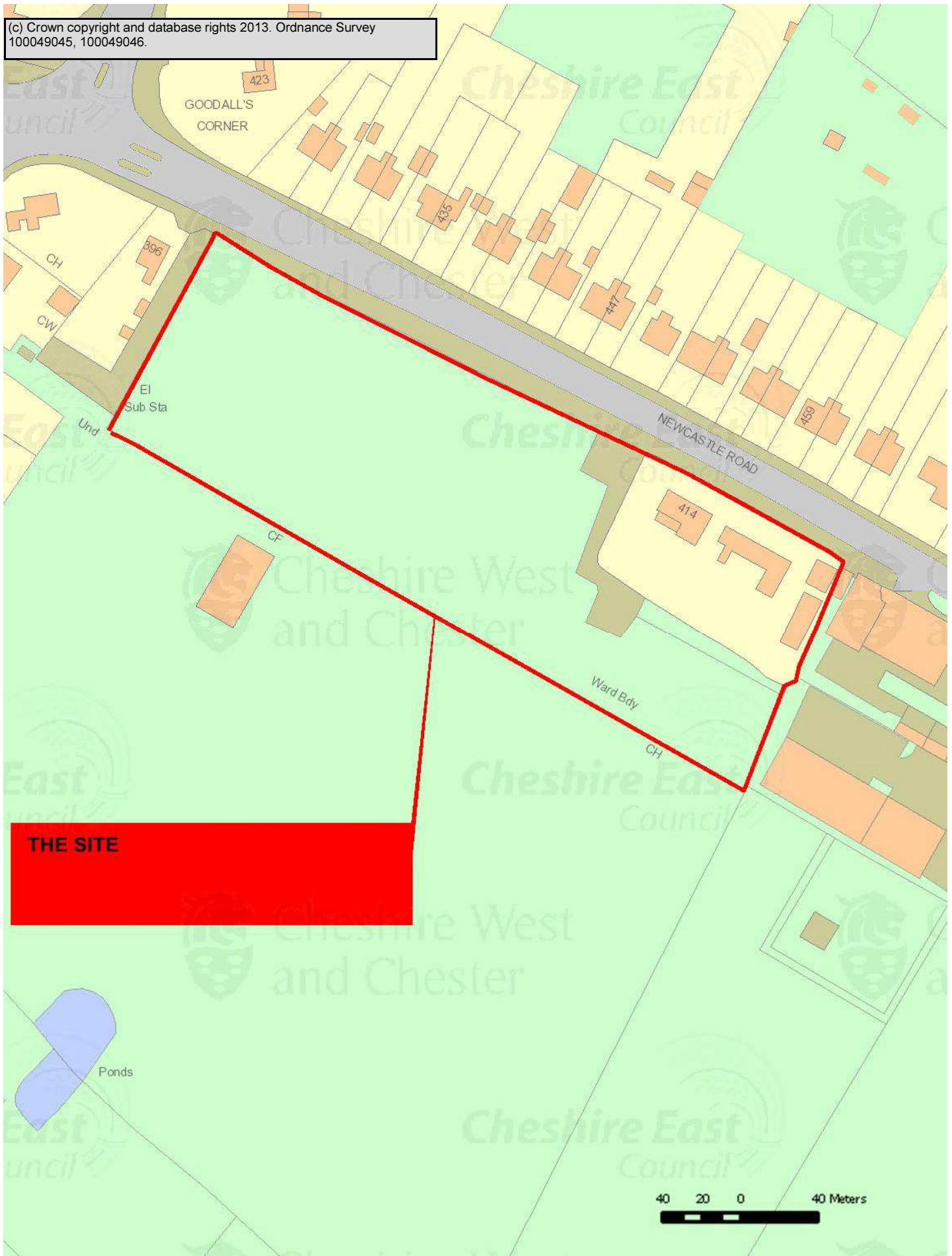
Informative:

1. The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the National Planning Policy Framework 2012 and the current Building Control Regulations with regards to contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales and approved by the LPA in writing. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.

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 Planning and Place Shaping 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 be delegated to the Planning and Place Shaping 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.

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Application No: 13/4627C

Location: Land off, Dunnocksfold Road, Alsager, Cheshire, ST7 2TW

Proposal: Erection of up to 95 dwellings and formation of access point into the site to serve the development (Resubmission of 12/4146C)

Applicant: The Morris Family & P.E. Jones

Expiry Date: 29-Jan-2014

SUMMARY RECOMMENDATION

Approve subject to S106 Agreement and conditions

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.

1. 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 storeys.

This application is a resubmission of application 12/4146C.

2. RELEVANT HISTORY

12/4146C - Outline Application for the Erection of up to 95 Dwellings and formation of access point into site to serve the development – Refused 22nd May 2013. Appeal Lodged. Public Inquiry to commence on 11th February 2014.

The application was refused for the following reasons:

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.

1. 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.

Following the receipt of additional hedgerow information and at the meeting of the Strategic Planning Board on 9th October 2013. The Strategic Planning Board resolved to contest reason for refusal on the following basis:

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. For the reasons stated in reason for refusal 1, in this case there are not considered to be any overriding reasons for allowing the development and the proposal is therefore contrary to Policy NR3 of the adopted Congleton Borough Local Plan First Review.

3. 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

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
Alsager Town Strategy

4. 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 (Qbar) 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 comments received but as part of the last application they stated that:

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.*

Newcastle-under-Lyme Borough Council: Objects to the application on the grounds that major residential development in this location would undermine the delivery of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026.

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.
1. 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.
2. 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, dust control, electric vehicle charging infrastructure, 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, having regard to the local standards set out in the Council's Open Space Study.

As a result 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 2280m². 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.

Due to the additional liabilities and maintenance implications associated with the mature hedges and hedgerow trees it is recommended these areas of POS be transferred to a management company.

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 area of play Space measuring 700m² but does not show an equipped play area on the village green in the form of a LEAP which was shown on the previous application.

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. The final layout and choice of play equipment be agreed with CEC, the construction should be to the Council's satisfaction. Full plans must be submitted prior to the play area being installed and these must be approved in writing prior to the commencement of any works. A buffer zone of at least 20m from residential properties facing the play area should be allowed for with low level planting to assist in the safety of the site.

As with the Amenity Greenspace it is recommended the play area be transferred to a management company.

Natural England: SSSI – no objection. For advice on protected species refer to standing advice.

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 Dunnockfold 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.

Sustrans: If this land use is approved by the council's planning committee Sustrans comments are as follows:

- For a site of this scale Sustrans would like to see separate entrances for pedestrians/cyclists to local roads away from traffic, and improvements to the Dunnocksfold bridleway.
- The design of any smaller properties should include storage areas for residents' buggies/bikes.
- The design of the estate road should restrict vehicle speeds to 20mph.
- Sustrans would like to see travel planning with targets and monitoring for the site.

5. VIEWS OF THE PARISH COUNCIL

Alsager Town Council: Alsager Town Council strongly objects to the proposed development on the following grounds:

- The application is a significant intrusion into a currently undeveloped area and the surrounding open countryside and extends out from Alsagers settlement boundary. No development should take place on greenfield sites in Alsager or just beyond its boundary, before all brownfield sites are exhausted, to ensure that greenfield sites, which give access to the countryside, are protected and preserved against residential development. It should be noted that in the recent Appeal on Sandbach Road North, the Planning Inspectors Appeal Decision details *'there would be serious harm resulting from the impact of the proposal on the character and appearance of the countryside, and consequent conflict with the development plan policies noted earlier, which carry significant weight. This harm to character and appearance is significant and is demonstrable. Such harm is not to be taken lightly and has, in my judgement, been underestimated by the Appellant.'*
- A fundamental aim of greenfield sites is to prevent urban sprawl by keeping land permanently open. Their essential characteristics are openness and permanence and as such greenfield sites safeguard the countryside and prevent joined up settlements.
- The Town Council contend that once greenfield sites are developed they are gone forever, and therefore greenfield sites should be saved in order to protect our local environment, open spaces and wild life. This site is a refuge for flora and fauna and this natural habitat should be preserved as such.
- Cheshire East Council have consulted with neighbouring authorities on the 1000 house contained within the draft strategy, Stoke on Trent and Newcastle Under Lyme Councils have made it clear that they have significant reservations in relation to development close to the common boundaries with South East Cheshire which may have a detrimental impact on the regeneration of their areas. This proposal is in addition to the 1000 houses and could further compromise their efforts. It should be noted that in the recent Appeal on Sandbach Road North, the Planning Inspectors Appeal Decision, on the subject of 'impact of adjoining authorities' it details 'it would seem wise, in this part of the Borough, not to proceed with development which would go beyond the draft strategy at the stage. This matter is not determinative in its own right, but is a matter which adds caution to the process of decision making.'
- The site is not contained for development within the recently approved Alsager Town Strategy which reflects the wishes and aspirations of its residents. The Strategy was subject to a widespread democratic consultative process which built a consensus in the Town. This Strategy clearly accepts the need for housing growth but strongly emphasises the fundamental principle of ensuring brownfield sites should be fully utilised before greenfield sites are considered for development. This principle is fully in line with NPPF 17. It is the Town Council's policy contained in the Alsager Town Strategy that sustained development should take place on existing brownfield sites and there are sufficient brownfield sites in Alsager to meet the town's future needs. The Town Strategy is being used as an evidence base to inform Cheshire East Council's developing Local Plan and consequently the Development Strategy endeavours to reflect the approved documents and consultation responses as far as possible. Cheshire East Council and HM Government should recognise the Alsager Town Strategy is of key importance and give weight to it as a material planning consideration with particular regard to the Localism Act, which empowers local people to have a say in the development of their local area. This site is not contained in the current Draft

Local Plan and furthermore it is not contained in the 'possible additional sites proposed by developer and land interest' recently consulted on by Cheshire East Council.

- Alsager is unsustainable as a Key Service Centre as it has only been identified as the equivalent of a Local Service Centre in terms of the proportion of jobs available. Alsager requires an appropriate balance between employment and residential development. Any development above Alsagers housing allocation would further reduce the proportion of jobs available. It is also noted that Alsager does not satisfy the criteria of a Key Service Centre on infrastructure grounds, as a number of the roads in Alsager are already operating above capacity. It was reported by Cheshire East at the Strategic Planning Board meeting held on 9th December that there is in fact no scope to widen or increase the capacity of Alsagers road network. The mini roundabout at Dunnockfold Road/Hassall Road/Church Road has been identified in the Draft Infrastructure Delivery Plan as a cause for future concern.
- This particular application when taken in conjunction with other current large residential development applications in Alsager, if approved, would have a serious detrimental impact for the town's highways infrastructure, education, doctors' surgeries, medical centres, local facilities and amenities. Such applications, if approved, would be a threat to the character and atmosphere of the town as a whole and would place unsustainable pressure on the towns infrastructure and services.
- Close lane is as described 'a lane' with considerable stretches without pavement and some parts being so narrow that they are only single track. This continues along a majority of Close Lane and onto Dunnockfold Road. Two very sharp bends are also in close proximity to the site where the north end of Close Lane joins Dunnockfold Road. At the South of Close Lane is its junction with Crewe Road, Crewe Road although is classed as a 'B' road it is a major feeder road to the A500, M6 and the Radway Industrial Estate. When the M6 closes, traffic is rerouted along Crewe Road which only exacerbates the situation. Close Lane is already hazardous and in a state of disrepair and can be congested at school times and by commuters. The impact of this development, given the number of vehicles it would generate and the single access point, would be dangerous to pedestrians including school children. Dunnockfold Road is heavily used as a rat run to avoid Alsager Town Centre and associated traffic lights, cars follow the route along Close Lane, onto Dunnockfold Road and then Hassall Road/Church Road, the mini roundabout at Dunnockfold Road/Hassall Road/Church Road has been identified in the Draft Infrastructure Delivery Plan as a cause for future concern.
- The Town Council has serious concerns over the adverse impact of the proposed development on the immediate road network surrounding the site, especially at the junctions of Dunnockfold Road/Church Road/Hassall Road and Hassall Road/Lodge Road and its junction with Crewe Road. The Town Council supports residents' concerns that Dunnockfold Road itself is already a dangerous road due to its narrowness and the volume of traffic currently using it. This would be exacerbated by the additional traffic from the proposed development.
- The increase in traffic from this proposed development would add to the existing congestion at school opening and closing times.
- The Town Council draws attention to the fact that there is no pedestrian footpath on the north side of Dunnockfold Road and contends that it would not be possible to incorporate a footpath on that side of the road for the whole length of Dunnockfold Road, so adding to the safety risks.
- The sight is bordered by a mature hawthorn hedge which is of a significant age. This hedgerow could be protected and should not be removed.

6. OTHER REPRESENTATIONS

Letters of objection have been received from 132 local households raising the following points:

Principal of development

- The site is outside the settlement boundary
- Housing is being dumped on Alsager, Sandbach and Congleton
- Impact upon the regeneration of the Potteries
- 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 site will become an eye-sore
- The previous application was refused
- The proposal would not result in a sustainable community
- The proposal would be outside the settlement boundary
- Brownfield sites should be developed first
- Once lost Greenfield sites will be gone for good
- Alsager is not sustainable
- The proposal is an attempt to subvert the local plan and core strategy
- This site was rejected as part of the Town Strategy
- Speculative application
- The application has previously been rejected
- Cheshire East should defend the appeal decision
- Cardway Cartons should be redeveloped
- Most local people are against this development
- Alsager is an area of restraint due to the regeneration area status of the Potteries
- There are a number of empty properties in Alsager
- There are 160 properties for sale 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.
- Speculative application
- There is no need for more housing in Alsager
- Lack of employment opportunities in Alsager
- First time buyers cannot finance new homes
- The proposal is contrary to the Congleton Local Plan
- The proposal is contrary to localism
- The views of the community are being ignored
- Alsager is only a key service centre
- Impact upon the regeneration of the Potteries
- The proposed development is not sustainable
- Alsager is becoming a commuter town
- There is a lack of employment in Alsager
- 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

- Dunnocksfold Road is too narrow and in a poor state of repair
- Visibility is poor on Dunnocksfold Road
- Increased traffic congestion
- Increased traffic
- Increased traffic on the M6 and A500
- Cumulative impact with other developments in Alsager
- Cyclist safety
- Additional street lighting is required
- There is no footpath on the northern side of Dunnocksfold Road
- The road network in the area is not adequate
- Pedestrian access to the site is hazardous
- Increased danger to cyclists and pedestrians
- Dunnocksfold Road is used as a rat run
- Speeding traffic along Dunnocksfold Road
- Inadequate parking

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
- Loss of the boundary hedgerow
- Intrusion into the open countryside
- The impact upon the landscape
- Loss of habitat

Infrastructure

- Increased pressure on local schools
- Insufficient infrastructure in Alsager
- There are power cuts in this area
- The local schools are full to capacity
- Doctors and dentists are full

Amenity Issues

- Impact upon ramblers/walkers who use the site
- Impact upon air quality
- Loss of outlook
- Loss of light
- Overshadowing
- Noise from the M6
- Noise and disruption from construction of the dwellings
- Increased noise caused by vehicular movements from the site
- Contamination on the site
- Increased vehicle pollution
- Increased smells

Other issues

- Loss of agricultural land
- Impact upon property value
- Construction works will mean residents cannot sell their properties
- This area of Alsager is popular with walkers, cyclists, horse riders etc
- Health and Safety issues

7. 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)
- Stage 1 Road Safety Audit (Produced by Sanderson Associates)
- Travel Plan (Produced by Sanderson Associates)
- Archaeological/Historic Hedgerow Assessment (Produced by RSK)
- Services Appraisal (Produced by Chris Lord)
- 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

Main Issues

Given that the application is submitted in outline, the main issues in the consideration of this application are the suitability of the site for residential development, having regard to matters of principle of development in respect of policy and housing land supply, sustainability, loss of agricultural land, affordable housing, air quality, residential amenity, drainage and flooding, design issues, open space, landscape impact, trees and forestry, ecology, education, highway safety and traffic generation and archaeology.

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 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 concerns.

In addressing this, members should be mindful of the key principles of the National Planning Policy Framework

This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

“*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.”

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

Housing Land Supply

The National Planning Policy Framework (NPPF) states at paragraph 47 that there is a 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 October 2013 the Cabinet Member agreed the Cheshire East Local Plan Pre-Submission Core 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, an annual average of 1350 homes per year. This figure represents not only the objectively assessed need for housing based on the latest household projections but also a policy “boost” to allow for an enhanced level of economic development once the downturn recedes.

However the most up to date position on the Councils 5-year housing land supply figure is following the recent appeal decisions. As part of the consideration of the Congleton Road and Sandbach Road North decisions, the Inspector found that the housing land supply over 5 years is 5750 dwellings. It is necessary to add to this figure the existing backlog 1750 dwellings and a 20% buffer for a record of persistent under delivery which gives a total requirement of 9000 dwellings over 5 years or 1800 per annum. This calculation took account of the High Court judgement in the Hunston Properties case (subsequently reinforced at the Court of Appeal). For whilst the RSS has clearly been revoked, it remains the only examined housing figure for the current period and itself represented a step change in housing growth when it was adopted (reversing the previous policy of restraint). Accordingly the Appeal decisions published on 18 October 2013 all use the RSS base.

In terms of the existing supply the Inspector found that there is currently:

‘a demonstrable supply, taking the generous approach to Council estimates, which is likely to be in the region of 7000 to 7500 dwellings at most’ (Sandbach Road North Appeal)

This demonstrable supply therefore equates to a figure of 4.0 to 4.2 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:

- n 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*
- n specific policies in the Framework indicate development should be restricted.”*

As it has been found that Cheshire East cannot demonstrate a five year supply of housing land, the provisions of paragraphs 49 and 14 apply in this case. It is therefore necessary to carry out a balancing exercise in this case to assess whether the harm ‘significantly and demonstrably’ outweighs its benefits.

Emerging Policy

Clarification has been given on the weight which can be attributed to the emerging Local Plan as part of recent appeal decisions for Abbeyfields, Sandbach and Congleton Road, Sandbach and Sandbach Road North, Alsager. As part of the decision for the Abbeyfields site the SoS stated that:

‘As the emerging LP is still at an early stage the Secretary of State accords it limited weight in his decision making’

As part of the appeal decision for Congleton Road, Sandbach and Sandbach Road North, Alsager the Inspector found that:

‘There is a draft Local Plan, variously described as the Core Strategy and Development Strategy, which is moving towards a position in which it can be submitted for examination. The Council is seeking to achieve this in late 2013. The current state of the plan is pre submission. It is not disputed that there are many outstanding objections to the plan, and to specific proposals in the plan. Hence it cannot be certain that the submission version of the plan will be published in the timescale anticipated. The plan has already slipped from the intended timetable. In addition there can be no certainty that the plan will be found sound though I do not doubt the Council’s intentions to ensure that it is in a form which would be sound, and I acknowledge the work which has gone into the plan over a number of years.

Nonetheless I cannot agree that the draft Local Plan should attract considerable weight as suggested by the Council. There are many Secretary of State and Inspector appeal decisions which regard draft plans at a similar stage as carrying less weight. The Council’s own plan has been afforded little weight in the earlier months of 2013, and although the plan has moved on to an extent, it has not moved on substantially. For

these various reasons I consider that the draft Local Plan can still attract no more than limited weight in this case'

Since then the Council has published the Pre-Submission Core Strategy which is supported by fuller evidence and takes account of the 16,000 comments made during the two consultations in 2013. Accordingly its weight should correspondingly increase in decision making. Never the less, given the stance taken in the above appeals the emerging Local Plan can only be given moderate weight in the determination of this planning application.

Countryside Policies

As well as assessing housing supply, the decisions at Sandbach Road North and Congleton Road Sandbach are also significant for clarifying the status and intent of settlement zone line and countryside policies.

Some have sought to argue that as settlement boundaries effectively contain the built area of a town or village – and so define the area in which development is usually concentrated – that accordingly they should be viewed as housing supply policies. This subsequently could mean that those policies, along with normal countryside policies, should be considered “out of date” if there is no five year supply of housing land. This view is derived from paragraph 49 of the framework which states that:

“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”.

There are appeal decisions that appear to support this perspective, although those in Cheshire East have generally taken a different approach.

The recent appeal decisions consider this matter in some detail. It was noted by the Inspector that the settlement zone lines serve a variety of purposes – and take account of land allocated for development up to a particular point (in this case 2011). However, the Inspector considered that settlement zone lines were not driven by the need to identify land for development, but rather are based on the objective of protecting countryside once development land is identified. Consequently, he concluded that the related policy (Policy PS4 of the Congleton Local Plan) was “*not sufficient directly related to housing land supply that it can be considered time expired for that purpose.*” Instead the Policy is “*primarily aimed at countryside & green belt protection*”. These objectives are largely in conformity with the NPPF and attract “*significant weight*”. In both appeals conflict with countryside policies were acknowledged.

This means that these policies remain important in the planning balance – but are not necessarily determinative. The two decisions pinpoint that much depends on the nature and character of the site and the individual circumstances pertaining to the application. At Congleton Road, the Inspector considered that the objective to boost significantly the supply of housing outweighed the “relatively moderate” landscape harm. In contrast, at Sandbach Road North the provision of housing was viewed as an “important and substantial” material consideration, but there would also be serious harm resulting from the impact on the character and appearance of the countryside. On this occasion that identified harm, combined with the significant weight attributed to countryside policies, outweighed the benefits in terms of housing supply.

In reaching this conclusion, the Inspector memorably noted that:

“the lack of a 5 year supply of housing land does not provide an automatic ‘green light’ to planning permission”.

Therefore, countryside policies in existing local plans can be considered as consistent with NPPF and are not housing land supply policies – and thus not of date, even if a 5 year supply is not in evidence. They accordingly need to be played into the planning balance when decisions are made. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Conclusion

- The site is subject to Policy PS.8 (Open Countryside) where 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 for the supply of housing 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.
- Cheshire East has a housing land supply figure of in the region of 4.0 to 4.2 years
- Only moderate weight can be applied to the emerging Local Plan.
- As the Council cannot demonstrate a 5 year housing land 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 as part of the planning balance.

Impact on the Regeneration of the Potteries Conurbation

An objection has been raised by Newcastle-under-Lyme Borough Council (NULBC) on the grounds that it would undermine the delivery of the Newcastle-under-Lyme and Stoke-on-Trent Core Spatial Strategy 2006-2026. A recent report to their Planning Committee states:

In particular, given the strong economic links between this part of Cheshire and North Staffordshire, major greenfield development in this location could encourage further out-migration from the North Staffordshire conurbation. This view is borne out by the Transport Assessment accompanying the application, which emphasises that the site is accessible by road and rail to employment areas in Stoke-on-Trent. Such out-migration in turn would undermine the strategic aim and Policy SP1 of the adopted Core Spatial Strategy, detracting from the regeneration of the North Staffordshire housing market and economic base.

On 19 February 2013, Planning Committee endorsed a report by your officers on the draft version of the Cheshire East Council Local Plan: Development Strategy and Policy Principles consultations. This report raised concerns about the proposed scale of development to the south and south east of Crewe and suggested that sites to the north and west of Crewe would offer a more sustainable location for housing development. 1,100 new homes were planned for Alsager. The level and location of development at

Alsager did not appear to raise any significant issues for the borough. Cheshire East Council have now published for consultation purposes the 'Pre-submission Core Strategy,' and a report on this consultation document will be brought to the Planning Committee at its meeting in December. In the latest iteration of the Core Strategy Alsager continues to be identified as a 'Key Service Centre' but the proposed level of housing, on three strategic sites, has been increased to between 1,650 to 1,700 homes over the plan period 2010-2030. This represents an increase in the region of up to 55% beyond Cheshire East's previous stated position. The development of the site, south of Hall Drive would result in a further increase of 125 homes above this figure. Your officers are also aware of significant development pressure in and around Alsager, which officers at Cheshire East have indicated is likely to lead to additional speculative housing proposals being submitted in the near future. Individually these schemes may be of a small scale (in comparison to the proposed strategic site allocations) but their cumulative impact could be significant.

Cheshire East Council have recently lost several appeals on the basis that they do not have a five year housing supply, but nationally there have been appeal cases where Planning Inspectors have given weight to the potential adverse impact on a neighbouring authority under the 'duty to cooperate' legal requirements.

Your officers consider that the development of this site when considered together with the revised planned allocation of strategic sites at Alsager, is likely to result in a level of development that would have an adverse impact on the strategic objectives of the adopted Core Spatial Strategy and hence has the potential to both undermine the North Staffordshire housing market and encourage further out-migration from the conurbation.

This issue was considered at the recent inquiry relating to the proposed development at Sandbach Road North in Alsager. In that case, the Inspector concluded:

The adjoining Councils (Stoke-on-Trent and Newcastle-under-Lyme) have been consulted in relation to the draft development strategy and have made it clear that there are reservations in relation to development close to the common boundaries of a scale which might prejudice regeneration in their areas. However, there is no specific objection lodged to this particular proposal. I bear in mind that the final version of the CEC Local Plan has yet to be examined and the matter of the duty to cooperate with neighbouring authorities will no doubt form part of that examination. So whilst I cannot indicate that granting permission on this site would cause difficulties for regeneration elsewhere, it would seem wise, in this part of the Borough, not to proceed with development which would go beyond the draft strategy at this stage. This matter is not determinative in its own right, but is a matter which adds caution to the process of decision making.

The Dunnockfold Road case differs from that considered by the Inspector as there has been a specific objection lodged to this proposal. However, like the Sandbach Road North case it does go beyond the draft strategy, which in the view of the Inspector is a point which weighs against the proposal in the planning balance but is not determinative. Therefore, whilst there is sympathy with the concerns of NULBC, given that, as will be demonstrated below, there are no other grounds for objection to this scheme, it is not considered that they are sufficient in themselves to provide a sustainable reason for refusal. Furthermore, where cases are finally

balanced, the general thrust of the NPPF makes it clear that the presumption should be in favour of the development.

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.

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.

The issue of landscape was accepted as part of the last application and this issue did not form a reason for refusal.

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 (SHMA) Update 2013 shows that for the sub-area of Alsager, there is a requirement for 54 new affordable units per year, made up of a net need for 38 x 2 bed units, 15 x 3 bed units, 4 x 4+ bed units and 5 x 1 bed older persons units.

There are currently 225 applicants on our housing register applying for social rented housing who have selected one of the Alsager re-housing areas as their first choice, these applicants require 94 x 1 beds, 78 x 2 beds, 40 x 3 beds and 7 x 4 beds. (6 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 up 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 2010 and the SHMA Update 2013. 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 IPS requires that the affordable homes should be provided no later than occupation of 50% of the open market units, unless the development is phased and there is a high degree of 'pepper potting' 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%.

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 are three committed developments in Alsager (12/0893C - 65 units off Crewe Road), Twyford's site (335 dwellings) and Hassall Road (30 dwellings). Whilst Hall Drive (125 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:

- Dunnocksfold 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

Dunnocksfold 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 and this issue did not form a reason for refusal as part of the last application.

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. Due to the distance to the M6 there would be no noise issues which would affect the future occupiers of this site.

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 an additional Hedgerow Regulations Assessment was considered by the Strategic Planning Board on 9th October 2013. The submitted report confirms that all the hedgerows on site are Important under the Regulations - Schedule 1, Part 11 Criterion 5 which relates to boundaries forming an integral part of a field system pre-dating the Inclosure Acts. The development would result in the loss of a section of 'Important' hedge to the create access. This is a material consideration.

In this case there would be hedgerow loss to the Dunnocksfold Road frontage of the site (all other hedgerows would be retained). The Strategic Planning Board has previously accepted that the Council contends the appeal on the following basis:

'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. For the reasons stated in reason for refusal 1, in this case there are not considered to be any overriding reasons for allowing the development and the proposal is therefore contrary to Policy NR3 of the adopted Congleton Borough Local Plan First Review.'

Given the position in relation to the 5-year housing land supply in Cheshire East it is considered that there are overriding reasons for allowing the development and this issue is now outweighed. This is consistent with the stance taken at Hind Heath Road, Sandbach.

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.

There have been minor changes with alterations to the indicative layout to split up the affordable housing on the site. 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 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. The indicative layout shows that this amount 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 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 has been consulted as part of this application and United Utilities commented on the last application; both 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.

Health

A number of the letters of objection raise concerns about the impact upon health provision in this area. In response to this issue there are 6 medical practices within 3 miles of the site and according to the NHS choices website all are currently accepting patients indicating that they have capacity. Furthermore no practices have closed their list and they are not being forced to accept new patients.

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 housing policies are out of date and there is a presumption in favour of development. Following the recent appeal decisions the Council can no longer demonstrate a 5 year housing land supply it is therefore necessary to consider whether the proposal is sustainable in all other respects as part of the planning balance.

The proposed development would have a limited impact on the visual character of the landscape. However, this issue would be outweighed by the need for housing in Cheshire East.

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.

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.

Given the scale and location of the development, its relationship to the urban area and its proximity to other services, and no objections being raised by the relevant consultees, it is not considered that the 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.

11. RECOMMENDATIONS

APPROVE subject to completion of Section 106 Legal Agreement to secure the following:-

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent with 35% intermediate tenure. The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved

- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
 - The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.
2. The provision of 2,280sqm of Public Open Space and a LEAP to be maintained by a private management company
 3. Education contribution of £173,540
 4. PROW contribution of £1156 for replacement stiles

And the following conditions

1. Standard Outline
2. Submission of Reserved Matters
3. Time limit for submission of reserved matters
4. Approved Plans
5. Hours of construction limited to 08:00 to 18:00 Monday to Friday, 09:00 – 14:00 Saturday and not at all on Sundays
6. Pile driving limited to 08:30 to 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays
7. Prior to the commencement of development a Phase II Contaminated Land Assessment shall be submitted to the LPA for approval in writing.
8. Details of external lighting to be submitted and approved
9. Dust control measures to be submitted and approved
10. A scheme to limit the surface water run-off from the site
11. A scheme to manage the risk of flooding from overland flow
12. Provision of bird and bat boxes
13. Works should commence outside the bird breeding season
14. Access to be provided in accordance with the approved details prior to first occupation
15. Details of a footway to the front of the site to be provided as part of the Reserved Matters application
16. No construction over the public sewer which crosses the site
17. Reserved matters application to include details of existing and proposed levels
18. Tree protection
19. Tree retention
20. Details of external lighting prior to the commencement of development

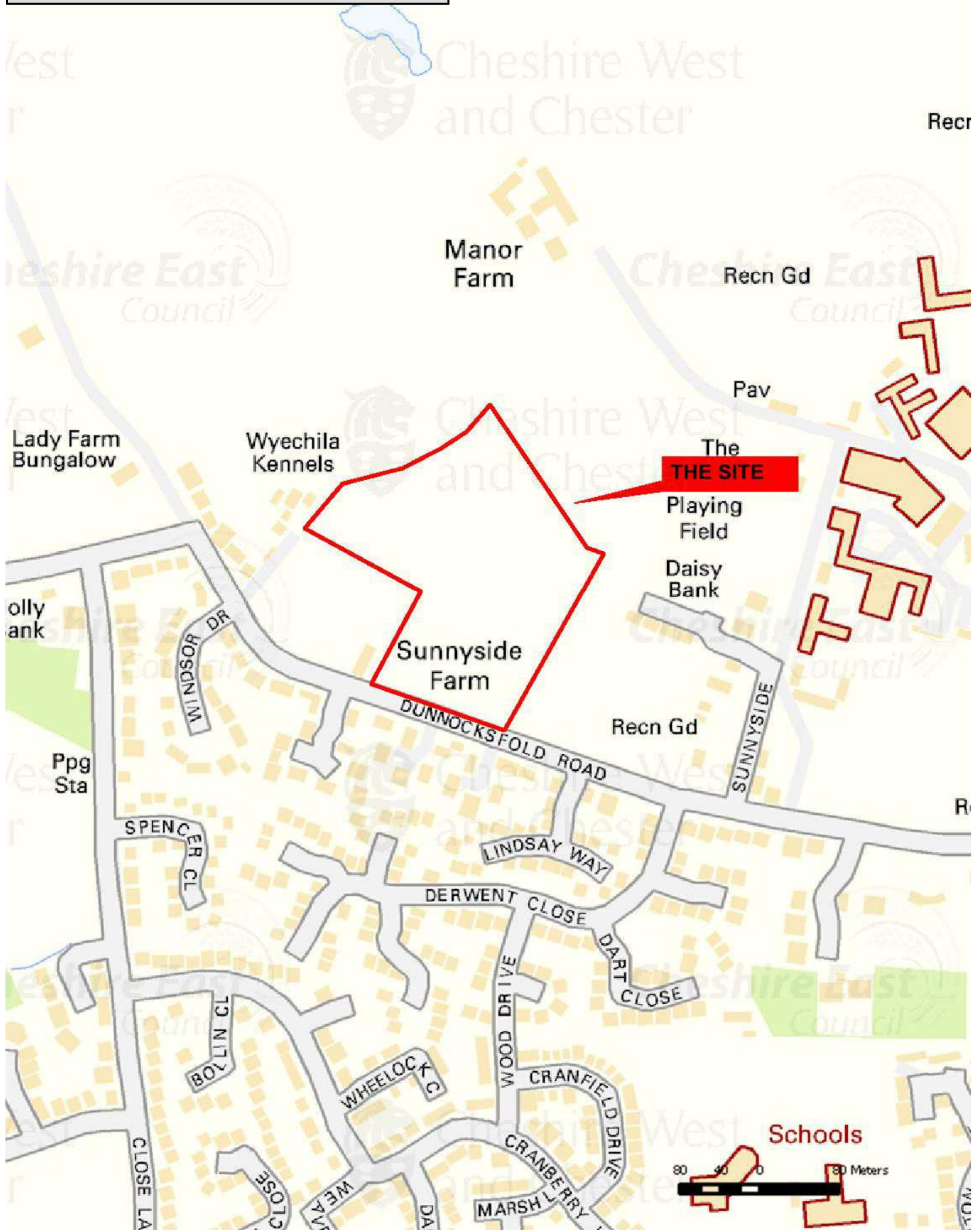
Informative:

1. The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the National Planning Policy Framework 2012 and the current Building Control Regulations with regards to contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales and approved by the LPA in writing. The responsibility to ensure the safe development of land affected by contamination rests primarily with the developer.

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 Planning and Place Shaping 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 be delegated to the Planning and Place Shaping 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.

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Application No: 13/4781C

Location: Land East of, Meadow Avenue, Congleton, Cheshire, CW12 4BX

Proposal: Outline application with access for erection of up to 14 no. dwellinghouses with ancillary facilities and associated infrastructure.

Applicant: Mr Robert Pedley

Expiry Date: 11-Feb-2014

SUMMARY RECOMMENDATION

APPROVE subject to completion of Section 106 Agreement and Conditions

MAIN ISSUES

**Planning Policy And Housing Land Supply
Sustainability
Affordable Housing,
Highway Safety And Traffic Generation.
Flood risk and drainage
Layout and design
Amenity
Landscape Impact and Hedge and Tree Matters
Ecology**

REFERRAL

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

This is a re-submission of an application that was refused in July 2013 and is currently the subject of an appeal. The re-submission has been made because of the recent appeal decisions relating to housing land supply. This application was also refused on highway safety and ecological grounds.

SITE DESCRIPTION

The application site is some 0.77 hectares of land to the east of Meadow Avenue and north of Waggs Road, Congleton. To the south and east is open countryside. Stony Lane, which is the

route of a public footpath, runs along the western boundary of the site. The site is generally level with hedgerows and trees on the boundaries.

The site is identified in the Strategic Housing Land Availability Assessment as suitable, achievable and developable. Its' availability is described as marginal/uncertain; however as the owners of the land have submitted this application, it would now appear to be available.

DETAILS OF PROPOSAL

Outline planning permission is sought for the erection of up to 14 dwellings, with ancillary facilities and associated infrastructure. Access is to be taken from the eastern end of Meadow Avenue, with all other matters, including appearance, landscaping, layout and scale, reserved for a subsequent application.

RELEVANT PLANNING HISTORY

12/3536C 2013 Refusal for 14 dwellings. The reasons for refusal were as set down below:

1. *"The development would create new residential development in the open countryside and is therefore not in compliance with Policy PS8 of the adopted Congleton Borough Local Plan First Review 2005."*
1. *"The development would have an adverse impact on Badger habitat contrary to the requirements of Policies NR3 and NR5 of the adopted Congleton Borough Local Plan First Review 2005."*
2. *"The development would have an adverse impact on highway safety contrary to the requirements of Policy GR9 of the adopted Congleton Borough Local Plan First Review 2005."*

PLANNING POLICIES

National Planning Policy Framework

Local Plan Policy

Cheshire East

Pre-Submission Core Strategy

Congleton Borough Local Plan First Review 2005

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

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

OBSERVATIONS OF CONSULTEES

Natural England

No objection.

Environment Agency

No objection.

Environmental Protection

Recommend conditions relating to hours of construction, piling, floor floating and demolition and dust control.

United Utilities

No objection.

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 Rights of Way

The proposed development site is adjacent to the network of public rights of way in the countryside to the south of Congleton. This network, known as the Southern Fringes project area, is well used and a highly valued resource and offers a key rural leisure facility for residents of the town. Signage and interpretation panels are already provided and path furniture has been upgraded. That said, the path immediately to the south of the proposed development site, Congleton Public Footpath No. 7, is in need of remedial works due to scouring of the path by surface water.

In order to maximise the benefits of the site's location in terms of proximity to this leisure facility, and in order to accommodate the increased footfall and improve the accessibility of the path network to the prospective residents, as well as existing residents of the area, contributions towards improving this footpath would be sought. Discussions relating to application ref. 12/3536C concluded that the developer would accept a condition requiring the improvement works to be undertaken, to an agreed specification.

Greenspaces

With reference to the plans for 14 dwellings consisting of seven 5 bedroom, three 4 bedroom, two 3 bedroom and two 2 bedroom houses the following Streetscape comments and observations are made.

Amenity Greenspace

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 deficit 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. There is no Public Open Space indicated on the site layout plan

Alternatively quality enhancements of the infrastructure at Astbury Mere Country Park would benefit the new development

Given that an opportunity has been identified for enhancing the quality of existing Amenity Greenspace to serve the development 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:	£3,011.31
Maintenance:	£6,740.25

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. The Council recognises that smaller developments will not always practically be able to provide open space and/or play provision on site where less than 20 dwellings are proposed and financial contributions would be sought towards enhancement of public open space/play provision within an 800m radius.

An opportunity has been identified for enhancing the quality of an existing facility at West Road Play where the existing facilities are substandard

Given that an opportunity has been identified for upgrading the /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:	£ 5,219.00
Maintenance:	£ 17, 014.50

Streetscape would request that any enhancement contributions should not be 'time limited' so ensure maximum benefit to the new and existing community, thus enabling the 'pooling' of funds

Streetscape would respectfully ask to be notified of any observations you may have regarding these comments, and to be informed of any changes that are made to the initial proposals as soon as you are aware of them.

Highways

The application is for 14 residential units on land that is accessed from the eastern end of Meadow Avenue. The access crosses Stony Lane which is a public right of way.

The main highway consideration is whether the development will have any traffic impact on the local highway network and whether the existing infrastructure is sufficient to accommodate the additional development.

Meadow Lane connects with Waggs Road and serves some 21 existing dwellings, there is a footpath one side of Meadow Lane and a verge on the opposite side. The carriageway width of Meadow Lane is 4.8m wide which is the standard width for small residential estate roads, the addition of a further 14 dwellings would not a raise a technical problem as it is generally accepted that a 4.8m road can serve up to 50 units.

The traffic generation that can be expected from the proposed development is low and even though the access roads including Waggs Lane and Fol Hollow are very narrow in places and certainly not suited to serve any new large developments, this level of development does not raise a material impact on traffic flows that are currently using these roads.

As the proposed access crosses a public right of way, the views of the public rights of way officer should be sought as to whether the additional vehicular traffic will cause a problem.

In summary, as the proposed development is only small in number the impact on the highway network is minimal and even though the main access roads to the site are not designed to accommodate high traffic flows, it would be extremely difficult to defend a traffic impact reason for refusal for 14 units.

No highway objections are raised.

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:

- The development would create a new residential development in the Open Countryside and is therefore not in compliance with Policies PS8 and H6 of the adopted Congleton Borough Plan First review of 2005.
- The development would have an adverse impact on Badger habitat contrary to the requirements of policies NR3 AND NR5 of the adopted Congleton Borough Plan First review of 2005.
- The development would have adverse impact on highway safety contrary to the requirements of Congleton Borough Plan First review of 2005.
- Highway implications due to the weight restrictions on Waggs Road and Fol Hollow.
- The development is not in line with the Core Strategy Document as produced by Cheshire East Council which has been adopted and voted on unanimously by Congleton Town Council taking guidelines from Congleton Town Council Neighbourhood Plan which was also adopted unanimously.

OTHER REPRESENTATIONS

At the time of report writing approximately 69 representations have been received, full copies of which can be viewed on the application file. This expresses concerns about the following matters:

Principle

- Loss of green field site
- Loss of agricultural land
- The houses are not needed. There are plenty of properties for sale in Congleton
- The land is not allocated for housing
- Will lead to further development around the site and Astbury will be swallowed by Congleton
- Creation of urban sprawl towards the A34
- Proposal is premature coming before the adoption of the local plan
- Not in accordance with the Congleton Town Plan
- Will open the flood gates for future development
- Will undermine the spatial vision for the area

- Planning driven by greed
- The applicant has not undertaken an assessment of the sustainability of the site
- Does not meet affordable housing requirements

Highways

- Congestion on Waggs Road and Fol Hollow
- Fol Hollow is not suitable for additional traffic
- Danger from traffic to children at the nearby school
- Danger from HGVs during development because of unsuitable roads
- There would be more car movements generated from the site than those stated in the application
- Inadequate transport statement
- Traffic survey does not reflect the local knowledge of the traffic issues in the locality
- Impact on footpaths
- Street scene photographs submitted with the application are stage managed and do not show the true traffic implications

Infrastructure

- No plans for extra hospitals, schools, nurseries and police
- No provision of community facilities or open space
- The application offers no infrastructure benefits

Loss of Open Countryside

- Damage to the landscape character of Priestly Fields
- Adverse visual impact on the area
- Threat to the unique natural heritage of enormous value to Congleton
- Loss of a rare example of access to the centre of a town through wooded countryside
- Green spaces are beneficial to the mental health of the nation

Amenity

- Loss of privacy to the properties on Waggs Road
- Increase in noise levels
- Quality of life will be severely affected during construction

Ecology

- Adverse impact on wildlife
- The development will crowd the wildlife corridor
- Adverse impact on many protected species that are known to be in the area
- A pond has been filled in the adjacent field and newts are appearing in neighbouring gardens

Drainage and Flooding

- Inadequate drainage on Waggs Road
- Flood Risk
- Scale of the pumping station is unnecessary for a development of this size

Design

- Development is out of character with the area
- Houses would not be in keeping with those in the locality

Other Matters

- This is the same as the application that was previously refused
- The Council should have been better organised and had a functioning local plan
- Loss of a view across the land
- The land is not completely in the ownership of the developer
- The sewage system proposed would serve 300 dwellings meaning this is a 'Trojan Horse' for future development
- The 76 bus route has been cancelled

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, housing land supply, the sustainability of the location, affordable housing, highway safety, 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 adopted Congleton Borough Local Plan First Review 2005, where Policies PS8 and H6 state that only development which is essential for the purposes of agriculture, forestry, outdoor sport, recreation and tourism, cemeteries and for other uses of land which preserve the openness of the countryside and maintain or enhance its local character. Residential development will be restricted to agricultural workers dwellings, replacement dwellings, and conversion of existing buildings or limited development within the infill boundary line.

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 concerns.

In addressing this, members should be mindful of the key principles of the National Planning Policy Framework

This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

“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.”

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

Housing Land Supply

The National Planning Policy Framework (NPPF) states at paragraph 47 that there is a 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 October 2013 the Cabinet Member agreed the Cheshire East Local Plan Pre-Submission Core 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, an annual average of 1350 homes per year. This figure represents not only the objectively assessed need for housing based on the latest household projections but also a policy "boost" to allow for an enhanced level of economic development once the downturn recedes.

However the most up to date position on the Councils 5-year housing land supply figure is following the recent appeal decisions. As part of the consideration of the Congleton Road and Sandbach Road North decisions, the Inspector found that the housing land supply over 5 years is 5750 dwellings. It is necessary to add to this figure the existing backlog 1750 dwellings and a 20% buffer for a record of persistent under delivery which gives a total requirement of 9000 dwellings over 5 years or 1800 per annum. This calculation took account of the High Court judgement in the Hunston Properties case (subsequently reinforced at the Court of Appeal). For whilst the RSS has clearly been revoked, it remains the only examined housing figure for the current period and itself represented a step change in housing growth when it was adopted (reversing the previous policy of restraint). Accordingly the three Appeal decisions published on 18 October 2013 all use the RSS base.

In terms of the existing supply the Inspector found that there is currently:

'a demonstrable supply, taking the generous approach to Council estimates, which is likely to be in the region of 7000 to 7500 dwellings at most' (Sandbach Road North Appeal)

This demonstrable supply therefore equates to a figure of 4.0 to 4.2 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.”*

As it has been found that Cheshire East cannot demonstrate a five year supply of housing land, the provisions of paragraphs 49 and 14 apply in this case. It is therefore necessary to carry out a balancing exercise in this case to assess whether the harm ‘significantly and demonstrably’ outweighs its benefits.

Emerging Policy

Clarification has been given on the weight which can be attributed to the emerging Local Plan as part of recent appeal decisions for Abbeyfields, Sandbach and Congleton Road, Sandbach and Sandbach Road North, Alsager. As part of the decision for the Abbeyfields site the SoS stated that:

‘As the emerging LP is still at an early stage the Secretary of State accords it limited weight in his decision making’

As part of the appeal decision for Congleton Road, Sandbach and Sandbach Road North, Alsager the Inspector found that:

‘There is a draft Local Plan, variously described as the Core Strategy and Development Strategy, which is moving towards a position in which it can be submitted for examination. The Council is seeking to achieve this in late 2013. The current state of the plan is pre submission. It is not disputed that there are many outstanding objections to the plan, and to specific proposals in the plan. Hence it cannot be certain that the submission version of the plan will be published in the timescale anticipated. The plan has already slipped from the intended timetable. In addition there can be no certainty that the plan will be found sound though I do not doubt the Council’s intentions to ensure that it is in a form which would be sound, and I acknowledge the work which has gone into the plan over a number of years.

Nonetheless I cannot agree that the draft Local Plan should attract considerable weight as suggested by the Council. There are many Secretary of State and Inspector appeal decisions which regard draft plans at a similar stage as carrying less weight. The Council’s own plan has been afforded little weight in the earlier months of 2013, and although the plan has moved on to an extent, it has not moved on substantially. For these various reasons I consider that the draft Local Plan can still attract no more than limited weight in this case’

Since then the Council has published the Pre-Submission Core Strategy which is supported by fuller evidence and takes account of the 16,000 comments made during the two consultations in 2013. Accordingly its weight should correspondingly increase in decision making. Never the less, given the stance taken in the above appeals the emerging Local Plan can only be given moderate weight in the determination of this planning application.

Countryside Policies

As well as assessing housing supply, the decisions at Sandbach Road North and Congleton Road Sandbach are also significant for clarifying the status and intent of settlement zone line and countryside policies.

Some have sought to argue that as settlement boundaries effectively contain the built area of a town or village – and so define the area in which development is usually concentrated – that accordingly they should be viewed as housing supply policies. This subsequently could mean that those policies, along with normal countryside policies, should be considered “out of date” if there is no five year supply of housing land. This view is derived from paragraph 49 of the framework which states that:

“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”.

There are appeal decisions that appear to support this perspective, although those in Cheshire East have generally taken a different approach.

The recent appeal decisions consider this matter in some detail. It was noted by the Inspector that the settlement zone lines serve a variety of purposes – and take account of land allocated for development up to a particular point (in this case 2011). However, the Inspector considered that settlement zone lines were not driven by the need to identify land for development, but rather are based on the objective of protecting countryside once development land is identified. Consequently, he concluded that the related policy (Policy PS4 of the Congleton Local Plan) was *“not sufficient directly related to housing land supply that it can be considered time expired for that purpose.”* Instead the Policy is *“primarily aimed at countryside & green belt protection”*. These objectives are largely in conformity with the NPPF and attract *“significant weight”*. In both appeals conflict with countryside policies were acknowledged.

This means that these policies remain important in the planning balance – but are not necessarily determinative. The two decisions pinpoint that much depends on the nature and character of the site and the individual circumstances pertaining to the application. At Congleton Road, the Inspector considered that the objective to boost significantly the supply of housing outweighed the “relatively moderate” landscape harm. In contrast, at Sandbach Road North the provision of housing was viewed as an “important and substantial” material consideration, but there would also be serious harm resulting from the impact on the character and appearance of the countryside. On this occasion that identified harm, combined with the significant weight attributed to countryside policies, outweighed the benefits in terms of housing supply.

In reaching this conclusion, the Inspector memorably noted that:

“the lack of a 5 year supply of housing land does not provide an automatic ‘green light’ to planning permission”.

Therefore, countryside policies in existing local plans can be considered as consistent with NPPF and are not housing land supply policies – and thus not of date, even if a 5 year supply is not in evidence. They accordingly need to be played into the planning balance when

decisions are made. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Conclusion

- The site is within the Open Countryside which is also subject to Policy PS7 (Open Countryside) where 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 for the supply of housing land 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.
- Cheshire East has a housing land supply figure of in the region of 4.0 to 4.2 years
- Only moderate weight can be applied to the emerging Local Plan.
- As the Council cannot demonstrate a 5 year housing land 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 as part of the planning balance.

Location of the Site

The site is part of a larger site which is considered to be suitable, achievable and developable by the SHLAA. To aid the assessment as to whether this site comprises sustainable development, the applicant has submitted a services assessment to support the application. This assessment shows the distances that the development would be from local services and seeks to demonstrate its sustainability. These distances are shown below:

- | | |
|---------------------------------|---|
| • Shop selling food and grocery | Several in town centre 800m |
| • Post box | Junction of Waggs Road/Meadow Avenue |
| • Playground/amenity area | Several within 500m including Astbury Mere, Banky Fields and Marlfields School fields |
| • Post Office | Congleton Post Office within 1,000m |
| • Bank or cash point | Several along Bridge Street 800m |
| • Pharmacy | Swan Bank 800m |
| • Primary School | Marlfields 400m |
| • Medical Centre | West Street 800m |
| • Leisure Facilities | Tennis club 600m and Astbury Mere 400m |
| • Local Meeting Place | Trinity Methodist Church Hall 600m |
| • Child Care Facility | Marlfields 400m |

The SHLAA also shows that the site is within 300m of a bus stop and 2,700m of a railway station.

It is considered in the light of this assessment that the proposed development would be within a sustainable location.

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 site is located in Congleton, which comes under the Congleton sub-area, in the SHMA Update 2013 which has identified a requirement for 58 new affordable homes per year between 2013/14 – 2017/18 made up of a need for 27 x 1 beds, 10 x 3 beds, 46 x 4+ beds and 37 x 1 bed older person dwellings. (There is an oversupply of 2 bed accommodation).

In addition to this information taken from the SHMA Update 2013, Cheshire Homechoice is used as the choice based lettings method of allocating social rented accommodation across Cheshire East. There are currently 584 applicants on the housing register who have selected Congleton as their first choice. These applicants require 240 x 1 bed, 218 x 2 bed, 101 x 3 bed and 10 x 4 bed and 2 x 5 beds (13 applicants did not specify how many bedrooms they require).

The Interim Planning Statement: Affordable Housing states that affordable housing will be required on any Windfall Sites that are for 15 dwellings or more or are greater than 0.4ha in size in settlements with a population of 3,000 or more. It states that the affordable housing requirement will be 30%, in accordance with the recommendation of the Strategic Housing Market Assessment 2010. The SHMA 2010 recommends a tenure split for affordable housing of 65% social rent and 35% intermediate.

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. It 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 Homes and Communities Agency Design and Quality Standards and should achieve at least Level 3 of the Code for Sustainable Homes (2007).

Although the site is for only 14 dwellings, as it is larger than 0.4ha, there is a requirement for affordable housing to be provided. As the revised Interim Planning Policy: Release of Housing Land has not yet been adopted the affordable housing provision should meet the requirements of the Interim Planning Statement: Affordable Housing this should be 4 dwellings, with 3 provided as social or affordable rent and 1 provided as an intermediate tenure dwelling.

If the application is approved it is recommended that the affordable housing is secured to include provisions requiring a scheme to be submitted with the reserved matters application, with the scheme including the following:

- A requirement for provision of 4 affordable dwellings.
- 3 of the affordable dwellings are to be provided as social or affordable rent, and 1 as an intermediate tenure dwelling
- That the location and type of dwellings to make up the affordable homes are shown on a plan identifying which are the rented and which are the intermediate dwellings.
- That timing for delivery of the affordable housing, as this is a relatively small development and phasing would not be expected that affordable housing should be provided no later than occupation of 50% of the open market dwellings.
- That the affordable homes are constructed to comply with the standards adopted by the Homes and Communities Agency Design and Quality Standards and meet Code for Sustainable Homes Level 3.

It is 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 Homes and Communities Agency to provide social housing.

Loss of Agricultural Land

The site is classified as Grade 3 (subject to urban pressures) agricultural land and the applicants state that it has had limited agricultural use over recent use due to the discontinuation of New Bank Farm for farming purposes.

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.

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'

Due to its limited size, the site 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 of Grade 3 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 reduce 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.

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 Meadow Avenue.

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 most common concern expressed within the objections received as part of the neighbour consultation process is whether Waggs Road and Fol Hollow can accommodate any further development feeding onto them, having specific concern about the safety of the pedestrian environment on both these roads. Much comment is also made about existing problems on Waggs Road.

The Strategic Highways Manager considers that, due to the small amount of housing proposed, the impact on the highway network would be minimal and a refusal on highway safety grounds could not be sustained.

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 concludes that residential development would be considered sustainable in terms of flood risk.

The Environment Agency has 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.

Scale and Layout

The indicative layout plan shows 14 houses - twelve 2 storey and two 2½ storey. This is considered to be an acceptable form of development, in keeping with the character of the surrounding development. This character comprises a mixture of dwelling types, both bungalows and two-storey dwellings.

Given that this application is in outline form and only access is to be determined at this stage, the appearance and layout will be determined at reserved matters stage.

Amenity

The Congleton Borough Council Supplementary Planning Document, Private Open Space in New Residential Developments, requires a distance of 21.3m between principal windows and 13.4m 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 14 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 demonstrates that this can be achieved. 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 application site is identified as Open Countryside in the Congleton Borough Local Plan. There are no landscape designations on the application site and within the Cheshire Landscape Character Assessment the application site is located on the boundary of the Lower Farms and Woods 2 landscape, specifically Character Area 11, Brereton Heath Area. The site displays many of the characteristics of the Brereton Heath Character Area, the character of the site is influenced by the development of bungalows along the northern boundary, along Waggs Road. Dwellings to the west of Stony Lane, the western boundary pathway, are largely screened by the existing boundary vegetation that runs alongside this sunken track along the western boundary of the application site.

The site has a network of existing hedgerows and trees and is agricultural in character. The site, local and wider topography provide an attractive setting especially to the south and east, where there are longer distance views towards the Peak Fringe. The site is strongly influenced by the existing boundary hedgerows and longer distance views, so that visually the site is very well connected to the wider agricultural landscape, rather than Congleton to the north.

No assessment of the landscape or visual impacts have been included with the application, yet the application (Supporting Planning statement 1.3 (8)) indicates that 'A preliminary overview of the landscape and ecology has confirmed that its value in these regards as 'relatively low' with the proposals leading to a net gain in landscaping and diversity'. Officers do not feel that the application has addressed the landscape and visual effects that the proposals will have and they have the potential to be detrimental.

This is an outline application and although an illustrative layout has been included, it is considered that in the development of a site masterplan should be provided, the key objectives being:

- Respect the existing landscape characteristics of the site (principally the mature trees and hedgerows);
- 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;
- 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 properties.

The above landscape comments are noted but given that this is an outline application this level of detail would not be provided. It can however be addressed at the reserved matters stage particularly given the limited scale of the development.

Tree Issues

The application is supported by a Tree Survey Report dated August 2102 (Ref DF/4183/Tree Survey report 'A') by Trevor Bridge Associates. The report indicates that the survey has been carried out in accordance with the recommendations of British Standard BS5837:2012 Trees in relation to design, demolition and construction. The report states that it has been carried out to act as an aid to layout by identifying the better trees, specifying protective measures and also any work that might be necessary to maintain the trees in an improved or safer condition.

The submitted Site Analysis plan and the Illustrative Site Layout plan show tree / hedge root protection areas and crown spreads. In addition, the Tree Survey recommends the production of an Arboricultural Method Statement and Tree Protection Plan once a final layout is agreed. The Illustrative layout plan indicates that the existing trees and most of the boundary hedgerows would be retained as part of the proposed layout.

Should a decision be made to approve the proposals as they stand, it would be essential to ensure that a reserved matters submission provided comprehensive details of proposed new levels, an Arboricultural Impact Assessment in accordance with BS 5837:2012, tree protection measures and an Arboricultural Method Statement if appropriate.

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. (CBC Local Plan policy NR3 refers).

The original submission included some documentation in respect of hedgerows but it was not comprehensive. Additional information has now been received and it is now considered that the removal of the small element of hedgerow would be acceptable.

Ecology

Great Crested Newts

The Council's Ecologist considers that the proposed development is unlikely to have a significant impact upon Great Crested Newts.

Bats

A bat activity survey has been undertaken. This survey was undertaken late in the survey season however considering the size and location of the site the Council's Ecologist is satisfied that enough information is available to assess the potential impacts of the proposed development upon bats.

The two trees identified as having potential to support roosting bats will be retained as part of the proposed development and the loss of hedgerow associated with the proposed site access will be compensated for by the proposed additional planting. The additional lighting associated with the development may have an adverse impact on bats. This would be localised and the residual impact of the proposed development upon bats is unlikely to be significant.

If planning consent is granted a condition should be attached requiring any future reserved matters application to be supported by a detailed lighting scheme.

Badgers

The submitted report states that there are no badger setts on site. There is however evidence of badgers crossing the site towards its northern boundary and also moving along the western boundary. Badgers are also using the application site to access an adjacent garden.

It is considered that the proposed development may result in the loss of foraging habitat for badgers and reduce their ability to move across the site.

The submitted badger mitigation strategy maintains access for badgers to the adjacent garden and also attempts to maintain access for badgers along the eastern and western boundaries of the application site. Additional fruit trees are also proposed as a means for providing an alternative seasonable source of food for badgers.

It is considered that whilst the usage of the site by badgers may be reduced as a result of the proposed development this is unlikely to have a significant adverse impact upon the status of the local badger population.

As badger activity can change over time it is recommended that if outline planning consent is granted a condition should be attached requiring any future reserved matters application to be supported by an updated badger survey and mitigation method statement.

Breeding Birds

The proposed development site has the potential to support breeding birds including the more widespread biodiversity action plan priority species which are a material consideration for planning.

The retention of the hedgerows on site will reduce the potential impacts of the development upon breeding birds. However, if planning consent is granted, it is recommended conditions be attached along the lines of the following:

(Prior to undertaking any works between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds. A report of the survey and any mitigation measures required to be submitted and agreed by the LPA.

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

Polecat, Hedgehog and Brown Hare

Brown Hare, Polecat and Hedgehog are all Biodiversity Action Plan priority species and a material consideration for planning. These species are known to occur within 1km of the proposed development. Whilst there is no evidence to suggest that these species are present on the application site there is a reasonable likelihood that the site may be used at least occasionally by these species. The level of impact on these three species is however unlikely to be significant.

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.

As explained within the main report, affordable housing and contributions to amenity Greenspace and Children and Young Person's provision 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, housing policies are not considered up to date. Other policies 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 adjacent to existing development.

Following the successful negotiation of a suitable Section 106 package, the proposed development would provide contributions to public open space and the necessary affordable housing requirements.

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 proposal will result in the loss of some grade 3 agricultural land, this is not a significantly large site 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.

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 – Accordingly the application is recommended for approval, subject to a Section 106 Agreement and appropriate conditions.

RECOMMENDATION

APPROVE subject to the completion of a Section 106 Legal Agreement to secure

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent (4 units) with 35% intermediate tenure (2 units). The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision**
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**

2. A £31,985.06 contribution to public open space.

And the following conditions

- 1. Commencement**
- 2. Submission of reserved matters (all matter other than access)**
- 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. Updated protected species survey and method statement prior to commencement**
- 11. Submission of a scheme to limit the surface water run-off generated by the proposed development,**
- 12. 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.**
- 13. Submission of a scheme of Sustainable Urban Drainage**
- 14. 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.**
- 15. This site must be drained on a total separate system, with only foul drainage connected into the public foul sewerage system.**
- 16. 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**

17. 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
18. Submission of scheme to minimise dust emissions arising from construction activities on the site
19. Submission of Construction Management Plan
20. Reserved Matters to include details of bin storage.
21. Details of improvements to public footpath
22. Arboricultural Impact Assessment and Tree Protection Plan to form part of the reserved matters
23. Implementation of a programme of archaeological work in accordance with a written scheme of investigation
24. Reserved matters to incorporate existing and proposed levels and boundary treatments
25. Submission of a Phase I contaminated land survey

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 Planning and Interim Place Shaping 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 be delegated to the Interim Planning and Place Shaping 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.

Application No: 13/2649N

Location: Land north west of Church Lane, Wistaston Crewe, Cheshire

Proposal: Outline Planning Application for Proposed Residential Development of up to 300 Dwellings, Highway Works, Public Open Space and Associated Works.

Applicant: Gladman Developments, Gladman Developments LTD

Expiry Date: 16-Oct-2013

SUMMARY RECOMMENDATION

Refuse

MAIN ISSUES

Impact of the development on:-

Principal of the Development

Housing Land Supply

Green Gap

Location of the Site

Landscape

Affordable Housing

Highway Implications

Amenity

Air Quality

Trees and Hedgerows

Design

Ecology

Public Open Space

PROW

Archaeology

Agricultural Land

Education

Flood Risk and Drainage

Health

Other issues

Planning Balance

REASON FOR REFERRAL

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

1. DESCRIPTION OF SITE AND CONTEXT

The site of the proposed development extends to 13.88 ha and is located to the northern side of Church Lane, Wistaston. The site is within Open Countryside and Green Gap. To the south of the site is residential development fronting Church Lane. To the south-west corner of the site is an existing bowling green, tennis courts and school playing fields. To the north and west of the site is agricultural land and to the north east is an area of recreational open space.

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

The site includes a small pond to the south-west corner of the site. To the eastern boundary of the site is a watercourse known as Wistaston Brook. The land level drop to the eastern boundary of the site.

Two Public Rights of Way cross the site from north to south (Wistaston FP1 and Wistaston FP2).

2. DETAILS OF PROPOSAL

This is an outline planning application for the erection of 325 dwellings. Access is to be determined at this stage with all other matters reserved.

The proposed development includes a single access point that would be located to the northern side of Church Lane between No 127 Church Lane and an existing electric sub-station.

The Design and Access Statement which has been submitted with the application indicates that there would be a range of block densities averaging 35 dwellings per hectare, ranging from 2-5 bedroom units. The development would include 1.54 hectares of amenity green space, a LEAP and 3.05 hectares of natural green space (which includes retained ponds, wetlands, green infrastructure and habitat creation).

The application is accompanied by an Environmental Impact Assessment.

3. RELEVANT HISTORY

13/1828S - EIA scoping request for Environmental Statement – Scoping letter issued 30th May 2013

13/1395S - EIA screening for land off Church Lane – EIA Required 18th April 2013

4. POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

NE.2 (Open countryside)
NE 4 (Green Gap)
NE.5 (Nature Conservation and Habitats)
NE.9: (Protected Species)
NE.20 (Flood Prevention)
BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
RES.5 (Housing in the Open Countryside)
RES.7 (Affordable Housing)
RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)
RT.9 (Footpaths and Bridleways)
TRAN.3 (Pedestrians)
TRAN.5 (Cycling)

Other Considerations

The EC Habitats Directive 1992
Conservation of Habitats & Species Regulations 2010
Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System
Interim Planning Statement Affordable Housing
Interim Planning Statement Release of Housing Land
Cheshire East Development Strategy
Cheshire East SHLAA

5. CONSULTATIONS (External to Planning)

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

- This site must be drained on a separate system with only foul drainage connected into the public sewerage system
- A public sewer crosses the site and therefore a modification of the site layout, or a diversion of the affected public sewer at the applicant's expense, may be necessary.

Strategic Highways Manager: This development proposal for 325 new dwellings and accessed off Church Lane Wistaston has been assessed and will have traffic impact on a number of junctions in the vicinity of the site.

The impact on more strategic junctions is material and there are proposals for junction improvements to mitigate the impact of this traffic which align with Authority designed schemes or which are designed by the developer's highway consultant.

The Strategic Highways Manager has identified that one of these offered improvements requires an alternate approach which would see provision on site be replaced by funding provision to be used more flexibly by the Highway Authority.

In addition other monies are identified and required for other purposes such as local bus stop provision and local traffic management.

The site offers appropriate levels of mitigation for its traffic impact on the local and wider strategic highways network and the Strategic Highways Manager considers that as a result of these measures that the overall impact of the traffic generation from this development cannot therefore be considered to be 'severe' in terms of its consideration against the National Planning Policy Framework. This development proposal will not require a Section 278 agreement at this time as one will be attached to any detailed permission should one be brought forward in the future.

Natural England: The proposed development is unlikely to affect any statutory sites. No objection in relation to Bats or Great Crested Newts.

For advice on all other protected species refer to the Natural England standing advice.

Environment Agency: No objection. Conditions suggested relating to surface water run-off, a scheme to manage the risk of flooding from overland flow, and the provision of an undeveloped buffer zone along Wistaston Brook.

Environmental Health: Conditions suggested in relation to hours of operation, environmental management plan, external lighting, and contaminated land. An informative is also suggested in relation to contaminated land.

In terms of air quality mitigation should include the implementation of the proposed travel plan and suitable electric vehicle charging infrastructure.

Public Open Space: The proposal should provide an equipped children's play area. This needs to cater for both young and older children – 6 pieces of equipment for young, plus 6 pieces for older children. A cantilever swing with basket seat, a wide slide, and a ground-flush roundabout would be required, as these cater for the needs of less able-bodied children. All equipment needs to be predominantly of metal construction, as opposed to wood and plastic. All equipment needs to have wetpour safer surfacing underneath it, to comply with BS EN 1177. The surfacing between the wetpour needs to be bitmac. The play area needs to be surrounded by 16mm diameter bowtop railings, 1.4m high, hot dip galvanized and polyester powder coated in green. Two 1.4m high self-closing pedestrian access gates need to be provided – these need to be coloured yellow. A double-leaf vehicular access gate also needs to be provided, with lockable drop-bolts. Bins, bicycle parking and appropriate signage also needs to be provided.

A contribution for off-site provision (£225,000) towards finishing the restoration work at Queens Park should be secured.

Cheshire Fire & Rescue: General comments relating to buildings regulations and water main installation.

Public Rights of Way: The two public footpaths which cross the site form popular leisure walking routes at present and offer circular options for local residents. Within the design, the footpaths should benefit from natural surveillance, and have appropriate widths, surfaces, furniture and signage designed in, all of which would require approval of the Public Rights of Way Unit.

Stopping up orders would not be required where the public footpaths cross the proposed estate roads, but the Public Rights of Way Unit would need to be consulted on the accommodation of users of the paths across the roads, emergency access and squares, for example, table top junctions, dropped kerbs, etc. as appropriate to the design of the road at that point. Where there is a proposal to overlay access roads to houses with the existing public rights of way, details as to how pedestrians are to be accommodated and the legal status of the roadway will be required.

The Illustrative Masterplan depicts a proposed pedestrian/cycle link to the Joey the Swan park area from the south east corner of the site. This access would be welcomed and would require the provision by the developer of a bridge crossing of the brook, with the permission of the landowners to the east of the river for the structure and onward access by both user groups.

Other paths are proposed within the application documents, and referred to variously as 'proposed Public Rights of Way' and 'pedestrian / cycle links'.

It is noted that the draft heads of terms includes an article relating to contributions towards the cost of a footpath upgrade on-site and possible off-site footpath improvement schemes. The developer would be expected to include within the greenspace management strategy, the long term maintenance of the improved routes within the site, both Public Right of Way and other status paths, and a contribution towards the future maintenance of the bridge.

There are a number of suggestions from local communities logged under the Council's statutory Rights of Way Improvement Plan for the area surrounding the development site. The increase in users arising from the development would result in increased pressure on facilities within the area and therefore the need for these improvements is likely to increase. These suggestions, each of which would require consultation with respective landowners, local community and user groups, include:

- ROWIP Ref. W69: accessibility improvements on the Joey the Swan paths, some of which are currently not accessible to all users due to restrictive access furniture, steps and widths of bridges
- ROWIP Ref H31: upgrade of public footpath no. 1 to bridleway standard for horse riding as part of a wider circular route (this would require the agreement of adjacent landowner to the development site).
- ROWIP Ref. 259: upgrade of paths and furniture within the Joey the Swan area for horse riding
- ROWIP Ref. 309: legal process to record on the Definitive Map the 'missing link' of public footpath within the Joey the Swan Park.
- ROWIP Ref. X14: development of promoted circular walks for local communities, including signage, interpretation, access improvements and leaflets.

Archaeology: It is accepted that the archaeological potential is limited and it would not be reasonable to require an intensive programme of archaeological mitigation. Instead, it is advised that the excavation of the main sewer trench should be observed in order to check for the presence of archaeological deposits which, if present, can be recorded. A condition is suggested.

Education: A development of 325 dwellings will generate 59 primary aged children and 42 secondary aged children.

No contribution is required for primary or secondary school education.

6. VIEWS OF THE PARISH COUNCIL

Wistaston Parish Council: Object to the application on the following grounds:

- The proposal would have a detrimental impact upon the openness of the countryside and the health and well-being of residents. The current public footpaths are heavily used for people taking exercise in the open countryside. It would be visually detrimental to Joey the Swan which is a natural beauty spot and would cause disturbance to wildlife in the area.
- Cheshire East Council should prevent urban sprawl by infilling strategic open gaps. The proposal is located within the last strategic open green gap accessible to the public in Wistaston and would result in erosion of physical gaps between built up areas.
- The proposal does not add anything towards existing community amenities and would have a severe impact on the already oversubscribed schools and medical services of the catchment areas. Other neighbouring developments which are already under construction and in the pipeline would compete with the existing schools and services.
- Wistaston is already considered to be developed to its full capacity. It is expanded to the size of a small town, any large scale developments would lead to urbanisation with Crewe.
- The proposal is in conflict with the Borough of Crewe and Nantwich Adopted Replacement Local Plan 2011 and Cheshire East Council's Draft Local Plan – Shaping our Future Development Strategy for Jobs and Sustainable Communities.
- There are currently 3,463 (2011 census) households in the parish; the proposed development would represent an increase of 9.4%
- New settlements in the Crewe area have already been identified at: Crewe Town Centre; West Street (Dunwoody way); Basford East; Basford West; Leighton West and Shavington.
- The development would have a significant increase in the volume of traffic through Wistaston on adjacent roads and thoroughfares, in close proximity to existing junctions. There are no infrastructure plans for major road improvements.
- 43% of current households have 1 car/van; 35% of current households have 2 cars/vans and 7% have 3 cars. Applying this to the proposed development would put an additional 435 cars into an already very congested area which would greatly exacerbate the current traffic loading. There were 5181 vehicles in the area in 2011 and this single development would increase this by 8.4%
- It is well known in the area that the stretch of Church Lane between Park Drive and Valley Road is a local accident hotspot at peak times. This is also the location of the proposed development sole entry and exit junction. Also cross traffic to/from employment sites on the South East of Crewe along Broughton Lane and Park Drive to Nantwich Road will exacerbate the problem.
- The outline planning proposal for a priority junction off Church Lane does nothing to alleviate the existing problems and increased traffic density particularly at peak times.
- The proposed development would be accessed at an already narrow and overcrowded convergence of roads with narrow bridges. It would have a detrimental impact on highway safety.
- This land is classed as high grade agricultural land and it is Cheshire East Council's policy to use low grade agricultural land and brownfield sites.

7. OTHER REPRESENTATIONS

Letters of objection have been received from 1,290 local households raising the following points:

Principal of development

- The site is within the Green Gap
- Contrary to Local Plan Policies
- Landscape impact
- Loss of green land
- There is a legal document which prevents the development of this site
- Approving the development would set a precedent
- There are many unsold homes in Crewe
- There are many empty homes in Crewe
- Approving the application would set a precedent
- Crewe Town Centre should be redeveloped first
- There are other sites which are more appropriate for new development
- The sole purpose of this application is to generate profit for the developers
- Crewe and Nantwich will soon be merged
- The proposed development is out of scale compared to Wistaston
- Impact upon the Green Belt
- Loss of agricultural land
- The application site has amenity value
- Loss of open space
- The land is in agricultural use
- The development is contrary to the NPPF
- The proposed development is contrary to Policies NE.2, NE.4 and RT.1
- There are enough large developments in the area to provide sufficient housing for the next 5-7 years
- No need for affordable housing
- Cheshire East now has sufficient housing sites
- No need for further housing in Wistaston
- Loss of village identity
- The development would create urban sprawl
- Loss of agricultural land
- There should be a concentration on employment before housing
- Brownfield sites should be developed first
- The development is unsustainable
- There are currently 300 houses for sale in the area with 150 for rent

Highways

- Increased traffic
- The proposed ghost lane would remove vital footpath and create a danger to pedestrians
- Cumulative highways impact from other developments in the area
- Dangers caused by construction traffic
- Traffic congestion along Middlewich Road and Crewe/Nantwich Road
- Additional vehicles on the road
- Highway safety at the Rising Sun junction
- Health and safety impact
- The access would not be safe
- Highway safety
- Unsafe access
- The footpath network need to be upgraded
- Increased accidents

Green Issues

- Impact upon wildlife
- Impact upon protected species
- Pollution run-off into Wistaston Brook
- Loss of the last green space in Wistaston
- Impact upon biodiversity
- Impact upon Wistaston Brook which is a local conservation area
- Water pollution will affect the River Weaver
- Landscape impact
- Impact upon trees
- Loss of Green Land
- The trees on the site should be protected

Infrastructure

- The drains are inadequate and there are potential flooding issues
- The site suffers drainage problems
- The sewer system is at capacity
- Leighton Hospital is at capacity
- Doctors surgeries are full
- The local Primary School is already full
- Impact upon the play area at Joey the Swan
- Impact upon electricity infrastructure
- Risk of flooding
- Insufficient medical services

Amenity Issues

- Impact upon health and well being
- The fields are used for public enjoyment
- The site is well used by dog walkers
- Impact upon the PROW
- Visual impact
- Noise and disruption from construction of the dwellings
- Increased dust
- Increased noise

Other issues

- Loss of views
- Lack of public consultation
- The density and style of development is not appropriate
- Loss of property value

A petition signed by 1,938 local residents has been received objecting to the scheme.

An objection has been received from the HIMOR Group raising the following points:

- The development is a significant expansion to the village of Wistaston
- The site is not considered to be sustainable
- Other sites will help to achieve the 'All Change for Crewe' vision
- The Gresty Oaks site is more sustainable and more accessible by a range of transport modes

- An access feasibility assessment has concluded that the Church Lane site provides low levels for walking accessibility
- The Gresty Oaks scheme offers a greater potential for accessibility by foot
- The Gresty Oaks site seeks to create a sustainable new garden suburb including community facilities in comparison the Church Lane scheme does not provide new facilities that will benefit existing and future residents
- The site is subject to a number of constraints including: tree cover, wetlands and watercourses, a well used PROW network, and a substantial impact upon the local landscape character
- Concern that the proposed maximum quantum of development can be achieved

An objection has been received from Edward Timpson MP raising the following points:

- The Wistaston Green Gap should be retained in its entirety
- The open green space and Joey the Swan are well used by the local community and should not be built on
- Cheshire East has over 7 years housing supply
- The infrastructure in Wistaston is already under pressure
- Support for the objections raised by local residents

An objection has been received from the Hands Off Wistaston Action Group raising the following points:

- At previous stages of consultation, local residents have voiced strong opposition to any development on this site. This led to a fresh round of consultation which was recently carried out by the council in which this land did not appear as a proposed site for development. Nevertheless the people of Wistaston responded with 555 responses to the consultation, 365 signatures on an e-petition and over 1900 signatures on a physical petition all urging the council to maintain the Green Spaces in the local area. The voice of the community is loud and clear.
- Over 1,000 online and paper objections have been submitted to this proposal. It is a clear mandate from the local populace – this development is not wanted. This is localism in action – local people making it clear what they value as a community asset – and residents urge Cheshire East Council to take these views on board and refuse this application.
- There are many areas within Cheshire East – and indeed Crewe and Nantwich – where development will be welcomed; brownfield land, land identified as a preferred site by Cheshire East Council. This site meets neither of those criteria. From just quickly searching on Rightmove, there are currently 562 properties for sale within 1 mile of Wistaston – 304 of these are up to 3 bedrooms and priced under £150,000. There is not a shortage of housing, there is a shortage of demand from buyers. There is no need to develop this green gap, agricultural land valued by the community.
- The site and adjacent land provides a habitat for a number of species, including protected species such as Great Crested Newts. Water voles and Pipistrelle bats have also been observed, among other species.
- The local road network, particularly around the Middlewich Road junction, is already at or near capacity. Further increases in traffic will make the roads more congested and dangerous. The proposed access road and “ghost road” will make road traffic accidents more of a risk and will significantly add to local congestion.
- This is good quality agricultural land, mostly MAFF grade 2/3a. This should be retained for agricultural use. The loss of this land will be detrimental to local agricultural output.
- This field is heavily used by residents for leisure purposes and provides a significant contribution to local health and wellbeing. It provides an area to exercise and reduce stress,

preventing further strain on an already overstretched hospital and local GP surgery – which cannot handle even more patients should local developments proceed.

- This application is focused on one issue – how to maximise profit opportunities. It is clear that Gladman's profits from this site would be greater than developing a brownfield site. However, the impact on the local community will far outweigh and monetary value that Gladman place on the land. For the sake of current and future Wistonians, this application must be refused.

The full content of the objections is available to view on the Councils Website.

8. APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Environmental Statement (Produced by FPCR)
- Flood Risk Assessment (Produced by Lees Roxburgh)
- Design and Access Statement (Produced by FPCR)
- Draft S106 Heads of Terms (Produced by Gladman)
- Planning Statement (Produced by Nathaniel Lichfield & Partners)
- Renewable Energy Statement (Produced by Gladman)
- Phase 1 Geoenvironmental Assessment (Produced by Lees Roxburgh)
- Socio-Economic Impact Report (Produced by Lees Regeneris)
- Sustainability Assessment (Produced by Gladman)
- Transport Assessment (Produced by Croft Transport Solutions)
- Education Impact Assessment (Produced by EPDS Consultants)
- Ecological Appraisal (Produced by FPCR)
- Utilities & Infrastructure Report (Produced by Gladman)
- Arboricultural Assessment (Produced by FPCR)
- Archaeology Assessment (Produced by CGMS Consulting)
- Statement of Community Involvement (Produced by Gladman)
- Visual Impact Assessment (Produced by FPCR)
- Agricultural Lane Assessment (Produced by land Research Associates)
- Affordable Housing Statement (Produced by Levvel)

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Main Issues

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

Principle of Development

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 concerns.

In addressing this, members should be mindful of the key principles of the National Planning Policy Framework

This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

“*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.”

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

Housing Land Supply

The National Planning Policy Framework (NPPF) states at paragraph 47 that there is a 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 October 2013 the Cabinet Member agreed the Cheshire East Local Plan Pre-Submission Core 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, an annual average of 1350 homes per year. This figure represents not only the objectively assessed need for housing based on the latest household projections but also a policy “boost” to allow for an enhanced level of economic development once the downturn recedes.

However the most up to date position on the Councils 5-year housing land supply figure is following the recent appeal decisions. As part of the consideration of the Congleton Road and Sandbach Road North decisions, the Inspector found that the housing land supply over 5 years is 5750 dwellings. It is necessary to add to this figure the existing backlog 1750 dwellings and a 20% buffer for a record of persistent under delivery which gives a total requirement of 9000 dwellings over 5 years or 1800 per annum. This calculation took account of the High Court judgement in the Hunston Properties case (subsequently reinforced at the Court of Appeal). For whilst the RSS has clearly been revoked, it remains the only examined housing figure for the current period and itself represented a step change in housing growth when it was adopted (reversing the previous policy of restraint). Accordingly the three Appeal decisions published on 18 October 2013 all use the RSS base.

In terms of the existing supply Inspector Philip Major found that there is currently:

‘a demonstrable supply, taking the generous approach to Council estimates, which is likely to be in the region of 7000 to 7500 dwellings at most’ (Sandbach Road North Appeal)

This demonstrable supply therefore equates to a figure of 4.0 to 4.2 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:

- n 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*
- n specific policies in the Framework indicate development should be restricted.”*

As it has been found that Cheshire East cannot demonstrate a five year supply of housing land, the provisions of paragraphs 49 and 14 apply in this case. It is therefore necessary to carry out a balancing exercise in this case to assess whether the harm ‘significantly and demonstrably’ outweighs its benefits.

Emerging Policy

Clarification has been given on the weight which can be attributed to the emerging Local Plan as part of recent appeal decisions for Abbeyfields, Sandbach and Congleton Road, Sandbach and Sandbach Road North, Alsager. As part of the decision for the Abbeyfields site the SoS stated that:

‘As the emerging LP is still at an early stage the Secretary of State accords it limited weight in his decision making’

As part of the appeal decision for Congleton Road, Sandbach and Sandbach Road North, Alsager the Inspector found that:

‘There is a draft Local Plan, variously described as the Core Strategy and Development Strategy, which is moving towards a position in which it can be submitted for examination. The Council is seeking to achieve this in late 2013. The current state of the plan is pre submission. It is not disputed that there are many outstanding objections to the plan, and to specific proposals in the plan. Hence it cannot be certain that the submission version of the plan will be published in the timescale anticipated. The plan has already slipped from the

intended timetable. In addition there can be no certainty that the plan will be found sound though I do not doubt the Council's intentions to ensure that it is in a form which would be sound, and I acknowledge the work which has gone into the plan over a number of years.

Nonetheless I cannot agree that the draft Local Plan should attract considerable weight as suggested by the Council. There are many Secretary of State and Inspector appeal decisions which regard draft plans at a similar stage as carrying less weight. The Council's own plan has been afforded little weight in the earlier months of 2013, and although the plan has moved on to an extent, it has not moved on substantially. For these various reasons I consider that the draft Local Plan can still attract no more than limited weight in this case'

Since then the Council has published the Pre-Submission Core Strategy which is supported by fuller evidence and takes account of the 16,000 comments made during the two consultations in 2013. Accordingly its weight should correspondingly increase in decision making. Never the less, given the stance taken in the above appeals the emerging Local Plan can only be given moderate weight in the determination of this planning application.

Conclusion

- The NPPF states that where authorities cannot demonstrate a 5 year supply of housing land, relevant local plan policies for the supply of housing 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.
- Cheshire East has a housing land supply figure of in the region of 4.0 to 4.2 years
- Only moderate weight can be applied to the emerging Local Plan.
- As the Council cannot demonstrate a 5 year housing land 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 as part of the planning balance.

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; (in this case the Willaston/Rope gap)
- adversely affect the visual character of the landscape.

Exceptions to the policy will only be considered where it can be demonstrated that no suitable alternative location is available.

It could be considered that the Policy is a Housing Land Supply Policy and therefore out of date. This was the case for the Rope Lane, Shavington appeal (for 80 dwellings) when in allowing the

appeal at Rope Lane, which was also located within the Green Gap, the Inspector determined that:

'In my view Policy NE.4 is not a freestanding policy; its genus is in Policy NE.2 and I agree with the appellant that 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, it has to be remembered that the policy is contained in the natural environment chapter, not a housing one and the reason for NE.4 is not heavily related. As such, in the October 2013 appeals (Alsager and Sandbach), the Inspector held that these policies were not housing related and therefore had weight.

Within the natural environment chapter, policies relating to the following issues are addressed, none of which are directly housing related.

- Green Belt
- Open Countryside
- Special County Value
- Green Gaps
- Nature Conservation and Habitats
- Internationally Important Nature Conservation Sites
- Locally Important for Nature Conservation Sites
- Protected Species
- Woodland Planting and Landscaping
- River and Canal Corridors
- Agricultural Land Quality
- Rural Diversification
- Agricultural Buildings
- Conversion of Agricultural Buildings
- Pollution Control
- Telecommunications Development
- Renewable Energy
- Flood Prevention
- Landfill Sites

This further backs up this point that Green Gap policy as with Countryside policy is still up to date and should be weighed in the planning balance.

In considering the Green Gap the Inspectors Report into the Local Plan, he found that:

'The width necessary to achieve adequate separation is a matter of judgement and I see no benefit in a detailed analysis of the (Green Gap) boundary unless there is a specific identified need to do so – for example if it were not possible to meet the CRSP (Cheshire Replacement Structure Plan) housing provision. This is not the case in this review of the Local Plan'

This echoed by the Inspector at Rope Lane where he found that Policy NE.4 was qualified by references to an adequate supply of housing and as this position has now changed the Inspector attached limited weight to the Policy.

Finally the Inspectors Report for the Local Plan states at paragraph 143.2.1 that:

'I have concluded that the existing boundaries of the Green Gap designations continue to be appropriate for this plan period'

Whilst the green gap policy wraps around the southern edge of Crewe more than anything else it is intended to ensure that the towns of Crewe and Nantwich do not merge. These settlements have a very different character and history. Nantwich traces its origins to the Roman era and until the mid 19th century remained the pre-eminent urban centre in south Cheshire. In contrast Crewe grew rapidly from the 1840's following the completion of the Grand Junction Railway. To this day the towns retain their distinctive identity. This is a key objective of the existing development plan – and also the emerging Cheshire East Local Plan. This proposes an extension of the North Staffordshire Green Belt into the area between the two urban areas. The separation of Crewe & Nantwich is thus considered to be an important strategic objective – and one that is of enduring relevance. It is also pertinent that additional development can be accommodated in the Crewe & Nantwich area without impinging on the green gap as a whole – and certainly on the most sensitive areas within it.

The impact on the Green Gap is therefore a matter of judgement to be weighed in the balance taking account of the current housing supply position.

The impact upon the landscape is considered below, but this concludes that the landscape impact would not be significant. The second test for Green Gap is whether it would result in the physical gap between built up areas being eroded and whether it would result in a significant erosion that would be detrimental (in this instance) between Wistaston and Nantwich. This particular part of the Gap is quite wide but it would affect the northern part of Nantwich and at that point and there would be an erosion of the physical gap contrary to NE.4.

The scale of the development of up to 325 dwellings must also be material in this instance as the erosion of the Gap and the will consequence be significantly larger than some other sites that Members will be aware have been approved. This must also be weighed in the planning balance.

Policy NE.4 also states that exceptions should be considered where no suitable alternative location is available. Given the number of other housing applications that are currently with the Council (in the light of the Housing Supply position) it is considered that other alternatives are available that would avoid large areas of Green Gap being used.

The emerging Local Plan as indicated above carries only moderate weight at this time. However, given that the Council is seeking to maintain and enhance the principle of Green Gap through Green Belt reviews and assessment to prevent Crewe merging into Nantwich housing supply should be boosted where possible without undermining this objective.

Landscape

The supporting landscape assessment correctly identifies the baseline landscape of the application site and surrounding area, and refers to the National Character Area, Area 61 – Shropshire, Cheshire and Staffordshire Plain/Cheshire Sandstone Ridge, and Cheshire Landscape Character Type in which the application site is located, East lowland Plain, and specifically the character area, ELP5: Wimboldsley. The Councils Landscape Architect is satisfied with the baseline landscape character information submitted. The appraisal does appear to be based on the Guidelines for landscape and Visual impact Assessment, Third Edition.

The application is outline and is not seeking approval for appearance, landscaping, layout or scale. The Design and Access Statement offers an Illustrative Masterplan, which it states will

‘provide a template for the detailed design stage of reserved matters applications. It sets out the urban design principles that the development will seek to adopt’.

This document also states that

‘parking will generally be provided to the side or rear of the housing plots, with some on-street parking at the front of dwellings. This would be provided in bays interspersed with tree planting, to provide active traffic calming measures’,

and later in the same section,

‘Car parking will mainly be situated on the driveways to the side or rear of the dwellings, or within undercroft garages where necessary to make the most of level changes’.

Although this is an outline application for a development of 325 units, a number of indicative plans showing the typical layout for high and low density housing plots have been submitted. It is considered that the density of housing being accommodated on the site may make it difficult to achieve or accommodate *‘Avenue tree planting along the Main Street which loops through the site, as well as on-plot landscaping to further integrate the built development into its surroundings and soften its overall appearance’*. This is clearly illustrated on the submitted drawings where the proposed avenue tree planting may be difficult to achieve with the design shown on this illustration.

The Councils Landscape Architect feels that there is potential to achieve mitigation with the perimeter landscape area, but any positive effects would depend largely on the development being undertaken in accordance with the Proposal Plan Drawing (5481-L-07), and the Parameters Plan Drawing (5481-L-004), as such these parameters should be retained through appropriate conditions should the application be approved.

The appraisal does offer an assessment of landscape effects. The Councils Landscape Architect broadly agrees with the sensitivity of landscape and magnitude of landscape effects, and even the overall significance of effect at construction phase. The overall significance at years 0 and 15 will be dependent on the inclusion and incorporation of the Parameters Plan in the final detail design of the site.

The assessment identifies a number of viewpoints and does refer to the methodology process involving the sensitivity of receptors as well as magnitude of visual effects, and offers an overall significance of effect for construction and for operation, on visual amenity, residential settlements, road users, public rights of way, recreational users and designations.

The Councils Landscape Architect agrees with the methodology that has been used, the Councils Landscape Architect feels that the assessment has underrated the sensitivity of a number of receptors as well as the magnitude of visual effect. For a number of these viewpoints the Councils Landscape Architect feels that the significance of visual effect would be slightly larger than the assessment indicates, although not significantly so.

Any mitigation or enhancement would depend largely on the development being undertaken in accordance with the Parameters Plan (Drwg No. 5481-L-004), as such these parameters should be retained through appropriate conditions should the application be approved.

Location of the site

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) – 307m
- Children’s Play Space (500m) – 440m
- Public House (1000m) – 511m
- Primary School (1000m) – 535m
- Public Right of Way (500m) – On site
- Convenience Store (500m) – 473m
- Post office (1000m) – 839m
- Pharmacy (1000m) – 521m
- Child Care Facility (nursery or crèche) (1000m) - 596m
- Community Centre/Meeting Place (1000m) – 307m
- Outdoor Sports Facility (500m) – 300m

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:

- Bus Stop (500m) – 512m
- Secondary School (1000m) – 1294m

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 3700m
- Medical Centre (1000m) - 2320m

In summary, the site does not comply with all of the standards advised by the NWDA toolkit. However as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Wistaston, 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. Nevertheless this is not untypical for suburban dwellings and will be the same distances for the residential development on Church Lane from the application site. However, all of the services and amenities listed are accommodated within Crewe 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.

Affordable Housing

The Strategic Housing Market Assessment identified a preferred tenure split of 65% social rented and 35% intermediate tenure affordable dwellings across Cheshire East. The Strategic Housing Market Assessment 2010 identified a requirement for 256 new affordable homes each year between 2009/10 – 13/14 in the Crewe sub-area, this is made up of a requirement for 123 x 1 bed, 20 x 2 bed, 47 x 3 bed, 40 x 4/5 bed and 26 x 1/2 bed older persons dwellings each year.

In addition to this information taken from the SHMA, Cheshire Homechoice is used as the Choice Based Lettings method of allocating social and affordable rented accommodation across Cheshire East. There are currently 533 active applicants who have selected Wistaston or Wistaston Green as their first choice, these applicants require – 99 x 1 bed, 231 x 2 bed, 163 x 3 bed, 22 x 4 bed and 2 x 5 bed properties.

Therefore as there is affordable housing need in Crewe there is a requirement for affordable housing to be provided at this site, 30% of the total dwellings on site should be provided as affordable, this equates to up to 98 affordable homes and the tenure split of the affordable dwellings should be 65% social or affordable rent (64 units) and 35% intermediate tenure (34 units), the affordable housing should be provided on site.

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.

The applicants planning statement sets out that they are offering 30% affordable housing on the site. The affordable housing statement sets out an indicative mix of 40 x 2 bed & 23 x 3 bed affordable rented dwellings and 22 x 2 bed & 13 x 3 bed intermediate tenure dwellings. The affordable housing offer complies with the requirement for 30% affordable housing and the 65% rented, 35% intermediate tenure split. The affordable housing statement also sets out that the affordable dwellings will be provided in small groups in clusters of no more than 10 units and this would be acceptable.

The indicative mix providing the majority of affordable dwellings as 2 beds along with some 3 beds does not meet the highest need identified from the SHMA 2010 which is for 1 bed properties. However it does meet the highest need identified from Homechoice applicants for

rented affordable housing. It should be recognised that both the SHMA 2010 and requirements of applicants on Cheshire Homechoice show a need for a variety of property types rather than just 2 & 3 bed houses. In this case the type of property required will be negotiated at the Reserved Matters stage if this Outline application is approved.

Highways Implications

The development would have a single vehicular access point onto Church Lane with a simple priority junction and ghost island right turn lane.

The design of the access accords with Manual for Streets and the applicant has provided a plan to show that visibility splays of 2.4m x 43m can be achieved (on a 30mph road visibility splays of 2.4m x 43m are required according to Manual for Streets). The proposed site access is predicted to operate well within its theoretical capacity in all assessment scenarios and can accommodate the traffic forecast to be generated by the proposed development.

In terms of increased vehicle movements, the Transport Assessment submitted with the application identifies that traffic from the site would impact upon a number of junctions in the area and mitigation would be required. The impact upon these junctions is considered below and this also considers a number of committed developments within the area (Shavington Triangle, Coppenhall East, Parkers Road, Gresty Green Road, Rope Lane and Basford West). The proposed development is forecast to generate a two-way total of approximately 191 trips in the AM peak hour and 210 trips in the PM peak hour.

The test that highways impact needs to be considered against is contained within the NPPF which states that:

'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'

A534/A51 'Peacock Roundabout'

This junction is currently at or close to capacity and the submitted TA identifies that this junction is predicted to operate in excess of its actual capacity in all scenarios.

In this case there is a scheme of improvements within the CEC Infrastructure Plan which is costed at £705,000 (there is already one contribution for this improvement to the sum of £100,000). In terms of this application it has been negotiated that the developer will fund the balance of this sum (£605,000) on a phased basis and this will be secured via a S106 Agreement. This scheme of works would mitigate this development.

A530/Wistaston Green Road

This junction has a history of injury accidents until the introduction of a local safety scheme in recent years and the junction is now considered to operate safely.

The program used to analyse this junction does not incorporate into the design the effect of rolling queues which occur at this location and the interaction with other junctions. The proposed

development would impact on this junction and the developer is offering a traffic signal junction to mitigate the impact.

The Strategic Highways Manager has stated that he is keen to *'secure a capital sum equivalent to the provisional costs of the installation of this signal junction so that the Highway Authority can observe the operation of this junction as the proposed development builds out (assuming a permission), and then utilise the funding to appropriately treat the strategic A530 link passing this junction, once the prevailing traffic conditions have been assessed'*.

The applicant has offered to upgrade this junction as part of their off-site highways works. However the SHM has stated that he would prefer a contribution which could be spent as part of a wider CEC improvement scheme along the A530. As a result a sum of £300,000 has been agreed towards mitigating the impact at this junction and this will be secured as part of a S106 Agreement.

Other Junctions

It is accepted that there will also be impacts at the following junctions:

- Church Lane/A534 Crewe Road
- Brookland Avenue/A534 Crewe Road
- Park Drive/Church Lane
- Broughton Lane/Church Lane

There is no traffic management in terms of on-street parking orders within the vicinity of these junctions and the Strategic Highways Manager has requested a contribution for the management of these junctions which will be impacted by the proposed development. As a result it is requested that a contribution of £20,000 be secured for the analysis and treatment of the junctions as the development is constructed and commences its traffic generation.

Public Transport

The developer is promoting sustainable transport options and the pedestrian links on this site would direct pedestrians towards the bus stops on Church Lane. The developer has agreed to upgrade these bus stops and a sum of £25,000 would be secured as part of a S106 Agreement.

Highways Conclusion

The proposed access is of an acceptable design and would comply with Manual for Streets. The wider traffic impact would be concentrated on the Peacock Roundabout and Wistaston Green Road/A530 and contributions would be secured for schemes of mitigation. There would be more minor impact upon the four junctions listed above which would be subject to a contribution towards treatment and analysis. In terms of public transport a contribution would be secured towards upgrading the bus stops on Church Lane. Subject to the contributions which would secure mitigation the impact upon the development could not be described as severe (the test contained within the NPPF).

Amenity

In terms of the surrounding residential properties, these are mainly to the south of the site.

From the rear elevation of the proposed dwellings to the south of the site to the rear elevation of the properties which front onto Church Lane there would be a separation distance of approximately 21 metres. This distance meets the required separation distance of 21 metres between principle elevation as set out in the SPD on Development on Backland and Gardens. The final details in terms of layout and separation would be dealt with at the reserved matters stage.

Due to the separation distances involved, no other residential properties would be affected.

The Environmental Health Officer has requested conditions in relation to hours of operation, environmental management plan, external lighting, and contaminated land. These conditions will be attached to any planning permission.

Air Quality

There are two Air Quality Management Areas (AQMA) in Crewe at Wistaston Road and Nantwich Road.

The Transport Assessment accompanying the planning application indicates that the proposal would generate additional road traffic impacts upon both AQMAs. The air quality assessment estimates that there would be an adverse impact in the Wistaston Road AQMA and that 32% of proposal generated road traffic would travel towards the Nantwich Road AQMA and it therefore follows that it would cause an adverse air quality impact.

Monitoring in these areas has shown nitrogen dioxide levels above the national health based objective. Poor air quality is detrimental to the health and wellbeing of the public, and also has a negative impact on the quality of life for sensitive individuals. For this reason air quality impacts should be considered as a material planning consideration.

One of the twelve core planning principles contained within the NPPF states that planning should:

‘contribute to conserving and enhancing the natural environment and reducing pollution’

To prevent unacceptable risks from air pollution, planning decisions should ensure that new development is appropriate for its location. The NPPF states that the effects of pollution on health and the sensitivity of the area and the development should be taken into account and paragraph 124 states that:

‘Planning policies should sustain compliance with and contribute towards EU limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and the cumulative impacts on air quality from individual sites in local areas. Planning decisions should ensure that any new development in Air Quality Management Areas is consistent with the local air quality action plan’

The proposed impacts are likely to be relatively small according to the Environmental Health Department but they are concerned about cumulative impacts from other committed proposals in the area.

The Environmental Health Officer considers that the air quality impacts from this development could be mitigated against by providing the proposed travel plan, bus stop improvements within

the vicinity of the site and suitable electric vehicle charging infrastructure. Subject to the mitigation measures being secured the Environmental Health Officer has no objection to the development.

Trees and Hedgerows

Trees

The submitted tree report indicates that there are 5 trees which are graded Category A (High Quality/Value), 21 trees which are graded Category B (Moderate Quality/Value), 21 trees which are graded Category C (Low Quality/Value) and 5 trees which are graded U (Unsuitable for retention).

The only tree directly affected by the access is T52, a low value Category C tree located immediately adjacent to the boundary with 127 Church Lane. The Root Protection Area of this tree extends parallel to the proposed highway which can be implemented to the required adoptable standard without having either a direct or indirect impact on the tree.

Apart from the 5 trees graded U all trees would be retained as part of the proposed development. The impact upon trees is therefore considered to be acceptable.

Hedgerows

A section of hedgerow facing directly onto Church Lane will require removal to accommodate visibility splays. The hedge appears to be a relatively recent addition to the landscape, with a number of self set trees allowed to establish within its framework since formal maintenance was last expedited. In this case the hedgerow lost would be of a relatively short length and the loss of hedgerow is outweighed by the need for housing.

Design

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 proposal is considered to be over dense at 35 dwellings per hectare and it would be appropriate through the use of a planning condition to cap the number of dwellings on the site at 300 which would reduce the density to 32 dwellings per hectare on the developable area of the site (excluding the 1.54 hectares of amenity green space, a LEAP and 3.05 hectares of natural green space).

In this case there are a number of concerns about the indicative layout of the proposed development and these issues are summarised as follows:

- The primary street position on the parameters plan will mean that some parts of the site will have edges where housing backs or sides onto countryside with considerable sections of

rear and side garden boundaries. The layout should foster fronting onto and overlooking of the landscape as widely as possible to give a positive outlook and create a more open, active interface with the rural edge. The wood lined valley of the watercourse is a major asset and should be fully exploited in terms of outlook. The views to the north and west are also positive and would further add to the quality and attractiveness of the scheme. In conjunction with the above, creating a more varied, lower density edge to the site would enable a softer interface and transition into the countryside as part of the peripheral landscaping proposed.

- The existing public right of way through the centre of the site is set within a green strip that has a very formal arrangement on the parameters plan. This needs careful consideration.
- The development could appear more like an urban scheme, based on the illustrative masterplan, in terms of grain and density, as opposed to one that sits comfortably within an area largely characterised by lower density housing in a fringe location.

It is considered that the issues above are not insurmountable and that an acceptable design/layout that would comply with Policy BE.2 (Design Standards) and the NPPF could be negotiated at the reserved matters stage.

Ecology

Habitats

Hedgerows

The hedgerow located along the western boundary of the site has been identified as Important under the Hedgerow Regulations. It appears likely that this hedgerow will be retained as part of the development of this site.

Another hedgerow located on the southern boundary of the site with Church Lane may be lost or damaged to facilitate the proposed site entrance. However, considering the size of the proposed open space it appears likely that there will be opportunities at the reserved matters stage to secure replacement hedgerow planting to compensate for this loss. Replacement hedgerow planting could be secured by means of a condition if planning consent is granted.

Marshy grasslands and ponds

The marshy grassland and ponds present on site have nature conservation value and are worthy of retention. These habitats are located within the natural green space areas shown on the submitted parameters plan and it seems likely that they would be unaffected by the proposed development. The retention of these features could be secured by condition if outline planning consent is granted.

Grassland Habitats

With the exception of the ponds, marshy grassland and hedgerows discussed above, the grassland habitats which make up the bulk of the site are of low value and do not present a significant constraint upon development. The development proposals will however still result in an overall loss of the area of habitat on the site.

The applicant has undertaken an assessment of the residual ecological impacts of the proposed development using the Defra 'metric' methodology. The results of this assessment conclude that there is no requirement for a contribution in this case.

Protected Species

Great Crested Newts

A small population of Great Crested Newts has been recorded at one pond on the eastern boundary of the site and at one pond to the north-west of the site (no more than one GCN was recorded during any of the six trapping sessions). In the absence of mitigation the proposed development would result in the loss of a large area of relatively low value habitat and would also pose the risk of killing or injuring any newts present on site when the works were undertaken.

In order to compensate for the loss of terrestrial habitat the applicant is proposing to retain and enhance the habitat around the eastern, northern and western boundaries of the site. It is also proposed to mitigate the risk of killing or injuring newts through the removal and exclusion of newts from the development footprint using standard best practice methodologies under license from Natural England.

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 protected species.

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 the tests would be met as follows:

- If the development was approved it would be because the LPA cannot demonstrate a 5 year housing land supply and there would be reasons of overriding public interest, including those of a social or economic nature with no satisfactory alternative
- There is only a small population of GCN on this site and there would be no detriment to the maintenance of the species population at favourable conservation status in their natural range. The proposed mitigation/compensation would be adequate to maintain the favourable conservation status of GCN.

Breeding birds

The proposed development site is likely to support breeding birds, possibly including the more widespread biodiversity action plan priority species which are a material consideration for planning. The Councils Ecologist advises that the site is unlikely to be of significant ornithological interest, however if planning consent is granted conditions could be attached to safeguard breeding birds.

Bats

The proposed development site is likely to support foraging and commuting bats. However roosting opportunities appear absent and the site, with the exception of the retained ponds, marshy grassland and running water, is unlikely to be significantly important for bats.

The submitted ecological assessment has identified the potential adverse impact on bats from additional lighting associated with the development. The Councils Ecologist recommends that if planning consent is granted a condition be attached requiring a lighting scheme for the site to be submitted with any future reserved matters application.

Water Vole

Evidence of this declining protected species has been recorded at both the marshy grassland to east of application site and at the brook nearby.

The habitats occupied by water voles are within the proposed open space areas and so it appears unlikely that this species would be directly affected by the proposed development. The submitted Ecological Assessment does however identify that the predation risk associated with an increase in domestic cats could potentially have an adverse impact upon this species. Increased bramble planting is suggested as a means of mitigating this risk.

If outline consent is granted a condition will be attached requiring any reserved matters application to be supported by an up to date protected species surveys and mitigation proposals.

Public Open Space

Policy RT.3 states that where a development exceeds 20 dwellings the Local Planning Authority will seek POS on site. In this case the level would be 11,375sq.m and the indicative plan shows that the developer will provide 1.54 hectares of amenity green space and 3.05 hectares of green infrastructure. This would exceed the requirement for Policy RT.3 by a considerable margin and is considered to be acceptable.

In terms of children's play space this would be provided on site and the applicant has indicated that they are willing to provide a LEAP with 12 pieces of equipment as requested by the POS Officer.

The suggested contribution towards Queens Park does not meet the CIL tests as there is adequate provision of open space on the application site and the contribution is not necessary to make the development acceptable in planning terms. It should also be noted that Queens Park is approximately 2,500 metres from the application site.

Local residents have raised concern that the development of the site would impact upon health and well being and the application site is used for public enjoyment. However the application site is in agricultural use with no recreational designation within the Local Plan whilst the PROW would be retained in-situ (the impact upon the PROW is discussed below). The development would result in the creation of 4.59 hectares of amenity green space, green infrastructure and a LEAP. As a result it is considered that the development would result in a benefit in terms of the recreational value of the site.

PROW

The route of the Public Rights of Way which cross the site would be retained in position as part of this application and further information about the treatment of the PROW would be provided at the Reserved Matters stage.

In this case the PROW Officer has requested a number of PROW improvements within the vicinity of the site. Some of these improvements would be controlled via a planning condition whilst others would be off site and would not meet the CIL/Condition tests.

It is not considered that the accessibility improvements to the paths and furniture within Joey the Swan play area would meet the CIL tests as the applicant would provide an over provision of open space within the application site together with a 12 piece LEAP. These suggested improvements would not be necessary to make the development acceptable in planning terms.

The upgrade of PROW No 1 to a Bridleway is within the application site and could be controlled through the use of a planning condition, as would the provision of a link from footpath Wistaston FP2 to Wistaston FP15 with a bridge to cross Wistaston Brook.

Archaeology

A supporting Archaeological Assessment has been submitted with this application and this has been assessed by the Councils own Archaeologist who has suggested that further mitigation should be secured by condition if planning permission is granted.

Agricultural Land Quality

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (Grades 1, 2 and 3A) will not be permitted unless:

- The need for the development is supported by the Local Plan
- It can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non-agricultural land
- Other sustainability considerations suggest that the use of higher quality land is preferable

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.

In this case a survey of the agricultural land quality has been undertaken and this identifies that 35% of the land is grade 2, 43% is grade 3a and 22% is grade 3b/grade 4.

Although the development would result in the loss of 10.4 hectares of Grade 2 and Grade 3a land 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. The recent decision at Loachbrook Farm, Congleton also reinforces this point.

Inspector as part of the Sandbach Road North appeal decision where the Inspector states that *'whilst the loss of some Best and Most Versatile (BMV) land is a disbenefit, in the context of this proposal the loss is of minor weight'*. The recent decision at Loachbrook Farm, Congleton also reinforces this point.

Education

The proposed development would generate 59 primary school pupils and 42 secondary school pupils.

In term of primary school places the table below shows that there is capacity within a number of schools within the vicinity of the site (of these schools two are currently having their net capacity extended – Wistaston Green and Pebble Brook). With these works there would be 410 surplus places based on the revised net capacity in 2018. This would meet the needs of the proposed development and as a result the education department are not requesting any contribution towards primary school education provision.

	PAN	NOR	NET CA	Proposed	UNFILLED PLACES	UNFILLED PLACES %	PUPIL FORECASTS					
	Sep-14	Mag-13	Mag-13	NET CA			2013	2014	2015	2016	2017	2018
Primary Schools												
Underwood West	60	412	470	470	58	12.34	436	444	449	456	463	462
Wistaston Church Lane	60	420	420	420	0	0.00	418	418	420	420	420	421
Oakefield	60	300	420	420	120	28.57	322	341	360	373	383	391
Gainsborough	60	416	420	420	4	0.95	424	423	422	422	422	420
Wistaston Green	60	353	390	420	37	9.49	365	394	404	409	421	421
Beechwood	45	295	300	300	5	1.67	302	311	323	335	345	346
Brierley	30	185	210	210	25	11.90	191	200	202	207	210	210
Edleston	30	214	210	210	-4	-1.90	212	212	213	213	212	210
Pebble Brook	45	220	240	315	20	8.33	230	244	261	279	295	299
Shavington	30	212	210	210	-2	-0.95	210	210	211	209	209	210
St Marys Catholic	80	549	560	560	11	1.96	544	562	570	572	579	580
Vine Tree	30	202	210	210	8	3.81	206	209	210	214	215	216
Willaston	30	205	210	210	5	2.38	202	202	201	203	203	208
The Berkeley	50	331	330	330	-1	-0.30	334	347	356	358	365	363
Highfields	30	207	210	210	3	1.43	211	214	212	210	210	210
OVERALL TOTAL	700	4,521	4810	4915	289	6.01	4171	4287	4365	4424	4489	4505
OVERALL SURPLUS PLACES PROJECTIONS							639	523	445	386	321	305
OVERALL SURPLUS % PROJECTIONS							13.28	10.87	9.25	8.02	6.67	6.34
OVERALL SURPLUS PLACES PROJECTIONS based on NET CAP							744	628	550	491	426	410
OVERALL SURPLUS % PROJECTIONS based on NET CAP							15.14	12.78	11.19	9.99	8.67	8.34
** wistaston green - re-introducing a classroom for 2014												

In term of secondary school places the table below shows that there is capacity within a number of schools within the vicinity of the site. The table shows that there would be 626 surplus places in 2019. This would meet the needs of the proposed development and as a result the education department are not requesting any contribution towards secondary school education provision.

	PAN	NOR	NET CAP	UNFILLED PLACES	UNFILLED PLACES %	PUPIL FORECASTS						
	Sep-14	Mag-13	Mag-13			2013	2014	2015	2016	2017	2018	2019
Secondary Schools												
Sir William Stanier	210	903	1050	147	14.00	899	932	964	998	1044	1098	1152
Kings Grove	156	693	780	87	11.15	658	640	638	648	652	676	706
Malbank	210	922	1050	128	12.19	887	868	866	869	903	915	939
Shavington	170	574	931	357	38.35	550	529	504	515	522	530	546
Ruskin	140	561	666	105	15.77	510	480	457	453	474	492	506
Brine Leas	210	1,078	1050	-28	-2.67	1057	1052	1070	1068	1078	1080	1084
St Thomas More	128	636	642	6	0.93	637	616	603	600	591	589	610
OVERALL TOTAL	1224	5,367	6169	802	13.00	5198	5117	5102	5151	5264	5380	5543
OVERALL SURPLUS PLACES PROJECTIONS						971	1052	1067	1018	905	789	626
OVERALL SURPLUS % PROJECTIONS						15.74	17.05	17.30	16.50	14.67	12.79	10.15

Flood Risk and Drainage

The vast majority of the application site is located within Flood Zone 1 according to the Environment Agency Flood Maps although a small strip along Wistaston Brook is located within Flood Zones 2 & 3. Flood Zone 1 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 is more than 1 hectare, a Flood Risk Assessment (FRA) has been submitted in support of the application. The submitted plan shows that the area identified as Flood Zones 2 & 3 would not be developed as part of this development.

The FRA identifies that the proposed flows from the development would be connected into Wistaston Brook with flows limited to a Greenfield rate in accordance with the NPPF.

The proposed drainage system will be designed to accommodate a 1 in 30 year event and will be put forward for adoption by United Utilities. The FRA states that overall the development will seek to contain flows up to the 1 in 100 year plus climate change event.

The Environment Agency and United Utilities have been consulted as part of this application and have both 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.

Health

A number of the letters of objection raise concerns about the impact upon health provision in this area. In response to this issue the applicant has stated that there are 10 medical practices within 2.5 miles of the site and according to the NHS choices website all are currently accepting patients indicating that they have capacity. Furthermore no practices have closed their list and they are not being forced to accept new patients.

The applicant also states that there have been a number of approvals in and around Crewe which have not required medical contributions and all are less accessible to medical facilities than this application site.

Other issues

From the number of objections received the application site is clearly valued by local residents who use the PROW which cross the site. However the site is not protected as a formal recreational area within the Local Plan and would not be possible to defend an appeal on these grounds alone. It is considered that the issue should be included within the planning balance but the weight that can be attached to the issue will be limited.

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.

As explained within the main report, POS and children's play space is a requirement of the Local Plan Policy RT.3. It is necessary to secure these works and a scheme of management for the open space and children's play space. This contribution is directly related to the development and is fair and reasonable.

As discussed above the requested highway contributions are required to mitigate the impact of the development at junctions where there are capacity issues. The contributions are directly related to this development (which would impact upon the junctions) and are fair and reasonably related in scale and kind.

The proposed development would result in increased public transport use from this site and the upgrade of the existing bus stops is reasonably related to this development and necessary to promote sustainable travel from the site.

The proposed development cannot proceed without the highways/bus stop improvements and the contribution is reasonably related in scale and kind to the development.

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

10. 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 for the supply of housing land are out of date and there is a presumption in favour of development. Following the recent appeal decisions the Council can no longer demonstrate a 5 year housing land supply it is therefore necessary to consider whether the proposal is sustainable in all other respects as part of the planning balance.

The proposed development would provide a safe access and the development would not have a detrimental impact upon highway safety or cause a severe traffic impact subject to contributions to secure mitigation.

In terms of Ecology it is not considered that the development would have a significant impact upon ecology or protected species subject to the necessary contribution to off-set the impact.

The proposed development would provide an over provision of open space on site and the necessary affordable housing requirements.

The education department has confirmed that there is capacity within local schools and that no education contribution is required.

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

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

The proposed development would not adversely affect the visual character of the landscape. The conflict with the designated area of Green Gap does cause concern, particularly given the scale of the development as detailed and it is considered that it would result in a significant erosion of the physical gap between built up areas of Crewe and Nantwich which is a key component of the merging Local Plan.

Therefore taking account of the planning balance it is considered that the location of the development within an area of Green Gap does cause an adverse impact that significantly and demonstrably outweigh the benefits of housing provision. Accordingly a recommendation of refusal is made.

11. RECOMMENDATION

Refuse for the following reasons:

In the opinion of the Local Planning Authority, the proposed development would cause an erosion of the Green Gap between the built up areas of Crewe and Nantwich which coupled with the location of the site within the Open Countryside, would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policies NE2 and NE4 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and paragraphs 17 of the National Planning Policy Framework, which recognises the intrinsic character and beauty of the countryside

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Application No: 13/4634C

Location: LAND EAST OF, SCHOOL LANE, SANDBACH

Proposal: Outline Application for up to 13 no. residential dwelling houses, associated infrastructure and ancillary facilities. (re-submission of refused planning application 13/1559C).

Applicant: Jean Pierpoint, Paul Ferguson, and Grant and Helen Dinsdale

Expiry Date: 05-Feb-2014

SUMMARY RECOMMENDATION

Approve subject to the completion of a Section 106 Agreement and conditions

MAIN ISSUES

Principal of the Development

Planning Policy and Housing Land Supply

Landscape and Trees

Affordable Housing

Highway Implications

Amenity

Design

Ecology

Open Space

REASON FOR REFERRAL

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

DESCRIPTION OF SITE AND CONTEXT

The application site comprises a paddock 0.63 hectare in size, currently used for grazing horses. It is a generally level site which is bounded by St John's School to the north, a detached dwelling to the south and to the west there are a variety of residential properties fronting School Lane and a cul-de-sac known as Pear Tree Close. To the east is an area of protected open space used by the school for sports activities.

The boundaries of the site to the north, west and east contain existing hedgerows, which were subject to some cutting back before submission of the previous application (13/1559C).

The site is designated as being within the Open Countryside in the adopted local plan and is classed as Grade 3 (subject to urban pressures) agricultural land. It is also identified in the Strategic Housing Land Assessment (SHLAA), reference 2607. It is described as being suitable with policy change, available, achievable and developable.

DETAILS OF PROPOSAL

This is a re-submission of an application that was refused in July 2013 and is currently the subject of an appeal. The re-submission has been made in the light of the recent appeal decisions relating to housing land supply.

The application is for outline planning permission for the erection of up to 13 dwellings with ancillary facilities and associated infrastructure. Access is to be determined at this stage with appearance, landscaping, layout and scale to be determined at reserved matters stage. The access would be taken on to School Lane from a central point on the plot.

An **indicative** layout plan has been submitted with the application, which shows a 'T' shaped cul-de-sac with the dwellings arranged around this.

RELEVANT HISTORY

13/1559C 2013 Refusal for outline permission for up to 13 dwellings (application under appeal). The reason for refusal was as follows:

"The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policies PS8 and H6 Of the adopted Congleton Borough Local Plan First Review 2005 and the principles of the National Planning Policy Framework. The Local Planning Authority can demonstrate a 5 year supply of housing land in accordance with the National Planning Policy Framework. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan."

8430/1 1979 Refusal for outline permission for residential development

POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

PS3 – Settlement Hierarchy

PS8 - Open Countryside

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

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
Sandbach Town Strategy

CONSULTATIONS (External to Planning)

Environment Agency:

No objections.

Strategic Highways Manager:

The Strategic Highways Manager does not consider that the development would generate a sufficient increase in vehicle movements to warrant refusal of the application. Conditions should be imposed securing frontage footpaths and a detailed suite of design construction plans for the adoptable highways at reserved matters stage.

Environmental Health:

Recommend that conditions are imposed relating to the hours of construction and piling. They have recommended that the application be refused due to lack of information relating to mitigation to protect future residents from noise generated from the M6.

VIEWS OF THE TOWN COUNCIL:

Members object due to site access in close proximity to the local primary school and have serious concerns at increased traffic in an area with existing congestion and parking problems.

OTHER REPRESENTATIONS

At the time of report writing, letters of objection have been received from approximately 12 local households raising the following points:

Principal of development

- The site is outside the settlement boundary
- The site is not identified for development in the emerging local pla

- The proposal is contrary to the Congleton Local Plan
- The proposal would harm the rural character of the site
- Loss of Open Countryside
- A previous application has been refused on this site
- The proposal is contrary to the NPPF
- The cumulative impact of all the developments proposed in Sandbach
- Brownfield land should be used first

Highways

- Increase in the levels of traffic in the area
- Danger and disruption due to construction traffic
- Congestion – the area is already used as a rat run from the M6
- Danger to school children from increased traffic
- The development should have a single access

Green Issues

- Loss of trees and hedgerows
- Loss of agricultural land

Design Issues

- Inappropriate design
- The properties would be over dominant
- Urbanising effect on the countryside

Other issues

- “Greedy gold digging” developers who do not live in the area
- The boundary treatments with the school should be retained or replaced like for like
- Speculative development

APPLICANT’S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Supporting Planning Statement
- Design and Access Statement
- Extended Phase 1 Habitat Survey
- Tree Survey Report

These documents are available to view on the application file.

OFFICER APPRAISAL

Principle of Development

The site lies in the Open Countryside, as designated in the adopted Congleton Borough Local Plan First Review 2005, where Policies PS8 and H6 state that only development which is essential for the purposes of agriculture, forestry, outdoor sport, recreation and tourism, cemeteries and for other uses of land which preserve the openness of the countryside and maintain or enhance its local character. Residential development will be restricted to

agricultural workers dwellings, replacement dwellings, and conversion of existing buildings or limited development within the infill boundary line.

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 concerns.

In addressing this, members should be mindful of the key principles of the National Planning Policy Framework

This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

“*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.”

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

Housing Land Supply

The National Planning Policy Framework (NPPF) states at paragraph 47 that there is a 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 October 2013 the Cabinet Member agreed the Cheshire East Local Plan Pre-Submission Core 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, an annual average of 1350 homes per year. This figure represents not only the objectively assessed need for housing based on the latest household projections but also a policy “boost” to allow for an enhanced level of economic development once the downturn recedes.

However the most up to date position on the Councils 5-year housing land supply figure is following the recent appeal decisions. As part of the consideration of the Congleton Road and Sandbach Road North decisions, the Inspector found that the housing land supply over 5 years is 5750 dwellings. It is necessary to add to this figure the existing backlog 1750 dwellings and a 20% buffer for a record of persistent under delivery which gives a total requirement of 9000 dwellings over 5 years or 1800 per annum. This calculation took account of the High Court judgement in the Hunston Properties case (subsequently reinforced at the Court of Appeal). For whilst the RSS has clearly been revoked, it remains the only examined housing figure for the current period and itself represented a step change in housing growth when it was adopted (reversing the previous policy of restraint). Accordingly the Appeal decisions published on 18 October 2013 all use the RSS base.

In terms of the existing supply the Inspector found that there is currently:

‘a demonstrable supply, taking the generous approach to Council estimates, which is likely to be in the region of 7000 to 7500 dwellings at most’ (Sandbach Road North Appeal)

This demonstrable supply therefore equates to a figure of 4.0 to 4.2 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.”*

As it has been found that Cheshire East cannot demonstrate a five year supply of housing land, the provisions of paragraphs 49 and 14 apply in this case. It is therefore necessary to carry out a balancing exercise in this case to assess whether the harm ‘significantly and demonstrably’ outweighs its benefits.

Emerging Policy

Clarification has been given on the weight which can be attributed to the emerging Local Plan as part of recent appeal decisions for Abbeyfields, Sandbach and Congleton Road, Sandbach and Sandbach Road North, Alsager. As part of the decision for the Abbeyfields site the SoS stated that:

‘As the emerging LP is still at an early stage the Secretary of State accords it limited weight in his decision making’

As part of the appeal decision for Congleton Road, Sandbach and Sandbach Road North, Alsager the Inspector found that:

‘There is a draft Local Plan, variously described as the Core Strategy and Development Strategy, which is moving towards a position in which it can be submitted for examination. The Council is seeking to achieve this in late 2013. The current state of the plan is pre submission. It is not disputed that there are many outstanding objections to the plan, and to specific proposals in the plan. Hence it cannot be certain that the submission version of the plan will be published in the timescale anticipated. The plan has already slipped from the intended timetable. In addition there can be no certainty that the plan will be found sound though I do not doubt the Council’s intentions to ensure that it is in a form which would be sound, and I acknowledge the work which has gone into the plan over a number of years.

Nonetheless I cannot agree that the draft Local Plan should attract considerable weight as suggested by the Council. There are many Secretary of State and Inspector appeal decisions which regard draft plans at a similar stage as carrying less weight. The

Council's own plan has been afforded little weight in the earlier months of 2013, and although the plan has moved on to an extent, it has not moved on substantially. For these various reasons I consider that the draft Local Plan can still attract no more than limited weight in this case'

Since then the Council has published the Pre-Submission Core Strategy which is supported by fuller evidence and takes account of the 16,000 comments made during the two consultations in 2013. Accordingly its weight should correspondingly increase in decision making. Never the less, given the stance taken in the above appeals the emerging Local Plan can only be given moderate weight in the determination of this planning application.

Countryside Policies

As well as assessing housing supply, the decisions at Sandbach Road North and Congleton Road Sandbach are also significant for clarifying the status and intent of settlement zone line and countryside policies.

Some have sought to argue that as settlement boundaries effectively contain the built area of a town or village – and so define the area in which development is usually concentrated – that accordingly they should be viewed as housing supply policies. This subsequently could mean that those policies, along with normal countryside policies, should be considered “out of date” if there is no five year supply of housing land. This view is derived from paragraph 49 of the framework which states that:

“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”.

There are appeal decisions that appear to support this perspective, although those in Cheshire East have generally taken a different approach.

The recent appeal decisions consider this matter in some detail. It was noted by the Inspector that the settlement zone lines serve a variety of purposes – and take account of land allocated for development up to a particular point (in this case 2011). However, the Inspector considered that settlement zone lines were not driven by the need to identify land for development, but rather are based on the objective of protecting countryside once development land is identified. Consequently, he concluded that the related policy (Policy PS4 of the Congleton Local Plan) was *“not sufficient directly related to housing land supply that it can be considered time expired for that purpose.”* Instead the Policy is *“primarily aimed at countryside & green belt protection”*. These objectives are largely in conformity with the NPPF and attract *“significant weight”*. In both appeals conflict with countryside policies were acknowledged.

This means that these policies remain important in the planning balance – but are not necessarily determinative. The two decisions pinpoint that much depends on the nature and character of the site and the individual circumstances pertaining to the application. At Congleton Road, the Inspector considered that the objective to boost significantly the supply of housing outweighed the “relatively moderate” landscape harm. In contrast, at Sandbach Road North the provision of housing was viewed as an “important and substantial” material consideration, but there would also be serious harm resulting from the impact on the

character and appearance of the countryside. On this occasion that identified harm, combined with the significant weight attributed to countryside policies, outweighed the benefits in terms of housing supply.

In reaching this conclusion, the Inspector memorably noted that:

“the lack of a 5 year supply of housing land does not provide an automatic ‘green light’ to planning permission”.

Therefore, countryside policies in existing local plans can be considered as consistent with NPPF and are not housing land supply policies – and thus not of date, even if a 5 year supply is not in evidence. They accordingly need to be played into the planning balance when decisions are made. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Conclusion

- The site is within the Open Countryside which is also subject to Policy PS7 (Open Countryside) where 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 for the supply of housing 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.
- Cheshire East has a housing land supply figure of in the region of 4.0 to 4.2 years
- Only moderate weight can be applied to the emerging Local Plan.
- As the Council cannot demonstrate a 5 year housing land 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 as part of the planning balance.

Location of the site

To aid a sustainability assessment, a toolkit 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 applicant’s assessment of the accessibility of the site shows that following facilities meet the minimum standard:

- Amenity Open Space (within 500m)
- Children’s Play Space (within 500m)
- Outdoor Sports (within 1,000m)
- Public Park or Village Green (within 1,000m)
- Convenience Store (within 500m)
- Bus Stop (within 500m)
- Post Box (within 500m)
- Primary School (within 1000m)
- Public House (1000m) – 310m
- Secondary School (within 1000m)
- Medical Centre (within 1,000m)
- Local Meeting Place/Community Centre (within 1,000m)
- Public House (within 1,000m)
- Child Care Facility (within 1,000m)

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 Sandbach, there are some facilities 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. However, all of the services and amenities listed are accommodated within Sandbach and are accessible to the proposed development on foot or via a short bus journey, with a bus stop in close proximity to the site. Accordingly, it is considered that this small scale site is a sustainable one.

Landscape and Trees

The application site is a relatively level agricultural landscape, characterised by hedgerows and a number of mature hedgerow trees, but influenced by the surrounding development. 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. In consideration of the site being located in Open Countryside, it is considered that green edges should be used where possible. This would allow the proposed development to sit more comfortably on the urban edge and assimilate more easily into the wider landscape. The anticipated loss of the roadside hedge for access, footway and visibility would be regrettable and it is questioned whether there is a need for a footway to the south of the access as this has no connection. Should the hedge loss be accepted soft landscape boundary treatment should be provided in mitigation. This should ideally comprise a native species hedge.

The submission is supported by a tree survey plan and report. The trees and their respective root protection areas are also identified on the controlling parameter plan. The submission does not include an arboricultural impact assessment as recommended in BS 5837:2012 Trees in relation to design demolition and construction. Nevertheless, given the nature of the site, from the information provided it is considered that subject to appropriate protection measures, the indicative layout could be achieved without harm to trees. Tree protection measures should be secured by condition.

As indicated above, it appears from the submission that in order to accommodate the access, footway and visibility splays on School Lane, it would be necessary to remove the existing boundary hedgerow. Whilst this is regrettable the applicant did have pre-application correspondence with the Cheshire Archaeological Planning Advisory Service, who raised no issues with its removal.

Affordable Housing

The Strategic Housing Market Assessment Update 2013 identified that for the Sandbach sub-area there is a need for 94 new affordable units per year between 2013/14 – 2017/18, this totals a requirement for 470 new affordable homes for the period and is made up of an annual requirement for 18 x 1 bed, 33 x 2 bed, 18 x 3 bed, 9 x 4+ beds and 11 x 1 bed older persons accommodation & 5 x 2+ bed older persons accommodation.

There are also currently 174 applicants on the housing register on Cheshire Homechoice who have selected one of the Sandbach letting areas as their first choice. These applicants require 67 x 1 bed, 67 x 2 bed, 27 x 3 bed & 5 x 4 bed (8 applicants haven't specified how many bedrooms they require).

The Interim Planning Statement: Affordable Housing (IPS) states that in areas with a population of more than 3,000 the Council will negotiate for the provision of an appropriate element of the total dwelling provision to be for affordable housing on all unidentified 'windfall' sites of 15 dwellings or more or than 0.4 hectare in size.

The IPS also states the exact level of provision will be determined by local need, site characteristics, general location, site suitability, economics of provision, proximity to local services and facilities, and other planning objectives. However, the general minimum proportion of affordable housing for any site will normally be 30%, in accordance with the recommendation of the 2010 Strategic Housing Market Assessment. The preferred tenure split for affordable housing identified in the SHMA 2010 was 65% social rented and 35% intermediate tenure.

This site is 0.63 hectares in size and as such there is a requirement for 30% affordable housing. The applicant is offering 4 dwellings as affordable housing, this meets the requirements of the IPS. As per the tenure split highlighted above 3 social or affordable rent and 1 intermediate dwelling will be required.

The IPS 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.

Highways Implications

Traffic Generation.

This proposal for the development of a small number of residential units will not generate sufficient traffic to cause a material impact on the public highway network and the Strategic Highways Manager has no concern in this regard. The Strategic Highways Manager is however mindful of the concerns expressed by objectors and makes the following observations:

- Traffic congestion at school arrival and dispersal times - this is not a sustainable reason for refusal and the traffic generation from 13 dwellings would be approximately 9 trips in the morning peak hour. This equates to less than one trip every 6 minutes and the S.H.M. cannot consider this to be a material impact.
- Rat running manifests itself on local roads when there is stress on other parts of the highway network and is best managed through representations to the traffic management section of the highway authority. The S.H.M. does not find that local rat-running is a material reason to resist this application.
- Road safety should not be taken lightly and the concerns regarding construction traffic can be effectively managed by the production of a construction management plan. Should this proposal gain a permission this would be a recommended condition.

Access

The junction geometry provided for this development proposal was revised in the previous application after criticism from the Strategic Highways Manager and now meets acceptable standards against design guidance.

Indicative Layout

Parking ratios are shown at a minimum of 200% provision which is acceptable for 2/3 bed units whilst the larger units have 300% plus provision which is also acceptable.

The frontage footpath which is indicated is a requirement for this site however the placement of the affordable element of the development on the frontage of School Lane excludes them from the overall design of the site and puts their vehicle turning movements onto School Lane when they should be served from the main site access if the social realm of the site is to be maximised.

The internal layout should follow the pedestrian priority design principles in Manual for Streets and provide a legible adoptable boundary inclusive of service strips.

Conclusion.

The S.H.M. would make two observations with regard to this application. Firstly, the affordable housing element currently has its vehicular access from the parking court direct onto School Lane it should be taken from the development access road and not from School Lane. Secondly, the internal layout for the site should comply with Manual for Streets pedestrian priority design.

The advantages to taking affordable access from the access road are two-fold. All traffic generation will be from the main junction which has advantages in reducing necessary points of access and in terms of vehicle turning movements. It also allows the layout design to appropriately include the affordable element of the proposed housing which will provide improved quality of design and increased sense of place.

Despite these issues the Strategic Highways Manager recognises that whilst this application is outline, the detailed design elements of the proposed layout can be resolved at detailed application stage and therefore at this time recommends that conditions and informatives be attached to any permission to secure frontage footpaths and a detailed suite of design construction plans for the adoptable highways.

Amenity

In terms of the surrounding residential properties, these are mainly to the west of the site. Although the application is in outline form 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 locality.

In terms of air quality, the Environmental Health Officer has confirmed that there are no issues with this matter.

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

The Environmental Health Officer has recommended refusal of the application on the grounds of lack of information about mitigation against noise from the M6. This application is in outline form and therefore detailed construction details are not contained within it. It is considered that this can be adequately dealt with by means of a condition requiring that this information is provided at reserved matters stage.

Design

The application is in outline form 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.”

Whilst the application is in outline form with access as the only matter to be agreed at this stage, the design and access statement has indicated that the development would comprise

a mix of 2, 3, 4 and 5 bedroom, terraced and detached dwellings. There is a variety of styles and sizes of dwelling types in the locality, therefore the indicative designs would not be out of character with the surrounding development.

On the Indicative layout, the proposed affordable units appear to be 'divorced' from the rest of the development, which would not be acceptable should this be submitted at reserved matters stage as they should be properly integrated in to the development.

Ecology

The application is supported by an ecological assessment. Whilst, the field work to inform the assessment was undertaken at a poor time of year, officers are confident that enough information has been gathered to allow an assessment of the nature conservation value of the site to be made.

The grassland habitats on site are of limited nature conservation value. Hedgerows are a Biodiversity Action Plan Priority habitat and so the hedgerows around the site should be retained as far as possible and enhanced as part of the development. This matter may be dealt with by means of a condition attached to the outline permission if this application is granted.

If planning permission is granted it is also recommended that conditions be attached to safeguard breeding birds and ensure some additional provision is made for roosting bats and breeding birds:

Public Open Space

At the time of report writing, the Open Space Development has requested that contributions are required for provision of Children and Young Persons Provision and Amenity Greenspace. These are as follows.

Children and Young Persons Provision

£3,754.37 for enhancement

£12,238.50 for maintenance

Amenity Greenspace

£2,271.69 for enhancement

£5,084.75 for maintenance

This should be secured with a Section 106 Legal Agreement.

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.

In the case of this site a survey of the agricultural land quality has been undertaken and this identifies that the land is classified as Grade 3 (subject to urban pressures). However there are no farm buildings and the site is bounded by non-agricultural uses on three sides and it is considered that, due to its size and location, it is unlikely that it would be a viable parcel of land for future agricultural use.

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 requirements for open space and affordable housing are considered to be necessary, directly related to the development and fairly and reasonably related in scale and kind to the development. They are therefore considered to be in compliance with the CIL Regulations 2010.

CONCLUSIONS

It is acknowledged that the Council does not currently have a five-year housing land supply and that, accordingly, in the light of the advice contained in the National Planning Policy Framework, it should consider favourably suitable planning applications for housing.

In terms of sustainability, this proposal would satisfy the economic and social roles by providing for much needed housing adjoining to an existing settlement where there is existing infrastructure and amenities. While the environmental role is more limited it is considered that this proposal will safeguard the wider natural and built environment.

The boost to housing supply is considered to be an important benefit – and this application achieves this in the context of a deliverable, sustainable housing land release.

The proposal will not have a significant impact on the landscape character of the area and will represent a rounding off of the settlement without resulting in an intrusion into the open countryside.

Whilst the proposal will result in the loss of some grade 3 agricultural land, it is considered that the benefits of the delivering the site for much needed housing would outweigh this loss, given that the site does not offer a significant quality of land. Recent appeals have also supported this interpretation.

Subject to the required Section 106 package, the proposed development would provide adequate public open space and the necessary affordable housing requirements.

Subject to conditions, the proposal is considered to be acceptable in terms of its impact upon highway safety, amenity, flood risk and ecology.

RECOMMENDATION

Approve subject to the completion of a Section 106 Agreement to secure:

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent (4 units) with 35% intermediate tenure (2 units). The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision**
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing**
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved**
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and**
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.**

2. A £23,349.31 contribution to public open space.

And the following conditions:

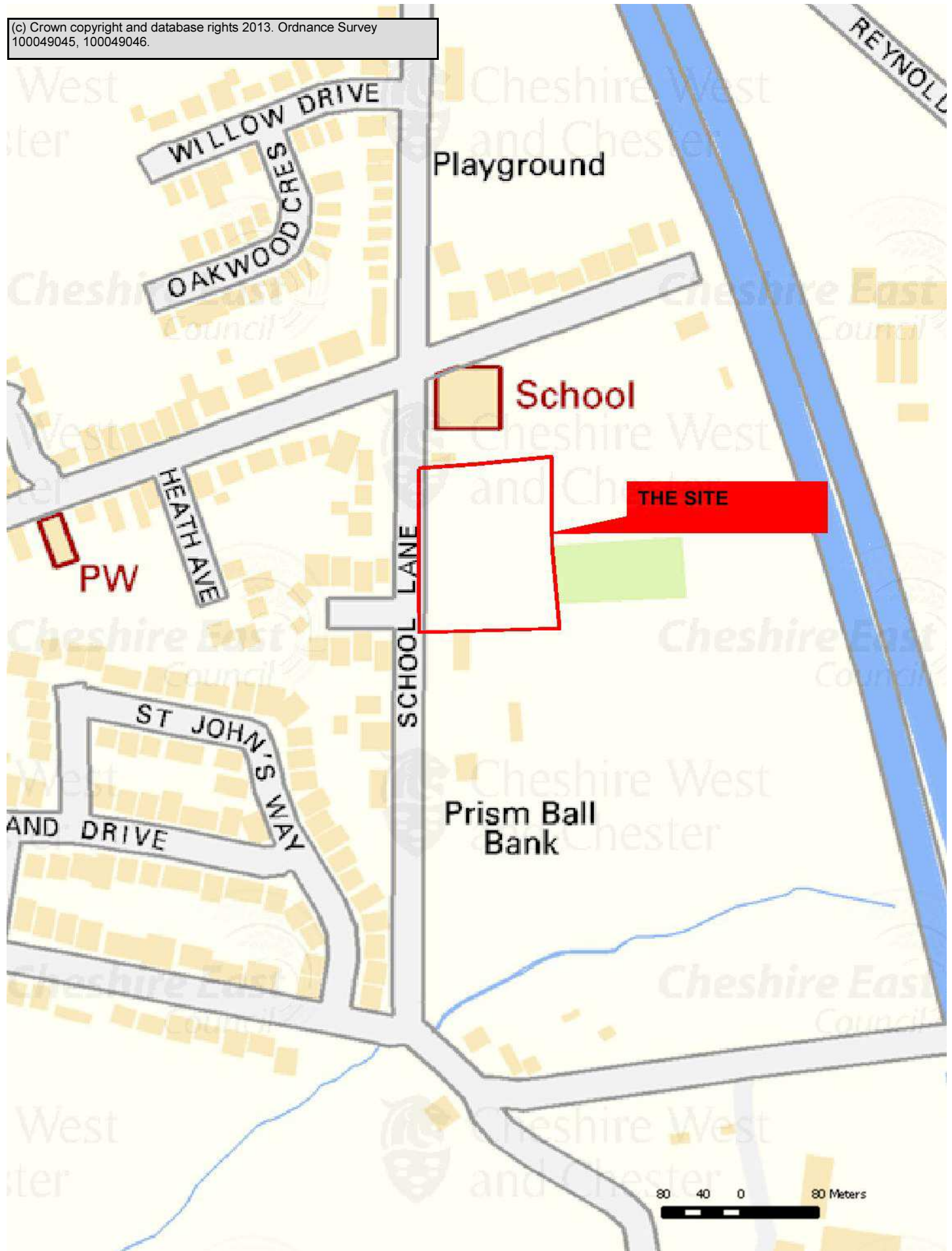
- 1. Commencement**
- 2. Submission of reserved matters (all matters other than access)**
- 3. Plans**
- 4. Tree and hedgerow protection measures**
- 5. Boundary treatment to be submitted with reserved matters**
- 6. Submission of method statement for any piling operations**
- 7. Hours of construction (8am to 6pm Mon-Fri, 9am to 2pm Saturday, no working Sunday or Public Holidays)**
- 8. Noise mitigation scheme**
- 9. Construction management plan**
- 10. Breeding bird survey for works in nesting season**
- 11. Bat and bird boxes**
- 12. Submission of a scheme to limit surface water run-off**
- 13. Reserved matters to include details of bin storage**
- 14. Reserved matters to include existing and proposed levels**
- 15. Reserved matters to include frontage footpaths**
- 16. Reserved matters to include a detailed suite of design construction plans for the adoptable highways**

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 Interim Planning and Place

Shaping 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 be delegated to the Interim Planning and Place Shaping 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.

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Application No: 13/4603N

Location: Land to rear of 144, Audlem Road, Nantwich, Cheshire, CW5 7EB

Proposal: Outline application for up to 40 dwellings (resubmission of 13/1223N)

Applicant: Wainhomes (Northwest) Ltd

Expiry Date: 29-Jan-2014

SUMMARY RECOMMENDATION

- **REFUSE**

MAIN ISSUES

- **Principle of Development.**
- **Sustainability**
- **Loss of Agricultural Land**
- **Affordable Housing**
- **Contaminated land**
- **Air Quality**
- **Noise Impact**
- **Drainage and Flooding**
- **Design Issues**
- **Open space**
- **Rights of Way**
- **Amenity**
- **Landscape Impact**
- **Trees and Forestry**
- **Ecology**
- **Education**
- **Highway Safety and Traffic Generation.**
- **Impact on Level Crossing**

REFERRAL

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

1. SITE DESCRIPTION

The application site is approximately 1.6 hectares in size and is located on the southern edge of Nantwich. The site comprises one residential plot of land fronting onto Audlem Road (within the settlement boundary) and land to the rear of the properties along the western edge of Audlem Road, which is outside of the settlement boundary. Land to the north is part of Brine Leas High School. Land to the west is playing fields associated with Weaver Vale Primary School with residential development beyond.

The application site is currently a grassed parcel of land bordered by mature hedges and trees. The character of the street scene along Audlem Road consists of predominately two-storey terraced dwellings combined with some bungalows. The properties either side of the site entrance comprise a bungalow (no 146) and a two-storey terraced dwelling (No 142). Further to the north along Audlem Road are two storey semi-detached dwellings.

2. DETAILS OF PROPOSAL

The application seeks outline planning permission for the construction of up to 40 dwellings. Access is submitted as part of the application. Landscaping, appearance, layout and scale would be dealt with through reserved matters.

The proposal would include 30% affordable dwellings and 25% low cost open market housing in accordance with the councils interim planning statement on affordable housing.

The proposed development would be accessed off Audlem Road through the existing residential curtilage of 144 Audlem Road. This property would be demolished to facilitate the access. All of the proposed dwellings within the application site would be served by this one new vehicular access. Audlem Road leads directly to the north with direct links into Nantwich town centre and Crewe to the east.

An area of open space is located on the western part of the site which provides a new public footpath link to the existing footpath which runs along the western boundary.

The illustrative layout submitted with the application identifies how the dwellings could be accommodated on the site.

3. RELEVANT PLANNING HISTORY

The application is a resubmission of application 13/1223N, which is currently the subject of an Appeal against non-determination. The Strategic Planning Board resolved at its meeting on 11th September 2013 to contest the Appeal on the following grounds:

- 1. The proposed residential development is unsustainable because it is located within the Open Countryside, where according to Policies NE.2 and RES.5 of the adopted Borough of Crewe and Nantwich Replacement Local Plan there is a presumption against new residential development. Such development would be harmful to its open character and appearance, which in the absence of a need for the development should be protected for its own sake. The Local Planning Authority can demonstrate a 5 year supply of housing land supply in accordance with the National Planning Policy Framework. As such the application is also premature to the emerging Development*

Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.

- 2. The proposal will result in a loss of Grade 3a agricultural land, which is considered to be amongst the best and most versatile agricultural land and given that the Authority can demonstrate a housing land supply in excess of 5 years, there is no need for the development, and the housing which it would provide could be accommodated elsewhere. The use of the best and most versatile agricultural land is unsustainable and contrary to Policy NE.12 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the provisions of the National Planning Policy Framework.*
- 3. In the opinion of the Local Planning Authority, visibility at the proposed access to the site from the A529 is substandard and would result in a severe and unacceptable impact in terms of road safety contrary to Policy BE.3 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and the provisions of the National Planning Policy Framework.*

4. PLANNING POLICIES

Policies in the Local Plan

NE.2 (Open countryside)
NE.5 (Nature Conservation and Habitats)
NE.9: (Protected Species)
NE.20 (Flood Prevention)
NE.21 (Land Fill Sites)
BE.1 (Amenity)
BE.2 (Design Standards)
BE.3 (Access and Parking)
BE.4 (Drainage, Utilities and Resources)
RES.5 (Housing In The Open Countryside)
RT.6 (Recreational Uses on the Open Countryside)
TRAN.3 (Pedestrians)
TRAN.5 (Cycling)

National Policy

National Planning Policy Framework

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)
Draft Development Strategy
Core Strategy Presubmission Draft
Strategic Housing Land Availability Assessment (SHLAA)
North West Sustainability Checklist
Article 12 (1) of the EC Habitats Directive

The Conservation of Habitats and Species Regulations 2010.

4. OBSERVATIONS OF CONSULTTEES

Sustrans

If this land use is approved by the council's planning committee our comments are as follows:

- Due to the current traffic conditions on the south side of Nantwich we suggest the development should contribute towards improvements to the
- pedestrian/cycling network on Audlem Road itself, and into the town centre, and to the railway station.
- The design of any smaller properties without garages should include storage space for residents' buggies/bikes.
- We would like to see travel planning with targets and monitoring for such a site.

Environment Agency

No objection subject to the following conditions

- The discharge of surface water from the proposed development is to mimic that which discharges from the existing site. If a single rate of discharge is proposed, this is to be the mean annual run-off (Q_{bar}) from the existing undeveloped greenfield site. The maximum discharge rate however is not to exceed the Q_{bar} rate.
- For discharges above the allowable rate, attenuation for up to the 1% annual probability event, including allowances for climate change.
- The discharge of surface water by Sustainable Drainage Systems (SuDS).
- Submission, approval and implementation of a scheme to limit the surface water run-off generated by the proposed development,
- The site layout is to be designed to contain any such flooding within the site to ensure that existing and new buildings are not affected.
- Submission, approval and implementation of a scheme to manage the risk of flooding from overland flow

Greenspaces

- Recommend commuted sum payment (£20,000) for the purposes of resurfacing the car park at the Shrewbridge Lake

United Utilities

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

- This site must be drained on a total separate system, with only foul drainage connected into the foul sewer. Surface water should discharge to the nearby 1050 dia Surface Water Sewer at a discharge rate not exceeding 12L/S.
- A public sewer crosses this site and we will not permit building over it. We will require an access strip width of 10 metres, 5 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

Highways

- The proposal for up to 40 dwellings to the rear of 144 Audlem Road does not indicate a safe site access. The applicant seeks to improve visibility (to a standard below that advised in MfS) but in doing so reduces the available width of the A529 to 5.5m. Existing on-street parking would result in the A529 only being able to cater for traffic in one direction at a time over the considerable distance of carriageway narrowing proposed.
- The SHM recommends REFUSAL of this planning application on the grounds of highway safety relating to the access proposal and in terms of safety and the reduction in traffic carrying capacity of the A529 as a result of the proposals.

Environmental Health

No objection, subject to the following conditions:

- The hours of construction works taking (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 restricted to: Monday – Friday 09:00 – 17:30 hrs Saturday 09:00 – 13:00 hrs Sunday and Public Holidays Nil
- Submission, approval and implementation of a piling method statement
- Submission, approval and implementation of details of external lighting
- Submission and approval of an acoustic assessment report to assess the level of traffic noise from A529 Audlem Road, as well as the noise from adjacent school and playing fields and implementation of any mitigation
- Any mitigation shown as part of the report must achieve the internal noise levels defined within the “good” standard within BS8233:1999.
- Submission, approval and implementation of a construction Environmental Management Plan
- Submission, approval and implementation of a travel plan
- Submission, approval and implementation of a scheme to minimise dust emissions arising from demolition / construction activities on the site
- Submission and approval of a Phase II contaminated land site investigation and implementation of any mitigation

Public Rights of Way

- The development has the potential to affect Public Footpaths Nantwich No. 28 and Batherton No. 1, as recorded on the Definitive Map of Public Rights of Way
- Recommend that the standard advisory notes should be added to the planning consent

Education

- A development of 40 dwellings will generate 7 primary aged pupils and 5 secondary aged pupils.
- The local capacities have been checked on primary schools within a 2 mile radius and secondary schools within a 3 mile radius of the centre of the site.
- The local primary schools when considered with already approved development in this area are forecast to be oversubscribed once already approved development is considered. Therefore a contribution of $7 \times 11919 \times 0.91 = £75,924$ will be required towards primary education. This contribution will be required to be paid on occupation of the site.
- The local secondary schools are forecast to have some surplus capacity. However there are several development subject to planning applications and / or appeals which impact on the same schools. On the basis of this, the service will need to reassess sums which have previously been advised as required on other applications.

5. VIEWS OF THE PARISH / TOWN COUNCIL

Nantwich Town Council

The Town Council objects to this development for the following reasons:

- This site was not identified in the Town Strategy and is not a Preferred Site in the Core Strategy
- development will add to the overall housing figure for the town in excess of the proposed requirement in the Core Strategy
- The proposed access will lead to problems of highway safety on Audlem Road.

6. OTHER REPRESENTATIONS

Local Residents

Principle of Development and Housing Need

- The site is not a preferred option in the local emerging plan but appears to be an opportunist ploy to land bank.
- The developer has not made a case for housing need.
- The housing need for Nantwich is more than catered for by developments at the former Stapeley Water Gardens, the recent permissions for Queens Drive and the Reaseheath/Mosaic plans for 1,000 houses to the north of Nantwich.
- There are already too many planning applications for building houses on agricultural land/green belt in and around Nantwich.
- There is a brownfield site at the former Stapeley Water Gardens that must be developed before any green field sites are lost for housing.
- The parcel of land is too small for 40 homes. The area is clearly going to be too built up.

- This site is located on greenfield land outside the settlement boundary which is designated as Open Countryside. It is therefore contrary to saved policy NE.2 of the Borough of Crewe and Nantwich Replacement Local Plan (CNRLP) 2011
- The development of the site would result in the loss of agricultural land.
- It is a greenfield site which should be preserved.
- Developers only have regard for profits
- The market town and historic character of the town is being ruined by developers
- The application has been refused before
- Development intrudes into Green Belt – change of use should not be permitted and its status should be preserved.
- Green Belt land is being steadily eroded by incremental housing developments in and around Nantwich
- The number of new dwellings being proposed for Nantwich is out of control, and Council/ local objections are being overridden by late submission of documentation.
- Views of the general population should be taken into account
- CE has it's Housing commitment for the next five years.
- The area should remain undisturbed for flora and fauna
- 12 affordable houses will have no impact on the number needed.
- The proposed development site is open space/agricultural land, full of typical Cheshire character, full of wildlife. It is adjacent to a private wildlife preserve as well as a privately owned wood, which houses some wonderful wildlife and give pleasure to many people. These valuable commodities far outweigh the negatives of an unproven demand for housing supply in this area.
- Would set a precedent to demolish other houses and build behind
- Already have over 200 houses being built on the former Stapeley Water Gardens site which is only a mile away

Highways and traffic (General)

- Significant traffic problems at peak AM and PM hours
- Narrow / restricted movement up and down the street caused by parked cars
- New houses will result in additional traffic
- Danger turning right from new access
- Proposal to build a footway makes a narrow road even narrower
- Traffic Congestion – road is gridlocked twice a day
- Issues at school time
- Will increase traffic pressure in Wellington road and Nantwich generally
- Will exacerbate parking pressure in town
- Potential for conflict with church directly opposite and its users
- Narrow access will create accidents
- Planning permission has been refused to other planning applications on the grounds that access on to the main road is too dangerous.
- Will generate approximately 80 vehicles in a small, concentrated rural area.
- Traffic incidents occur daily
- School vehicles are unable to get safe access
- Paragraph 3.2.13 of the Transport Statement says *"The proposed site access shown on Plan 4 has been submitted to, and approved by the Local Highway Authority in*

advance of the planning application.” This is not correct. In his email of 23rd October 2012, Mr N Jones, Principal Development Officer said, *“in principle the design put forward is acceptable”*. The proposed site access has **not** been approved.

- Services at Methodist Church exacerbate problems
- Residents cannot get out of their drives
- If the Muller development is accepted as a consequence of Council negligence there will be a further 1000 plus houses using the Audlem Road.
- There is a development of 1100 homes to take place on Kingsley Fields. There are proposals for 189 houses off Audlem Road plus another 142 houses Maylands farm as well as this proposal. This means there will be at least an additional 330 vehicles using this stretch of road from those two developments alone. At 1 ½ cars per household 465 vehicles per day at only one journey per day on top of the 60 vehicle movements per day from the development site in question. These figures assume only one journey per car per day. Take into account the school run and these figures can almost be quadrupled.
- There are many more planning applications for ‘small’ developments various parts of the C & N area. This number can be expected to increase in the immediate areas surrounding approved sites, which implies a hard line must be taken with opportunistic developers because of very serious concerns over the infrastructure of the town.

Infrastructure

- Another 40 houses also means more children and over the past few years it has been difficult to place children in Brine Leas particularly as it is already oversubscribed. As a parent of Brine Leas children this is another reason for me to object.
- Has any thought been to the knock onto services within the area such as schools, doctors, baby care, swimming pools and dentists who are already stretched?
- There are not enough places at High School level and this will not improve.
- There are no local employment opportunities. It is therefore unlikely that any new residents will be employed locally as there are no jobs in Nantwich, which means they will have to commute to further afield causing further congestion.
- Properties in the vicinity suffer poor water flow rates from the existing Water main. Additional housing will mean a significant demand on a system that is already on its knees.
- Owing to the sites proximity to Brine Leas School, this site should be reserved for future expansion to the school. This will undoubtedly be required if development continues at its current rate.
- Extra drainage and road alterations as a consequence of this proposal would have to be funded by the people of Nantwich who have already suffered from excessive redevelopment of housing .

Flooding

- The site is liable to flooding. Any building on this land may affect the flood risk to properties in the area.
- The land where the houses are to be built is about 4 ft higher than our rear garden so if the houses are built this land will be covered in concrete and tarmac so any heavy or

prolonged rain water will naturally run to the lowest point which is the rear gardens along Audlem Road.

- The land is liable to flooding. During the recent winter months the field was so saturated it actually flooded the path which runs from Brine Leas to the larger field.
- Poor sewage system in area inadequate for existing homes
- Water table likely to be adversely effected by increase in buildings.

Ecology and Wildlife

- Development of the site will have an adverse affect on the ecology and wildlife in the area.
- Residents have recorded Great Crested bats badgers and 115 different species of bird species in the area.
- Loss of ponds
- When houses are built ponds are not cared for as can be seen at both Cronkinson Farm and Stapeley Water Gardens where the natural pool is now full of rubbish and completely uncared for
- The Stapeley site had all its Protected Species ponds replaced with man-made alternatives that do not even hold water in the summer. There is no provision for water to be pumped into the pools and as such are useless
- Replacement ponds waste money and do not serve the purpose of protecting the species
- Loss of important trees and hedgerows
- The Tree Survey report proposes that of the 14 trees surveyed, 8 should be removed immediately to assist development; a further 2 on the footpath should be removed as it would be cheaper to do this before development, thus leaving only 3 of the original trees.
- The agricultural hedgerows which are important wildlife corridors and an important habitat in their own right are considered to be 'not desirable'.

Other

- The owners of no 146 Audlem Road are concerned that the application for the construction of 31 houses at the rear and more significantly the demolition of the house next door in order to afford access to the site will have a detrimental affect on their property.
- The beauty of Nantwich is being spoilt by unnecessary development
- There seems to be no sense in further destruction of the character of Nantwich, for unnecessary housing purely to line developers pockets.
- The character of the area is going downhill rapidly, it is turning into an urban blurb-with no incentive for visitors or tourism.
- Development is destroying the character of both the parish of Stapeley and the town of Nantwich.
- Will affect existing householder's privacy and noise levels
- Level crossing at the station is overloaded.
- The railway divides the town in half. with the Emergency services cut off from major proposed development

- It is stated in Certificate B the own all the land subject to the appeal, a statement of which I have doubts. Has the proposal to make a footpath to the dimensions proposed to overcome pedestrian issues been approved by the Highways Agency?
- Would remove the open views from the adjacent schools' playing fields.
- Would also alter the rural landscape character from the adjacent public footpath.
- Dispute the cited results of a traffic survey that found that the average speed of vehicles on this section of Audlem Road was 27 mph.
- Residents experience in both directions down Audlem Road and at all sorts of times, is that most drivers exceed the speed limit. This includes heavy goods vehicles, large tractors with loaded trailers, and public transport.
- Residents have previously discussed with town councillors the danger this poses, particularly as traffic turns an almost right-angled bend from the Audlem direction as it approaches the length of road onto which the proposed development would open.

Revised application / Proposed Road Narrowing

- Plan to narrow Audlem Road from the Globe Pub to near Batherton Lane will make problems worse
- The narrowed section includes the Methodist church where parishioners have to park on the road because there is nowhere else to park.
- The area of narrowed road will also include a bus stop, a post box, and a telephone box, and the on-street parking enjoyed by residents for the past 40 years or more, will also be lost.
- This narrowing is to obtain the 'visual splay', but the splay on the new plan is exactly the same as the splay on the old plan and is still below that recommended by road planners.
- Difficulties faced by Heavy Haulage, Agricultural and Emergency service vehicles that regularly use this already narrow carriage way, will be further impacted by the proposed reduction in carriage way width
- While no doubt meeting the recommendations for planning there will still be significant road safety issues.
- A reason for the Strategic Planning Board's 'minded to refuse' decision for the previous application, (13/1223N), was the substandard visual splay from the proposed access road on to the Audlem Road (the main road numbered A529).
- This new application (13/4603N), has exactly the same substandard visual splay as the previous application; i.e. visual splay north of 2.4m x 37m; visual splay south of 2.4m x 35m
- According to the 'Manual for Streets' (page 92, paragraph 7.6 and table 7.1), the sight stopping distance (SSD) for a vehicle at 28 mph is 39m and for a vehicle at 30 mph the SSD is 43m.
- For this 30 mph speed limited 'A' road, the SSD is well below that advised by the Manual for Streets for both north and south views.
- The applicant wishes to build a footway that will narrow the road from its present width of 7 meters to 5.5 meters. This new version of the application extends the proposed length of the narrowing both north and south of the previous proposal. This application has the southern end of the narrow section starting just south of Batherton Lane to join the existing footway just south of the Globe public house.

- The new proposal also shows a redesign of the Batherton Lane junction resulting in a substandard visual splay. The proposed visual splay for this junction would be 2.4 x 32, still well below that as advised by the Manual For Streets.
- The rationale for the proposed narrowing is for traffic calming, for safety of pedestrians and to aid children walking to Brine Leas School. The narrowing of the road in this area will make the road considerably more dangerous.
- The proposal makes no provision for cyclists.
- The applicant says that the footway will aid children from the Bishops Wood estate to walk to Brine Leas School. The applicant has no idea how many children from this estate attend the school as they have not spoken to any local residents. There is however, a perfectly good crossing some 200 yards to the north, almost opposite the school, that children can access without having to cross the A529.
- The applicant says that the narrowing of the road will enhance traffic calming which suggests that traffic in the area needs to be calmed. The applicant has not produced any information to suggest that the traffic in the area needs to be calmed.
- The allowable width for a lorry using UK roads is 2.55 meters, excluding driving mirrors. The width of driving mirrors can vary but a very conservative figure would be that a driving mirror would protrude 0.3 meters each side of the lorry's body, giving an overall width for the lorry of 3.15 meters. On the proposed narrowed section of road, two lorries coming in the opposite direction will not be able to pass each other without the mirrors overhanging the footway. Given the substandard width of the proposed footway (1.5 meters), pedestrians using that footway are at risk of being hit by lorry driving mirrors.
- Far from solving a traffic problem (one that was not there in the first place), this proposal creates a problem and is a danger to cyclists and pedestrians.
- Residents expect the officers of the LPA to be consistent when considering any proposals and also to take on board additional information, consider the feelings and points of view of residents, comments by local agencies and act within the guidelines and regulations of a LPA's remit.
- When additional information comes to hand and it favours common sense and legal requirements it is better to follow that new route.
- The appellant claims they feel they can deliver suitable site access within the land controlled by them. This is doubtful as they are proposing an additional footpath on land owned by the Highway Authority.
- Will the 'deliverable' access be acceptable to residents, highways and the LPA?
- The applicant points out, there is no evidence to support fears over pedestrian safety. Do we need to wait for serious injury or death before this point can be recognised?
- The local residents are more than happy with the current situation and do not require unnecessary ill thought out advice to support a proposed unwanted opportunistic development from a planning partnership who have no regard for the local conditions or local people.

7. APPLICANT'S SUPPORTING INFORMATION:

- Newt Survey
- Floor Risk Assessment
- Drainage Strategy
- Contaminated Land Desk top Study

- Ecological Survey
- Planning, Design and Access Statement
- Landscape Visual Assessment
- Tree Survey
- Drainage Statement
- Transport Statement
- Ecological Report

8. OFFICER APPRAISAL

Main Issues

Given that the application is submitted in outline, the main issues in the consideration of this application are the suitability of the site for residential development, having regard to matters of principle of development, sustainability, loss of agricultural land, affordable housing, contaminated land, air quality, noise impact, drainage and flooding, design issues, open space, rights of way, amenity, landscape impact, trees and forestry, ecology, education, highway safety and traffic generation and impact on level crossing.

Principle of Development

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 concerns.

In addressing this, members should be mindful of the key principles of the National Planning Policy Framework

This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

“*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.”

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community's needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

Housing Land Supply

The National Planning Policy Framework (NPPF) states at paragraph 47 that there is a 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 October 2013 the Cabinet Member agreed the Cheshire East Local Plan Pre-Submission Core 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, an annual average of 1350 homes per year. This figure represents not only the objectively assessed need for housing based on the latest household projections but also a policy “boost” to allow for an enhanced level of economic development once the downturn recedes.

However the most up to date position on the Councils 5-year housing land supply figure is following the recent appeal decisions. As part of the consideration of the Congleton Road and Sandbach Road North decisions, the Inspector found that the housing land supply over 5 years is 5750 dwellings. It is necessary to add to this figure the existing backlog 1750 dwellings and a 20% buffer for a record of persistent under delivery which gives a total requirement of 9000 dwellings over 5 years or 1800 per annum. This calculation took account of the High Court judgement in the Hunston Properties case (subsequently reinforced at the Court of Appeal). For whilst the RSS has clearly been revoked, it remains the only examined housing figure for the current period and itself represented a step change in housing growth when it was adopted (reversing the previous policy of restraint). Accordingly the three Appeal decisions published on 18 October 2013 all use the RSS base.

In terms of the existing supply the Inspector found that there is currently:

‘a demonstrable supply, taking the generous approach to Council estimates, which is likely to be in the region of 7000 to 7500 dwellings at most’ (Sandbach Road North Appeal)

This demonstrable supply therefore equates to a figure of 4.0 to 4.2 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.”*

As it has been found that Cheshire East cannot demonstrate a five year supply of housing land, the provisions of paragraphs 49 and 14 apply in this case. It is therefore necessary to carry out a balancing exercise in this case to assess whether the harm 'significantly and demonstrably' outweighs its benefits.

Emerging Policy

Clarification has been given on the weight which can be attributed to the emerging Local Plan as part of recent appeal decisions for Abbeyfields, Sandbach and Congleton Road, Sandbach and Sandbach Road North, Alsager. As part of the decision for the Abbeyfields site the SoS stated that:

'As the emerging LP is still at an early stage the Secretary of State accords it limited weight in his decision making'

As part of the appeal decision for Congleton Road, Sandbach and Sandbach Road North, Alsager the Inspector found that:

'There is a draft Local Plan, variously described as the Core Strategy and Development Strategy, which is moving towards a position in which it can be submitted for examination. The Council is seeking to achieve this in late 2013. The current state of the plan is pre submission. It is not disputed that there are many outstanding objections to the plan, and to specific proposals in the plan. Hence it cannot be certain that the submission version of the plan will be published in the timescale anticipated. The plan has already slipped from the intended timetable. In addition there can be no certainty that the plan will be found sound though I do not doubt the Council's intentions to ensure that it is in a form which would be sound, and I acknowledge the work which has gone into the plan over a number of years.

Nonetheless I cannot agree that the draft Local Plan should attract considerable weight as suggested by the Council. There are many Secretary of State and Inspector appeal decisions which regard draft plans at a similar stage as carrying less weight. The Council's own plan has been afforded little weight in the earlier months of 2013, and although the plan has moved on to an extent, it has not moved on substantially. For these various reasons I consider that the draft Local Plan can still attract no more than limited weight in this case'

Since then the Council has published the Pre-Submission Core Strategy which is supported by fuller evidence and takes account of the 16,000 comments made during the two consultations in 2013. Accordingly its weight should correspondingly increase in decision making. Never the less, given the stance taken in the above appeals the emerging Local Plan can only be given moderate weight in the determination of this planning application

Countryside Policies

As well as assessing housing supply, the decisions at Sandbach Road North and Congleton Road Sandbach are also significant for clarifying the status and intent of settlement zone line and countryside policies.

Some have sought to argue that as settlement boundaries effectively contain the built area of a town or village – and so define the area in which development is usually concentrated – that accordingly they should be viewed as housing supply policies. This subsequently could mean that those policies, along with normal countryside policies, should be considered “out of date” if there is no five year supply of housing land. This view is derived from paragraph 49 of the framework which states that:

“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”.

There are appeal decisions that appear to support this perspective, although those in Cheshire East have generally taken a different approach.

The recent appeal decisions consider this matter in some detail. It was noted by the Inspector that the settlement zone lines serve a variety of purposes – and take account of land allocated for development up to a particular point (in this case 2011). However, the Inspector considered that settlement zone lines were not driven by the need to identify land for development, but rather are based on the objective of protecting countryside once development land is identified. Consequently, he concluded that the related policy (Policy PS4 of the Congleton Local Plan) was *“not sufficient directly related to housing land supply that it can be considered time expired for that purpose.”* Instead the Policy is *“primarily aimed at countryside & green belt protection”*. These objectives are largely in conformity with the NPPF and attract *“significant weight”*. In both appeals conflict with countryside policies were acknowledged.

This means that these policies remain important in the planning balance – but are not necessarily determinative. The two decisions pinpoint that much depends on the nature and character of the site and the individual circumstances pertaining to the application. At Congleton Road, the Inspector considered that the objective to boost significantly the supply of housing outweighed the “relatively moderate” landscape harm. In contrast, at Sandbach Road North the provision of housing was viewed as an “important and substantial” material consideration, but there would also be serious harm resulting from the impact on the character and appearance of the countryside. On this occasion that identified harm, combined with the significant weight attributed to countryside policies, outweighed the benefits in terms of housing supply.

In reaching this conclusion, the Inspector memorably noted that:

“the lack of a 5 year supply of housing land does not provide an automatic ‘green light’ to planning permission”.

Therefore, countryside policies in existing local plans can be considered as consistent with NPPF and are not housing land supply policies – and thus not of date, even if a 5 year supply is not in evidence. They accordingly need to be played into the planning balance when decisions are made. Where appropriate, as at Sandbach Road North, conflict with countryside protection objectives may properly outweigh the benefit of boosting housing supply.

Conclusion

- The site is subject to Policy NE.2 (Open Countryside) where 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 for the supply of housing 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.
- Cheshire East has a housing land supply figure of in the region of 4.0 to 4.2 years
- Only moderate weight can be applied to the emerging Local Plan.
- As the Council cannot demonstrate a 5 year housing land 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 as part of the planning balance.

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

The criteria contained within the North West Sustainability Checklist are also being used during the Sustainability Appraisal of the Cheshire East Local Plan. 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	AUDLEM ROAD
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Open Space:	Amenity Open Space (500m)	0m
	Children's Play Space (500m)	0m
	Outdoor Sports Facility (500m)	1100m
Local Amenities:	Convenience Store (500m)	1000m
	Supermarket* (1000m)	1400m
	Post box (500m)	31m
	Playground / amenity area (500m)	1300m
	Post office (1000m)	1800m
	Bank or cash machine (1000m)	1000m
	Pharmacy (1000m)	1400m
	Primary school (1000m)	750m
	Secondary School* (1000m)	400m
	Medical Centre (1000m)	2200m
	Leisure facilities (leisure centre or library) (1000m)	2100m
	Local meeting place / community centre (1000m)	26m
	Public house (1000m)	170m
	Public park or village green (larger, publicly accessible open space) (1000m)	1100m
	Child care facility (nursery or creche) (1000m)	2000m
Transport Facilities:	Bus stop (500m)	23m
	Railway station (2000m where geographically possible)	1300m
	Public Right of Way (500m)	0m
	Any transport node (300m in town centre / 400m in urban area)	1300m
Disclaimers:		
<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 fails against 11 criteria in North West Sustainability checklist, 8 of which are 'significant' failures. However, these facilities are within the town, albeit only just outside minimum distance and Nantwich is a key service centre in the emerging 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 local plan allocation at Stapeley and the proposed development site at Kingsley Fields and, although the latter would probably be large enough have own facilities, not all the requirements of the checklist would be met on site.

Furthermore, highways have commented that it is possible to improve the non-car mode accessibility through suitable Section 106 contributions, including upgrading the public right of way which runs past this site. This is discussed in more detail below.

Accessibility is only 1 aspect and sustainability and the NPPF defines sustainable development with reference to a number of social, economic and environmental factors. Previous Inspectors have also determined that accessibility is but one element of sustainable development and it is not synonymous with it. There are many other components of sustainability other than accessibility. These include, meeting general and affordable housing need, reducing energy consumption through sustainable design, and assisting economic growth and development.

No detail has been provided within the Design and Access Statement, and other supporting documentation with regard to sustainable design principles and there appears to be very little commitment in respect to the scheme.

No consideration appears to have been given to passive environmental design, setting standards for performance in terms of building fabric, water use, performance of spaces, climate change adaptation, sustainable urban drainage and other elements of sustainable design relating to waste and recycling, sustainable procurement and waste reduction etc. However, this is an outline application and it is acknowledged that a detailed scheme to achieve this could be secured through the use of conditions.

With regard to the issue of economic development, an important material consideration is the Written Ministerial Statement: Planning for Growth (23 March 2011) issued by the Minister of State for Decentralisation (Mr. Greg Clark). It states that "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 Statement 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:

- 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.

The proposed development will bring 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.

Similarly, the NPPF makes it clear that:

“the Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.”

According to paragraphs 19 to 21:

“Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system. To help achieve economic growth, local planning authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century. Investment in business should not be overburdened by the combined requirements of planning policy expectations.”

In conclusion, the loss of open countryside, is not considered to be sustainable but, provided that there are no other substantial and demonstrable adverse effects, it is considered that this would be outweighed by the need to provide for the 5 year housing land supply requirement, and the sustainability credentials of the scheme in terms of its location, meeting general and affordable housing need, reducing energy consumption through sustainable design, and assisting economic growth and development.

Loss of Agricultural Land

Policy NE.12 of the Local Plan states that development on the best and most versatile agricultural land (grades 1, 2 and 3a in the Ministry of Agriculture Fisheries and Food classification) will not be permitted unless:

- the need for the development is supported in the local plan;
- it can be demonstrated that the development proposed cannot be accommodated on land of lower agricultural quality, derelict or non agricultural land; or
- other sustainability considerations suggest that the use of higher quality agricultural land is preferable to the use of poorer quality agricultural land.

This is supported by the National Planning Policy Framework, which states that:

“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”.

A survey has been provided to by the applicant which indicates that the site is grade 3a agricultural land. Therefore, the proposal will result in the loss of land which falls

predominantly into the best and most versatile categories. However, previous Appeal decisions make 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. Accordingly, it is considered that the previous reason for refusal relating to loss of agricultural land is now no longer sustainable when viewed in the planning balance against housing provision.

Affordable Housing

The Strategic Housing Market Assessment Update 2013 (SHMA) shows that in the Nantwich sub-area there is a requirement for 78 new affordable units each year between 2013/14 – 2017/18, made up of a requirement for 40 x 1 beds, 15 x 3 bed, 35 x 4+ beds and 16 x 1 bed older persons accommodation. (There is an oversupply of 2 bed accommodation).

In addition to this information taken from the SHMA, data from Cheshire Homechoice, which is used as the choice based lettings method of allocating social and affordable rented accommodation across Cheshire East shows that there are currently 483 applicants who have selected one of the Nantwich re-housing areas as their first choice. The number of bedrooms these applicants need are 204 x 1 bed, 185 x 2 bed, 75 x 3 bed and 8 x 4 bed. (9 applicants haven't specified how many bedrooms they require).

The Interim Planning Statement on Affordable Housing (IPS) states that on all sites over 15 units the affordable housing requirement will be 30% of the total units. The tenure split required is 65% rented affordable units, 35% intermediate tenure as per the recommendations of the SHMA.

The IPS requires that the affordable units should be tenure blind and pepper potted within the development, the external design, comprising elevation, detail and materials should be compatible with the open market homes on the development thus achieving full visual integration.

The Affordable Housing IPS also states that affordable homes should be constructed in accordance with the Homes and Communities Agency Design and Quality Standards (2007) and should achieve at least Level 3 of the Code for Sustainable Homes (2007).

Finally the Affordable Housing IPS states that no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided, with the exception that the percentage of open market dwellings that can be occupied can be increased to 80% if the affordable housing has a high degree of pepper-potting and the development is phased.

As this is an outline application it is only possible to comment on the information which the applicant has submitted.

According to the Application Form and the Design and Access Statement the applicant has submitted they are offering 30% of the total dwellings (12 units) as affordable housing which is the correct amount. 8 of these units would be rented (either social rent or

affordable rent) and 4 would be intermediate tenure, which is acceptable. A mix of 2 and 3 bed affordable homes would be acceptable on this site.

It is the Council's preferred option that the developer undertakes to provide the social or affordable rented units through a Registered Provider who are registered with the Homes and Communities Agency to provide social housing. All of the above could be secured by either condition or Section 106 Agreement.

Contaminated land

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

Air Quality

The proposal has the potential to create short and long term air quality impacts as a result of dust from construction and air pollution from vehicles respectively. However, the site is not located in close proximity to any Air Quality Management Areas, and given the relatively small number of properties proposed, it is not considered that any significant adverse effects would occur.

Environmental Health Officers are satisfied that there will be no unacceptable impacts in respect of air quality from construction, subject to conditions relating to provision of appropriate dust mitigation measures during the building works.

Noise Impact

Environmental Health Officers have commented that there is insufficient information contained within the application to determine whether there will be a loss of amenity caused by noise from road traffic and the nearby schools.

In order to ensure that future occupants of the development do not suffer a substantial loss of amenity due to noise, the applicant is required to submit an acoustic assessment report to assess the level of traffic noise from A529 Audlem Road, as well as the noise from adjacent school and playing fields. 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 agreed scheme shall be implemented, and maintained throughout the use of the development. This can be secured by condition.

In addition, Environmental Health Officers have requested conditions relating to hours of construction and foundation piling, as well as the submission of a piling method statement and construction Environmental Management Plan (EMP). Subject to the imposition of these

conditions, it is considered that the proposal would comply with Policy BE1 (Amenity) in respect of noise impact.

Drainage and Flooding

The applicant has submitted a Flood Risk Assessment with the application. In summary, it states that the site is Floodzone 1, above the 1 in 1000 year risk level of the Weaver. New surface water runoff will be limited to the existing 1 in 1 year Greenfield runoff rate of 5l/s. When ground data is obtained an assessment of sustainable opportunities will be made. A public trunk surface water sewer passes through the site and an appropriate width easement will be kept clear of houses to allow for future maintenance.

United Utilities and the Environment Agency have been consulted on the application and they have raised no objections subject to the imposition of appropriate planning conditions.

Design Issues

Site layout is reserved for subsequent approval. However an indicative layout has been submitted which shows a single cul-de-sac arrangement. Properties are shown fronting on to the road through the site, as well as the public open space which is proposed to the western end. This ensures active frontages and natural surveillance of all public areas.

The position of the proposed Public Open Space links well with the Right of Way running along the western boundary of the site and softens the edge to the open countryside.

The properties are predominantly large detached houses although there are two blocks of mews style dwellings proposed. The lower density development of the larger properties is shown adjacent to the rural edge and the higher density development is in the centre of the site. This also softens the impact of the development on the surrounding grounds. Due to the generally well spaced character of the development, parking is predominately provided in integral garages and to the side of properties and there is ample space for landscaping to plot frontages. Therefore, car dominated street scenes are avoided. The only exception to this is the parking area to the front of the mews properties. However it is considered that there is capacity to break this up through additional landscaping and this can be addressed at the reserved matters stage,

Turning to elevational detail, the surrounding ribbon development along Audlem Road comprises a mixture of ages and architectural styles. Notwithstanding this, there is consistency in terms of materials with most dwellings being finished in simple red brick, and grey / brown slates / concrete / clay tiles. The predominant roof forms are gables although some are hipped.

Although external appearance and design are reserved matters, the applicant has submitted indicative elevations which show typical, house types. These have been influenced by the form and mass of surrounding residential properties. The house types include traditional features such as, brick and stone window heads and cills, bay windows, pitched roof half-dormer features and canopy porches, all of which helps to break up the massing of the buildings and maintain visual interest.

On this basis it is considered that an appropriate design can be achieved, which will sit comfortably alongside the mix of existing development within the area.

Rights of Way

A public right of way runs along the western site boundary. This route would not be adversely affected by the proposed development and would integrate well with the area that has been indicated for public open space. Therefore, the Rights of Way Officer has raised no objection subject to the standard informatives reminding the developer of their responsibility to maintain the safety and accessibility of the right of way throughout the development, being attached to the decision notice.

Furthermore, the Countryside Access Development Officer has noted the prospective importance of this footpath as a safe, off-road route for people from the proposed development site and surrounding properties to the schools and town centre facilities. In order to bring the footpath to a standard which could support the anticipated footfall on a year-round basis, they proposed laying a tarmac surface, making the barrier arrangement adjacent to Brine Lees School more accessible, and addressing a flooding issue adjacent to the proposed pond within the proposed development site. The estimate for these works would be £28k-30k.

The developer has agreed that the proposed improvements to the footpath in question will be of real benefit to the footpath network, and will encourage potential future residents of the site to use this facility to access the local services and town centre. It will also encourage existing residents that do not currently have easy access to this path, to also use the route.

With regards to the need to potentially raise a short section of the path to prevent issues with seasonal flooding of the land from the pond on site, the developer advises that they are in the process of submitting mitigation details as part of their ecology submissions, to improve this seasonal pond by increasing the depth of the same to allow for an all year round pond feature. By doing this, not only do they consider that there are ecological benefits but they will increase the capacity of the pond to take additional surface water during heavy rainfall periods. This should therefore significantly, if not totally remove the problem of flooding to this section of footpath.

Notwithstanding the above, the developer has agreed to pay a sum of £30,000 towards improvement works to footpath 28 in relation to the proposed development. These improvements could be secured through a s106 agreement with a trigger of commencement of development, in order to ensure that the facility is available to new residents as they relocate.

Amenity

The site is surrounded by open countryside and school playing fields to the north, west and south. The only adjoining dwellings are those fronting on to Audlem Road to the east.

It is generally regarded that a distance of 21m between principal windows and 13m between a principal window and a flank elevation are required 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 which indicates that these distances can be maintained to the dwellings in Audlem Road. Therefore no concerns regarding the amenity of existing neighbouring dwellings are raised. Furthermore the layout also demonstrates the required distance standards can be achieved within the site.

It is also considered that a minimum private amenity space of 50sq.m for new family housing should be provided. This has also been achieved within the submitted indicative layout.

Overall, the proposal complies with Policy BE1 (Amenity) of the adopted Local Plan.

Landscape Impact

The application site occupies an area of approximately 1.5 hectares and is located on the southern edge of Nantwich within the boundary of land defined in the Crewe and Nantwich Replacement Local Plan 2011 as Open Countryside.

The application site is currently rough grassland, bounded to the south by the wider agricultural landscape, and to the west by a footpath (Footpath 28 Nantwich, which becomes Footpath 1 Batherton, at the southern boundary of the application site). To the north are the extensive playing fields associated with Weaver Primary School and Brine Leas High School. Further to the north is the southern residential extent of Nantwich, which also extends along the east of the application site as ribbon development along the Audlem Road.

The baseline information does include reference to the National Character Areas as defined by Natural England in their revised study of the countryside Character Series (1998), where the application area is defined as Character Area 61; Shropshire, Cheshire and Staffordshire Plain. The study also refers to the Cheshire Landscape Assessment 2008, adopted March 2009 which identifies that this site is located in Landscape Type 7: East Lowland Plain 10; within this character type the application site is located within the Ravensmore Character Area: ELP1.

The Landscape and Visual Assessment states that it has been carried out with reference to and using aspects of the guidance found within the 'Guidelines for Landscape and Visual Assessment' (GLVIA) published by the Landscape Institute and the Institute of Environmental Management and Assessment 2002).

The Council's Landscape Officer has expressed concerns with the methodology used in this assessment, since it states in Para 1.3.2 that:

'this iterative approach ensures that the development which is considered by this assessment includes the necessary mitigation measures which have been designed to omit or ameliorate any significant anticipated landscape and visual impacts'.

This assessment therefore assesses the landscape and visual impact of the development with extensive landscape mitigation works already incorporated (as described by the indicative landscape layout Drawing M2183.08).

The problem with this methodology is that this is an outline application. The indicative landscape layout is purely indicative and relates to an illustrative layout plan based on 32 dwellings. However, the outline application is for up to 40 dwellings. It is not acceptable to base an assessment of an outline application on hypothetical landscape mitigation details that may or may not be achievable or practical. Consequently, the landscape impact brought about by these proposals would be more adverse than the assessment indicates. While the Landscape Officer agrees that the sensitivity is high, he does not agree with the magnitude of change or the significance of impact, which would be more likely to be major/moderate, rather than negligible at year 1. Since this is an outline application and the mitigation proposals are purely illustrative, it is difficult to comment with any accuracy on the significance of impact after 15 years.

The impact on the landscape character of the site has also been assessed (Para 1.6.15), based on the illustrative layout submitted. While the impact on the landscape character would be more significant than the assessment states, these impacts are based on the illustrative layout and will inevitably vary, depending on a final detailed design layout.

The Landscape Officer agrees broadly with the visual impacts as shown in the assessment, but feels that the visual impacts from Footpath 28 Nantwich and Footpath 1 Batherton would be more adverse than indicated.

Although a number of the impacts would be more adverse than indicated, the assessment is based on an outline and illustrative layout. Therefore, these impacts could potentially be reduced with robust landscape proposals, as indicated in Para 1.5.3, namely:

- the creation of 'desired soft edge' which would help in the mitigation of the proposed development, including the implementation of hedgerow and tree planting along the northern boundary with the school and western edge with the proposed open space.
- the retention and improvement to the southern hedge,
- additional tree planting as well as extensive tree planting throughout the proposed development.

Consequently, it is not considered that a refusal on landscape impact grounds could be sustained.

Trees and Forestry

This application is supported by a Tree Survey which includes an Arboricultural Implications Assessment (AIA), Arboricultural Method Statement (AMS) and Tree Protection Plan (TPP). The survey has conflicting statements which refer to the new 2012 British Standard *Trees in Relation to Design, Demolition and Construction* and the old 2005 Standard (section 13.4). The Tree Survey Schedule makes reference to trees on an aerial survey (Maps 1 and 2). This is not consistent with the requirements of BS5837:2012 which require trees to be plotted accurately on a plan, visually referenced from a topographical survey, showing accurate stem positions and canopy spreads.

It should be noted that no reference has been made to the status of the hedgerows within the proposed application site. Consideration needs to be given to whether hedgerows are deemed to be 'Important' under the criteria within the Hedgerow Regulations 1997.

There is also some conflict with Map 2 (T10) which identifies this tree for removal, yet this tree is shown as not hindering development and outside the application site.

Two trees have been identified in the submitted Tree Survey as highly desirable for retention (T1 Birch and T2 Oak) located to the south east corner of the site. In terms of the illustrative layout submitted, both these trees appear to be unaffected by the proposal. A third tree (9a leaning Oak T9) located in the south west corner of the site appears to stand outside the application site boundary and would overhang the area of proposed public open space.

The submitted Tree Report identifies one tree for removal, a small Apple tree (T5) located within the boundary hedgerow which forms the northern boundary of the application site. This tree is a modest specimen of no outstanding contribution to the wider amenity of the area and its removal is not considered significant in this respect.

In conclusion, there are no potential significant impacts on existing tree cover and tree losses are minimal, although the fact that the supporting Arboricultural Report relies on aerial photographs rather than a detailed topographical survey is not ideal.

Ecology

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

The Directive is then implemented in England and Wales : The Conservation of Habitats and Species Regulations 2010. ("The Regulations"). The Regulations set up a licensing regime dealing with the requirements for derogation under Art. 16 and this function is carried out by Natural England.

The Regulations provide that the Local Planning Authority must have regard to the requirements of the Habitats Directive so far as they may be affected by the exercise of their functions.

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

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

In this case the Council's Ecologist has examined the application and made the following comments.

Great Crested Newts

Great Crested Newts have been identified at two ponds within 250m of the proposed development. In the absence of mitigation, the potential impacts of the proposed development are moderate. However, the habitat value of the site depends greatly on the frequency of grass cutting undertaken. During the visits made by the applicant's ecologist, the grassland habitats on site did not provide significant opportunities for the species. However, from his experience of the site, the grasslands have in the past remained uncut for periods of time, increasing its value for amphibian species.

To mitigate the potential impacts of the proposed development upon this species, the applicants ecologist proposes to maintain the grassland on site in a close mown state through regular mowing and the adoption of 'Reasonable Avoidance Measures' during the construction phase. To compensate for the loss of habitat associated with the development the existing small pond on site will be retained and enhanced for Great Crested Newts and the open space area associated with the development will be maintained in a condition suitable for Great Crested Newts.

It should be noted that since a European Protected Species has been recorded on site and is likely to be adversely affected the proposed development the planning authority must have regard to whether Natural England would be likely to subsequently grant the applicant a European Protected species license under the Habitat Regulations. A license under the Habitats Regulations can only be granted when:

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

The Council's ecologist advises that if planning consent is granted the proposed mitigation and compensation will be adequate to maintain the favourable conservation status of great crested newts.

A condition will be required to ensure that the proposed development is implemented in accordance with the submitted report.

Water Voles

A water vole survey was undertaken in February. This is a suboptimal time of year for undertaking this type of survey. However, it is noted that this pond will be retained as part of the proposed development and the Council's ecologist is satisfied that this species, whilst not particularly likely to be present, would not be affected by the proposed development in the event that it was present on site. Therefore, in this instance, further survey work is not considered to be necessary.

Habitats on site

Grassland

A detailed botanical survey has been undertaken by the applicant's ecologist, which was unfortunately completed after the grassland had recently been cut. However, the Council's ecologist was able to visit the site prior to the cutting of the grass. Based on his own assessment and the report submitted by the applicant, he advises that, whilst the grassland on site is of some nature conservation value, it falls below the threshold for designation as a Local Wildlife Site.

Therefore, the grassland habitats on site do not present a significant constraint upon development. However, the loss of grassland habitat to this development would, still result in an overall loss of biodiversity.

It is recommended that the loss of biodiversity associated with the development be 'off set' by means of a commuted sum, which could be utilised to fund habitat creation/enhancement offsite. The following method can be used for calculating an appropriate commuted sum. This is based on the Defra report 'Costing potential actions to offset the impact of development on biodiversity – Final Report 3rd March 2011'):

- The loss of habitat amounting to roughly 0.5ha.
- Cost of land purchase for habitat creation - including admin, management planning and transactional costs (0.5ha x £17,298 cost per ha) = £8,649.00 (Source RICS rural land market survey H1 2010)
- Cost of creation of Lowland Grassland 0.5ha x £4,946 (cost per ha) = £2473 (Source UK BAP habitat creation/restoration costing + admin costs)

Cost of land acquisition and habitat creation would therefore be £11,122.00.

Hedgerows

Native species hedgerows are a UK BAP priority species and hence a material consideration. In addition, Hedgerow 1 on site has been identified as being "Important" under the Hedgerow Regulations. The submitted plan indicated the retention of the existing hedgerows and the creation of a new hedgerow along the northern boundary of the site. This approach is supported, although it is recommended that the details of the hedgerow planting and retention be dealt with by means of a condition attached to any planning permission granted.

In summary, if planning consent is granted, the following conditions will be required:

- Reserved matters application to be supported by detailed ecological mitigation proposals in accordance with the strategy submitted in support of the outline application.
- Reserved matters application to be supported by a 10 year habitat management plan including proposals for the ecological monitoring of the site.
- Submission of proposals for the incorporation of features for roosting bats and breeding birds.

Open space

Policy RT.3 of the Borough of Crewe and Nantwich Replacement Local Plan 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 600sqm of shared recreational open space and 800sqm of shared children's play space.

The indicative layout originally showed 2975sqm of open space within the site. However, in accordance with the advice of the Council's ecologist, as set out above, this area will be required for wildlife mitigation and habitat enhancement. This would be incompatible with the use of the area as shared recreational or children's play space.

Therefore, the Greenspaces officer has agreed that in this case, it would be acceptable to provide a commuted sum in lieu of on-site provision of public open space. He has stated that he would like to see this development provide £20,000 for the purposes of resurfacing the car park at the Shrewbridge Lake

A private resident's management company would be required to manage the greenspace on the site as a wildlife mitigation area.

All of the above requirements could be easily secured through the Section 106 Agreement and through the Reserved Matters application process.

Education

The Council's Education Officer has examined the application and commented that the development will give rise to a contribution of £75,924 will be required towards primary education.

At present, the local secondary schools (excluding sixth form provision) are forecast to have sufficient surplus capacity to accommodate the pupils generated by this development. However, there are a number of other planning applications and appeals in the area which are currently pending consideration. If all these sites were to come forward additional capacity would be required. Therefore whilst the Education Officer is not requesting any secondary education contributions from this scheme, in the event of approval or the scheme not being built in the near future, revised comments maybe needed in respect of other sites to take into account changing circumstances.

Highway Safety and Traffic Generation.

Background

The Strategic Highways Manager (SHM) has assessed this application and commented that vehicular access is proposed from a simple priority junction to be created following the removal of an existing residential dwelling. Audlem Road is subject to a 30mph speed limit in this location. This application is a resubmission of applicaiton13/1223N which was refused planning permissions; one of the reasons for refusal was on highway grounds.

The Application is in outline and an illustrative site layout has also been submitted. Given that the proposal is in outline the SHM has not commented on site layout at present but reserves the right to do so at a later date.

Key issues

1. Achieving a safe and convenient site access strategy.
2. Ensuring that the proposed access and residential access road are built to an adoptable layout and standard and are suitable for use by pedestrians and cyclists as well as vehicular traffic including refuse lorries.
3. Maintaining the free flow of traffic on the A529 Audlem Road.
4. Ensuring that the site is well connected to local facilities and sustainable transport used on a day-to-day and weekly basis.

Site Assessment

Site Location and The Highway Network

The site is located to the south of Nantwich and the proposed access to the site is on stretch of Audlem Road that is subject to a 30mph speed limit and the road is lit. The Applicant has provided a Transport Statement and that report indicates wet weather design speeds of 26mph northbound and 27mph southbound.

There are currently no footways on the frontage of the site and to the north and south of it until a point some 100m to the north.

There are no traffic regulation orders banning parking along Audlem Road in the vicinity of the site and parking is noted, particularly on the opposite side of the road from the site access.

The TS provided by the applicant recognises at paragraph 2.2.2 that;

“Audlem Road forms part of the A529 which provides one of the major routes into Nantwich from the south.”

The route is clearly an important radial route into Nantwich from the south and has an important traffic carrying function in the highway network.

Site access

The Applicant proposes that the site access is 'pushed out into' the existing carriageway, narrowing it to 5.5m, and that footways are to be provided on the western side of Audlem Road to the north and south. The purpose of the proposed narrowing of the A529 Audlem Road appears to be in order to create improved visibility at the proposed site access as, without it, the visibility would be minimal.

On the basis of the observed speeds the Applicant indicates that visibility splays of 2.4m x 35m are required to/from the south and 2.4m x 37m are required to/from the north, on the basis of MfS guidance. The implication is that the applicant is treating the A529 as an MfS type of road. The SHM accepts that, for the purposes of speed and visibility requirements, such an approach is acceptable. However, the SHM is also mindful of the importance of the A529 as a traffic carrying route in the highway network.

On the basis of the proposed access (with footway build-outs) the applicant suggests that visibility of 2.4m x 35m can be achieved to/from the north and 2.4m x 37m can be achieved to/from the south.

The SHM has reviewed the data provided by the applicant including; land ownership plans, highway plans, and the AutoCAD drawing files, and the SHM finds that visibilities of 2.4m x 30m can be achieved to/from the north and 2.4m x 29m to/from the south. The visibilities indicated by the applicant, from their own submissions, appear to pass through third party land. In other words, they cannot be relied upon. The visibilities that can be achieved with the revised width of carriageway on the A529 are not acceptable in safety terms.

We currently have no data from the applicant regarding the use of the access by larger vehicles, for example refuse lorries. The SHM is concerned that the applicant is proposing 5m radii kerbs at the site access. When indicated to the applicant that Cheshire East Council's standard sets are 4m and 6m the applicant has indicated that 4m radii kerbs will be provided. This will make turns to and from the site more difficult for refuse and delivery vehicles. This will impact upon the free flow of traffic on the A529 and its traffic carrying ability and capacity.

Capacity of the A529

There are no parking restrictions on the A529 in the vicinity of the proposed site access. Vehicles are typically parked in the vicinity of the access on the eastern side of the A529. However, the vehicles do not restrict the two-way traffic carrying ability of the highway at least as far as two-way cars movements are concerned.

The applicant proposes to narrow the carriageway in this location to 5.5m. There are no proposals by the applicant to displace existing parking and, therefore, the two-way traffic carrying ability of the A529 in this location will be lost with a potentially severe impact on capacity at this location.

The reduction in practical width of the A529, to effectively only allow shuttle movements over a considerable distance in the vicinity of the site access, is not acceptable to the SHM.

Should the narrowing of the road actually discourage parking at this location, and displace it elsewhere (although there is no supporting evidence that this would occur) then the applicant ought to give consideration to what the appropriate design speeds ought to be in such a situation. In the absence of evidence to the contrary, the SHM has considered the situation (indicated above) where existing parking opposite the site access would remain in place following the narrowing of the A529.

Accessibility by Sustainable Modes of Travel

The SHM notes the applicant's submissions with respect to walking, cycling, bus and rail. The SHM accepts that the proposal site is reasonably located to take advantage of available sustainable modes of travel.

The SHM has made the applicant aware of concerns regarding the proposed width of footway around the radii of the proposed site access.

Conclusion

The proposal does not indicate a safe site access. The applicant seeks to improve visibility (to a standard below that advised in MfS) but in doing so reduces the available width of the A529 to 5.5m. Existing on-street parking would result in the A529 only being able to cater for traffic in one direction at a time over the considerable distance of carriageway narrowing proposed. This would result in a severe impact on highway safety and a reduction in the traffic carrying capacity of the A529 which would be contrary to both local plan policy BE3 and the provisions of the NPPF.

Impact on Level Crossing

There are three level crossings in the vicinity of the site at Newcastle Road, Nantwich Railway Station and Shrewbridge Road that could be impacted by the above proposal due to increased vehicular and pedestrian traffic. Network Rail has not commented on this proposal but expressed concern in respect of the previous application that increased traffic at these crossings will result in an increase risk of accidents, particularly at two of the crossings which are the "half-barrier" type. Through subsequent discussions, Network Rail have confirmed that these safety concerns could be overcome, if the "half-barrier" crossings were upgraded to the "full-barrier" type. It is therefore considered that the impact of the scheme could be overcome through a Section 106 contribution to these works.

With regard to the size of the contribution, Network Rail have based their calculation on recent planning applications for development in their Western route. Bearing these in mind, they would expect developers to contribute £1500 per dwelling towards the upgrade costs. They consider that this figure is reasonable and proportionate, albeit there will obviously be a considerable gap that will need to be met to achieve the total cost of c£4m to upgrade the two crossings.

On the basis of the above, it is considered that the Network Rail concerns can be overcome and that impact on level crossings does not provide sustainable grounds for refusal.

Archaeology

No comments have been received from the Council's archaeologist. However, in respect of the previous application, it was stated that no further archaeological mitigation is justified in view of the site's relatively limited size, the lack of sites currently recorded on the Cheshire Historic Environment Record from within the application area, and an absence of features of interest on the historic mapping and aerial photographs. No further evidence of particular archaeological potential has come to light.

9. CONCLUSIONS

The site is within the Open Countryside where, under Policy NE2, there is a presumption against new residential development. However, the site is identified within the Pre-Submission Core Strategy plus recent appeal decisions have determined that the Council does not have a 5 year supply of housing land.

These are important material considerations, which, in this case are considered to outweigh the local plan policy presumption against this proposal and therefore the presumption in favour of sustainable development should apply in this case.

Furthermore, the proposal would result in the loss of agricultural land. The submitted information indicates that this is amongst the best and most versatile grades of land and that the proposal would also result in the loss of an important hedgerow. However, given the need to develop the site in order to meet housing land supply requirements, it is considered that the benefits of development would outweigh the loss of agricultural land.

Following the successful negotiation of a suitable Section 106 package, the proposed development would provide adequate public open space, education contributions level crossing mitigation, and the necessary affordable housing requirements.

The proposal would not have any significant impact in terms of loss of trees or hedgerows, or ecology and is considered to be acceptable in terms of its impact upon residential amenity. Subject to confirmation from the Environment Agency that the submitted FRA is acceptable, the proposal is not considered to have any adverse impacts in terms of 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, given that the site is located on the periphery of a key service centre and all such facilities are accessible to the site it is not considered that a refusal on these grounds could be sustained. Furthermore, the development would contribute to enhanced walking and cycling provision.

However, the applicant has failed to demonstrate adequate visibility at the site access and therefore the proposal is considered to be detrimental to highway safety. There are also concerns over pedestrian safety on sub-standard-width footways adjacent to a carriageway of 5.5m or less carrying an appreciable number of commercial vehicles.

Overall harm would be caused in terms of highway safety, which when added to the loss of open countryside, on balance, outweighs the benefits in terms of increased housing land

supply. As a result the proposal is considered to be unsustainable and contrary to Policies NE.2 and BE3, of the local plan and the provisions of the NPPF in this regard.

10. RECOMMENDATION

REFUSE for the following reason:

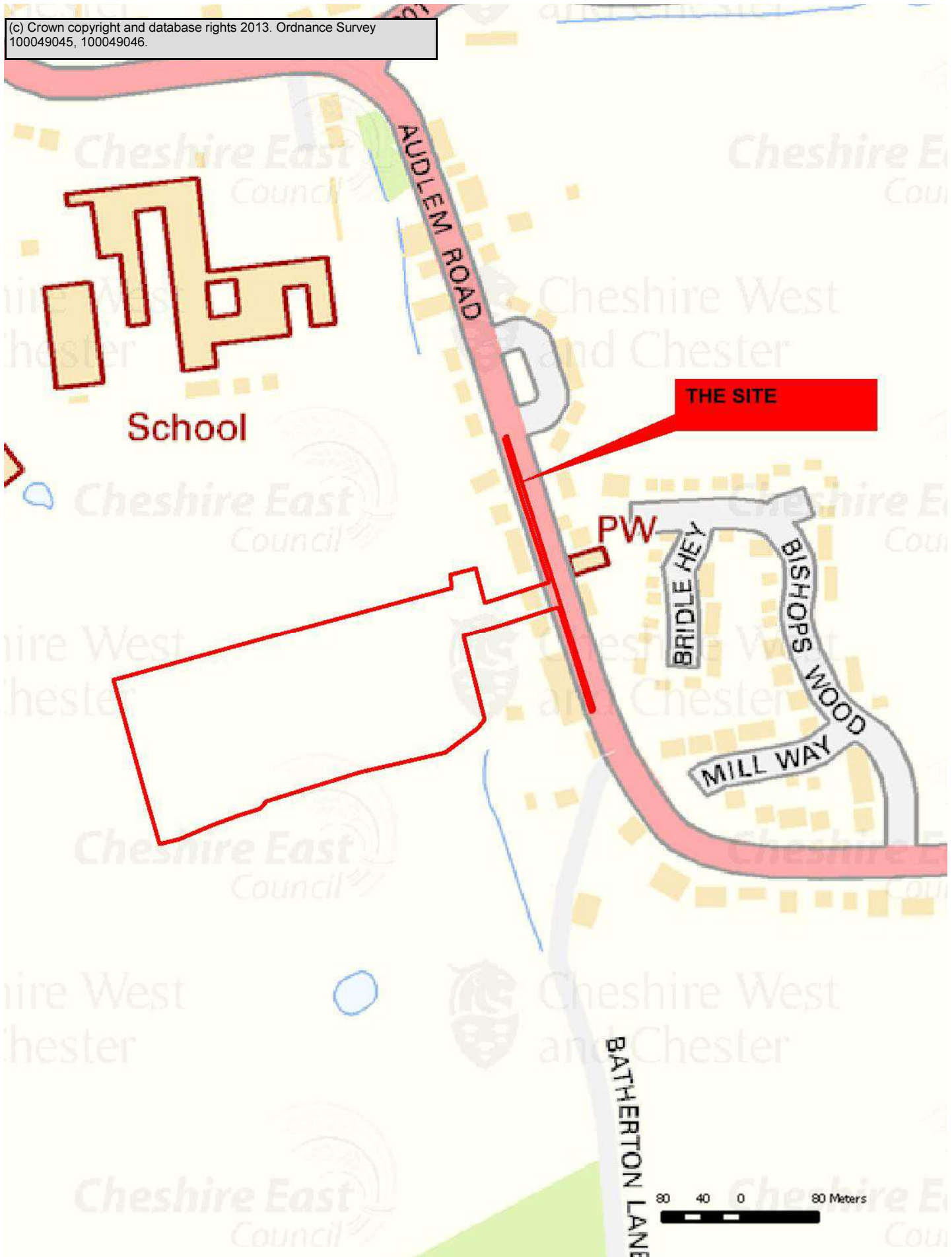
In the opinion of the Local Planning Authority, visibility at the proposed access to the site from the A529 is substandard and would result in a severe and unacceptable impact in terms of road safety. This severe adverse impact coupled with the location of the site within the Open Countryside, would significantly and demonstrably outweigh the benefits of the scheme notwithstanding a shortfall in housing land supply. The development is therefore contrary to Policies NE2 and BE.3 of the Borough of Crewe and Nantwich Replacement Local Plan 2011 and paragraphs 17 and 32 of the National Planning Policy Framework, which recognise the intrinsic character and beauty of the countryside as a core planning principle and states that decisions should take account of whether safe and suitable access to the site can be achieved for all people, respectively.

In the event of any Appeal against the decision, and in respect of the existing Appeal against the non-determination of application 13/1223N DELEGATE authority to the Interim Planning and Place Shaping Manager and Borough Solicitor to enter into a Section 106 Agreement to secure:-

- Affordable housing:
 - 12 units (8 rented and 4 intermediate)
 - A mix of 2 and 3 bedroom properties
 - units to 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.
 - constructed in accordance with the Homes and Communities Agency Design and Quality Standards (2007) and should achieve at least Level 3 of the Code for Sustainable Homes (2007).
 - no more than 50% of the open market dwellings are to be occupied unless all the affordable housing has been provided, with the exception that the percentage of open market dwellings that can be occupied can be increased to 80% if the affordable housing has a high degree of pepper-potting and the development is phased.
 - developer undertakes to provide the social or affordable rented units through a Registered Provider who are registered with the Homes and Communities Agency to provide social housing.
- Contribution of £75,924 towards primary education. This contribution will be required to be paid on occupation of the site.
- £30,000 towards improvement works to footpath 28 in relation to the proposed development payable trigger of commencement of development.
- £20,000 for the purposes of resurfacing the car park at the Shrewbridge Lake

- £1500 per dwelling towards level crossing improvements in Nantwich
- £11,122 towards off-site habitat creation / enhancement

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Application No: 13/4635N

Location: LAND TO REAR OF WOODLANDS VIEW, 20, BRIDGE STREET, WYBUNBURY, CW5 7NE

Proposal: Outline application for residential development at 30 dwellings per hectare net with Primary access off Sally Clarke's Lane and some other matters reserved. Resubmission of 13/1421N

Applicant: Mr & Mrs Graham Poole

Expiry Date: 18-Feb-2013

SUMMARY RECOMMENDATION

APPROVE subject to S106 Agreement and conditions

MAIN ISSUES**Impact of the development on:-**

Principal of the Development
Location of the Site
Landscape
Affordable Housing
Highway Implications
Amenity
Trees and Hedgerows
Design
Ecology
Public Open Space
Education
Flood Risk and Drainage

REASON FOR REFERRAL

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

1. DESCRIPTION OF SITE AND CONTEXT

The site of the proposed development extends to 0.80 ha and is located to the west of Bridge Street and to the south of Sally Clarkes Lane. The site is within open countryside as defined by the Crewe and Nantwich Replacement Local Plan. To the east of the site is residential development (fronting Bridge Street). To the north is Sally Clarkes Lane which includes one

dwelling known as Willowmead and a site which has planning permission for two dwellings. To the south of the site is Wybunbury Delves Primary School and to the west of the site is agricultural land.

The land is currently in agricultural use and includes a small car sales garage at the junction with Sally Clarkes Lane. The land levels on the site are uneven with the land level rising to the south of the site.

2. DETAILS OF PROPOSAL

This is an outline application for residential development at a density of 30 dwellings per hectare.

Access is to be determined at this stage and this would be via a new access to the south of Sally Clarkes Lane.

The indicative plan shows a scheme of 20 dwellings including 12 semi-detached two-storey dwellings and a terrace of 8 bungalows.

The layout plan shows that the proposed development would provide off-street parking for the dwellings at 24-46 Bridge Street (2 spaces per dwelling).

3. RELEVANT HISTORY

13/1421N - Outline application for residential development at 30 dwellings per hectare net with Primary access off Bridge Street and other matters reserved – Refused 17th July 2013 for the following reason:

1. *The proposed residential development is unsustainable because it is located within the Open Countryside, contrary to Policy NE.2 (Open Countryside) and the principles of the National Planning Policy Framework and create 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. As such the application is also contrary to the emerging Development Strategy. Consequently, there are no material circumstances to indicate that permission should be granted contrary to the development plan.*

12/3274N - All matters left reserved seeking approval of access, appearance, landscaping, layout and scale for 2no. Dwellings – Approved 18th October 2012

P08/0811 - Outline Application for Two Dwellings – Approved 11th October 2010

P95/0654 - O/A for demolition of repair garage and erection of 4 dwellings – Refused 19th October 1995. Reasons for refusal:

- Intrusion into the open countryside contrary to Structure Plan Policy
- Highway safety due to proximity to Sally Clarke's Lane and visibility splays

7/18456 - Demolition of commercial garage and two dwellings and construction of 11 terraced and 6 detached houses, together with associated roads, footpaths and landscaping – Refused 26th July 1990. Reasons for refusal:

- Development in the open countryside contrary to Structure Plan Policy
- Development would be out of scale with the village contrary to Structure Plan Policy
- The site is not allocated for development and is contrary to Local Plan Policy

7/12763 - Dwelling with integral garage – Refused 6th February 1986. Reasons for refusal:

- Outside the settlement boundary line as defined by the County Development Plan
- The development is not an infilling in an otherwise built up frontage and would be contrary to the Structure Plan
- Outside the Settlement Boundary and would adversely impact upon the character of the open countryside
- Sally Clarke's Lane is narrow with no turning facilities

4. POLICIES

National Policy

National Planning Policy Framework

Local Plan policy

NE.2 (Open countryside)

NE.5 (Nature Conservation and Habitats)

NE.9: (Protected Species)

NE.20 (Flood Prevention)

BE.1 (Amenity)

BE.2 (Design Standards)

BE.3 (Access and Parking)

BE.4 (Drainage, Utilities and Resources)

RES.5 (Housing in the Open Countryside)

RES.7 (Affordable Housing)

RT.3 (Provision of Recreational Open Space and Children's Playspace in New Housing Developments)

TRAN.3 (Pedestrians)

TRAN.5 (Cycling)

Other Considerations

The EC Habitats Directive 1992

Conservation of Habitats & Species Regulations 2010

Circular 6/2005 - Biodiversity and Geological Conservation - Statutory Obligations and Their Impact within the Planning System

Interim Planning Statement Affordable Housing

Interim Planning Statement Release of Housing Land

Cheshire East Development Strategy

Cheshire East SHLAA

5. CONSULTATIONS (External to Planning)

United Utilities: No comments received at the time of writing this report.

Strategic Highways Manager: The Strategic Highways Manager has requested that the comments made as part of the last application are taken into account as part of the determination of this application:

'The Strategic Highways Manager has undertaken a significant amount of negotiation for this development proposal since his initial recommendation of refusal on 15th May 2013.

The reason for refusal was lack of information and incorrect junction geometry and subsequent to those early comments the applicants have engaged a highway consultant to resolve the access strategy for the site.

Subsequently site meetings have resolved the necessary design for the proposed junction and revised details have been provided which demonstrate that required design standards can be met and that a viable junction design to serve this site is available.

Planning conditions will be recommended which will control the highway aspects of this proposal should a planning permission be granted'.

Environmental Health: Conditions suggested in relation to hours of operation, noise mitigation, dust control and contaminated land.

Public Open Space: Following a recent request, a contribution for off-site provision should be secured, specifically £20,000 for improving the existing children's play area at Main Road, Wybunbury.

Public Rights of Way: It appears unlikely, that the proposal would affect the PROW, although the PROW Unit would expect the Development Management department to add an advice note to any planning consent.

Natural England: If undertaken in strict accordance with the details submitted the development is not likely to have a significant effect on the Wybunbury Moss SSSI. In relation to protected species refer to the Natural England standing advice.

Education: A development of 20 dwellings will generate 4 primary and 3 secondary aged pupils.

An analysis of both the existing primary and secondary provision has indicated that there is some surplus currently in both sectors. However based on the large number of developments currently being considered through the planning process and by an appeal panel then it is felt that this surplus should be considered used. On this basis the following contributions will be required:

Primary - $4 \times 11919 \times 0.91 = £43,385$

Secondary - $3 \times 17959 \times 0.91 = £49,028$

6. VIEWS OF THE PARISH COUNCIL

Wybunbury Parish Council: **Object on the following grounds:**

- Some of the bedrooms in the development will be overlooking bedrooms in existing adjacent properties.
- The access is dangerous being immediately adjacent to Sally Clarkes Lane and visibility is poor at this point.

Hatherton and Walgherton Parish Council: No comments received at the time of writing this report.

7. OTHER REPRESENTATIONS

Letters of objection have been received from 3 local households raising the following points:

Principal of development

- There is no need for more housing in Wybunbury
- There needs to be a cumulative consideration of housing within Cheshire East
- Insufficient information submitted with this application
- There is already an approval on the Shavington/Wybunbury Triangle
- The approval of the Wybunbury/Shavington Triangle would increase the accommodation in the area by 90%
- The development would provide an access for a further site within the SHLAA and could lead to a further 33 dwellings
- Lack of pre-app consultation
- Loss of open countryside
- The site is not sustainable
- There have been previous refusals on this site
- Inaccuracies within the planning documentation
- Approving this development would be premature ahead of the local plan

Highways

- Increased traffic within the village
- Increased traffic generation when going into Crewe
- Traffic congestion
- A further traffic survey should be carried out
- Cumulative highways impact from the approved developments in the area
- Increased risk of accidents on the bridge
- Highway safety
- Poor visibility at the site access point
- The proposed access would harm Sally Clarkes Lane
- There should be no alteration to the access of Sally Clarkes Lane
- There should be no obstruction of the access onto Sally Clarkes Lane
- Pedestrian safety
- Impact upon the bus stop
- Increased traffic speeds in on-street parking is removed from Bridge Street

Green Issues

- Impact upon protected species
- The Badger mitigation details are not adequate
- Loss of agricultural land

Infrastructure

- There are drainage problems and there are potential flooding issues
- Previous surveys have indicated that the sewer will need to be replaced
- The local Primary School is already full

- Capacity issues at local schools
- Lack of information on the treatment of the PROW

Amenity Issues

- Overbearing impact
- Loss of day light
- Loss of privacy
- Land levels on the site mean that there would be a greater impact upon residential amenity
- Noise and disruption from construction of the dwellings
- Increased noise
- Noise from the existing school
- Light pollution from the existing school site

Other issues

- Inaccuracies within the Design and Access Statement
- The additional access to the school would be a security risk
- The desk top study is inadequate
- Loss of property value

A petition signed by 14 residents who are in support of the application has been submitted as part of this application.

The full content of the objections is available to view on the Councils Website.

8. APPLICANT'S SUPPORTING INFORMATION

To support this application the application includes the following documents:

- Design and Access Statement (Produced by Bower Edleston Architects)
- Tree Survey (Produced by Peter Jackson)
- Highways Report (Produced by Access Highway Design Planning Consultancy)
- Affordable Housing Statement (Produced by Bower Edleston Architects)
- Affordable Housing Statement (Produced by Bower Edleston Architects)
- Phase I Desk Study (Produced by Demeter Environmental Ltd)
- Protected Species Survey (Produced by EVR Ecology)

These documents are available to view on the application file.

9. OFFICER APPRAISAL

Main Issues

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

Principle of Development

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 concerns.

In addressing this, members should be mindful of the key principles of the National Planning Policy Framework

This highlights that the principal objective of the planning system is to contribute to sustainable development. As the Planning Minister states in his preamble:

“*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.”

There are three dimensions to sustainable development: economic, social and environmental. These dimensions give rise to the need for the planning system to perform a number of roles:

an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places and at the right time to support growth and innovation; and by identifying and coordinating development requirements, including the provision of infrastructure;

a social role – supporting strong, vibrant and healthy communities, by providing the supply of housing required to meet the needs of present and future generations; and by creating a high quality built environment, with accessible local services that reflect the community’s needs and support its health, social and cultural well-being; and

an environmental role – contributing to protecting and enhancing our natural, built and historic environment; and, as part of this, helping to improve biodiversity, use natural resources prudently, minimise waste and pollution, and mitigate and adapt to climate change including moving to a low carbon economy

These roles should not be undertaken in isolation, because they are mutually dependent.

Housing Land Supply

The National Planning Policy Framework (NPPF) states at paragraph 47 that there is a 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 October 2013 the Cabinet Member agreed the Cheshire East Local Plan Pre-Submission Core 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, an annual average of 1350 homes per year. This figure represents not only the objectively assessed need for housing based on the latest household projections but also a policy “boost” to allow for an enhanced level of economic development once the downturn recedes.

However the most up to date position on the Councils 5-year housing land supply figure is following the recent appeal decisions. As part of the consideration of the Congleton Road and Sandbach Road North decisions, the Inspector found that the housing land supply over 5 years is 5750 dwellings. It is necessary to add to this figure the existing backlog 1750 dwellings and a 20% buffer for a record of persistent under delivery which gives a total requirement of 9000 dwellings over 5 years or 1800 per annum. This calculation took account of the High Court judgement in the Hunston Properties case (subsequently reinforced at the Court of Appeal). For whilst the RSS has clearly been revoked, it remains the only examined housing figure for the current period and itself represented a step change in housing growth when it was adopted (reversing the previous policy of restraint). Accordingly the three Appeal decisions published on 18 October 2013 all use the RSS base.

In terms of the existing supply the Inspector found that there is currently:

‘a demonstrable supply, taking the generous approach to Council estimates, which is likely to be in the region of 7000 to 7500 dwellings at most’ (Sandbach Road North Appeal)

This demonstrable supply therefore equates to a figure of 4.0 to 4.2 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:

- n 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*
- n specific policies in the Framework indicate development should be restricted.”*

As it has been found that Cheshire East cannot demonstrate a five year supply of housing land, the provisions of paragraphs 49 and 14 apply in this case. It is therefore necessary to carry out a balancing exercise in this case to assess whether the harm ‘significantly and demonstrably’ outweighs its benefits.

Emerging Policy

Clarification has been given on the weight which can be attributed to the emerging Local Plan as part of recent appeal decisions for Abbeyfields, Sandbach and Congleton Road, Sandbach and Sandbach Road North, Alsager. As part of the decision for the Abbeyfields site the SoS stated that:

‘As the emerging LP is still at an early stage the Secretary of State accords it limited weight in his decision making’

As part of the appeal decision for Congleton Road, Sandbach and Sandbach Road North, Alsager the Inspector found that:

‘There is a draft Local Plan, variously described as the Core Strategy and Development Strategy, which is moving towards a position in which it can be submitted for examination. The Council is seeking to achieve this in late 2013. The current state of the plan is pre submission. It is not disputed that there are many outstanding objections to the plan, and to specific proposals in the plan. Hence it cannot be certain that the submission version of the plan will be published in the timescale anticipated. The plan has already slipped from the

intended timetable. In addition there can be no certainty that the plan will be found sound though I do not doubt the Council's intentions to ensure that it is in a form which would be sound, and I acknowledge the work which has gone into the plan over a number of years.

Nonetheless I cannot agree that the draft Local Plan should attract considerable weight as suggested by the Council. There are many Secretary of State and Inspector appeal decisions which regard draft plans at a similar stage as carrying less weight. The Council's own plan has been afforded little weight in the earlier months of 2013, and although the plan has moved on to an extent, it has not moved on substantially. For these various reasons I consider that the draft Local Plan can still attract no more than limited weight in this case'

Since then the Council has published the Pre-Submission Core Strategy which is supported by fuller evidence and takes account of the 16,000 comments made during the two consultations in 2013. Accordingly its weight should correspondingly increase in decision making. Never the less, given the stance taken in the above appeals the emerging Local Plan can only be given moderate weight in the determination of this planning application.

Conclusion

- The site is within the open countryside which is subject to Policy NE.2 (Open Countryside) where 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 for the supply of housing land 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.
- Cheshire East has a housing land supply figure of in the region of 4.0 to 4.2 years
- Only moderate weight can be applied to the emerging Local Plan.
- As the Council cannot demonstrate a 5 year housing land 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 as part of the planning balance.

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:

- Post office (1000m) – 580m
- Cash Point (1000m) – 580m
- Primary School (1000m) – 100m

- Local meeting place (1000m) – 650m
- Public House (1000m) – 430m
- Child Care Facility (nursery or crèche) (1000m) - 450m
- Bus Stop (500m) – 100m
- Public Right of Way (500m) – 100m

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:

- Amenity Open Space (500m) – 600m
- Children's Play Space (500m) – 650m
- Outdoor Sports Facility (500m) – 600m
- Convenience Store (500m) – 580m
- Post Box 580m

The following amenities/facilities fail the standard:

- Supermarket (1000m) – 3900m
- Secondary School (1000m) – 4800m
- Medical Centre (1000m) - 5380m
- Pharmacy (1000m) – 3900m
- Leisure Centre (1000m) – 4900m

In summary, the site does not comply with all of the standards advised by the NWDA toolkit. However, as stated previously, these are guidelines and are not part of the development plan. Owing to its position on the edge of Wybunbury, 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. Nevertheless this is not untypical for a sustainable village (Wybunbury is classed as a sustainable village in the Cheshire East Local Plan Policy Principles document) and will be the same distances for the residential development on Bridge Street from the application site. However, all of the services and amenities listed are accommodated within Shavington, Nantwich or Crewe and are accessible to the proposed development via a short bus journey. Accordingly, it is considered that this small scale site is a sustainable site.

Landscape

The application site is an L-shaped parcel of land which includes a small garage and utilitarian buildings to the Bridge Street frontage and a rectangular parcel of land to the rear. The land has uneven land levels and generally rises towards the boundary with Wybunbury Delves Primary School.

As part of the last Local Plan Inquiry, the Inspector states that he was satisfied that there was no requirement for additional housing location over the Borough as a whole, and more particularly in the village of Wybunbury. Notwithstanding this, in terms of the landscape impact, the Inspector stated that the development would *'be highly visible, to the extent that I consider it would have a significant visual impact upon the setting of the village'*.

However it is not considered that this conclusion remains appropriate. From the case officer and Landscape Officers site visit the site would only be glimpsed from a small section of Bridge Street with the main view point when crossing the bridge. Other views would be from Sally Clarkes Lane and distantly across the playing fields at Wybunbury Delves Primary School from Wybunbury Road. It should also be noted that since the Local Plan inquiry outline permission has been granted for 2 dwellings on Sally Clarkes Lane which would reduce the landscape impact even further.

The proposed development would respect the linear form of development along Bridge Street and the existing boundary hedgerow would be retained to provide a green buffer to the open countryside to the west. Therefore it is considered that the site does have the capacity to support this proposed residential development.

Affordable Housing

Wybunbury has a population below 3,000. As such there is a requirement to provide 30% affordable housing on sites of 0.2 hectares or 3 dwellings or more under the Councils Interim Planning Statement on Affordable Housing (IPS).

Wybunbury is located in the Wybunbury and Shavington sub-area in the Council's Strategic Housing Market Assessment Update 2013 (SHMA). In this sub-area the SHMA identified a requirement for an additional 54 new affordable housing units per year between 2013/14 – 2017/18, these are made up of 8 x 1 beds, 20 x 2 beds, 7 x 3 beds, 12 x 4+ beds and 1 x 1 bed older persons accommodation & 7 x 2 bed older persons accommodation.

The Wybunbury Rural Housing Needs Survey 2012 (RHNS) was sent out to all households in the parish (620) and 282 households responded, which is a response rate of 45%. The survey established that there are 11 households that have at least one member who wished to form a new household within the Wybunbury Parish. Seven households had one member who wished to form a new household within the next five years, two households had two members and a further two had three or more members. Therefore overall this equates to at least 17 individuals. It is accepted that there may be persons from separate households in the same community who wish to form a joint household. Where there was more than one hidden household the household requiring the move the soonest was looked at further. Of these 9 out of 11 households had an annual income of below £35,000 per year.

In addition to the information from the SHMA 2010 and the Wybunbury RHNS, information taken from Cheshire Homechoice, which is the Choice Based Lettings system used to allocate social/affordable rented housing across Cheshire East. This shows that there are currently 15 applicants who have selected Wybunbury as their first choice. Of these applicants, 2 require 1 beds, 5 require 2 beds, 6 require 3 beds and 4 require 4 beds, 2 applicants have not specified the number of bedrooms they require.

Therefore, as there is affordable housing need in Wybunbury, there is a requirement that 30% of the total units at this site are affordable, which equates to 6 dwellings. The Affordable Housing IPS also states that the tenure split the Council requires is 65% rented affordable units (either social rented dwellings let at target rents or affordable rented dwellings let at no more than 80% of market rents) and 35% intermediate affordable units. The affordable housing tenure split that is required has been established as a result of the findings of the SHMA 2010.

The affordable housing statement proposes 6 units of affordable housing which is acceptable as per the IPS (4 rented units and 2 units intermediate tenure). All of the proposed affordable units would be 2 bed houses and this would be acceptable.

As this application is an outline application, details of the proposed affordable housing scheme shall be provided at the first reserved matters and the details of the affordable housing scheme, include the mix of unit types and how these meet the required tenure split. Affordable housing would be provided by means of a legal agreement.

Highways Implications

The application is in outline form with access to be determined at this stage.

The Strategic Highways Manager is mindful of the comments made by Wybunbury Parish Council regarding vehicle flow and proximity to the bridge over the brook which has priority working.

The Strategic Highways Manager states that the observed site conditions indicate that there is no material concern on highway technical grounds to refuse this application and he offers the following comments:

- Daily traffic flow for Bridge Street at 3780 vehicles per day is actually relatively low and well within the traffic capacity of this public highway.
- Traffic generation from this site will be less than 30 peak hour trips which, under Department for Transport guidance, is considered not to be a material impact where a public highway has capacity.
- The proposed junction design will provide visibility to the nearside kerb in both directions and is in accordance with accepted standards which, after the site visit, have been set within the guidance of Manual for Streets 2.
- Traffic approach speeds are generally low.
- The bridge over the brook is actually beyond the necessary visibility splays required for the junction which also means that it is beyond the necessary stopping site distance for traffic on approach.

These are the technical factors ruling the traffic generation, junction placement, visibility and stopping site distances. After the site visit, negotiations and the subsequent highway report provided by the applicant, it is clear that they are all adequately met.

In addition a revised junction design is proposed which will not be over scale for the development and the S.H.M. finds this satisfactory.

At the site visit, the applicant's highway consultant noted that the road markings in the vicinity of the site and bridge needed to be refreshed and stated that along with the provision of the proposed access and its markings that the applicant would be prepared to renew the related existing markings.

Given the revised design of the proposed access, which meets the required standards the Strategic Highways Manager considers that the scheme is acceptable on highways grounds subject to conditions.

Amenity

In terms of the surrounding residential properties, the main properties affected are the properties which front onto Bridge Street and the property known as Willowmead which fronts onto Sally Clarkes Lane.

From the front elevation of the proposed dwellings to the rear elevation of the properties which front onto Bridge Street there would be a separation distance of approximately 30-35 metres. This distance exceeds the separation distance of 21 metres between principle elevation as set out in the SPD on Development on Backland and Gardens. The impact upon the properties which front Bridge Street is therefore considered to be acceptable.

To the north-west of the site is a detached dormer bungalow known as Willowmead and a site which has outline consent for two dwellings which is in control of the applicant. The indicative layout shows that the proposed dwellings which would face the rear boundaries of these properties would be single-storey bungalows (it should be noted that these properties would be set at a slightly higher level than Willowmead). However in this case the indicative plan shows that there would be a separation distance of approximately 24 metres between the principle elevations. Again this exceeds the standard separation distances set out in the Councils SPD and is considered to be acceptable.

Due to the separation distances involved, no other residential properties would be affected.

The Environmental Health Officer has requested conditions in relation to hours of operation, dust control and contaminated land. These conditions will be attached to the planning permission.

Trees and Hedgerows

The submitted tree survey identifies two lengths of hedge on the northern boundary, both afforded a Grade A rating and a group of Hawthorn and Lime trees in the north west corner of the site, afforded a Grade C reference.

The boundary hedgerow is worthy of retention and would benefit from some infill planting. There are no trees of significant public amenity value on/adjoining the site. As a result, there are no significant forestry concerns in respect of the indicative layout.

Design

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 of Wybunbury. The development would have a linear form that would respect the existing dwellings which front Bridge Street.

The indicative layout shows that the properties on the site would overlook the highway and parking areas. The properties would follow the ribbon of development which is located to the east and fronts Bridge Street. A prominent scheme of tree-planting within the site would create an avenue effect which would add quality to the appearance of the development.

To the open countryside to the west, the boundary hedgerow could be provided/retained to act as a green buffer to the open countryside.

There are Grade II Listed Buildings located at Wybunbury Delves Primary School. However given the scale of the development and separation distances involved it is not considered that the development would impact upon the setting of the Listed Buildings on site.

Although there are some weaknesses with the indicative design, it is considered that an acceptable scheme could be agreed at the Reserved Matters stage and would comply with Policy BE.2 (Design Standards) and the NPPF.

Ecology

Wybunbury Moss SSSI

The Wybunbury Moss SSSI site is located 400 metres to the north of the site. Given the scale of the development and the separation distance involved, it is considered that there is unlikely to be any impact upon the SSSI. This issue has also been considered by Natural England who have raised no objection to this development in terms of its impact upon the SSSI.

Habitats

Hedgerows

Hedgerows are a UK Biodiversity Action Plan priority habitat and a material consideration. The hedgerow located on the western boundary of the site should be retained and enhanced as part of the proposed development. This would be secured through the use of a planning condition should the application be approved.

Protected species

An active protective species sett has been recorded on the boundary of the proposed development site. In the absence of mitigation, the proposed development is likely to have an adverse impact on the sett and potentially pose the risk of killing or injuring the resident animals.

To mitigate the potential impacts of the development, the applicant's consultant is proposing to construct an artificial sett in the adjacent field and then to partially or totally close the existing sett. Outline proposals for the timing of the works to reduce the impacts upon badgers have also been provided. This work would be subject to a Natural England license. The Council's Ecologist has

advised that the mitigation measures are acceptable and should be secured through the use of a planning condition.

Breeding Birds

In order to safeguard breeding birds the Councils Ecologist has suggested the use of conditions relating to the timing of works and bird boxes.

Public Open Space

Policy RT.3 states that, where a development exceeds 20 dwellings, the Local Planning Authority will seek POS on site. The Policy does also state that where sufficient recreational open space is already available in close proximity, the LPA may require the developer to enhance that Open Space instead.

In terms of children's play space Policy RT.3 states that the local planning authority will accept a contribution towards play equipment if easily accessible from the site.

In this case there is POS and children's play space within the village. This area is easily accessible from the application site via the existing PROW network and the POS Officer has suggested a contribution of £20,000 towards upgrading this site. The applicant has accepted this contribution and this will be secured as part of a S106 Agreement.

Education

In terms of primary school education, the proposed development would generate 4 new primary places. As there are capacity issues at the local primary schools, the education department has requested a contribution of £43,385. 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 generate 3 new secondary school places. As there are capacity issues at the local secondary schools, the education department has requested a contribution of £49,028. The applicant has agreed to make this contribution and this would be secured via a S106 Agreement.

Flood Risk and Drainage

The application site is located within Flood Zone 1 according to the Environment Agency Flood Maps. This defines that the land has less than 1 in 1000 annual probability of flooding and all uses of land are appropriate in this location. As the application site is less than 1 hectare, a Flood Risk Assessment (FRA) is not required as part of this application. The application is in outline form and is considered to be acceptable in terms of its flood risk/drainage implications.

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 both primary and secondary school places and there is very limited spare capacity. In order to increase capacity of the schools which would support the proposed development, a contribution towards both primary and secondary 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, POS and children's play space is a requirement of the Local Plan Policy RT.3. As no provision would be made on site it is necessary to provide improvements off-site. This contribution 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 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. Following the recent appeal decisions the Council can no longer demonstrate a 5 year housing land supply it is therefore necessary to consider whether the proposal is sustainable in all other respects as part of the planning balance.

The application is in outline form but, from the indicative plan, it is considered that an acceptable design solution can be secured and the development would not have a significant impact upon the landscape.

The proposed development would provide a safe access and the development would not have a detrimental impact upon highway safety or cause a severe traffic impact.

In terms of Ecology, it is not considered that the development would have a significant impact upon ecology or protected species.

Following the successful negotiation of a suitable Section 106 package, the proposed development would provide an adequate contribution in lieu of open space on site.

The necessary requirement for affordable housing would be provided and would be secured through a S106 Agreement.

The education impact can be mitigated through a contribution which the applicant is willing to make and would be secured via a S106 Agreement.

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

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

Given the scale and location of the development, its relationship to the urban area and its proximity to other services, and no objections being raised by the relevant consultees, it is not considered that the 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.

11. RECOMMENDATIONS

APPROVE subject to completion of Section 106 Legal Agreement to secure the following:-

1. A scheme for the provision of 30% affordable housing – 65% to be provided as social rent/affordable rent (4 units) with 35% intermediate tenure (2 units). The scheme shall include:

- The numbers, type, tenure and location on the site of the affordable housing provision
- The timing of the construction of the affordable housing and its phasing in relation to the occupancy of the market housing
- The arrangements for the transfer of the affordable housing to an affordable housing provider or the management of the affordable housing if no Registered Social Landlord is involved
- The arrangements to ensure that such provision is affordable for both first and subsequent occupiers of the affordable housing; and
- The occupancy criteria to be used for determining the identity of occupiers of the affordable housing and the means by which such occupancy criteria shall be enforced.

2. Public Open Space contribution of £20,000

3. Education contribution of Primary £43,385 and Secondary £49,028

And the following conditions

- 1. Standard Outline**
- 2. Submission of Reserved Matters**
- 3. Time limit for submission of reserved matters**
- 4. Approved Plans**
- 5. Hours of construction limited to 08:00 to 18:00 Monday to Friday, 09:00 – 14:00 Saturday and not at all on Sundays**
- 6. Pile driving limited to 08:30 to 17:30 Monday to Friday, 09:00 – 13:00 Saturday and not at all on Sundays**
- 7. Reserved Matters application to include a noise survey and noise mitigation measures**
- 8. Dust control measures**
- 9. Prior to the commencement of development a Phase II Contaminated Land Assessment shall be submitted to the LPA for approval in writing.**
- 10. Prior to the commencement of development details of drainage to be submitted to the LPA for approval in writing.**
- 11. The proposed development to proceed in strict accordance with the recommendations of the submitted Badgers: addendum to protected species survey and site assessment**

report number 2013 (14)/VC/01ADD unless varied by a subsequent Natural England license.

12. Prior to undertaking any works between 1st March and 31st August in any year, a detailed survey is required to check for nesting birds. A report of the survey and any mitigation measures required to be submitted and agreed by the LPA.

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

14. The first reserved matters application to be supported by a plan to show the existing and proposed land levels on the site

15. The Reserved Matters application to include a off-street parking for the properties which adjoin the site fronting Bridge Street

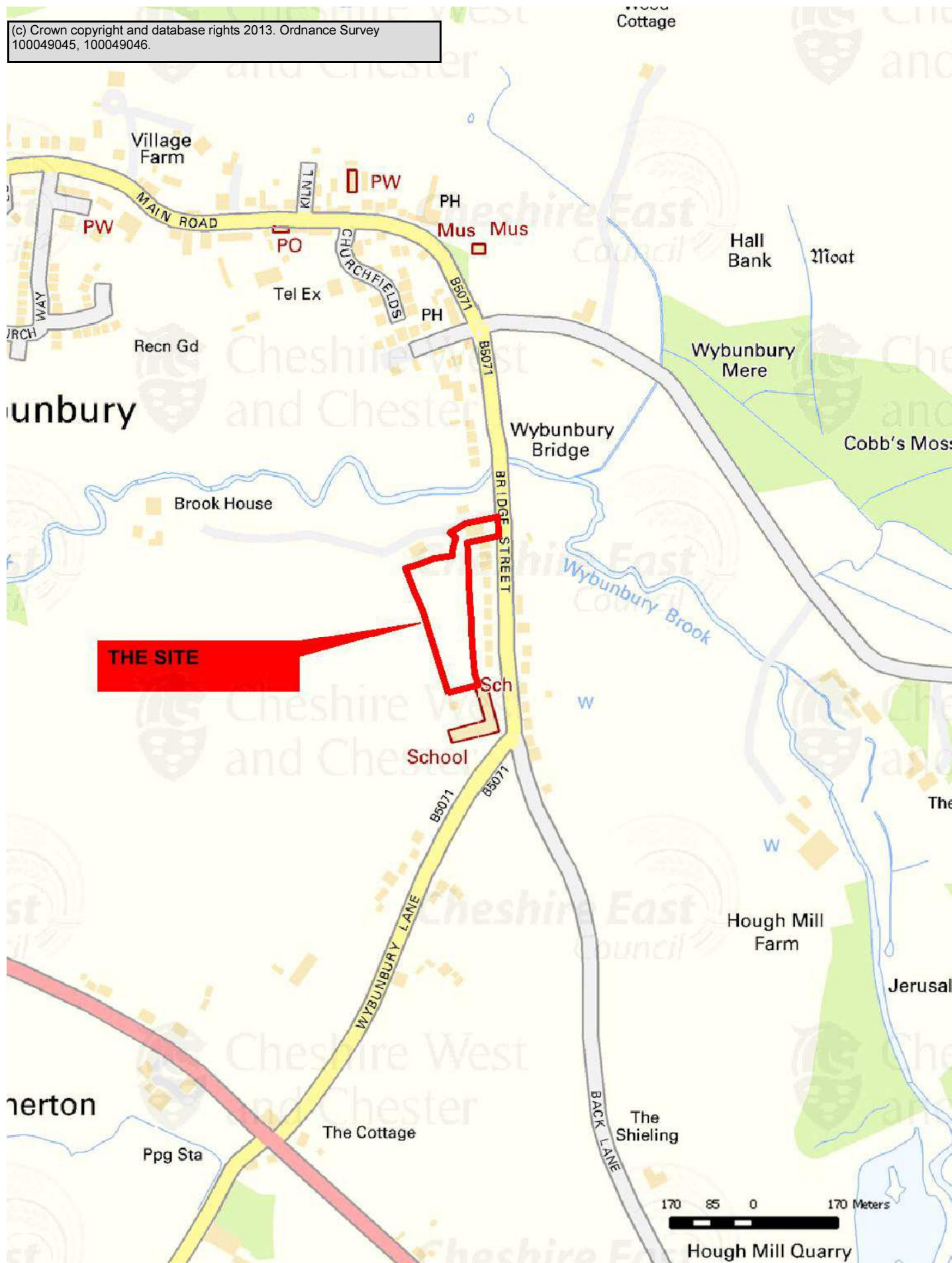
Informative:

The applicant is advised that they have a duty to adhere to the regulations of Part IIA of the Environmental Protection Act 1990, the National Planning Policy Framework 2012 and the current Building Control Regulations with regards to contaminated land. If any unforeseen contamination is encountered during the development, the Local Planning Authority (LPA) should be informed immediately. Any investigation / remedial / protective works carried out in relation to this application shall be carried out to agreed timescales

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 Planning and Place Shaping 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 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.

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CHESHIRE EAST COUNCIL

STRATEGIC PLANNING BOARD

Date of meeting: 8 January 2014

Report of: David Malcolm – Interim Planning & Place Shaping Manager

Title: White Moss Quarry, Barthomley
Revocation of Certificate of Existing Lawful Use for the parking and storage of vehicles machinery and equipment

1.0 Purpose of Report

- 1.1 To update Members of Strategic Planning Board on matters relating to the proposed revocation relating to the issuing of a Certificate of Lawful Use or Development (CLEUD) at White Moss Quarry, Barthomley

2.0 Decision Required

- 2.1 To confirm revocation of the Certificate of Existing Lawful Use for the parking and storage of vehicles, machinery and equipment for White Moss Quarry, Bathomley which was issued in December 2011.

3.0 Background

- 3.1 A CLEUD was submitted to the Council on 18 October 2011 for the use of an area of land for the parking and storage of vehicles, machinery and equipment at White Moss Quarry, Barthomley. The land is known locally as Triangular Field and indicated on the attached plan.
- 3.2 The CLEUD sought to demonstrate the use by means of the submitted information which included a statutory declaration, statement and an aerial photograph of the site in 2000. In the absence of information to the contrary and taking the appropriate test of 'balance of probabilities', the Council were satisfied at the time that based on the submitted information that the use had taken place for in excess of 10 years.
- 3.3 A positive Certificate was issued by notice dated 14 December 2011. The notice stated the following:

The Council hereby certifies that on 16-Sep-2011 the use described in the First Schedule to this certificate in respect of the land specified in the Second Schedule to this certificate and edged red on the plan attached to this certificate, was lawful within the meaning of Section 191 of the Town and Country Planning Act 1990 (as amended), for the following reason(s):

1. *The applicant has demonstrated that on the balance of probability the land has been used for the parking and storage of vehicles, machinery, building materials and other equipment for a period exceeding 10 years, prior to the date of this application.*

First Schedule

*Land has been used for the parking and storage of vehicle, machinery, equipment and building materials for a period in excess of 10 years
(Certificate of Lawful Development for Existing Use)*

Second Schedule

Land Known as Triangular Field adjacent to White Moss Quarry, Butterson Lane, Barthomley, Crewe.

- 3.4 Members may recall that at SPB on 17 July 2013 they were provided with a confidential update on matters relating to the CLEUD. Following the decision from the Local Government Ombudsman in April 2013 which was critical of the process in determining the Certificate the Council was advised that it should take independent professional advice about the options available and if the CLEUD could be revoked, consideration should be given to that option.

Process of Revocation

- 3.5 The procedure for revocation of a notice is given by Article 35(15-17) of the Town & Country Planning (Development Management Procedure) Order 2010.
 - This requires a notice to be given on the owner, occupier and any other person, in the opinion of the local authority, affected by revocation.
 - All those served with a notice must be given 14 days to make representations on the proposal to the local authority.
 - Final notice of any revocation must be given to those notified.

Potential for Revocation

- 3.6 The basis of a revocation is that a statement was made or a document used which was *"false in material particular, or any material information was withheld"* Therefore, the applicant may have felt that information or material was unnecessary but if it is material to the consideration of the decision then the Certificate is capable of being revoked as a result of it not being submitted.
- 3.7 It was considered that material put forward in support of the application left a number of unanswered questions. In asking these questions it is necessary to consider whether information about such questions would be available to the applicant, and therefore whether it was likely that material information was withheld

3.8 In this instance given the proximity of the quarry site and the confirmation that the area was used as parking for operatives and visitors it was considered that such information must be available particularly in relation to the operations and working of the quarry. It followed that there is likelihood that material information was withheld.

3.9 Letters were therefore sent to the applicant and other interested parties which stated:

Section 193 (7) (b) of The Town & Country Planning Act 1990 (as amended) advises that a Local Planning Authority may revoke a Certificate if it is considered that *material information is withheld*. This does not imply that such information has been intentionally withheld or submitted, it could be that it was simply not considered necessary to submit this at the time of submission.

The supporting information from the application confirmed that *"the site is used for the parking of operatives and visitors to White Moss Quarry"*. Given that the site is a working quarry it is considered that the following material information must be available and has therefore been withheld under the terms of Section 193 and provides sufficient scope to revoke the decision made.

Details about the opening and working operations of the quarry such as where people park on the site.

Details of operatives and visitors who have parked on the site for the quarry and as such there must be attendance records (as required under Health & Safety legislation) of such visitors and operatives.

Details and records of the ancillary equipment and machinery for the quarry that has been stored on the site.

Details of the hardstanding for the site being laid such as hard core deliveries and how the area is maintained.

3.10 The Council has received responses to the proposed revocation from local residents, Alsager Parish Council and agents on behalf of the applicant.

3.11 Given the representations received in response to the 'proposed revocation' letter and Members' previous request to be kept updated on this matter Officers have referred this matter to SPB as it was felt appropriate for the final decision to revoke (or not) to be made by SPB. This report therefore details the representations and provides an assessment so that an informed decision can be made. It should be noted that further legal advice has been taken in preparing this assessment.

4.0 Comments received in response to the proposed revocation

Agents on behalf of the applicants

- 4.1 The applicant's agent has put together a detailed response to the specific questions asked which for avoidance of doubt is duplicated in full below. They firstly respond that they consider that the letter proposing to revoke is ambiguous and unclear. The first limb of Section 193 of the Act indicates "a statement was made or document used which was false in a material particular". Secondly, it is not known whether the material was intentionally withheld. Any decision of the Council maybe challenged and therefore the applicant's maintain that it is important for matters to be clear and that full opportunity is given to respond.
- 4.2 It is similarly not clear whether the revocation is based upon new information. If it is further consideration of the details submitted by the applicant and only those details then it is acknowledged that this is a legitimate basis for your reconsideration. The Ombudsman Report cannot substantiate the basis of the proposed revocation.
- 4.3 The applicant strongly refutes any assertion that may exist that he has intentionally withheld material information or that a statement or document presented or made at the time of the application was false.
- 4.4 While the applicants comment that it is not totally clear from the letter it appears that the substance of the proposed revocation is that material information has been withheld because it must have been available at the time. There is no indication or suggestion that the proposed revocation is on the basis that the application was deficient in terms of the area applied for or in any other respect other than the information you have now asked for. It is noted that the premise and basis on which the Council conclude that information has been withheld is that the site is a working quarry as the letter indicates. Full details of the respective responses to the Council's letter are listed below:

"Given that the site is working quarry it is considered that the following material information must be available and has therefore been withheld under the terms of Section 193 and provides sufficient scope to revoke the decision made."

- 4.5 The alleged withholding of information is indicated as being a consequence of the site being a working quarry. This is fundamentally incorrect and so the basis of the Council view that material information has been withheld is flawed and not supported by the facts. The revocation cannot proceed on this basis. The site of the Lawful Development Certificate is not and never has been a working quarry and is not part of any planning permission for the quarry. The adjacent quarry site is governed by specific planning permissions and a defined geographical area. The quarry planning permissions do not appear to extend to the site of the Lawful Development Certificate. The LDC

application and the certificate issued does not specifically relate to the adjacent quarry. The certificate issued is for the parking and storage of vehicles machinery and equipment some of which but not all has an association with the adjacent quarry. On the basis of the mistaken view that the site is a working quarry the letter then asks for information which it is stated must be available.

Details about the opening and working operations of the quarry such as where people park on the site

- 4.6 It is disingenuous of the Council to suggest that this information has been withheld. The information about the opening and working operations of the quarry requested is readily available and already in the possession of the Council. The Council are responsible for the planning permission of the adjacent quarry and have through planning conditions on the permissions set the opening times and working operations of the quarry. In respect of parking at the quarry site there are two spaces allocated behind the site office. Not only is this information already available to the Council but it has also been set and controlled by the Council. While it accepted that the onus of proof for an LDC is on the applicant and that the Council need not “go to great lengths to.....show that the use is or is not lawful” there is a clear requirement on the Council to cooperate with the applicant. There is a clear implication that the Council are required to go to some length to show that the use is either lawful or unlawful. For the Council not even to avail itself of information they have the responsibility to hold would indicate that the Council have not made any attempt to understand information they already have. Not to go to any length in respect of this falls well short of the responsibility of the Council and is unreasonable. To now suggest that this information has been withheld and is sufficient to revoke the issued certificate is in the context of government advice a serious misuse of the legislation at Section 193 of the Act and one which is unquestionably open to legal challenge.

- 4.7 Furthermore the Council have a specific responsibility at Section 35 (9) of the Town and Country Planning (Development Management Procedure) Order 2010 “to require the applicant to provide such further information as may be specified to enable them to deal with the application”. At no time during the consideration of the LDC did the Council make such a request. Indeed the committee report presented for a decision on the Lawful Development Certificate made it clear under the heading “Officer Appraisal” that “the information submitted is sufficient for it to be determined on the balance of the evidence submitted”. If the information submitted with the application was considered sufficient to make a decision it is entirely unreasonable for the Council to now suggest a revocation of the Certificate some 18 months later based in part on information they already hold and held at the time of the decision.

Details of operatives and visitors who have parked on the site for the quarry and as such there must be attendance records (as required under Health and Safety legislation) of such visitors and operatives.

4.7 It is incorrect to suggest that there must be attendance records under Health and Safety legislation. The site is not part of the quarry and forms no part of the planning permission for the quarry. The jurisdiction of the HSI is only in respect of the quarry and not any adjacent land that is not part of the quarry. For the purposes of the Health and Safety Inspectorate the quarry is defined in the “Quarry Document” in accordance with Regulation 7 of the Quarries Regulation 1999 and I do not consider that the land the subject of the LDC forms part of the quarry. Regulation 4 confirms the extent of the application of the regulations. I have spoken with the Health and Safety Inspectorate who, despite your assertion, have confirmed that there is no requirement to keep a record of the workers and operatives attendance at the site. Equally there is no legislative requirement for records to be kept of visitors to the site. The Quarry Regulations 1999 set out at Part VIII section 44 those records that are required to be kept, and there is no requirement to keep records of visitor attendance or where they park. It is incorrect to assert therefore that as this information must be available it has therefore been withheld.

4.8 However if you now require details of who has parked on this site then we can provide the following information: A record of those who have visited the site and who have then entered the working quarry is kept not as a matter of legislation but as a practice of the owner. I have attached a copy of the most recent visitors to the site.

Details and records of the ancillary equipment and machinery for the quarry that has been stored on the site.

4.9 While the application and certificate issued did not relate wholly to equipment and machinery for the quarry your additional request for information relates specifically to this and we can provide the following information to assist.

4.10 There has been no storage of ancillary equipment or machinery on the CLEUD site that relates to the quarry. There is a container on the site which from time to time has stored spares for machinery that is used in the quarry, but that is the only storage on this site that is linked to the quarry.

Details of the hardstanding for the site being laid such as hard core deliveries and how the area is maintained.

4.11 The hardstanding to the CLEUD site was delivered from Buxton and was in the form of approximately 80 tonnes of limestone crusher run. The limestone hardstanding was laid directly on the land after a limited scraping of topsoil. The hardstanding does not require any maintenance and has not been added to since the original placement.

4.12 The applicant’s conclude that the proposed revocation of the CLEUD is flawed, and that the premise that information must have been withheld as the site is a quarry is incorrect. The site for the CLEUD does not appear to fall within the administration of the Quarry Regulations 1999. It is stated the information that it is now alleged has been withheld was

in part already held by the LPA and additionally could have been requested at the time of the determination of the CLEUD. They consider that the serious flaws in the approach are such that the intention would be to legally challenge any revocation.

Alsager Parish Council

4.13 Alsager Parish Council support the proposal to revoke.

Local Residents

4.14 Proposal is welcomed, as has been stated before the land in question has always been agricultural land and has only recently been used to park vehicles on. The offer of providing a sworn statement is made.

4.15 Support the proposal to revoke and uphold the supporting evidence that use had not been in place for period of 10 years.

4.16 Pleased that the application is due to be revoked. Residents are reliant on the Council's professional planners to ensure that this area is returned to its rightful status, namely and agricultural field.

4.17 Welcome the decision to revoke but has the applicant now been asked to give further details?

4.18 The owners of the site we believe have withheld information and that the Council's only option is to reverse the decision.

5.0 Assessment

5.1 The applicant's agent states that the Council's letter is ambiguous and unclear. However, the Council's letter to the applicant and other interested parties specifically advised that the Certificate was to be potentially revoked under Section 193 (7) (b) of the 1990 Act as it was considered that "**material information is withheld**". This was emphasised within the letter and clearly highlights the wording of the legislation. The letter went on to state "*This does not imply that such information has been intentionally withheld or submitted, it could be that it was simply not considered necessary to submit this at the time of submission*". Again, this sets out the approach being put forward and it is not considered to be ambiguous or unclear.

5.2 No new or additional information has been submitted in respect of the CLEUD. The Council is responding to the recommendation of the Ombudsman to review the options available. The approach is therefore considered to be appropriate.

5.3 The applicants consider that revocation cannot proceed as it is fundamentally flawed to consider the application site as a working quarry.

While it could be acknowledged that it is not part of the working quarry it clearly has a relationship to the quarry. This is confirmed by the applicants supporting submission on the original CLEUD application which stated that *“the site is used for the parking of operatives and visitors to White Moss Quarry”*. Given this statement it is therefore not unreasonable (or flawed) to ask the subsequent questions in relation to how the site (an area of hardstanding) has been used by those who work on and visit the site. It is also stated that some of the vehicles, equipment and machinery has an association with the adjacent quarry.

- 5.4 The Council does have details of planning conditions for the site as indicated by the applicants including some details of parking on the site. However, the question asked about details as to where people park on the site in respect of the working operations of the site. Again this is based on the premise that the area of land the subject of the CLEUD is widely acknowledged by the previous submission as parking - hence why the question was asked.
- 5.5 Although it is unclear what information the Council has the responsibility to hold, just because the Council may have such information does not mean that information is not withheld by the applicant's.
- 5.6 The comments of the previous report are duly noted and it is a matter of fact that the original report and decision made was to grant the CLEUD for the site.
- 5.7 As the site is not part of the working quarry the applicants have confirmed with the HSE that there is no requirement to keep a record of attendance at the site or keep records of visitors to the site. It is therefore considered that to say that information must be available and withheld is incorrect. The applicants keep records of visitors to the site and who has entered the working quarry as a practice of the owner. Records of the most recent visitors to the site have been submitted which does show that records of visitors are kept.
- 5.8 The applicants do provide additional information in respect of ancillary machinery and equipment and advise that this is limited to machinery spares from a container on the site.
- 5.9 Some details of the hardstanding are also provided, although this is limited to comments in respect of deliveries of limestone from Buxton and that it requires no maintenance. Although there are no specified dates, it again shows that certain information is available.
- 5.10 Understandably the Parish Council and local residents support the revocation of the CLEUD as some do not feel that sufficient evidence has been produced over the 10 year period. The offer of a statement from one resident is noted but at this stage that is not something that could be considered as the basis for revocation is solely on information being withheld.

Conclusion

- 5.11 The main thrust of the applicant's contention against the revocation is in respect of the approach and that the site the subject of the CLEUD is not part of the working quarry and as such no information has been withheld
- 5.12 As indicated above, it is considered that the Council's approach is in accordance with the 1990 Act and the relevant Article 35 (15-17) of the Town & Country Planning (Development Management Procedure) Order 2010. Similarly it is also considered that the letter sent out to all parties is clear and not ambiguous. Therefore the approach is considered sound and able to stand up to challenge for the reasons indicated.
- 5.13 The comments raised on behalf of the applicant both in respect of the original submission and in response to the proposed revocation establish a relationship between the quarry and the CLEUD site – particularly in respect of parking of vehicles for visitors and operatives for the quarry. It is illogical to suggest that information on one area of land meant that there was no withholding of information on another area. It is clear that in describing the use or operations on one area of land, that information on another area of land may be highly material. For example, in establishing the use of land as a car park, information from an adjacent building dispensing parking tickets would be vital.
- 5.14 It is evident that the applicant's response to the proposed revocation does provide some information in respect of records of parking and certain details about the hardstanding.
- 5.15 As highlighted previously if information has been withheld it does not imply that such information has been intentionally withheld or submitted, it could be that it was simply not considered necessary to submit this at the time of submission. However, in the light of all of the above comments, representations received and the legislative framework it is considered that revocation of the CLEUD can proceed.
- 5.16 It should be noted that once a CLEUD is revoked then a further decision will have to be made following a re-assessment of all the information and evidence available.

6.0 Recommendation

- 6.1 That the Council proceed with the revocation of the Certificate of Existing Lawful Use (Reference 11/3759N) for the parking and storage of vehicles, machinery and equipment at White Moss Quarry (Triangular Field).

7.0 Financial Implications

- 7.1 External consultants/lawyers will have to be appointed with an additional cost to re-assess the Certificate after revocation is formalised.

8.0 Legal Implications

- 8.1 The certificate was lawfully granted by the Council under s191 of the Town and Country Planning Act 1990 (as amended). Under s193(7) of the Act a Local Planning Authority may revoke a certificate if on the application for the certificate a statement was made or document used which was false in a material particular or any material information was withheld.
- 8.2 The procedure for revocation is set out in article 35(15) of the Town and Country Planning (Development Management Procedure) Order 2010. This requires prior notice to be given to the owner, occupier and any other person who will in the Local Planning Authorities opinion be affected by revocation. Article 35(16) requires the notice to invite the affected parties who have been served with the notice to make representations on the proposal to the Authority within 14 days of service and the Authority cannot revoke the certificate until the period for making representations has expired. Article 35(17) requires the Authority to give written notice of revocation to every person on whom notice of the proposed revocation was served under article 35(15).
- 8.3 The basis of potential revocation is that a statement was made or document used which was false in a material particular; or that any material information was withheld. It should be noted that under the second limb there does not need to be an intent to deceive. What is required is that material information was withheld. It can be withheld for any reason and this could as simple as not considering it necessary or relevant.
- 8.4 The process of revocation followed by the Local Planning Authority would be in accordance with the relevant legislation. There remains a risk of legal challenge however appropriate advice has been taken throughout in respect of the correct procedures and soundness of approach being undertaken.

9.0 Risk Assessment

- 9.1 There are limited risks to the revocation process as there is no direct appeal against revocation albeit a legal challenge to the decision could be possible.

10.0 Reasons for Recommendation

- 10.1 To consider all the comments raised and approve the proposed revocation in accordance with the detailed report.

For further information:

Portfolio Holder: Councillor Don Stockton
Officer: David Malcolm – Interim Planning & Place Shaping Manager

Tel No: 01270 686744
Email: david.malcolm@cheshireeast.gov.uk

Background Documents:

Responses to proposed revocation

APPENDIX 1

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DELEGATED REPORT

Application Number	11/3759N
Proposal	Lawful Development Certificate For The Parking And Storage Of Vehicles Machinery And Equipment
Location	White Moss Quarry, BUTTERTON LANE, BARTHOMLEY, CREWE
LDFC	29-Nov-2011
Expiry Date	13-Dec-2011
Constraints	Wind Turbine Dev Safeguarding Area Primary Surveillance Radar PSR 200m Agricultural Land GRADE 3 Radon gas class1 High priority military low flying area likely to raise considerable and signific Congleton Local Plan Local Plan Area Congleton Local Plan Open Countryside Congleton Local Plan Inset no.4

SUMMARY RECOMMENDATION: Issue a Positive Certificate

MAIN ISSUES:

- Procedural Matters
- Planning Context
- Examination of Evidence

DESCRIPTION OF SITE AND CONTEXT

The application site is located in the corner of a (much larger) field on the northern side of Crewe Road. The site is located opposite the traffic light controlled junction to Radway Green and adjacent to the entrance to White Moss Quarry. The site boundaries are demarcated by mature native hedgerows (approximately 2/3m in height) which are quite patchy at sporadic intervals. A public right of way abuts the northern edge of the application site. The application site is located wholly within the open countryside.

DETAILS OF PROPOSAL

An application for a Certificate of Lawful Existing Use or Development (CLEUD) for the parking and storage of vehicles, machinery and equipment at land known as Triangular Field, Butterson Lane, Barthomley, Crewe.

RELEVANT HISTORY

10/4139C - Retrospective Change Of Use From Agriculture To Mixed Use For Agriculture And Storage Of Skips And Containers, Parking Of Skip Lorries, Other Vehicles And Trailer, Storage Of Construction Materials, Formation Of A Crushed Stone Surface On Part Of Field No. 8175 Known As Triangle Field, Butterson Lane, Radway Green, Alsager – Refused – 3rd February 2011

10/0296C – Application for a Lawful Development for an Existing Use or Operation for change of use from agriculture to mixed use for agriculture and storage of skips and containers, parking of skip lorries, other vehicles and trailer, storage of construction materials and formation of a crushed stone surface at Triangle Field, Butterson Lane, Radway Green, Alsager – Negative Certificate Issued – 25th June 2010.

POLICIES

National/Local Plan Policies

Not relevant to this type of application.

Other Material Considerations

Circular 10/97 – Enforcing planning control: legislative provisions and procedural requirements.

CONSIDERATIONS (External to Planning)

None Consulted

VIEWS OF THE PARISH / TOWN COUNCIL

The Parish Council has objected to the Certificate of Lawfulness on the following grounds:

The previous application no. 10/0296C for a 'Lawful Development Certificate for an existing use of agriculture and storage of skips and containers, parking of skip lorries, other vehicles and trailers, storage of construction materials, formation of crushed stone surface on part of field no./ 8175, known as 'triangle field' Crewe Road', was refused by Cheshire East stating... 'the applicant on present evidence had not proved on the balance of probabilities the use of the land for a period of ten years prior to the date of the application.'

No new evidence has since been provided by the applicant to support the new application, therefore the grounds on which refusal to 10/0296C was based still stand, along with the information contained within the Cheshire East delegated report to that application recommending refusal.

Evidence provided by the applicant to prove that the field has been used for the parking and storage of vehicles machinery and equipment **for more than 10 years** appears to be based on the earliest evidence provided by the applicant, an aerial photograph taken on 27th June 2000.

This photograph shows a disturbed area of the field which is a very small proportion of the area applied for in the application, and does not show any parked vehicles or machinery, this cannot be used as evidence to prove that the whole area detailed on the application has been used for parking and storage. The remainder of the application site, which is the majority, is covered with vegetation.

This disturbed 'cream coloured' area on the photo is geologically of peat/sand (hence the extraction of the same from the Quarry) and disturbance of the ground at the entrance, is caused by agricultural vehicles accessing the fields. The addition of some stone around any gateway should not constitute any proof of hard standing for the parking of vehicles, and this may have been used to reinforce the entrance to the field.

Alsager Town Council do not consider that the applicant has proven that the use of the land for the purpose of parking and storage of vehicles, machinery and equipment began more than 10 years prior to the date of the application and therefore recommends that the Lawful Development Certificate not be issued.

A further point, Alsager Town Council would express a concern over the lack of available evidence to the Town Council and members of the public in relation to this application. The aerial photo dated 2000 is so vital to this application, and was not contained in the application documentation sent to the Town Council although it is referred to in the application. After requests from the Assistant Town Clerk to Cheshire East a copy was emailed, although it was still not available on Cheshire East's website after persistent request from the Assistant Town Clerk and residents of Alsager and assurances to both that it would be. The photo was published on the website **after** the closing date for comments of the 29th November.

OTHER REPRESENTATIONS

Letters of objection have been received from the occupiers of 68 Gowry Close, 66 Close Lane, Swallow Barn, 20 Nursery Road and 6 Woolaston Drive. The salient points raised in the objection letters are:

- The submitted evidence does not prove that all the land in question has been continually used for the storage of machinery, vehicles and building materials. Furthermore, not all the land was covered in hard standing as indicated by the applicant in their application within the prescribed time period;
- The aerial photograph was not available to view on the Council's website and the only photograph I have seen to match the current area was taken in 2007;
- The photograph of the field entrance is discoloured as this is used by agricultural vehicles and is normal practice. It does not mean that the applicant had installed hardstanding;
- The application is retrospective and the applicant has already been acting illegally and in so doing has exacerbated a situation that is already unsatisfactory;
- The proposal generates a lot of additional traffic which is detrimental to highway safety;
- The proposal has a detrimental impact on the character and appearance of the open countryside;
- The proposal generates a lot more noise and dust;
- The proposal will give a poor first impression for people coming into Alsager;
- The land is part of the green belt;
- The amount of traffic using the site has damaged the roads and is leaving debris on them;
- The application forms contains many inaccuracies – which includes the date when work commenced, whether pre application advice sought, waste storage and collection, hours of opening, industrial and commercial processes and machinery and can the site be seen from any public road;
- No hours of operation are stated. would this field be open to use by all types of vehicles, at any time, everyday of the week;
- How many of each type of vehicle would be parked there;
- How much and what type of equipment would be stored there;
- What types and how much construction material would be stored there? mounds of crushed aggregate;
- How close would this operation be to housing;
- How many vehicle movements would there be each day;

- Would all the vehicles entering the access road from the main road be monitored by camera and recorded, and checked to ensure compliance with existing and new conditions;
- Why should skips/containers etc be stored on the field, does the owner have storage facilities elsewhere?
- The site is visible from the footpath and road;
- There is no need for this development, it can all be contained in the quarry or elsewhere;
- The proposal if allowed may lead to intensification of use;
- The applicant has failed to adhere to an enforcement notice to reinstate the field to agricultural use;
- No fresh evidence has been presented;
- As a user of the adjoining footpath I can testify that this area was used for agriculture 10 years ago;
- The small area of disturbed ground near the entrance in the 2000 photo is consistent with agricultural use. It is in any case not relevant to the application because its an insignificant fraction of the plan area which the applicant is seeking to legalise;
- The fact that the plan area is slightly smaller than 10/4139C is irrelevant because the local authority had the power to alter the position of the boundary and reduction in area does not qualify as fresh evidence.
- Aerial photographs in your possession, 1998, 2000, 2003 and 2005 show no evidence of any vehicles. Aerial photographs of 2006, however, show the parking of vehicles and trailers well beyond the area being referred to in the application;
- The application appears to have been predetermined by officers at Cheshire East Council.

An email objecting to the application from Councillor Hough dated 8th December 2011 raising the following issues:

- The aerial photo confirms that the site was not used as described in section 8 of the application. Apart from 4 cars parked on what is a lay-by, on land adjacent to the application site plus some tipping on the application site there is no evidence of 'the parking and storage/parking of vehicles, machinery and equipment;
- The applicant's statement that all other objections should be ignored should be discounted. On previous applications the evidence from residents has been accepted as showing that the site does not have a 10 year history; and
- Although the applicant suggests that the site is only used during opening hours, this is debatable with some large machinery/equipment being in situ over night and at weekends.

APPLICANT'S SUPPORTING INFORMATION

Aerial Photograph and Flight Log dated 27th June 2000
Supporting Statement
Statutory Declaration

OFFICER APPRAISAL

Procedural Matters

A number of local residents have stated that the certificate of lawfulness forms have been completed inaccurately. The case officer acknowledges that this may be the case but does

not consider that the application is fundamentally flawed and the information submitted is sufficient for it to be determined on the balance of the evidence submitted.

Planning context

The previous use of the land was agriculture and in making this decision, the Local Planning Authority must first satisfy itself that a change of use had occurred. It is considered that the development from agricultural land to one comprising an area of hard standing which is used for the storage of machinery, vehicles and building materials did constitute a material change of use and would have required an application for planning permission.

Paragraph 8.11 of Annex 8 to Circular 10/97 "Enforcing planning control: legislative provisions and procedural requirements" states clearly that once an application for a certificate of lawful use or development is valid, what the LPA must address is whether, on the facts of the case and relevant planning law, the specified matter is or would be lawful. But they do not enable anyone to ask the general question, "what is or would be lawful?" For this reason, the applicant must precisely describe what is being applied for

The merits of the development therefore are not relevant to a CLEUD application consequently in the present case, Local Plan policies, the compatibility with agriculture, relationship with the adjacent quarry and possible future expansion, traffic generated, harm (if any) caused by the crushed stone surface and spreading of waste are not material considerations.

In this case a certificate of lawful use is sought on the basis that the development is immune from enforcement action because no such action has been taken within the time limit specified under section 171B of the 1990 Act. In the case of changes of use (other than the change of use of a building to a single dwelling) the time limit to take enforcement action is 10 years. For the purposes of a CLEUD application this is the period of 10 years prior to the date of the application i.e. 18th October 2011.

Paragraph 8.12 of Circular 10/97 states clearly that the onus of proof is firmly on the applicant. While the LPA should co-operate with applicants seeking information about the planning status of land, they need not go to great lengths to show that the use, operations or failure to comply with a condition is or is not lawful. While LPAs are required to maintain the planning register this is not a complete record of the planning status of all the land in their area. In many cases the applicant will be best placed to produce information about the present and any previous activities taking place on the land. Some information, especially about the history of any unauthorised activity on the land, will be peculiarly within the applicant's knowledge.

Paragraph 8.15 of the Circular goes on to explain that with such applications the relevant test is whether there is sufficient evidence to prove that the development is lawful 'on the balance of probabilities' (i.e. not the more stringent test of 'beyond reasonable doubt' as used in criminal cases).

Moreover the Courts have held that the applicant's own evidence does not need to be corroborated by independent evidence in order to be accepted. If the local planning authority has no evidence of its own, or from other people, to contradict or otherwise make the applicant's version of events less than probable, there is no good reason to refuse the application provided that the applicant's evidence alone is sufficiently precise and unambiguous to justify the grant of a Certificate "on the balance of probability".

It is noted that the documents submitted on behalf of the applicant and by residents opposed to it contain conflicting statements, which could be for various reasons which include due to

the passage of time and the effect on people's memory or simply because people express themselves in different ways. The weight that can be attached to those statements must be adjusted accordingly but it does not mean that those statements were made 'knowingly or recklessly' so as to procure a particular decision on the application.

It is implicit that an application for a certificate of lawful existing use or development will involve some development that has already been carried out. It is important to remember that it is not an offence to carry out development without planning permission and this form of application was specifically introduced by the Planning and Compensation Act 1991 to deal with this type of situation. It is not possible to attach conditions to a determination of this type although the Act does allow the Local Planning Authority to modify or substitute a different description of development if they are provided with evidence satisfying them of the lawfulness at the time of the application of the use, operations or other matter concerned.

Examination of Evidence

The applicants supporting statement states that 'it is clear that numerous statements have been made and conflicting evidence provided, it is questionable if the majority of this evidence is proof for or against the continued use of the site for 10 years'. The reason that the previous certificate was refused because the red edge appeared too large and there was insufficient evidence to prove that all of the land within the area edged in red was used for the parking and storage of machinery for a continuous 10 year period, and as such a negative certificate was refused. However, this does not preclude the applicant from making another application. According to Circular 10/97 clearly states 'The fact that a LDC may be refused because the onus of proof is not discharged by the applicant does not preclude the submission of a further application if better evidence is subsequently available'. (Paragraph 8.12) The circular goes on to state 'A refusal to issue a LDC is therefore not necessarily conclusive that something is not lawful: it may merely mean that, so far, insufficient evidence has been presented to satisfy the LPA that the use, operation or activity is lawful'. Therefore, the applicant has submitted a revised CLEUD with an amended red edge, a certified aerial photograph and a sworn statutory declaration.

In the previous application (10/0296C) it stated that the field first came into use for open storage and parking in 1988 when sand extraction began at White Moss Quarry and additional open storage space was needed. An aerial photograph taken in 1998 shows one indistinct item in the corner of the field but the remainder of the field appears ploughed. Therefore, it is clear from this evidence that the development as applied for had not occurred in 1998.

The applicant has submitted an aerial photograph from 2000, which has been certified that the picture was captured on the 27th June 2000. This picture clearly shows that some type of building material (it is not clear that whether it is stone block or hard core, but given its colour it would appear to be compacted hardcore). However, this is disputed by local residents which claim that discolouration is due to peat and sand when agricultural vehicles entered the site, churned the soil, exposing the sand. One of the residents accepts that some stone may have been placed around the site entrance in order to allow agricultural vehicles to access/egress the field easier. It does appear that the material is similar in colour to other areas of hardstanding outside the application site. In any event, it is noted that this area of hard standing does not fully extend over the whole of the application site. As a matter of fact, the hard standing only covers approximately a third of the area edged red. In addition, to the area of hard standing there appears to piles of materials stored in the open, adjacent to the hedgerow. The remainder of the site appears to be laid to grass. Consequently, it is the Councils opinion that part of the application site was covered in hard standing and was being

used for the storage of materials on the 27th June 2000. However, as stated above, this does not indicate that all of the land which is being applied for was being used for the storage of machinery/vehicles and that it was covered in hard standing.

This point is accepted by the applicant and they have also submitted a Statutory Declaration which clearly states that the site at 'Triangular Field has been continually used for the parking of vehicles, with an established hard standing, from March 2001 to the present day'. The declaration goes on to enunciate that 'the land shown on the image taken on 27th June 2000 clearly shows the access and hard standing, this hard standing was extended early in 2001 and fully established by March 2001'. This sworn statutory declaration carries significant weight and cannot lightly be put aside unless there is compelling contrary evidence.

According to the delegated report **under application 10/0296C** another aerial photograph taken in 2003 shows a roughly triangular area of bare ground measuring approx. 60 metres along the quarry access road by approx. 50 metres along Crewe Road by approx. 50 metres across in the corner of the field but there is nothing distinguishable on this area. There appear to be a number of items randomly scattered across the remainder of the field to the east but since this area is now clear no lawful use can be claimed in respect of it. (the current case officer has been unable to locate this photo).

The 2005 aerial photograph which was captured on the 28th June 2005 shows the application site, which is roughly triangular in shape is now covered by what appears to be a hard standing and various vehicles, machinery and building materials. A further photograph taken on the 11th October 2010 clearly shows that the land in question is being utilised for the storage of various machines and the whole of the site was covered in hard standing.

The LPA has received a number of representations from local residents that dispute the claims made by the applicant. The objectors claim that the application site has not been used for the storage of machinery, vehicles etc for a 10 year period and neither has all of the land been covered in hard standing. None of the objectors have submitted any sworn statutory declarations and neither have they commented on the applicants statutory declaration.

Based on the evidence submitted, whilst there is conflicting evidence and the evidence submitted is very finely balanced. The applicant has produced a sworn statement and the evidence in the aerial photographs to establish that the land was used for storage of vehicles, machinery and other equipment and the land was covered in hard standing (albeit this is clearly not the case in the 2000 photograph). However, in comparison, the objectors evidence cannot be given the same weight as the applicants evidence as they have not submitted any statutory declarations or commented on the applicants. Furthermore, some of the claims made by the objectors contradict each other and this questions the accuracy of their claims. The LPA has no evidence of its own to contradict or otherwise make the applicants version of events less than probable, there is insufficient justification to warrant a refusal. Therefore, on the balance of probabilities it is considered on the basis of the sworn statutory declaration and the aerial photographs a positive certificate should issued.

CONCLUSIONS AND REASON(S) FOR THE DECISION

The applicant has demonstrated that on the balance of probability the land has been used for the parking and storage of vehicles, machinery, building materials and other equipment for a period exceeding 10 years, prior to the date of this application.

Recommendation: **Issue a positive**

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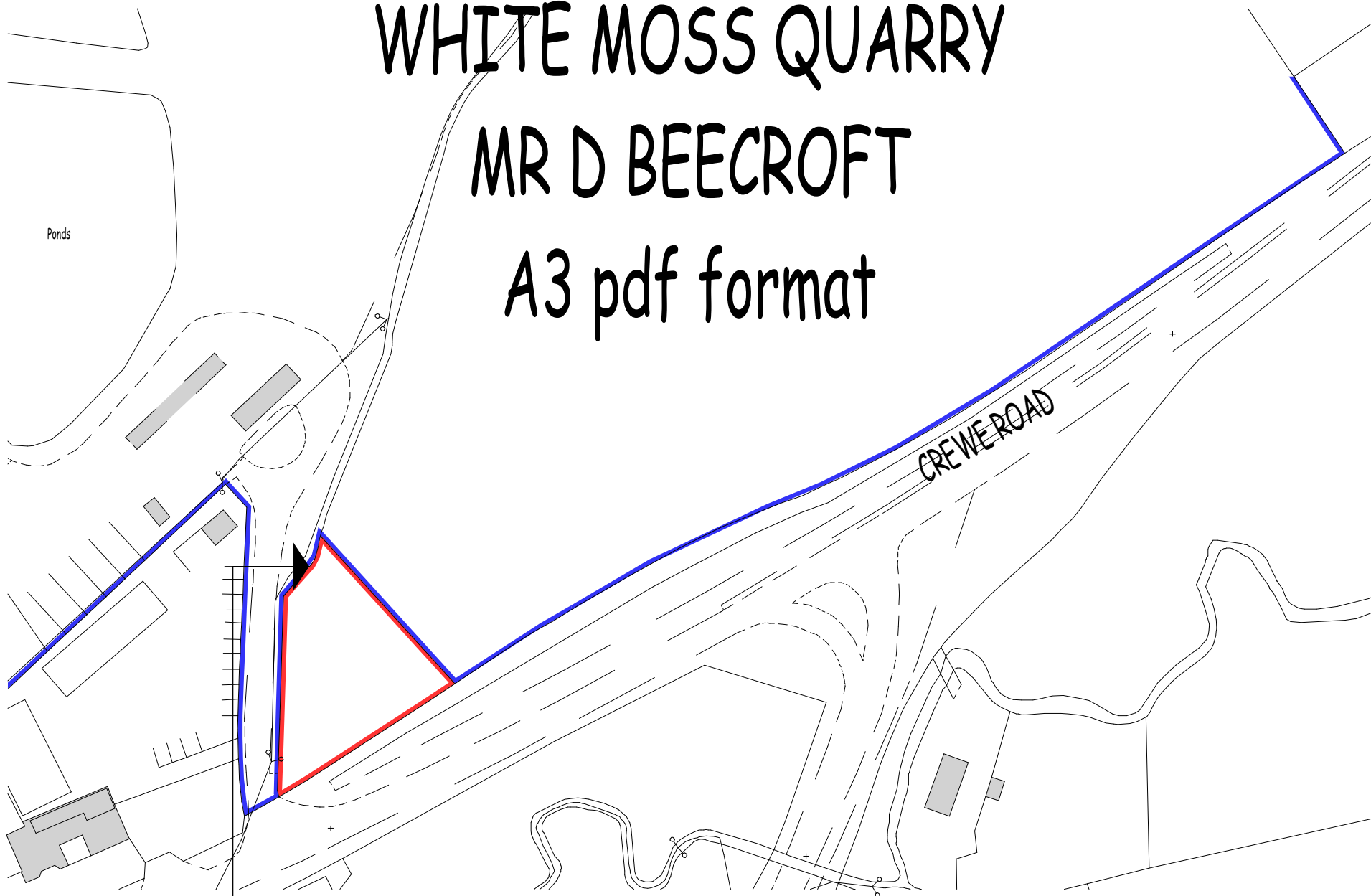
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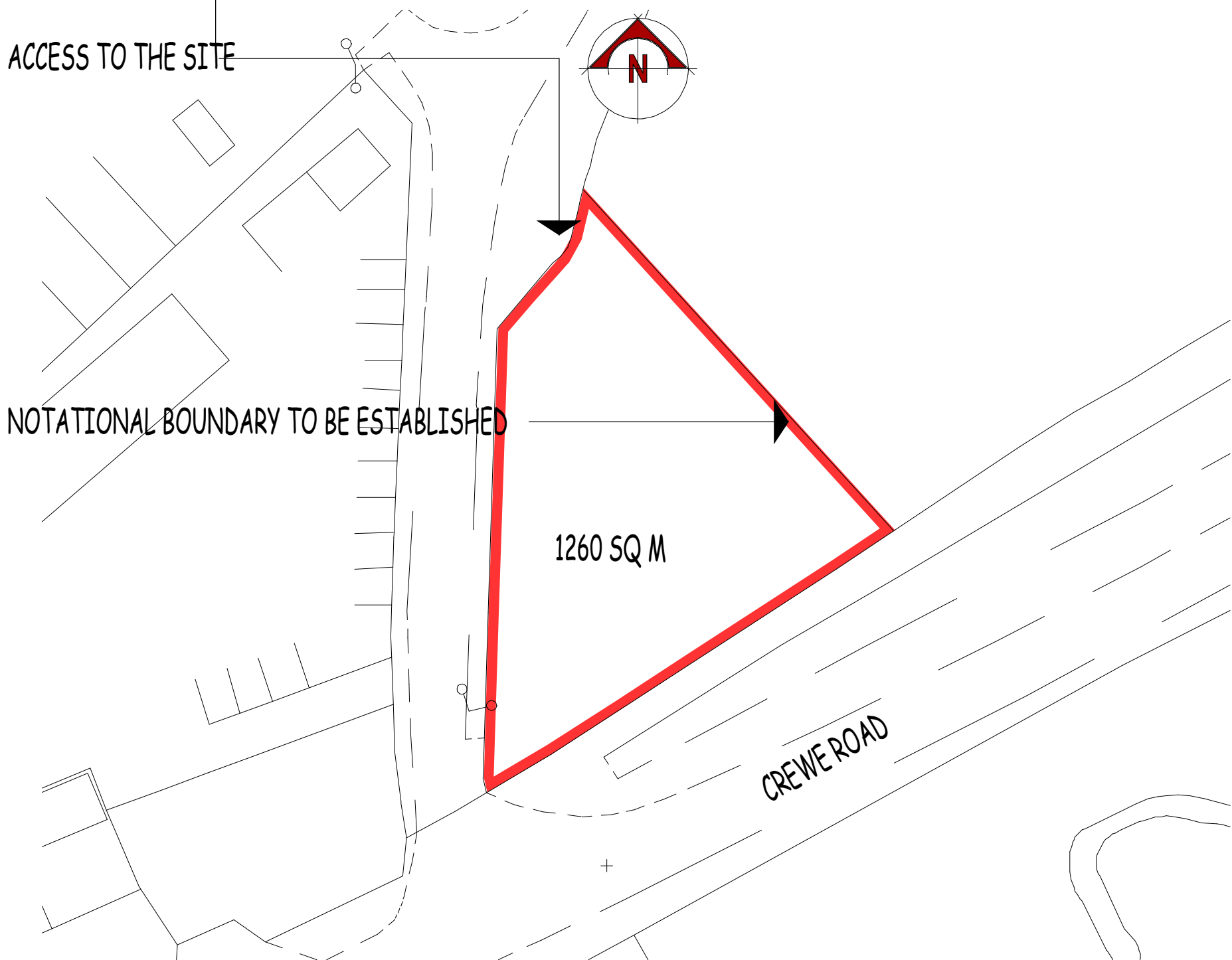
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